



COMMONWEALTH OF AUSTRALIA

SENATE

Hansard

WEDNESDAY, 1 SEPTEMBER 2021

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SITTING DAYS—2021

Month	Date
February	2, 3, 4, 15, 16, 17, 18, 22, 23, 24, 25
March	15, 16, 17, 18
May	11, 12, 13
June	15, 16, 17, 21, 22, 23, 24
August	3, 4, 5, 9, 10, 11, 12, 23, 24, 25, 26, 30, 31
September	1, 2
October	18, 19, 20, 21
November	22, 23, 24, 25, 29, 30
December	1, 2

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**FORTY-SIXTH PARLIAMENT
FIRST SESSION—FIFTH PERIOD**

Governor-General

His Excellency General the Hon. David John Hurley, AC, DSC, FTSE (Retd)

Senate Office Holders

President—Senator the Hon. Scott Ryan

Deputy President and Chair of Committees—Senator Susan Lines

Temporary Chairs of Committees—Senators Askew, Bilyk, Brockman, Brown, Chandler, Faruqi, Fawcett, Fierravanti-Wells, Gallacher, Griff, Kitching, McGrath, McLachlan, O'Neill, Polley, Sterle, and Walsh

Leader of the Government in the Senate—Senator the Hon. Simon Birmingham

Deputy Leader of the Government in the Senate—Senator the Hon. Michaelia Cash

Leader of the Opposition in the Senate—Senator the Hon. Penny Wong

Deputy Leader of the Opposition in the Senate—Senator the Hon. Kristina Keneally

Manager of Government Business in the Senate—Senator the Hon. Anne Ruston

Deputy Manager of Government Business in the Senate—Senator Jonathon Duniam

Manager of Opposition Business in the Senate—Senator Katy Gallagher

Deputy Manager of Opposition Business in the Senate—Senator Kimberley Kitching

Senate Party Leaders and Whips

Leader of the Liberal Party in the Senate—Senator the Hon. Simon Birmingham

Deputy Leader of the Liberal Party in the Senate—Senator the Hon. Michaelia Cash

Leader of The Nationals in the Senate—Senator the Hon. Bridget McKenzie

Deputy Leader of The Nationals in the Senate—Senator the Hon. Matthew Canavan

Leader of the Labor Party in the Senate—Senator the Hon. Penny Wong

Deputy Leader of the Labor Party in the Senate—Senator the Hon. Kristina Keneally

Leader of the Australian Greens in the Senate—Senator Larissa Waters

Deputy Leader of the Australian Greens in the Senate—Senator Nicholas McKim

Chief Government Whip—Senator Dean Anthony Smith

Deputy Government Whips—Senators James McGrath and Slade Brockman

The Nationals Whip—Senator Perin Davey

Chief Opposition Whip—Senator Anne Elizabeth Urquhart

Deputy Opposition Whips—Senators Raff Ciccone and Malarndirri McCarthy

Australian Greens Whip—Senator Rachel Siewert

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Members of the Senate

Senator	State or Territory	Term expires	Party
Abetz, Hon. Eric	TAS	30.6.2022	LP
Antic, Alexander	SA	30.6.2025	LP
Askew, Wendy ⁽¹⁾	TAS	30.6.2022	LP
Ayres, Timothy	NSW	30.6.2025	ALP
Bilyk, Catryna Louise	TAS	30.6.2025	ALP
Birmingham, Hon. Simon John	SA	30.6.2022	LP
Bragg, Andrew James	NSW	30.6.2025	LP
Brockman, Slade	WA	30.6.2025	LP
Brown, Carol Louise	TAS	30.6.2025	ALP
Canavan, Hon. Matthew James	QLD	30.6.2022	NATS
Carr, Hon. Kim John	VIC	30.6.2022	ALP
Cash, Hon. Michaelia Clare	WA	30.6.2022	LP
Chandler, Claire	TAS	30.6.2025	LP
Chisholm, Anthony David	QLD	30.6.2022	ALP
Ciccone, Raffaele	VIC	30.6.2025	ALP
Colbeck, Hon. Richard Mansell	TAS	30.6.2025	LP
Davey, Perin McGregor	NSW	30.6.2025	NATS
Dodson, Patrick	WA	30.6.2025	ALP
Duniam, Hon. Jonathon Roy	TAS	30.6.2022	LP
Farrell, Donald Edward	SA	30.6.2022	ALP
Faruqi, Mehreen Saeed	NSW	30.6.2025	AG
Fawcett, David Julian	SA	30.6.2025	LP
Fierravanti-Wells, Hon. Concetta Anna	NSW	30.6.2022	LP
<i>Vacancy</i> ⁽¹¹⁾	SA	30.6.2025	ALP
Gallagher, Katherine Ruth	ACT		ALP
Green, Nita Louise	QLD	30.6.2025	ALP
Griff, Stirling	SA	30.6.2022	CA
Hanson, Pauline Lee	QLD	30.6.2022	PHON
Hanson-Young, Sarah Coral	SA	30.6.2025	AG
Henderson, Sarah Moya ⁽²⁾	VIC	30.6.2022	LP
Hughes, Hollie Alexandra	NSW	30.6.2025	LP
Hume, Hon. Jane	VIC	30.6.2025	LP
Keneally, Hon. Kristina Kerscher ⁽³⁾	NSW	30.6.2022	ALP
Kitching, Kimberley ⁽⁴⁾	VIC	30.6.2022	ALP
Lambie, Jacqui	TAS	30.6.2025	JLN
Lines, Susan	WA	30.6.2022	ALP
McAllister, Jennifer	NSW	30.6.2022	ALP
McCarthy, Malarndirri Barbara Anne	NT		ALP
McDonald, Susan Eileen	QLD	30.6.2025	NATS
McGrath, Hon. James	QLD	30.6.2022	LP
McKenzie, Hon. Bridget	VIC	30.6.2022	NATS
McKim, Nicholas James	TAS	30.6.2025	AG
McLachlan, Andrew Lockhart, CSC ⁽⁵⁾	SA	30.6.2022	LP
McMahon, Samantha Jane	NT		CLP
Molan, Andrew James ⁽⁶⁾	NSW	30.6.2022	LP
O'Neill, Deborah Mary	NSW	30.6.2022	ALP
O'Sullivan, Matthew Anthony	WA	30.6.2025	LP
Paterson, James	VIC	30.6.2025	LP
Patrick, Rex Lyall ⁽⁷⁾	SA	30.6.2022	IND

Senator	State or Territory	Term expires	Party
Payne, Hon. Marise Ann	NSW	30.6.2022	LP
Polley, Helen Beatrice	TAS	30.6.2022	ALP
Pratt, Louise Clare	WA	30.6.2025	ALP
Rennick, Gerard	QLD	30.6.2025	LP
Reynolds, Hon. Linda Karen, CSC	WA	30.6.2025	LP
Rice, Janet Elizabeth	VIC	30.6.2025	AG
Roberts, Malcolm Ieuan	QLD	30.6.2025	PHON
Ruston, Hon. Anne Sowerby	SA	30.6.2025	LP
Ryan, Hon. Scott Michael	VIC	30.6.2022	LP
Scarr, Paul Martin	QLD	30.6.2025	LP
Seselja, Hon. Zdenko Matthew	ACT		LP
Sheldon, Anthony Vincent	NSW	30.6.2025	ALP
Siewert, Rachel Mary	WA	30.6.2022	AG
Small, Benjamin John ⁽⁸⁾	WA	30.6.2022	LP
Smith, Dean Anthony	WA	30.6.2022	LP
Smith, Marielle Feuerherdt	SA	30.6.2025	ALP
Steele-John, Jordon	WA	30.6.2025	AG
Sterle, Glenn	WA	30.6.2022	ALP
Stoker, Amanda Jane ⁽⁹⁾	QLD	30.6.2022	LP
Thorpe, Lidia Alma ⁽¹⁰⁾	VIC	30.6.2022	AG
Urquhart, Anne Elizabeth	TAS	30.6.2022	ALP
Van, David Allan	VIC	30.6.2025	ALP
Walsh, Jess Cecille	VIC	30.6.2025	ALP
Waters, Larissa Joy	QLD	30.6.2025	AG
Watt, Murray Patrick	QLD	30.6.2022	ALP
Whish-Wilson, Peter Stuart	TAS	30.6.2022	AG
Wong, Hon. Penelope Ying Yen	SA	30.6.2022	ALP

Pursuant to section 42 of the Commonwealth Electoral Act 1918, the terms of service of the following senators representing the Australian Capital Territory and the Northern Territory expire at the close of the day immediately before the polling day for the next general election of members of the House of Representatives

Territory	Senator	Party	Senator	Party
Australian Capital Territory	Gallagher, K.R.	ALP	Seselja, Z.M.	LP
Northern Territory	McCarthy, M.B.A.	ALP	McMahon, S.J.	CLP

⁽¹⁾ Chosen by the Parliament of Tasmania to fill a casual vacancy (vice D Bushby), pursuant to section 15 of the Constitution.

⁽²⁾ Chosen by the Parliament of Victoria to fill a casual vacancy (vice M Fifield), pursuant to section 15 of the Constitution.

⁽³⁾ Chosen by the Parliament of New South Wales to fill a casual vacancy (vice S Dastyari), pursuant to section 15 of the Constitution.

⁽⁴⁾ Chosen by the Parliament of Victoria to fill a casual vacancy (vice S Conroy), pursuant to section 15 of the Constitution.

⁽⁵⁾ Chosen by the Parliament of South Australia to fill a casual vacancy (vice C Bernardi), pursuant to section 15 of the Constitution.

⁽⁶⁾ Chosen by the Parliament of New South Wales to fill a casual vacancy (vice A Sinodinos), pursuant to section 15 of the Constitution.

⁽⁷⁾ Chosen by the Parliament of South Australia to fill a casual vacancy (vice N Xenophon), pursuant to section 15 of the Constitution.

⁽⁸⁾ Chosen by the Parliament of Western Australia to fill a casual vacancy (vice M Cormann), pursuant to section 15 of the Constitution.

⁽⁹⁾ Chosen by the Parliament of Queensland to fill a casual vacancy (vice G Brandis), pursuant to section 15 of the Constitution.

⁽¹⁰⁾ Chosen by the Parliament of Victoria to fill a casual vacancy (vice R Di Natale), pursuant to section 15 of the Constitution.

⁽¹¹⁾ Vacancy created by the death of Senator Alexander Gallacher on 29 August 2021.

PARTY ABBREVIATIONS

AG—Australian Greens; ALP—Australian Labor Party;
CA—Centre Alliance; CLP—Country Liberal Party; IND—Independent;
JLN—Jacqui Lambie Network; LNP—Liberal National Party;
LP—Liberal Party of Australia; NATS—The Nationals;
PHON—Pauline Hanson's One Nation

Heads of Parliamentary Departments

Clerk of the Senate—R Pye
Clerk of the House of Representatives—C Surtees
Secretary, Department of Parliamentary Services—R Stefanic
Parliamentary Budget Officer—S Helgeby

SECOND MORRISON MINISTRY

TITLE	MINISTER
Prime Minister	The Hon. Scott Morrison MP
Minister for the Public Service	The Hon. Scott Morrison MP
Minister for Women	Senator the Hon. Marise Payne
Minister for Emergency Management and National Recovery and Resilience	Senator the Hon Bridget McKenzie
Minister for Indigenous Australians	The Hon. Ken Wyatt AM MP
<i>Assistant Minister to the Prime Minister and Cabinet</i>	<i>The Hon. Ben Morton MP</i>
<i>Assistant Minister to the Minister for the Public Service</i>	<i>The Hon. Ben Morton MP</i>
<i>Assistant Minister to the Prime Minister for Mental Health and Suicide Prevention</i>	<i>The Hon. David Coleman MP</i>
<i>Assistant Minister for Women</i>	<i>Senator the Hon. Amanda Stoker</i>
Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development	The Hon. Barnaby Joyce MP
Minister for Agriculture and Northern Australia	The Hon. David Littleproud MP
Minister for Communications, Urban Infrastructure, Cities and the Arts	The Hon. Paul Fletcher MP
Minister for Regionalisation, Regional Communications and Regional Education	Senator the Hon Bridget McKenzie
<i>Assistant Minister for Road Safety and Freight Transport</i>	<i>The Hon. Scott Buchholz MP</i>
<i>Assistant Minister to the Deputy Prime Minister</i>	<i>The Hon. Kevin Hogan MP</i>
<i>Assistant Minister for Local Government</i>	<i>The Hon. Kevin Hogan MP</i>
<i>Assistant Minister for Regional Development and Territories</i>	<i>The Hon. Nola Marino MP</i>
Treasurer	The Hon. Josh Frydenberg MP
Assistant Treasurer	The Hon. Michael Sukkar MP
Minister for Housing	The Hon. Michael Sukkar MP
Minister for Superannuation, Financial Services and the Digital Economy	Senator the Hon. Jane Hume
Minister for Women's Economic Security	Senator the Hon. Jane Hume
Minister for Finance	Senator the Hon. Simon Birmingham
(Vice-President of the Executive Council)	
(Leader of the Government in the Senate)	
<i>Assistant Minister for Electoral Matters</i>	<i>The Hon. Ben Morton MP</i>
Minister for Agriculture and Northern Australia	The Hon. David Littleproud MP
Minister for the Environment	The Hon. Sussan Ley MP
Minister for Resources and Water	The Hon. Keith Pitt MP
<i>Assistant Minister for Waste Reduction and Environmental Management</i>	<i>The Hon. Trevor Evans MP</i>
<i>Assistant Minister for Forestry and Fisheries</i>	<i>Senator the Hon. Jonathon Duniam</i>
Minister for Foreign Affairs	Senator the Hon. Marise Payne
Minister for Trade, Tourism and Investment	The Hon. Dan Tehan MP
Minister for International Development and the Pacific	Senator the Hon. Zed Seselja
Minister Assisting the Minister for Trade and Investment	The Hon. Dr David Gillespie MP
<i>Assistant Minister for Regional Tourism</i>	<i>The Hon. Michelle Landry MP</i>

Minister for Defence (Leader of the House)	The Hon. Peter Dutton MP
Minister for Defence Industry	The Hon. Melissa Price MP
Minister for Veterans' Affairs	The Hon. Andrew Gee MP
Minister for Defence Personnel	The Hon. Andrew Gee MP
<i>Assistant Minister for Defence</i>	<i>The Hon. Andrew Hastie MP</i>
Attorney-General	Senator the Hon. Michaelia Cash
Minister for Industrial Relations (Deputy Leader of the Government in the Senate)	Senator the Hon. Michaelia Cash
<i>Assistant Minister to the Attorney-General</i>	<i>Senator the Hon. Amanda Stoker</i>
<i>Assistant Minister for Industrial Relations</i>	<i>Senator the Hon. Amanda Stoker</i>
Minister for Health and Aged Care	The Hon. Greg Hunt MP
Minister for Senior Australians and Aged Care Services	Senator the Hon. Richard Colbeck
Minister for Sport	Senator the Hon. Richard Colbeck
Minister for Regional Health (Deputy Leader of the House)	The Hon. Dr David Gillespie MP
Minister for Families and Social Services	Senator the Hon. Anne Ruston
Minister for Women's Safety (Manager of Government Business in the Senate)	Senator the Hon. Anne Ruston
Minister for Government Services	Senator the Hon. Linda Reynolds CSC
Minister for the National Disability Insurance Scheme	Senator the Hon. Linda Reynolds CSC
Minister for Homelessness, Social and Community Housing	The Hon. Michael Sukkar MP
<i>Assistant Minister for Children and Families</i>	<i>The Hon. Michelle Landry MP</i>
Minister for Home Affairs	The Hon. Karen Andrews MP
Minister for Emergency Management and National Recovery and Resilience	Senator the Hon. Bridget McKenzie
Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	The Hon. Alex Hawke MP
<i>Assistant Minister for Customs, Community Safety and Multicultural Affairs</i>	<i>The Hon. Jason Wood MP</i>
Minister for Industry, Science and Technology	The Hon. Christian Porter MP
Minister for Energy and Emissions Reduction	The Hon. Angus Taylor MP
Minister for Resources and Water	The Hon. Keith Pitt MP
<i>Assistant Minister for Industry Development</i>	<i>Senator the Hon. Jonathon Duniam</i>
Minister for Employment, Workforce, Skills, Small and Family Business	The Hon. Stuart Robert MP
Minister for Education and Youth	The Hon. Alan Tudge MP
Minister for Regionalisation, Regional Communications and Regional Education	Senator the Hon Bridget McKenzie
<i>Assistant Minister for Youth and Employment Services</i>	<i>The Hon. Luke Howarth MP</i>

Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there can be two departments in one portfolio. The title of a department does not necessarily reflect the title of a Minister in all cases. Ministers are sworn to administer the portfolio in which they are listed under the 'Minister' column and may also be sworn to administer other portfolios in which they are not listed. Assistant Ministers in italics are designated as Parliamentary Secretaries under the *Ministers of State Act 1952*.

SHADOW MINISTRY

TITLE	SHADOW MINISTER
Leader of the Opposition	Hon. Anthony Albanese MP
<i>Shadow Cabinet Secretary</i>	<i>Senator Jenny McAllister</i>
Deputy Leader of the Opposition	Hon. Richard Marles MP
Shadow Minister for National Reconstruction, Employment, Skills and Small Business	Hon. Richard Marles MP
Shadow Minister for Science	Hon. Richard Marles MP
Shadow Minister Assisting for Small Business	Matt Keogh MP
<i>Shadow Assistant Minister for Employment and Skills</i>	<i>Senator Louise Pratt</i>
Leader of the Opposition in the Senate	Senator the Hon. Penny Wong
Shadow Minister for Foreign Affairs	Senator the Hon. Penny Wong
Shadow Minister for International Development and the Pacific	Pat Conroy MP
<i>Shadow Assistant Minister to the Leader of the Opposition in the Senate</i>	<i>Senator Jenny McAllister</i>
Deputy Leader of the Opposition in the Senate	Senator the Hon. Kristina Keneally
Shadow Minister for Home Affairs	Senator the Hon. Kristina Keneally
Shadow Minister for Immigration and Citizenship	Senator the Hon. Kristina Keneally
Shadow Minister for Government Accountability	Senator the Hon. Kristina Keneally
Shadow Minister for Multicultural Affairs	Andrew Giles MP
Shadow Minister Assisting for Immigration and Citizenship	Andrew Giles MP
Shadow Minister for Disaster and Emergency Management	Senator Murray Watt
Shadow Minister Assisting on Government Accountability	Pat Conroy MP
Shadow Minister for Industrial Relations	Hon. Tony Burke MP
Shadow Minister for the Arts	Hon. Tony Burke MP
Manager of Opposition Business in the House of Representatives	Hon. Tony Burke MP
Shadow Special Minister of State	Senator the Hon. Don Farrell
Shadow Minister for Sport and Tourism	Senator the Hon. Don Farrell
Shadow Minister Assisting the Leader of the Opposition	Senator the Hon. Don Farrell
Shadow Treasurer	Dr Jim Chalmers MP
Shadow Assistant Treasurer	Stephen Jones MP
Shadow Minister for Financial Services and Superannuation	Stephen Jones MP
<i>Shadow Assistant Minister for Treasury</i>	<i>Hon. Dr Andrew Leigh MP</i>
<i>Shadow Assistant Minister for Charities</i>	<i>Hon. Dr Andrew Leigh MP</i>
<i>Shadow Assistant Minister for Financial Services and Superannuation</i>	<i>Hon. Matt Thistlethwaite MP</i>
Shadow Minister for the National Disability Insurance Scheme	Hon. Bill Shorten MP
Shadow Minister for Government Services	Hon. Bill Shorten MP
<i>Shadow Assistant Minister for Carers</i>	<i>Emma McBride MP</i>
<i>Shadow Assistant Minister for Government Services and the NDIS</i>	<i>Senator Kimberley Kitching</i>
<i>Deputy Manager of Opposition Business in the Senate</i>	<i>Senator Kimberley Kitching</i>
Shadow Minister for Education	Hon. Tanya Plibersek MP
Shadow Minister for Women	Hon. Tanya Plibersek MP
<i>Shadow Assistant Minister for Education</i>	<i>Graham Perrett MP</i>

TITLE	SHADOW MINISTER
Shadow Minister for Health and Ageing	Hon. Mark Butler MP
Deputy Manager of Opposition Business in the House of Representatives	Hon. Mark Butler MP
Shadow Minister for Senior Australians and Aged Care Services	Clare O'Neil MP
<i>Shadow Assistant Minister for Health and Ageing</i>	<i>Ged Kearney MP</i>
<i>Shadow Assistant Minister for Mental Health</i>	<i>Emma McBride MP</i>
Shadow Minister for Climate Change and Energy	Hon. Chris Bowen MP
Shadow Minister Assisting for Climate Change	Pat Conroy MP
Shadow Minister for Infrastructure, Transport and Regional Development	Hon. Catherine King MP
Shadow Minister for Cities and Urban Infrastructure	Andrew Giles MP
Shadow Minister for Northern Australia	Senator Murray Watt
<i>Shadow Assistant Minister for Infrastructure and Regional Tourism</i>	<i>Senator Carol Brown</i>
<i>Shadow Assistant Minister for Tasmania</i>	<i>Senator Carol Brown</i>
<i>Shadow Assistant Minister for Northern Australia</i>	<i>Hon. Warren Snowdon MP</i>
<i>Shadow Assistant Minister for Western Australia</i>	<i>Patrick Gorman MP</i>
<i>Shadow Assistant Minister for Road Safety</i>	<i>Senator Glenn Sterle</i>
Shadow Minister for Defence	Hon. Brendan O'Connor MP
Shadow Minister for Veterans' Affairs and Defence Personnel	Hon. Shayne Neumann MP
Shadow Minister Assisting for Defence	Pat Conroy MP
Shadow Minister for Defence Industry	Matt Keogh MP
<i>Shadow Assistant Minister for Defence</i>	<i>Meryl Swanson MP</i>
Shadow Attorney-General	Hon. Mark Dreyfus QC MP
Shadow Minister for Constitutional Reform	Hon. Mark Dreyfus QC MP
<i>Shadow Assistant Minister for the Republic</i>	<i>Hon. Matt Thistlethwaite MP</i>
Shadow Minister for Communications	Michelle Rowland MP
<i>Shadow Assistant Minister for Communications And Cyber Security</i>	<i>Tim Watts MP</i>
Shadow Minister for Finance	Senator Katy Gallagher
Shadow Minister for the Public Service	Senator Katy Gallagher
Manager of Opposition Business in the Senate	Senator Katy Gallagher
Shadow Minister for Families and Social Services	Hon. Linda Burney MP
Shadow Minister for Indigenous Australians	Hon. Linda Burney MP
<i>Shadow Assistant Minister for Reconciliation</i>	<i>Senator Patrick Dodson</i>
<i>Shadow Assistant Minister for Constitutional Recognition of Indigenous Australians</i>	<i>Senator Patrick Dodson</i>
<i>Shadow Assistant Minister for Indigenous Australian</i>	<i>Hon. Warren Snowdon MP</i>
<i>Shadow Assistant Minister for Communities and the Prevention of Family Violence</i>	<i>Senator Jenny McAllister</i>
Shadow Minister for Agriculture	Hon. Julie Collins MP
Shadow Minister for Regional Services, Territories and Local Government	Hon. Jason Clare MP
Shadow Minister for Housing and Homelessness	Hon. Jason Clare MP
<i>Shadow Assistant Minister for External Territories</i>	<i>Hon. Warren Snowdon MP</i>
Shadow Minister for Early Childhood Education	Hon. Amanda Rishworth MP
Shadow Minister for Youth	Hon. Amanda Rishworth MP
Shadow Minister for the Environment and Water	Terri Butler MP
<i>Shadow Assistant Minister for the Environment</i>	<i>Josh Wilson MP</i>

TITLE	SHADOW MINISTER
Shadow Minister for Trade	Madeleine King MP
Shadow Minister for Resources	Madeleine King MP
Shadow Minister for Queensland Resources	Senator Murray Watt
Shadow Minister for Industry and Innovation	Hon. Ed Husic MP
<i>Shadow Assistant Minister for Manufacturing</i>	<i>Senator Louise Pratt</i>

Shadow Cabinet Ministers are shown in bold type.

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Wednesday, 1 September 2021

The PRESIDENT (Senator the Hon. Scott Ryan) took the chair at 09:30, read prayers and made an acknowledgement of country.

DOCUMENTS

Tabling

The Clerk: I table documents pursuant to statute and returns to order as listed on the Dynamic Red.

Full details of the documents are recorded in the Journals of the Senate.

COMMITTEES

Community Affairs Legislation Committee

Community Affairs References Committee

Meeting

The Clerk: Proposals to meet have been lodged as follows:

Community Affairs Legislation and References Committees—today

The PRESIDENT (09:31): I remind senators that the question may be put on any proposal at the request of any senator.

PRIVILEGE

The PRESIDENT (09:31): By letter dated 29 August 2021 Senator Patrick raised as a matter of privilege the failure of the Commissioner of Taxation to comply with an order of the Senate requiring the production of documents related to JobKeeper payments. While the Senate has generally preferred political or procedural remedies in disputes over documents, it may also seek to enforce its orders through its contempt jurisdiction. In that vein, the Senate in June this year referred a dispute over documents withheld from the Senate Economics References Committee to the Privileges Committee for inquiry as a possible contempt.

The letter from Senator Patrick sets out the background to the current matter. The tax commissioner declined to comply with the Senate's order of 4 August, raising the confidentiality of taxpayer information as a public interest immunity claim. On 23 August the Senate explicitly rejected that claim and ordered the commissioner to 'fully comply with the order'. The Treasurer then responded with his own public interest immunity claim, while the commissioner declined to take any further action until the Treasurer's claim was determined by the Senate. Senator Patrick seeks to have the commissioner's refusal to comply with the second order dealt with as a matter of privilege and referred to the Privileges Committee for inquiry as a possible contempt.

Where a matter of privilege is raised, as I've said before, my role is to consider whether it should have precedence in debate. In making that determination I am bound to consider only the criteria in privilege resolution 4. These criteria seek to reserve the Senate's contempt powers for matters involving substantial obstruction to Senate and committee processes or to senators' duties. They also recognise that the Senate is generally reluctant to deal with conduct as a contempt where there is another more appropriate avenue for address available.

It is clear that the conduct of the kind cited in Senator Patrick's letter could substantially frustrate the orders of the Senate requiring the production of documents. The Senate has declared in privilege resolution 6 that disobedience of a lawful order of the Senate and refusal to produce documents in accordance with a Senate order may be dealt with by the Senate as a contempt. I am, therefore, satisfied that criterion A is met. The question of whether the matter warrants investigation as a possible contempt or whether the tax commissioner has a reasonable excuse for his conduct are not questions for me but for the Senate.

In relation to the second criterion, regard for the existence of other remedies, only the Senate can remedy conduct obstructing its own orders. In that sense this criterion is also satisfied. However, I note that there are also procedural and legislative avenues available to the Senate. They include taking action to consider the public interest immunity claim made by the Treasurer or seeking the publication of the information by legislative means. In relation to possible legislative action, I note that both Senator McAllister and Senator Patrick have circulated amendments to an upcoming treasury laws amendment bill that would require publication of the information in question.

In any case, the matter meets the criteria I am required to consider and I have determined that the matter should be granted precedence. However, it remains for the Senate to determine whether the matter should be progressed

by way of referral to the Privileges Committee or whether another remedy should be pursued. I table the correspondence and call Senator Patrick to give a notice of motion in respect of the matter.

Senator PATRICK (South Australia) (09:34): [by video link] I move:

That the following matter be referred to the Standing Committee of Privileges for inquiry and report:

Having regard to the matters raised by Senator Patrick in correspondence tabled by the President on 1 September 2021:

- (a) whether the Commissioner of Taxation has, without reasonable excuse: (i) disobeyed a lawful order of the Senate, (ii) failed to produce documents in accordance with an order of the Senate, or (iii) improperly interfered with the power of the Senate to obtain information necessary to support its accountability functions; and
- (b) if so, whether any contempt was committed in that regard.

I also seek leave to make a short statement of no more than three minutes.

Leave granted.

Senator PATRICK: This is a very important issue. Irrespective of whether senators agree or disagree with the order, the Senate has placed an order on the tax commissioner. It was placed on the tax commissioner because the information is not able to be obtained by the Treasurer by way of division 355 of the Taxation Administration Act, which prevents the minister seeking access to taxpayers' information. The commissioner responded to the 4 August order for production, advancing a public interest immunity, as he is entitled. The Senate then rejected that, on 23 August, giving the tax commissioner until 26 August to comply with the order, and he failed to do so. It's a very serious matter when a member of the executive fails to comply with a lawful order of the Senate.

In relation to the remedies—and I thank the President for raising the other alternative remedies—the Treasury law bills that are going through the Senate involve a process which requires the House to agree to the amendments. I respectfully suggest it raises comity issues as to whether it's appropriate for that to be a remedy to a potential contempt of the Senate.

In relation to the Treasurer's advancement of public interest immunity, the order was not directed at the Treasurer, for good reason, and there is no lawful ability for the Treasurer to countermand an order of the Senate. It is an important issue that needs to be resolved and, in accordance with the notice I've given, I will give the Senate the opportunity to consider this over the break between the sitting periods.

BILLS

Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021

Second Reading

Consideration resumed of the motion:

That this bill be now read a second time.

to which the following amendment was moved:

At the end of the motion, add ", but the Senate:

(a) notes:

(i) it took tens of thousands of Australian women taking to the street in the March4Justice before the Government responded to the Sex Discrimination Commissioner's groundbreaking Respect@Work Report, and even then the Government would not commit to implementing the 55 recommendations in full,

(ii) genuine action on sexual harassment in the workplace includes fully implementing all 55 recommendations of the Respect@Work Report to help keep Australians safe from sexual harassment at work,

(iii) this bill as drafted does not fully implement all legislative recommendations of the Respect@Work Report,

(iv) Australian women are looking at the Prime Minister's record and assuming this bill is just another political fix,

(v) the Sex Discrimination Commissioner herself has described the Federal Government's weak response to her report as a "missed opportunity", and

(vi) if the Government refuses to amend the shortcomings of this bill, an Albanese Labor Government will work with the Workplace Sexual Harassment Council, employers, workers, unions and legal experts to finalise and implement stronger laws as a matter of priority; and

(b) calls on the Government to support amendments to this bill to ensure it fully implements all 55 recommendations of the Respect@Work Report".

Senator HANSON (Queensland—Leader of Pauline Hanson's One Nation) (09:38): [by video link] I rise to speak on the Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021. I almost admire the commitment of the Human Rights Commission, which is on a crusade to engineer Australia into its own warped

image of a progressive society, poised to punish any dissent from the orthodoxy of the woke—an orthodoxy which I'm sure the commission believes it should have the power to determine itself. The commission has a remarkable tendency for overreach and a love affair with cost and red tape and massive bureaucracy, and it is very selective about which rights it promotes and defends. It certainly doesn't promote or defend freedom of speech—a fundamental right in democracies like Australia.

It's with dismay that I've listened to senators demand that every recommendation of the commission's *Respect@Work* report be implemented immediately. I can at least appreciate the contribution of the Greens senators, because, with their own passion for the subject, they have revealed the real agenda behind this nonsense. They want to engineer gender equality outcomes. How far would it go? Do they want equal gender representation in our prisons? Do they want equal gender representation in homelessness? Do they want gender equality in life expectancy?

Experience in other countries demonstrates that where there is strong support for equality of opportunity and maximising choice in education and employment you don't get equal outcomes in pay and/or occupations. If anything, the differences in pay and occupations between men and women increase with more choice and opportunity. That's simply because there are important biologically based differences in preferences between men and women, something the Greens and the Human Rights Commission refuse to acknowledge.

One Nation has always supported equality before the law for all Australians as well as equality of opportunity for all Australians. What happens after that should be up to Australians themselves, not up to unelected would-be social engineers like the Human Rights Commission. It has made some very disturbing recommendations in the *Respect@Work* report that One Nation will never support. It is recommending the indoctrination of schoolchildren into work gender equality ideology. It is recommending that the Australian media be forcibly indoctrinated in the same ideology and wants guidelines in place to prevent the media from reporting on sexual harassment in any way other than what the commission deems acceptable.

The commission wants to indoctrinate workers compensation bodies and tell businesses what to do with respect to non-disclosure agreements. The commission wants to indoctrinate judges and magistrates, too—as if adherence to the law and presumption of innocence are not sufficient for them to do their job fairly and effectively. The commission wants to hide sexual harassment civil proceedings in our courts from the public. The pressure on our universities, which are already badly compromised by gender work ideology, is increased under these recommendations, with the commission demanding more taxpayer money to help smaller universities implement its agenda. The government has already established the recommended Workplace Sexual Harassment Council, the vehicle by which the commission seeks to put effect to its agenda. One Nation has opposed the establishment of this body. We need less red tape, not more.

The commission wants to force a duty on employers to eliminate sex discrimination, sexual harassment and victimisation and wants the power to assess compliance and enforce it. It's as if the commission wants to take the place of the courts and the police and doesn't understand that we already have numerous laws making such conduct illegal. The commission wants more power to inquire into systemic discrimination, which is already unlawful, and to penalise those who do not take part in these virtue-signalling witch-hunts. The commission wants to extend the time in which it does not have to terminate a sexual complaint and ensure that anyone who is bringing a complaint has taxpayer support to do so. The commission's ambition to effectively rule over Australian business and education systems and the judiciary should alarm every member and senator in this parliament. The commission wants to be a law unto itself, and it is secure in this arrogant presumption because successive Australian governments have repeatedly failed to rein in this naked ambition.

On this issue we can safely dismiss Labor, hopelessly compromised by its abysmal record in dealing with sexual harassment. Let's never forget the hypocrisy of Julia Gillard, Australia's first woman Labor Prime Minister, passionately defending the integrity of former Speaker Peter Slipper while funding his defence against sexual harassment charges. The victim was left to fund his own enormous legal costs and years later is still seeking to recover them. Labor knew all about Slipper's reputation for sexual harassment, with other victims paid off by the Department of Defence, before they elevated him to the Speaker's role. Labor enabled his harassment of young men by giving him the third-highest office in the nation, a wardrobe of wigs and robes and a never-ending supply of liquor to stay drunk as a lord after midday. The master plan to elevate this cringe-worthy man to Speaker was developed by none other than Labor's current leader, Anthony Albanese, despite everything. The now Labor leader knew of Mr Slipper's actions in this parliament. Mr Albanese knew that Mr Slipper had slipped through the bedroom window of a former male staff member to play more than footsies under the doona while a secret video camera rolled in the corner of the room. But that still didn't deter the member for Grayndler from giving Mr Slipper the third most powerful job in our parliament.

The woeful hypocrisy on display today by Labor is blood-curdling. Senator O'Neill was in the lower house at the time. What did Senator O'Neill do to help protect the victim? She did nothing. Senator Kitching also needs to be reminded that it was her husband, Andrew Landeryou, who wrote on his website Vexnews the appalling, hateful, false stories that almost drove the victim to suicide. The victim recalled the moment he considered pulling out in front of a B-double truck and ending his life on the Bruce Highway, following the torment her husband put him through for simply speaking out against a perpetrator. Christopher Pyne shouldn't be let off the hook either. I'll have another 15-minute speech lined up on the former member for Sturt before this parliament is out. Let's just say that the South Australian golden-haired child of the Liberal Party has far too many skeletons in his own closet that many members of this Senate know all too well are a strain on their party and not on this place. The whole lot of you are sanctimonious pretenders. Labor has zero credibility on the matter.

As for the government, it, too, has been compromised by its surrender to the politics of the woke and the spectacle of Brittany Higgins. The government collapsed like a house of cards before Ms Higgins's allegations, which were shamelessly used by political opponents to attack the Prime Minister and, essentially, blame him for the alleged attack. It doesn't matter who in the Prime Minister's office knew about the allegations. The inquiry into this is a politically motivated waste of time and resources. It is strictly a matter for the courts. Earlier this month it was confirmed that a man had been charged in relation to the alleged attack and will face court next month. I can only assume that the presumption of innocence will apply and that the evidentiary burden will rest solely with the prosecution and accuser.

I raise these issues because so much of the gender-equality narrative around sexual harassment, including the Me Too movement—conspicuously referenced in the *Respect@Work* report—denies the very concept of personal responsibility and the presumption of innocence, essentially denying that victims of sexual harassment or assault have personal agency or sovereignty. Make no mistake about this: sexual harassment and sexual assault are wrong and can have lasting negative impacts on everyone involved, especially victims. That's why we have strong laws and penalties against them. But now we're being told that all victims' allegations must be believed, regardless of the specifics and the decisions and choices that lead to them. So much for the presumption of innocence.

It is not blaming the victim to point out that Ms Higgins, when she reported the allegations to Minister Reynolds, chose not to proceed with charges against her alleged attacker. The fact is that she could have proceeded with the matter much earlier and would have been supported in doing so. But, according to the orthodoxy of the woke, she never had a choice and wasn't responsible for the long delay between the alleged attack and charges being laid. I don't accept that, and neither do a lot of other people. We are all responsible for our own actions, and we are all answerable to the law. Let's make sure we don't become answerable to the unelected Human Rights Commission by indulging its woke crusade.

This legislation seeks to implement six recommendations from the *Respect@Work* report. They include recommendation 16 which seeks to amend the Sex Discrimination Act 1984. One Nation notes and rejects the push to make this law 'achieve substantive equality between women and men'—as I pointed out earlier, we support equality of all opportunity—which has been demonstrated to lead to unequal outcomes between women and men. Recommendation 20 seeks to amend section 105 of the SDA to ensure it applies to sexual harassment. Recommendation 21 seeks to amend the Australian Human Rights Commission Act 1986 to make it explicit that any conduct which is an offence under section 94 of the SDA can form the basis of a civil action for unlawful discrimination. One Nation rejects this recommendation on the basis that such matters should be the subject of criminal proceedings.

Recommendation 22 seeks to amend the AHRC Act so that the president's discretion to terminate a complaint under the SDA on the grounds of time does not arise until it has been 24 months since the alleged unlawful discrimination took place. One Nation rejects this recommendation and supports the time frame remaining at the current six months. Recommendation 29 seeks to introduce a 'stop sexual harassment order' equivalent to the 'stop bullying order' in the Fair Work Act 2009, and recommendation 30 seeks to amend section 387 of the Fair Work Act to clarify that sexual harassment can be conduct amounting to a valid reason for dismissal. We can only hope the government is far more careful in examining other recommendations in the report to ensure the Human Rights Commission cannot dictate how we must all behave.

For goodness sake, it's time we stopped seeing virtue in victimhood. Everyone's a victim these days. It's like we're raising a nation of sooks. There is no virtue in being a victim, and yet it seems many of today's female role models have no credibility unless they claim they're a victim of some injustice or other, usually at the hands of a man, of men or of the so-called patriarchy. It's now a recommended entry on our ambitious women's resumes—contact details, education credentials, relevant work experience, personal interest and, now, victim status.

How far have we fallen? One Nation stands against the indoctrination of Australia and the Human Rights Commission's dystopian vision of a society of compliant, woke sycophants too frightened to say what they really

think. One Nation continues to stand for personal responsibility and integrity, for the objective rule of law, for the presumption of innocence, for equality of opportunity and for equality before the law. We will continue to provide a voice to Australians disenfranchised by this government and this parliament, who, we are confident, roundly reject this attempt to engineer our society.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (09:51): I rise to sum up the debate on the Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021 and I thank all senators for their contributions to the debate. The Australian government is pleased to be taking action to strengthen and streamline the national legal frameworks that deal with sexual harassment as part of its long-term strategy for preventing and addressing sexual harassment, outlined in the *Roadmap for respect: preventing and addressing sexual harassment in Australian workplaces*.

The bill makes important changes to the Sex Discrimination Act 1984, the Australian Human Rights Commission Act 1986 and the Fair Work Act 2009 to ensure Australia's legal frameworks are effective in preventing and responding to sexual harassment. The changes made by the bill give effect to recommendations 16, 20, 21, 22, 29 and 30 of the *Respect@Work* report by clarifying that the Sex Discrimination Act covers judges, members of parliament and ministerial staff; ensuring that state and territory public servants are covered by the Sex Discrimination Act, by removing the existing exemption; and expanding the coverage of the protection from workplace sexual harassment under the Sex Discrimination Act by picking up the broader concepts of 'worker' and 'persons conducting a business or undertaking' as defined under the Work Health and Safety Act to ensure all paid and unpaid workers, including volunteers and interns, are protected from sexual harassment under the act.

The changes also include introducing an express provision to clarify that sex based harassment is prohibited under the Sex Discrimination Act; inserting a new object clause in the Sex Discrimination Act to make it clear for decision-makers that the act aims to achieve, so far as is practicable, equality of opportunity between men and women in addition to the elimination of sex discrimination and harassment; and expanding the coverage of the ancillary liability provisions in the Sex Discrimination Act to include sexual harassment and the new sex based harassment provision.

The changes also include amending the Australian Human Rights Commission Act to extend the time period for making a complaint under the Sex Discrimination Act, meaning that a complaint cannot be terminated on the grounds of time unless it has been 24 months since the alleged incident, rather than six months; clarifying that victimising conduct can form the basis of a civil action for unlawful discrimination under the Sex Discrimination Act, in addition to a criminal complaint; clarifying that the Fair Work Commission can, under the existing antibullying jurisdiction, make orders to stop sexual harassment; and clarifying that sexual harassment can be conduct amounting to a valid reason for dismissal under the unfair dismissal provisions of the Fair Work Act.

Whilst this was not recommended in the *Respect@Work* report, the bill also enables an employee to take up to two days of compassionate leave if the employee or the employee's current spouse or de facto partner has a miscarriage. The government has also made changes to the Fair Work Regulations 2009 to give effect to recommendation 31.

The Senate Education and Employment Legislation Committee has reviewed the bill and recommended, after feedback, to defer commencement of the extended antibullying jurisdiction of the Fair Work Commission until no earlier than two months after royal assent. The government has circulated amendments to the bill in line with this recommendation. The committee report also contains a number of dissenting recommendations and comments, many of which refer to implementing new changes which would necessitate substantial policy consideration and consultation beyond that undertaken by the Sex Discrimination Commissioner in developing the *Respect@Work* report. In respect of a positive duty on employers to prevent sexual harassment, sex based harassment and discrimination under the Sex Discrimination Act, further policy consideration and consultation is required to ensure such a duty would operate effectively without increasing complexity for those seeking to use the protections. This includes an assessment against the model work health and safety laws, which already impose a positive duty on employers to protect workers from health and safety risks, including psychosocial risks such as sexual harassment, so far as reasonably practicable. Work health and safety laws also provide for compliance, enforcement and inquiry functions to be exercised by work health and safety regulators. Employers that fail to meet obligations under work health and safety laws can be subject to prosecution and severe penalties.

In respect of providing the Australian Human Rights Commission with new powers and functions regarding sexual harassment, the government notes that it would not be appropriate to provide the Australian Human Rights Commission with a discrete function in respect of sexual harassment without first considering the Australian Human Rights Commission's broader function and roles with respect to other forms of discrimination and harassment, as well as the roles of other regulators that can already inquire into such conduct. More work is

therefore required to consider the practical requirements of implementation, including funding requirements, evidence gathering, procedural fairness, privacy and penalties for noncompliance.

In respect of amending the Australian Human Rights Commission Act to allow representative groups to bring representative claims to court, I note that there is already an existing mechanism to enable representative proceedings in the Federal Court under part IVA of the Federal Court of Australia Act 1976. In respect of amending the Australian Human Rights Commission Act to insert a cost-protection provision consistent with the Fair Work Act, further consideration is required in light of the broad discretion already available with respect to costs in section 43 of the Federal Court of Australia Act 1976 and section 79 of the Federal Circuit Court of Australia Act 1999, which could include, for example, ordering parties to bear their own costs or pay another party's costs. I have also written to the Federal Court to commend the report for their consideration, particularly the impact different cost orders may have on victims of sexual harassment.

In respect of including gender identity and sex characteristics as protected attributes under the Fair Work Act, I note that this was not recommended in the *Respect@Work* report and would require further consideration. I note that the Fair Work Act already provides protections against unlawful termination and adverse action on certain discriminatory grounds, and the Sex Discrimination Act already provides protections against discrimination on other grounds of gender identity and intersex status. In respect of including a clear prohibition on sexual harassment in the Fair Work Act and a new complaints process in the Fair Work Commission for workers with current or historical experience of sexual harassment, I note the government outlined in the road map that it would review the Fair Work system once the amendments in the bill have been implemented and their impact assessed.

In respect of providing 10 days paid family and domestic violence leave in the National Employment Standards under the Fair Work Act, this bill is not the appropriate legislative vehicle to consider broader reforms to family and domestic violence leave. The Fair Work Commission is currently reviewing the family and domestic violence leave clause in modern awards. Further consideration of the issues of paid leave by the government will be appropriately informed by the commission's consideration of the issue. Employers of course remain free to provide entitlements that suit their workplaces.

In respect of implementing ILO convention 190, the government supports the underlying principles of the convention and is considering implementation as part of the usual treaty processes, including by assessing the extent to which Australia's existing frameworks already give effect to the convention. In respect of implementing any further recommendations, the government will continue to act in line with its commitments in the Roadmap for Respect.

The committee report also contains a number of dissenting recommendations and comments which relate to amendments to the bill. In respect of the requirement that conduct that is seriously demeaning, among other things, to meet the new definition of sex based harassment that would be inserted into the Sex Discrimination Act by the bill, I note that this requirement was chosen to reflect the case law on sex based harassment and, following stakeholder consultation, to ensure the provision only captures conduct that is more serious or repetitive. The government's view is that there is a need for clarity about the level of conduct that should be prohibited and made unlawful in federal antidiscrimination law.

In respect of the language of the new objects clause for the Sex Discrimination Act that would be implemented by the bill, this draft reflects the government's commitment in the Roadmap for Respect that equality of opportunity between men and women in addition to the elimination of discrimination underpins the operation of the Sex Discrimination Act. This language acknowledges that more affirmative actions in addition to the elimination of discrimination and harassment are required to achieve substantive equality.

In respect of broadening stop-sexual-harassment orders to cover sex based harassment, I note under the Fair Work Commission's antibullying jurisdictions the definitions of 'bullying' and 'sexual harassment' are canvassed broadly enough to capture sex based harassment. Where sex based harassment constitutes sex discrimination and is not otherwise captured as bullying or sexual harassment, there are existing antidiscrimination mechanisms in Australia that provide a right of recourse to individuals who have been subject to discriminatory behaviour. In clarifying that sex based harassment can amount to a valid reason for dismissal under the Fair Work Act, the bill implements recommendation 30 of the report. It clarifies that sexual harassment can be conduct amounting to a valid reason for dismissal.

In summary, the bill will ensure all Australians are protected from workplace sexual harassment by expanding the scope of existing sexual harassment prohibition, promoting clarity for employers and workers and reducing procedural barriers for sexual harassment complaints. On that basis, I commend the bill to the Senate.

Question negated.

Senator McALLISTER (New South Wales) (10:02): I understand that there is not support for this amendment across the chamber and Labor won't be calling a division, but I do wish to record our support for the second reading amendment.

Senator SIEWERT (Western Australia—Australian Greens Whip) (10:02): I indicate the Greens support for this amendment. On behalf of Centre Alliance, I move the Centre Alliance amendment on sheet 1360:

At the end of the motion, add ", but the Senate calls on the Government to work with the states and territories to ensure mandatory working with children checks are introduced for any employer or manager who hires children under the age of 18, such as employers or managers in the retail and fast food sector.

Question negatived.

Senator SIEWERT (Western Australia—Australian Greens Whip) (10:03): Could *Hansard* please record the Greens support for this amendment.

Senator McALLISTER (New South Wales) (10:03): I wish to register that Labor supports the amendment.

Senator PATRICK (South Australia) (10:03): [by video link] I also want to have my support recorded for that second reading amendment.

Original question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (10:04): In the first instance, I table a supplementary explanatory memorandum relating to the government amendment to be moved to this bill, and I also move government amendment on sheet QL186:

(1) Schedule 1, item 28, page 7 (after line 16), after section 49, insert:

49A Applications for orders to stop sexual harassment

The amendments of section 789FC made by the *Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021* apply in relation to an application made under that section after the end of the 2-month period beginning at the commencement of this section.

This amendment, as I've already articulated in my summing up speech, gives effect to the recommendation of the Senate Education and Employment Legislation Committee report on the bill, by delaying applications being made under the changes to the bullying provisions in the Fair Work Act until two months after the bill commences. This recommendation was in response to concerns raised by the Fair Work Commission in its submission to the Senate committee about its capacity to successfully implement the changes to its antibullying jurisdiction, given it anticipates an increase in applications when the changes take effect. The committee obviously took on board that feedback from the Fair Work Commission and made the recommendation, and the government is more than happy to move that.

Senator McALLISTER (New South Wales) (10:05): I note that this is in fact the only amendment that the government will be seeking to move during this period of committee consideration. I think that's just worth reflecting on for a moment, because the sorry history of this legislation is this. The government sat on a report that it had commissioned into sexual harassment in Australian workplaces. It commissioned this report and then it sat on it for a full year—at least a year, in fact, because all the indications are that an early draft was given to them even months before it was formally tabled.

Now, Mr Porter, for reasons he has never bothered to explain, didn't think that this was a matter worthy of his attention, and, in fact, when I asked questions of the department about this in Senate estimates, they rather shamefacedly revealed—and I feel for the department, actually—that, in an entire year, the person that Mr Morrison thought suitable to be the Attorney-General had not bothered to speak to Commissioner Jenkins about her work. Mr Porter has never actually explained why it was that he took so little interest in sexual harassment in Australian workplaces—never bothered; never put that on the record. But I think many of us would have our own theories about why this was of so little interest to Mr Porter.

Finally, scandal after scandal after scandal has forced this government to engage with the questions that face Australian women. Tens of thousands of women mobilised around the country to demand that their interests be observed—to demand that the government start to engage with the reality that every woman in this country understands: that Australian women's working lives are not equal; that Australian women are subject to too much violence, at home and at work; that there is too much discrimination and that people have had enough. What was Mr Morrison's response to all of this? It was to hide inside. It was to refuse to engage with the thousands of

women who'd made their way to the grounds of this place to voice their dissent and their concern that the government does not respond to their interests. Scandal after scandal after scandal—and we finally get a response to the *Respect@Work* report.

As to the government's response, their headline claim was that they accepted all 55 recommendations, but, when we actually go through the implementation road map, that's not what's there—that's not what is there at all. We see mealy-mouthed responses: 'accept in principle'; 'note'—note, but insert caveat which in fact negates the subject of the recommendation from Commissioner Jenkins. And then the legislation before us does not even fulfil the promises that are made in the road map.

So my question to the minister is this. Why have so few of Commissioner Jenkins's recommendations actually been reflected in this legislation? Why do Australian women have to wait?

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (10:09): The government agreed to—in full, in principle or in part—or noted all 55 recommendations of the *Respect@Work* report in the Roadmap for Respect. Only 15 of the 55 recommendations proposed specific amendments to federal legislation; many of the remaining recommendations were directed to state and territory governments, independent agencies, regulators and the private sector., recognising the whole-of-community approach required for real change outlined in Sex Discrimination Commissioner Kate Jenkins's *Respect@Work* report.

In addition to developing the Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021, the Commonwealth, or the Morrison government, has already taken significant steps to implement other recommendations from the *Respect@Work* report. These include establishing the Respect@Work Council, to improve coordination, consistency and clarity across the legal and regulatory frameworks; and progressing work on recommendations requiring joint action through intergovernmental meetings such as national cabinet, the meeting of attorneys-general, the Women's Safety Taskforce and the meeting of work health and safety ministers.

In the 2021-22 budget, we've committed over \$21.5 million to implementing the Roadmap for Respect. We are also, as you will be aware, amending the Fair Work Regulations in response to recommendation 31 of the *Respect@Work* report. The bill itself makes key amendments that would immediately strengthen the overarching legal framework with respect to sex discrimination and harassment. The government has prioritised those reforms which could be implemented quickly and easily. More complex reforms, as I have already articulated in my summing-up speech, will require additional consideration and consultation. This was actually recognised by the committee, who recommended that the bill be passed.

The amendments in the bill are informed by extensive consultation, including targeted consultation on a draft version of the bill prior to its introduction, public consultation by the Senate Education and Employment Legislation Committee and extensive public consultation undertaken by the Australian Human Rights Commission in developing the *Respect@Work* report.

Senator O'NEILL (New South Wales) (10:12): I'm sorry that I need to make this kind of contribution at this point in time, because there was so much promise, so much hope and so much passion and energy for a wholesale change to the outcomes for Australian women at work. I stand as a female member of the great Australian Labor Party, on the back of the history of this great party, to make safe workplaces a reality in this country. The Australian Labor Party, for its entire 120-year history, has been about the lives of workers and their protection in the workplace. It might have been shearers and miners who gave breath to our extraordinary political force so long ago, and I dare say they could scarcely imagine the kind of society successive generations have created, but they could see the common, strong thread of workers' rights that links us back to those who sat under that Tree of Knowledge.

I want to point to a very important, relatively short document that sits at the back of the report from the Senate Education and Employment Legislation Committee on the Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021. It's a shorter document than I hoped it might be, but the fact is that the inquiry into this very important bill was unbelievably short. After the government, through Christian Porter, delayed any response to this remarkable report here—hundreds and hundreds of pages, with thousands of consultations clearly setting out a road map, of a kind, that was indicated to this government—we had no action. When we finally got to the point where something was to be done—and I will acknowledge that Senator Cash, in her new role, actually blew the dust off the government's copy of this and got on with the job of doing something—this government has been found wanting. The short inquiry forced contributors to provide their response to this parliament in the shortest of time. The short inquiry—truncated to two days—drew from witnesses evidence that indicated that they had barely had time to provide a response to the government legislation. In fact, the government prompted action when we had received, after the inquiry, confidential reports—I won't reveal them—from people and peak bodies that had

wanted to participate but were so cut short in their capacity to respond that they ended up not being able to fully interrogate the piece of legislation that the government is advancing. So we have to characterise what's happened here as a 'do nothing' response and then a 'let's get this sorted in a hurry' response. Neither of those actually leads to proper, careful legislation.

Labor, in the course of this debate this morning, will move a significant number of amendments that I encourage the Greens and other senators on the crossbench to really have a good look at and support, because this moment is not going to come again. After the report, there was no action, and then there was this legislation. The fanfare that's going to go with this will say: 'Basically, the government accepted all 55 recommendations. It's all good here. We've sorted the problem of sexual discrimination and harassment at work.' That's what the headline takeaway is going to be: 'The government did this.' But they didn't. They haven't.

At the back of the committee report that I am referring to there is a dissenting report of equal length from Labor senators. For people who really want to know what the government are doing, or the lack of what they're doing, that dissenting report will give them the outline of what's missing. Senator Cash, in her contribution in response to Senator McAllister's question, indicated again that there was support for the 55 recommendations, but Senator McAllister has already well articulated the reality that it was a mealy-mouthed response to those 55 recommendations, and participants in the inquiry made it very, very clear that the government is not accepting all 55 recommendations. Let that be very clear. This document, so carefully constructed by Kate Jenkins, the Sex Discrimination Commissioner, telling the stories of Australians who have experienced sexual harassment and who came forward and retraumatised themselves on many occasions to retell their stories, is not being given full voice and a full response by this government. Senator Cash has indicated in her defence that there were 16 legislative actions that were recommended, but this government's only taking six of them. That's not a pass in anyone's book.

So let's be clear about where we are today with regard to this particular matter. I'm sure Senator Cash can see, as Labor senators see and as ordinary Australians see, that sexual harassment in the workplace is a very significant hazard. There is not only the personal suffering and pain; the cost of sexual harassment in the workplace hurts productivity in this nation. It hurts lives, it hurts productivity and it impacts negatively on businesses. It costs the Australian people a huge amount in terms of mental health and damage. Labor says: enough is enough.

This bill would have been a game changer if the government had actually taken on the task that was served up by Commissioner Jenkins and properly legislated this, with all the resources it as the government has, to create great legislation to give protection in the workplace. But the government seems to have squibbed it here. So my question, Senator Cash, is: there were 15 legislative actions recommended; why did the government only have enough courage or give itself enough time to get up six?

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (10:20): Senator O'Neill, I completely reject the assertions that you have made in that statement to the Senate. I have already articulated that the government has agreed in full, in principle or in part or noted 55 recommendations of the *Respect@Work* report in the Roadmap for Respect. I have also articulated that only 15 of the 55 recommendations proposed specific amendments to federal legislation.

If you've read the report—and I know that you have—you would also understand that many of the remaining recommendations were directed to state and territory governments, to independent agencies, to regulators and to the private sector. The reason that the Sex Discrimination Commissioner did this was that she recognised, as we do—and I'm sure you do as well—that a whole-of-community approach was required for real change, as she has clearly articulated in her *Respect@Work* report.

As I have also already articulated, both in my summing-up speech and in response to questions raised by Senator McAllister, in addition to developing the bill, the Commonwealth has already taken significant steps to implement other recommendations from the *Respect@Work* report. Again, as I've already articulated—but I'm happy to articulate it again—this includes establishing the Respect@Work Council to improve coordination, consistency and clarity across the legal and regulatory frameworks and progressive work on recommendations requiring joint action, because many of them do require joint action, through intergovernmental meetings such as the national cabinet, the Meeting of Attorneys-General, the Women's Safety Taskforce and meetings of the work, health and safety ministers. I think I have already advised as well that in the 2021-22 budget we committed funding to implementing the Roadmap for Respect and we're also amending the Fair Work Regulations in response to recommendation 31 of the *Respect@Work* report.

When we provided the government's response, I said at the time, with the Prime Minister, that the bill makes key amendments that would immediately strengthen the overarching legal framework with respect to sex discrimination and harassment. The government has prioritised those reforms which could be implemented quickly and easily. And, in my summing-up speech, I did go through a number of the amendments that you

propose to move, which are in relation to a number of the recommendations in the *Respect@Work* report. The comment that I made was that more complex reforms will require additional consideration and consultation and that this was recognised by the committee, who recommended that the bill be passed.

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (10:23): [by video link] This government is botching up this legislation. They botched the response to the rape of Brittany Higgins in the building that you folk are now sitting in—I'm of course remoting in; they botched the response to the allegations of rape against a sitting cabinet member; and now they are botching a report which made very clear recommendations that were meant to be taken as a package to protect workers in their workplace. The fact that the government are doing half the job and trying to pretend that they are doing the full job is just reprehensible—and I hope nobody is fooled by this. I think the government think that they want to be seen to be tackling this issue because they know they have a political problem with women. Well, is it any wonder that you have a political problem with women when you are not taking these issues seriously?

Commissioner Jenkins did a comprehensive and detailed report. The key centrepiece recommendation of that report was for a positive duty on employers to provide a safe workplace for workers. It's not an outrageous concept. We have workplace health and safety laws to deliver the physical safety of workers in that traditional context. But this recommendation shows that that's not working for sexual harassment. So we need an obligation on employers to provide a safe workplace. It cited statistics that 40 per cent of women in the workplace are being sexually harassed. What's worse are the figures for young female workers. More than half of them have reported that they're experiencing sexual harassment in the workplace.

Many of us have children in this place, and many of our children will soon be old enough to get their first job. How on earth on our consciences can we live with sending them into workplaces where more than half of them will be sexually harassed as juniors, where they'd have no idea what the unwritten rules of the workplace are and where the burden on them to raise this issue would be on their own shoulders. That's why we'll be moving amendments, once we come to them, for representative actions, so that the burden isn't on one individual worker, one lone woman in a workplace, to tackle the entire establishment within which she works. But that's another matter.

If we had that obligation on employers to provide a safe workplace, many of these issues could be tackled. It would drive that cultural shift. It would send that message to colleagues, to bosses, to workplaces everywhere that it's not okay to sexually harass anybody at work. Frankly, it's just appalling that you even have to make that point. Surely that should be understood. But the fact is that it's not, and the rates of harassment are off the charts. This government has the chance to fix that, and it's choosing to ignore that key recommendation. I genuinely don't understand how they think they can get away with this. We keep asking—the opposition keeps asking, the media keeps asking—why aren't you acting on this key recommendation? Yesterday, we heard from Senator Henderson, who said, 'We haven't not acted on that recommendation; we just haven't done it yet.' I think that was the nub of her contribution. We just heard Minister Cash, again, run the line that they've agreed in part or in full to all the recommendations. I'm sorry, it's codswallop. Where is the amendment to say that employers have to provide a safe workplace? Why are the Greens and the opposition jointly moving that amendment today? Because we understand that this isn't about politics. This is about the safety of workers and the 51 per cent of the population who deserve not to be harassed in their place of work. Why is it taking the chamber to do the government's job? Why on earth is the government going to vote against that amendment?

Yesterday, Senator Henderson implied that the government needed more time to consider the recommendation. My question to the minister is: Are you really going to draft an amendment to provide a safe workplace? Are you really asking for more time, after 17 months of having had this report, for more than a year of which it gathered dust in the draw of Christian Porter? Are you really trying to tell us that you might do this in future? Frankly, we don't believe you. You've got the chance to do it today. You should have done it yourself. This should have been in your own bill. It's not.

The Greens and the opposition are moving an amendment to say that employers everywhere should have a positive duty to provide a safe workplace. Is the government really going to vote against that? These issues are actually real. This is actually about making people safe right across the country. This is an issue that shouldn't be about whether or not you think this is a good political move for you in the lead-up to the election. This shouldn't be about whether you need to win back women voters because your Prime Minister is so out of touch, lives in the 1950s and thinks women belong in the kitchen. This is actually real. This will affect people's real lives, and it will keep people safe. How can you possibly not be moving this amendment? How can you possibly not support it when the Greens and Labor moved for it to be added?

We collaborated on that amendment. There would be a six-month period for businesses to have time to come to grips with this new work requirement. There would be supporting material drafted by the Human Rights

Commission to assist employers to understand this new obligation on them and to work out what it meant for them in the range of different sized workplaces. Obviously, it would mean a lot more for a very large and well-resourced workplace than it would for a much smaller workplace, and perhaps different levels of things would have to be done to provide that safe workplace, but there would be a transition period. There's no excuse to not support the obligation to have a safe workplace and for employers to provide that for their staff.

My question to you is: can we really believe that you are going to tackle this at some point in the future? You've had enough time. You haven't done the main thing that this report called on you to do: to provide that safety for the 40 per cent of women who are sexually harassed in their place of work. How can you live with yourself? I guess that is in fact my question. How can you live with yourself, knowing you've got the chance to fix this? How can you actively block it, probably with One Nation in tow as they always are? We heard Senator Hanson describe this issue as 'virtue-signalling witch-hunts'. I had to turn my camera off because I was actually in peals of laughter at Senator Hanson's contribution. It was so unhinged and so straight from the playbook of the Men's Rights Association that it just beggared belief. Are you really going to gang up with One Nation to deny protection for the 40 per cent of women in workplaces who are being sexually harassed?

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (10:31): I believe, Senator Waters, I've already articulated my answer to many of the propositions that you've put to me in my responses to other questions that have been raised in the chamber. What other parties do on amendments that are put forward is a decision for the other parties. The government has its position. What other parties do other parties do. Would it assist—and I'll look to Senator McAllister for some direction—given we're going to be talking through specific amendments, if we put the government's amendment and then turn to the specific amendments so we know exactly what we are addressing at a particular point in time? Would that assist?

Senator McALLISTER (New South Wales) (10:32): Senator Cash, I think it would, although I do believe that Senator Pratt has a more general proposition that she'd like to speak to before we do so. Senator Pratt, is that correct?

Senator PRATT (Western Australia) (10:32): My anger at the government in relation to what's been dished up in this legislation is palpable. Minister Cash has just told this chamber that the bill represents what they could pull together quickly and easily, even though the report was handed down by Commissioner Jenkins at the beginning of last year and the government had an early copy of it—over a year without responding.

I feel like I'm truly between a rock and a hard place today in contributing to this debate, because I want to interrogate in this place all of the outstanding issues and recommendations in Commissioner Jenkins's report. However, we know we have a timetable in this place that we need to meet. We have other issues in other legislation before the parliament this week that we also need to complete in a timely way because it affects women's lives. It's at the convenience of the government, in terms of which legislation they choose to put up first, as to whether we could, for example, fix paid parental leave, which we again need to fix in this place later this week. That's because the government botched the legislation by not leaving themselves the flexibility to fix it. Because of the coronavirus pandemic, they didn't leave themselves the flexibility to fix it even though we in this place told them they should. I know there are other important issues that affect women's lives that we need to get to and debate, which means I feel terribly truncated in all of the very substantive issues that we should be able to interrogate in a detailed way during this committee discussion. It is entirely on the head of this government, due to its incompetence not only in managing paid parental leave but also in how it has handled this set of issues from the outset, when the former Attorney-General, Christian Porter, sat on this report so that Minister Cash was left with what could be implemented quickly and easily. There was no need for the government to treat this as an exercise in dishing up to the Senate what could be done quickly and easily. Frankly, there's an opportunity to accept amendments that could fix the bill now, in line with Commissioner Jenkins's recommendations.

The bill in its current form does not come even close to the comprehensive package that Commissioner Jenkins put forward. There's no positive duty in the Sex Discrimination Act. I'll frame my first question to Senator Cash in relation to that. The government said, over and over again, that work health and safety was the positive duty. Commissioner Jenkins said the onus in the Work Health And Safety Act was not an effectively framed positive duty. The government then said, 'Well, it's covered in psychosocial hazards, and we all know they need to be reformed.' Then Commissioner Jenkins said: 'Well, that's not good enough. It's not like other hazards in the workplace, where you've got, for example, a positive duty to ensure that someone mops up a wet floor.' In the workplace, wet floors will be created, and you need to mop them up, but, in the case of sexual harassment, it is not something that should be happening in Australia's workplaces. It is indecent behaviour. Yet, Minister Cash, in these amendments to the Fair Work Act, you do not expressly prohibit sexual harassment.

I don't see why it should be framed as a positive duty when it is not something that should be occurring in Australian workplaces. Positive duties are about the activities that you undertake in the course of business. The way the Work Health and Safety Act frames its positive duties is about getting the actual job done. It's about how you go about your main business safely. But sexual harassment is not something that should be occurring in Australian workplaces as a matter of course. If you can't distinguish between how duties within the Work Health and Safety Act should operate and how duties within the Sex Discrimination Act should operate, then heaven help us with you as the Attorney-General, Minister Cash.

As raised by Commissioner Jenkins and many others, women in Australia have a terrible time bringing these cases to court. Yet, in this legislation, you do not allow representative groups to bring representative claims to court. You do not insert a cost-protection provision, consistent with section 570 of the Fair Work Act, and you do not provide a broadened 'stop sexual harassment' order to cover sex based harassment extending to any circumstances connected to work. In Commissioner Jenkins's report, the reasons these things need to be done were well articulated, and I don't believe you've got any excuse for continuing to sit on them as things that can't be done quickly and easily. The legislation before us does not prevent the creation of hostile work environments. Frankly, I find that incredible, when you look at what the Work Health and Safety Act, the Fair Work Act and our Sex Discrimination Act should be there to provide.

In relation to the positive duty, even the Minerals Council agreed. Tania Constable of the MCA said that, given the significance of the issue and the failure of existing laws to adequately address the problem, they would support there being a positive duty in the Sex Discrimination Act. So, Minister, I've got a technical question now to ask you. There are workplaces in Australia that are not covered by work health and safety laws, so even your minimalistic argument that they are covered by the Work Health and Safety Act and the model laws is completely void. That includes the workplaces where we have had sexual assault and sexual harassment in mining camps in Western Australia. So please explain to me how you are going to protect women—all Australians, but especially women—from sexual harassment in mining camps in Western Australia, in Queensland and right around the country when they're not currently covered by the Work Health and Safety Act?

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (10:40): Again, I will seek guidance from Senator McAllister. I'm happy to put the government's amendment and for that to be voted on. Then, if you move your amendment with the Greens amendment on the positive duty, I will be able to properly respond to those questions, and we will have an amendment before the chair, if that assists.

Senator McALLISTER (New South Wales) (10:41): Senator Cash, I'm happy for you to proceed either way. I think Senator Pratt has a very specific question. You may wish to answer it now, but I would in general agree with your strategy that we want to move through the amendments.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (10:41): I'll leave my comments then to addressing the amendment when it's put, because my comments will directly go to your amendment.

The TEMPORARY CHAIR (Senator Chandler): There being no other senators contributing to the debate on this question, I will put it. The question is that the government amendment on sheet QL186 be agreed to.

Question agreed to.

Senator McALLISTER (New South Wales) (10:42): As Senator Waters has indicated in her earlier contribution, the Greens and Labor have, separately, concluded that this bill requires substantial amendment. Certainly, from a Labor perspective, we recognise that there is only so much that can be done in the chamber when a bill with as many deficiencies as this one has is presented to us. The Labor approach has been to try and move amendments which remedy the worst of the omissions and which try and deal as best we can with the recommendations made by Commissioner Jenkins in her very substantive and very significant report.

One of those recommendations is the positive duty, and, indeed, this is at the heart of the report that was brought forward by Commissioner Jenkins. Just to put it really plainly for people who are listening at home, right now the tool we rely on to get workplaces to become safer is an individual making a complaint. When surveyed, Australian women overwhelmingly say, yes, they have been sexually harassed at work, often in the last 12 months. The numbers are extraordinary. Most of them don't make a complaint. Most of them don't ever tell anyone about it at all. Unfortunately, even in this building, we have stories about the consequences for women who make complaints. Women correctly apprehend that their careers, their livelihoods and their reputations are at stake when they are the complainant, and most women choose to remain silent. And the conclusion we should draw from all of those data points is that this is not an effective mechanism to make our workplaces safer. It won't be an effective mechanism to make this parliament safer, and it won't be an effective mechanism to make safer

any of the workplaces around the country where women are seeking our support and seeking protection in this place. It's on that basis that Labor has concluded that we do wish to move here amendments to insert a positive duty obligation onto employers, consistent with the recommendation made by Commissioner Jenkins. Senator Waters has spoken already in her contributions so far about her views on this, and these are amendments that will be moved jointly by the Greens and Labor.

I want to make a few remarks about the drafting approach that we've taken. We are aware that we need to make sure that a positive duty does not create an unreasonable burden on employers, so the way our amendment is drafted will ensure that, consistent with recommendation 17, the measures required to fill a positive duty must be reasonable and proportionate, taking into account factors that include the size of the person's business or operations, the nature and circumstances of the business and operations, the person's resources, the person's business and operational priorities, the practicability and cost of the measures, and all other relevant facts and circumstances.

We also recognise that it will take time for employers to respond to a new obligation, so the amendments circulated indicate that it would not commence for six months following the passage of the bill. That will allow employers time to ensure that they are aware of and able to comply with their new obligation to take reasonable and proportionate measures to eliminate discrimination and sexual harassment, harassment on the ground of sex or victimisation in their workplace prior to the formal commencement of the duty. The amendment would also require the Human Rights Commission to develop guidance material for employers. This is because Labor wants to make it as easy as possible for employers to understand their obligations. The purpose of introducing a positive duty is not to make life difficult for Australian businesses. It is to make life better for Australian women.

Of course, many employers across Australia are already doing the right thing, and in some parts of Australia similar duties already exist in law. And let me tell you these duties in those places have not brought the economy crashing to its knees. Commissioner Jenkins herself responded to concerns that the introduction of a positive duty in the Sex Discrimination Act could create further complexity, uncertainty and duplication by saying this:

This would not impose an undue regulatory burden and has a greater chance of reducing the cost of sexual harassment to business.

Similar duties have been on the books in Victoria for a decade without any adverse impact on business, and the Respect@Work Council would work to ensure that the duties are clear, streamlined and easy to implement.

These amendments would also implement recommendation 18 of the *Respect@Work* report, which called for the Sex Discrimination Commission to be given the function of assessing compliance with the new duty and for enforcement. These powers are self-evidently necessary. They will, among other things, empower the commission to inquire into an organisation's compliance of positive duty in a prescribed range of circumstances, such as where the commission is satisfied that there are reasonable grounds to suspect that a contravention of the duty has occurred, and the commission will be empowered to issue compliance notices if it considers an organisation has failed to comply with the positive duty, enter into agreements or voluntary undertakings with an organisation and make an application to the Federal Court or the Federal Circuit Court for an order requiring compliance with the duty.

I want to acknowledge Senator Waters for her willingness to collaborate on this, and I again note that these are amendments that have been circulated jointly in our names. I seek leave now to move together amendments (1) to (4) on sheet 1369.

Leave is granted.

Senator McALLISTER: I, and also on behalf of Senator Waters, move opposition and Greens' amendments (1) to (4) on sheet 1369:

(1) Clause 2, page 2 (table item 1), omit the table item, substitute:

1. Sections 1 to 3 and anything in this Act The day this Act receives the Royal Assent.
not elsewhere covered by this table

2. Schedule 1 The day after this Act receives the Royal Assent.

3. Schedule 2 The later of:

(a) immediately after the commencement of the provisions covered by table item 1; and

(b) immediately after the commencement of the *Federal Circuit and Family Court of Australia Act 2021*.

However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.

(2) Schedule 1, item 77, page 19 (after line 9), after Division 5, insert:

Division 6—Duty to eliminate discrimination, sexual harassment, harassment on the ground of sex and victimisation

47B Purpose of Division

The purpose of this Division is to provide for the taking of positive action by employers and persons conducting a business or undertaking to eliminate discrimination, sexual harassment, harassment on the ground of sex and victimisation.

47C Duty to eliminate discrimination, sexual harassment, harassment on the ground of sex or victimisation

(1) This section applies to an employer or a person conducting a business or undertaking who has a duty under this Act not to engage in discrimination, sexual harassment, harassment on the ground of sex or victimisation.

(2) It is unlawful for the employer or person to fail to take reasonable and proportionate measures to eliminate that discrimination, sexual harassment, harassment on the ground of sex or victimisation as far as possible.

Note: See also the definition of **unlawful discrimination** in the *Australian Human Rights Commission Act 1986*.

(3) In determining whether a measure is reasonable and proportionate, the following factors must be considered:

- (a) the size of the employer's or person's business or operations;
- (b) the nature and circumstances of the employer's or person's business or operations;
- (c) the employer's or person's resources;
- (d) the employer's or person's business and operational priorities;
- (e) the practicability and the cost of the measures;
- (f) any other relevant factors.

Note 1: Other relevant factors may include, for example, systemic issues within a particular industry or workplace.

Note 2: Examples of measures that may be reasonable and proportionate include the following:

- (a) a small, not-for-profit community organisation takes steps to ensure that its staff are aware of the organisation's commitment to treating staff with dignity, fairness and respect, including developing and implementing a clear procedure for managing staff complaints;
- (b) a large company undertakes an assessment of its compliance with this Act and, as a result of the assessment, the company develops a compliance strategy that includes training, regular monitoring, annual progress reporting, and continuous improvement of the strategy.

47D Commission may assess compliance etc.

(1) The Commission may, on its own initiative or on application by a person, inquire into the extent to which an employer or a person conducting a business or undertaking has complied with section 47C if the Commission is satisfied that:

- (a) the subject of the inquiry:
 - (i) raises an issue that is serious in nature; and
 - (ii) relates to a class or group of persons; and
- (b) there are reasonable grounds to suspect that one or more contraventions of section 47C have occurred; and
- (c) the inquiry would advance the objectives of this Act.

(2) As soon as practicable after commencing the inquiry, the Commission must give the employer or person a written notice (a **show cause notice**):

- (a) stating the grounds on which the Commission commenced the inquiry; and
- (b) inviting the employer or person to give the Commission, within 28 days after the day the notice is given, a statement setting out the measures the employer or person has taken to comply with section 47C.

(3) The Commission may, in writing, extend the period of 28 days referred to in paragraph (2)(b) if:

- (a) the employer or person requests the extension by giving notice in writing to the Commission before the end of that period; and
- (b) the Commission is satisfied that the employer or person has a reasonable excuse for not providing a statement in response to the show cause notice within that period.

(4) If the Commission is satisfied as a result of the inquiry that the employer or person is not complying with section 47C, the Commission may do either or both of the following:

- (a) accept a voluntary undertaking given by the employer or person under section 47E;
- (b) give the employer or person a written notice under section 47G.

47E Enforceable voluntary undertakings

(1) If the Commission is satisfied as a result of an inquiry under section 47D that an employer or a person conducting a business or undertaking is not complying with section 47C, the Commission may accept any of the following undertakings:

(a) a written undertaking given by the employer or person that the employer or person will, in order to comply with section 47C, take specified action;

(b) a written undertaking given by the employer or person that the employer or person will, in order to comply with section 47C, refrain from taking specified action;

(c) a written undertaking given by the employer or person that the employer or person will take specified action directed towards ensuring that the employer or person does not contravene section 47C, or is unlikely to contravene section 47C, in the future.

(2) The undertaking must be expressed to be an undertaking under this section.

(3) The employer or person may withdraw or vary the undertaking at any time, but only with the written consent of the Commission.

(4) The consent of the Commission is not a legislative instrument.

(5) The Commission may, by written notice given to the employer or person, cancel the undertaking.

47F Enforcement of undertakings

(1) The Commission may apply to the Federal Court or the Federal Circuit Court for an order under subsection (2) if:

(a) an employer or a person conducting a business or undertaking has given an undertaking under section 47E; and

(b) the undertaking has not been withdrawn or cancelled; and

(c) the Commission considers that the employer or person has breached the undertaking.

(2) If the court concerned is satisfied that the employer or person has breached the undertaking, the court may make any or all of the following orders:

(a) an order directing the employer or person to comply with the undertaking;

(b) any order that the court considers appropriate directing the employer or person to compensate any other person who has suffered loss or damage as a result of the breach;

(c) any other order that the court considers appropriate.

47G Compliance notices

(1) If the Commission is satisfied as a result of an inquiry under section 47D that an employer or a person conducting a business or undertaking is not complying with section 47C, the Commission may give the employer or person a written notice (a **compliance notice**) under this section.

(2) However, the compliance notice must not be given unless:

(a) the Commission has given the employer or person a show cause notice under subsection 47D(2); and

(b) either:

(i) the employer or person has given a statement in response to the show cause notice; or

(ii) the 28 day period (or if extended under subsection 47D(3), that longer period) specified in the show cause notice has passed.

(3) The compliance notice must:

(a) set out the name of the employer or person; and

(b) set out the details of the employer's or person's non-compliance; and

(c) specify action that the employer or person must take in order to address the non-compliance; and

(d) specify a reasonable period within which the employer or person must take the specified action; and

(e) specify a reasonable period within which the employer or person must provide the Commission with evidence that the employer or person has taken the specified action.

(4) The Commission may apply to the Federal Court or the Federal Circuit Court for an order under subsection (5) if:

(a) the Commission has given an employer or a person conducting a business or undertaking a compliance notice; and

(b) the Commission considers that the employer or person has failed to comply with the notice.

(5) If the court concerned is satisfied that the employer or person has failed to comply with the notice, the court may make any or all of the following orders:

(a) an order directing the employer or person to comply with the notice;

(b) any order that the court considers appropriate directing the employer or person to compensate any other person who has suffered loss or damage as a result of the non-compliance;

(c) any other order that the court considers appropriate.

47H Powers of Commission in relation to inquiries

In conducting an inquiry under section 47D, Division 3 of Part II of the *Australian Human Rights Commission Act 1958* applies as if the inquiry were an inquiry under that Division.

47J Delayed commencement of positive duty

Application of positive duty

(1) Section 47C does not apply to an employer, or to a person conducting a business or undertaking, before the enforcement day.

(2) The **enforcement day** is the day occurring 6 months after the commencement of this section.

Inquiries into non-compliance with positive duty

(3) The Commission must not commence an inquiry under section 47D before the enforcement day.

47K Commission must publish guidance material

(1) The Commission must develop guidance material on the operation of section 47C.

(2) In developing the guidance material, the Commission must consult with relevant stakeholders, including the Respect@Work Council and its associate members.

(3) The Commission must:

(a) make the guidance material readily accessible to the public as soon as practicable before the enforcement day (within the meaning of subsection 47J(2)); and

(b) ensure that the guidance material is kept up to date.

(3) Schedule 1, page 19 (before line 10), before item 78, insert:

77A After paragraph 48(1)(c)

Insert:

(ca) to exercise the powers conferred on it by Division 6 of Part II;

(4) Page 23 (after line 11), at the end of the Bill, add:

Schedule 2—Amendments contingent on the Federal Circuit and Family Court of Australia Act 2021

Sex Discrimination Act 1984

1 Subsection 47F(1)

Omit "Federal Circuit Court", substitute "Federal Circuit and Family Court of Australia (Division 2)".

2 Subsection 47G(4)

Omit "Federal Circuit Court", substitute "Federal Circuit and Family Court of Australia (Division 2)".

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (10:49): [by video link] I will make some comments on these amendments. As Senator McAllister said, these amendments have been circulated in both of our names. Just for context, when the government originally said that they were going to implement all of the 55 recommendations, we initially took them at their word, but, frankly, we thought it was too good to be true, so for months we have been drafting amendments to give effect to the full suite of the 55 recommendations. Thankfully that meant that much of the drafting work had already been done some weeks ago. It's unfortunate that the government didn't actually do that work themselves.

I want to place on record that, in recent times, we have worked collaboratively on this bill with the opposition. There have been some amendments where we thought our drafting was better; there have been some amendments where we thought their drafting was better. We've come to the view that this is a bill that needs improvement and we will be collegiately moving amendments to try to fix the bill today. The most important one, though, is this one that Senator McAllister has just moved. It stands in my name and also in hers, so I also now move it. The purpose of it is to create that positive duty. We've spoken a lot about this topic already because it was the key point of Commissioner Jenkins's *Respect@Work* report. The government has, bizarrely, introduced a bill that leaves it out. Its absence from the bill has been described by the Sex Discrimination Commissioner herself as 'a missed opportunity'. And the vast majority of submitters to the Senate inquiry emphasised that the positive duty was critical to achieving the objectives of the *Respect@Work* report.

Eliminating workplace sexual harassment will take a big cultural shift, and a positive duty to create and maintain a safe workplace is the best way to achieve that cultural shift. Without this positive duty, the other changes that are effected by this bill, which are important improvements, albeit small ones, are undermined. And it will reinforce the approach, as is the case at the minute, where there's a reactive, adversarial victim complaint

approach. It shouldn't all be on the shoulders of one person to take on their whole workplace. It should be on the shoulders of the workplace to make sure that its workers are safe.

The government has insisted throughout that it's not necessary to have a positive duty in the Sex Discrimination Act because, they say, workplace health and safety laws already have positive duties to ensure workplace safety, but it's clearly not working. Even some of the government's own stakeholders, including the Minerals Council, pointed out that they thought those existing rules in workplace health and safety laws are not working for sexual harassment. It's not stemming the tide, where 40 per cent of women are being harassed sexually at work. So that's why we need to have a positive duty.

I want to just mention the importance of this. I am sure many offices have had contact about this bill from young workers and from young women in particular. So many women contact my office with stories of workplace harassment, and I am sure that that's not just my office. The scale of the problem is undeniable, and there is a need for significant change in how we tackle this problem. One of the stories that I heard recently emphasises and underscores why we need this positive duty. A young woman reached out to me, and I had a very heartfelt meeting with her. She started work as a casual at a large retail music chain while she was still at high school. She was 15. She would arrive at work wearing her school uniform, so people knew that she was young. She would talk about things happening at school, but her team leader, who was a man in his 20s, took advantage of his position and made moves on her. They then ultimately began a secret relationship which he, of course, urged her not to tell the boss about. She was young. It was her first job. He was her supervisor—her much older supervisor. When she later told management about the relationship, they didn't take the complaint seriously, and they tried to tell her that she'd consented to the relationship. She became isolated at work. She lost confidence. She wondered if she had done the wrong thing by making the complaint. She hadn't done the wrong thing by making the complaint. That is a story that illustrates perfectly why we need a positive duty that puts the onus on employers to proactively create a safe workplace. We need that duty on employers to set clear expectations, to check in with staff and to foster an environment where young workers feel comfortable to ask questions about what's happening or to raise concerns and know that they will be listened to and believed. Employers shouldn't be able to just overlook or dismiss inappropriate behaviour and hope that no formal complaint is lodged.

I might add at this point that the *Respect@Work* report also recommends more comprehensive training for young people about their workplace rights, about what they can expect in their first job, about what they don't have to put up with and about what behaviour is unlawful. This is essential, and the government should fund the development and delivery of such training. I might add that that's part of the reason that we supported Senator Griff's second reading amendment, which called for working-with-children checks for employers who employ minors. It's a shame that amendment did not pass.

I'll continue and then I will commend the amendments to the chamber. The government seem to say that it's all too complicated to do what these amendments seek to do. After the report gathered dust for a year, they have hastily tried to get this bill done, but it's just all a bit too tricky—'Boy, this is a big issue'—and they just can't do it justice. The *Respect@Work* recommendations were made after extensive consultation with business, government, practitioners, unions and workers. Commissioner Jenkins understood the complexity—indeed, the complexity of the current system was one of the problems—and she recommended a positive duty. The government got her report nearly 18 months ago. The time for thinking about it and hand-wringing is over. We need action. The government should support these amendments and show the women of Australia that it takes their safety seriously. Any vote otherwise would be very telling.

These amendments allow the commission to undertake an investigation where a workplace is suspected of not meeting its positive duties. The commission has broad investigative and investigation powers. Employers can be issued with a show-cause notice. They're provided with advice about what is needed to meet the duty and they are given an opportunity to set out a plan for what they would do. The commission can accept voluntary enforceable undertakings from businesses, which commit them to undertaking improvements. This is an approach that has worked well for other offences in the Human Rights Commission Act. Where an employer's response is inadequate—if these amendments pass—the commission could seek orders requiring certain actions to be taken by the employer, such as introducing training or implementing a clearer complaints procedure. The emphasis is on supporting employers to be better employers, but with a compliance and enforcement framework that allows strong action to be taken where employers don't lift their game.

These amendments strike an appropriate balance. The government should have included these amendments as the centrepiece of their own bill. These amendments were a bit complex to draft, but after some fair consultation it was able to do, even in the condensed time frame that the government is now working to. I really hope the government supports these amendments. You can't do half the job with sexual harassment. The report says that you need to do all of these things to make women workers safe. The Australian public won't accept you just doing

some of them and leaving out the main point. You're not going to get away with this politically and you're underselling the need for women workers to be safe in their workplace. I beg the government to do the right thing and vote for these amendments. Yes, they have the name of the Greens and the opposition on them, but this should be above politics. We should be addressing this issue to keep women safe in their workplace. This shouldn't be about whose name is on the amendments. We urge you to do the right thing by women in this nation and support these amendments.

Senator O'NEILL (New South Wales) (10:58): I want to make a very brief contribution. I think these are particularly important amendments. I see Senator Cash nodding her head. I hope that indicates a change of heart and support for a positive duty. For people who don't understand the parliamentary process, the language we speak in here is sometimes entirely inaccessible, but for me this is the prevention clause, the prevention action, to make sure that what we know is happening in workplaces around this country is actually prevented by changing the cultural practices and the fulsome discussion that could happen if these amendments pass today. Again I urge the crossbenchers to sit with us and support these amendments, because, in the absence of support for this positive duty for the enactment of a prevention incentive for workplaces, we're going to continue to hear reports.

Today I rise to acknowledge previous evidence that I've put on the record here in the parliament. I'm particularly speaking for a young woman, pseudonymously known as AMP Annie, who documented for me—and I read her statement to this place—the sort of harassment that she suffered, needing to change her entire career, and the terrible mental health journey that she is on to this day, more than a decade after her harassment. She's like so many who gave evidence to the Sex Discrimination Commissioner, Commissioner Jenkins. It's reported on page 263 of the 900-page report, which is entirely accessible to the government and to the Attorney-General:

The misconduct was reported to senior management who did nothing ... Reporting it to [a work health and safety regulator and an anti-discrimination agency] actually made it worse, causing more stress to me, culminating in my being forced out of my job under horrendous circumstances ... The outcome of all of this for me was catastrophic. I lost my job and my income and everything I had ever studied and worked for; my family was greatly affected; and my life has never recovered.

That could be prevented if this amendment goes through the parliament today. That is exactly the sort of thing we should be preventing. I wholly endorse the remarks of Senator McAllister and also Senator Waters.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (11:00): The government won't be supporting these amendments. Implementing recommendation 17 of the *Respect@Work* report, which these amendments go very much towards, requires further policy consideration and consultation to examine the merits and to ensure that such a duty would operate effectively alongside existing duties that it acknowledged already exist under work health and safety laws and the Sex Discrimination Act, including to ensure—and this is something that Commissioner Jenkins referred to in her report—that additional complexities are not created for those seeking to use the protections. This includes an assessment against the model work health and safety laws, which already impose a positive duty on employers to protect workers from health and safety risks, including psychosocial risks such as sexual harassment, as far as reasonably practicable. Work health and safety laws also provide for compliance enforcement and inquiry functions to be exercised by work health and safety regulators. Employers that fail to meet obligations under work health and safety laws can be subject to prosecution and severe penalties.

Many of the concerns outlined in the *Respect@Work* report were in relation to the implementation of the work health and safety framework rather than the effectiveness of the framework itself. Since the *Respect@Work* report was released, there has been a focus by the government and its agencies on further improving the work health and safety framework and its implementation. Key measures that we've been looking at to date include that work health and safety ministers—and I have met with them and discussed this with them—have agreed to progress amendments to the model work health and safety regulations to deal with how to identify psychosocial risks, including sexual harassment, associated with psychological injury. A model code of practice is also being developed by Safe Work Australia to cover psychosocial health, including sexual harassment.

As part of the recent budget, Comcare will deliver national forums for Commonwealth and state and territory work health and safety inspectors on sexual harassment and training for employers and managers covered by the Commonwealth work health and safety laws, to better understand and meet their obligations in relation to sexual harassment laws. This also includes consideration of the existing vicarious liability provision in the Sex Discrimination Act, which ensures that, if a worker engages in unlawful conduct such as sex discrimination or harassment, their employer can also be held liable for sexual harassment if the employer did not take reasonable steps to prevent the conduct from occurring. This existing mechanism means that employers must take reasonable preventative steps, such as implementing policies and providing training, to minimise their potential liability should an incident occur.

In relation to some of the issues that Senator Pratt has raised, recently, in May 2021, work health and safety ministers agreed to progress amendments to model work health and safety regulations to deal with how to identify the psychosocial risks associated with psychological injury, including sexual harassment. This was a recommendation of, as you would probably be aware, the Boland review and also the Kate Jenkins review. It's been progressed by Safe Work Australia. Both Safe Work Australia and Comcare have published guidance on workplace sexual harassment. Safe Work Australia has published national guidance material for persons conducting a business or undertaking, including specific guidance for small business and advice for workers on preventing and dealing with workplace sexual harassment under the model work health and safety laws. Comcare has published guidance for employers, managers, supervisors and workers on meeting work health and safety responsibilities in relation to sexual harassment in the Commonwealth jurisdiction. One of the issues that did arise in the report was in relation to ensuring that people understand what their obligations are, so Comcare—which, as you know, is the government work health and safety regulator—is now going to deliver national forums for Commonwealth, state and territory work health and safety inspectors on sexual harassment, and training for employers and managers covered by Commonwealth work health and safety laws, to better understand and meet their obligations in relation to sexual harassment under the laws.

In terms of complexity, the proposed amendment raises a number of complex policy implementation and legal issues that require further consideration and consultation. As I've already said, this includes an assessment against the model work health and safety laws which—and people have articulated and acknowledged this in the chamber—already impose a positive duty on employers to protect workers from health and safety risks, including psychosocial risks such as sexual harassment, so far as is reasonably practicable. This was picked up in both the Boland review and the Kate Jenkins review. As I've also stated, it includes consideration of the existing vicarious liability provisions in the Sex Discrimination Act, which ensures that if a worker engages in unlawful conduct such as sex discrimination or harassment, their employer can also be held liable if the employer did not take reasonable steps to prevent the conduct from occurring.

Significant thought also needs to be given before providing the Australian Human Rights Commission with the additional inquiry and regulatory powers for discrimination and harassment in addition to its existing dispute resolution function. In relation to this, numerous issues require consideration. There are potential legal issues relating to the separation of powers, regulatory enforcement powers and functions, and the complaints handling and dispute resolution of the Australian Human Rights Commission. We also need to provide further consideration to the potential alignment with the Regulatory Powers (Standard Provisions) Act 2014 and other administrative law issues such as appropriate review and enforcement mechanisms. A proper assessment needs to be undertaken to ensure that powers and penalties are proportionate and appropriate and that they appropriately trigger the regulatory powers act. A proper review and appeal mechanisms will need to be put in place.

Senator McALLISTER (New South Wales) (11:07): Minister, I've listened carefully to your answer. If I understand it, your argument about why you're not implementing positive duty today goes something like this: 'We don't need to, because really it's already a workplace health and safety obligation. And, even if we did do it, it would be very complicated and it would take a lot of time.' I want to make a few comments about both of those arguments because I don't think either of them stand up.

In Commissioner Jenkins's report she talks about her attempts and the commission's attempts to engage with the workplace health and safety regulators, and she says this:

The Commission sought to engage with all Commonwealth, state and territory WHS regulators within the WHS Framework, both individually and together as part of the Heads of the Workplace Safety Authorities.

And get this—this is a direct quote from the report:

The Heads of the Workplace Safety Authorities informed the Commission that it would not provide a joint a submission to the Inquiry, and that Heads of the Workplace Safety Authorities Members would provide any submissions they have through other government agencies in their jurisdiction or directly to the Commission.

What happened then? Were there any direct submissions to the commission? Just one, from WA. The only workplace health and safety regulator to make a submission was WorkSafe WA. And what did they say in their submission? They said:

In Western Australia, the EOC has specific legislation to address complaints of sexual harassment matters. As a safety regulator, WorkSafe is not sufficiently resourced and does not have the expertise to adequately address sexual harassment matters.

And the thing is that that is the experience of everyone who works at the coalface of representing women in workplaces who experience harassment.

Here's another quote from the report, from one of the submitters:

Australian WHS agencies have shown remarkable blindness or reluctance to acknowledge harassment as a workplace hazard that warrants their attention. *Unless and until WHS agencies acknowledge and address this gap, this whole system that is explicitly designed to protect workers from harm will continue to fail to protect workers from sexual harassment.*

It's a pretty clear warning, but there's no indication in this bill that it's a warning that's been heeded by the government.

So I do have some questions for you, Minister. Do you consider that the workplace health and safety arrangements at the moment are adequate and are being used appropriately to protect women in Australian workplaces from harassment? In your response to the report, you indicated that the government will assess whether the amendments would create further complexity, uncertainty or duplication in the overarching legal framework. How long do you expect this assessment to take? Will you be assessing whether such amendments would increase the level of protection for Australian women, or are you just assessing whether or not it's too much of a burden for employers? Who is undertaking this assessment, and when will it be made public?

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (11:11): I believe I've articulated the reasons that the government is not at this point in time implementing recommendation 17 of the *Respect@Work* report and in particular the work we are doing with the work health and safety ministers to strengthen those laws—the positive duty—and the understanding by both employers and regulators of their role under the positive duty in relation to the Work Health and Safety Act. Among the issues I've also raised and already discussed with the work health and safety ministers are both the Boland review and the Kate Jenkins review in terms of the psychosocial risks, such as sexual harassment.

What we've already agreed to do to date—and this is the work that we were progressing, to go to the question you raised about strengthening the work health and safety elements—is that, when I met with the work health and safety ministers and raised this with them, they agreed to progress amendments to the model work health and safety regulations to deal with how to identify the psychosocial risks, including sexual harassment associated with the psychological injury that can be suffered. So that is already something I've met with the work health and safety ministers on, and they have already agreed—in fact, they unanimously agreed—to commence progressing this work. Safe Work Australia has already commenced its preparation for the model code of practice being developed to cover psychosocial health, including sexual harassment. Also, I have indicated that, as part of the recent budget, one of the issues raised—and you've actually gone there yourself, in relation to the understanding of, in particular, work health and safety inspectors and employers/managers—is their actual understanding of what their role is under the work health and safety law.

In terms of what the federal government is able to do, Comcare will now deliver the national forums for Commonwealth, state and territory work health and safety inspectors on sexual harassment and training for employers and managers covered by the Commonwealth work health and safety laws to ensure that they have that better understanding of what their obligations are and meet their obligations. That's the key thing: they need to be able to meet their obligations in relation to sexual harassment under the laws. At this point in time I have already commenced work in relation to that better understanding of the Work Health and Safety Act and the obligations under it that go directly to what Kate Jenkins referred to in her report.

Senator McALLISTER (New South Wales) (11:14): Minister, in that answer you indicated that you're undertaking work to improve the workplace health and safety framework. I understand that. That is not what Kate Jenkins recommended. I think you understand that also. In your response to the *Respect@Work* report, you noted that a positive duty already exists. I think that's disputed by the evidence that was before the commissioner. But you did say that you would assess whether amendments would create further complexity, uncertainty or duplication. Am I to conclude from your answer that that assessment is completed—that you've got no intention at all of creating a positive duty, you are just kicking it off into the long grass, you've already made a decision that these issues are to be dealt with through workplace health and safety arrangements and you have no interest in progressing this at all? I think it would be better to be upfront about that.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (11:15): No, that is not what I said.

Senator McALLISTER (New South Wales) (11:15): When, then, will you be in a position to inform the public and the parliament about whether or not a positive duty will be legislated by your government?

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (11:15): As I've already stated, I've already outlined the work that we are doing in relation to the positive duty and the better understanding of it in relation to the Work Health and Safety Act. I've already met with the relevant ministers, and we are already progressing that work. We need to see today whether

or not this bill passes and in what form this bill passes, and then we need to understand the impact of the amendments that we are making today. So this is an evolving process. As I've already stated, this is the government's first response to the Kate Jenkins report, and there is other work that is ongoing. I think I've been very upfront about that.

Senator McALLISTER (New South Wales) (11:16): You say there's work ongoing. Do you have any sense of the timetable?

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (11:16): Again, we need to progress the work that we're already progressing in relation to the Work Health and Safety Act. We need to see if this bill passes today and in what form it passes. We need to understand then the impact of the amendments that we are making on both the Work Health and Safety Act and the Sex Discrimination Act. What we need to do is to ensure we get this right. If we create more confusion for employers or for regulators, we actually will not be doing justice to the Kate Jenkins report.

Senator McALLISTER (New South Wales) (11:17): I appreciate the need for careful consideration of a big piece of policy reform. It would have been better, I think we can all agree, had such careful consideration commenced on 29 January 2020, which is, of course, when this was submitted to government. I'm asking you, though, for some sort of work plan—some sort of timetable. Your department, on your own account, and perhaps other departments in government are doing some work on workplace health and safety issues. There will be an internal work plan, there will be a process of consultation, there will be a series of internal milestones and there will be a completion date. This bill, I imagine, will pass—through this chamber at least—this week. All of the things that you say will have been concluded. You'll have a piece of legislation. Perhaps it will be amended; perhaps it will not. But you'll be in a position to make that assessment and continue that work. When will it be finished?

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (11:18): Again, I have addressed the question.

Senator PRATT (Western Australia) (11:18): Minister Cash, I need to ask you again about the Work Health and Safety Act and its application to all workplaces, because it doesn't cover everyone currently. I know, for example, that mine sites in production in Queensland and WA aren't currently covered, and they have had some significant incidents of rape and sexual harassment take place. In the meantime, Minister McGurk from Western Australia submitted to our committee inquiry that she supported, very strongly, a positive duty as outlined by the Sex Discrimination Commissioner. It is not mutually exclusive to making progress with the state governments on improving the work health and safety regime. So, first of all, I want to ask you specifically about the application of the Work Health and Safety Act to accommodation existing in remote mine sites in Queensland, WA and other jurisdictions.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (11:19): There will be a specific industry model code that they adhere to. We also then have the model laws, as you know, at a Commonwealth level, agreed with the various states and territories. It's up to the states and territories whether or not they themselves then implement the model laws.

Senator PRATT (Western Australia) (11:20): Minister, as you've just highlighted, the model laws are not binding. Each state has to decide what it implements. In effect, there are parts of the country that sit entirely outside those model laws currently. There are industries that sit outside of those model laws, and, as a result, there is absolutely no overarching positive duty to prevent sexual harassment in Australian workplaces.

Senator O'NEILL (New South Wales) (11:21): I draw the minister's attention to a comment made by Senator McAllister about the work capacity of the agencies that are supposed to be creating safe workplaces. Senator Pratt and I sit for many, many hours in estimates with Safe Work Australia, asking questions about what's going on. We hear particularly from culturally and linguistically diverse communities and their representatives, predominantly unions, who come forward to say that people from culturally and linguistically diverse backgrounds are not getting information, they are not being supported, they are often in insecure and vulnerable work and they are not getting the support that they need to understand what a safe workplace in Australia looks like. They are particularly subject to cultural intimidation when they shift from another context to Australia and they don't understand what's going on in their workplaces. In terms of financial support for the agencies to do the kind of work that you say is somewhere in a work plan that we need to trust, what increases to capacity can Australians be confident will occur to back up the claims that you're making here today with regard to this piece of legislation?

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (11:22): As I said in relation to the recent budget, Comcare will deliver national forums on sexual harassment for Commonwealth, state and territory work health and safety inspectors and

training for employers and managers covered by the Commonwealth work health and safety laws to better understand and meet their obligations in relation to sexual harassment under the laws.

In relation to the point that Senator Pratt was making, I'd also just say to Senator Pratt, just for her consideration: there is an existing vicarious liability provision in the Sex Discrimination Act, as she would know, which ensures that if a worker engages in unlawful conduct such as sex discrimination or harassment their employer can also be held liable if the employer did not take reasonable steps to prevent the conduct from occurring. I have some more information on that that I can provide you with. Again going to what Senator Pratt was saying, the bill will also clarify that a complaint of victimisation under the Sex Discrimination Act can form the basis of a civil action, as well as a criminal action, in response to recommendation 21 of the *Respect@Work* report. I think that does assist Senator Pratt with the issue she was raising.

Senator McALLISTER (New South Wales) (11:23): I just have one final question, and then, from the Labor perspective, I think we'll be ready to move on. I understand that Senator Hanson has given an indication that she'll be voting with the government on this amendment and indeed all of the amendments. Senator Hanson's contribution in the second reading speech was to indicate that she thought we were 'raising a nation of sooks'. She characterised women who experience violence and raise their voice about it as people who enjoy victimhood, and she said that this was an emerging criterion on a professional woman's CV—to indicate the status of victim that they are. On each of those points—'a nation of sooks', enjoyment of victimisation, and victimhood on CVs—will the minister repudiate Senator Hanson's views?

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (11:24): Senator Hanson's views are just that—Senator Hanson's views. I've clearly articulated the government's views, in relation to both the second reading speech and the summing up speech.

The CHAIR: The question is that amendments (1) to (4) on sheet 1369, moved together by leave, standing in the name of the Australian Greens and the opposition, be agreed to.

The committee divided [11:29]

(The Chair—Senator Lines)

Ayes12
Noes12
Majority.....0

AYES

Brown, CL
Hanson-Young, SC
Lines, S
O'Neill, D
Pratt, LC
Urquhart, AE (teller)

Carr, KJ
Keneally, KK
McAllister, J
Polley, H
Siewert, R
Watt, M

NOES

Canavan, MJ
Colbeck, R
Hume, J
O'Sullivan, MA
Rennick, G
Smith, DA (teller)

Cash, MC
Hughes, H
McKenzie, B
Payne, MA
Reynolds, L
Stoker, AJ

Question negatived.

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (11:32): [by video link] I might just clarify that in the spirit of collaboration, given that the Greens had amendments drafted to give effect to the full suite of the 55 recommendations of the *Respect@Work* report but the opposition subsequently had some drafted—I think this has been done procedurally—I'll flag that we will not be moving Greens amendments on sheets 1370, 1368 and 1372. It's not because we don't think those things anymore; it's just because the opposition will be moving amendments to very similar effect, either with tweaks that we support or just in the same form as we were going to anyway. So, for cleanness and consistency, in the eternal hope that the crossbench will support the amendments, we wanted to have a less confusing approach. I seek leave to move Greens amendments (1) to (4) on sheet 1371 revised together.

Leave granted.

Senator WATERS: I move Greens amendments (1) to (4) on sheet 1371 revised together:

(1) Clause 2, page 2 (table item 1), omit the table item, substitute:

1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.
2. Schedule 1	The day after this Act receives the Royal Assent.
3. Schedule 2	The later of: (a) immediately after the commencement of the provisions covered by table item 1; and (b) immediately after the commencement of the <i>Federal Circuit and Family Court of Australia Act 2021</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.

(2) Schedule 1, page 3 (after line 17), after item 3, insert:

3A Subsection 46PO(4) (notes 1 and 2)

Repeal the notes.

3B Section 46PSA

Repeal the section, substitute:

46PSA Costs only if proceedings instituted vexatiously etc.

(1) A party to proceedings in the Federal Court or the Federal Circuit Court under this Division may be ordered by the court concerned to pay costs incurred by another party to the proceedings only in accordance with subsection (2).

(2) The party may be ordered to pay the costs only if:

(a) the court concerned is satisfied that the party instituted the proceedings vexatiously or without reasonable cause; or

(b) the court concerned is satisfied that the party's unreasonable act or omission caused the other party to incur the costs.

(3) Schedule 1, page 7 (after line 22), after item 28, insert:

Federal Circuit Court of Australia Act 1999

28A Subsection 79(1)

After "arising under", insert "Division 2 of Part IIB of the *Australian Human Rights Commission Act 1986*".

28B Subsection 79(1) (note)

Before "See section 570", insert "See section 46PSA of the *Australian Human Rights Commission Act 1986* for proceedings in relation to matters arising under Division 2 of Part IIB of that Act."

Federal Court of Australia Act 1976

28C After paragraph 43(1)(a)

Insert:

(aa) section 46PSA of the *Australian Human Rights Commission Act 1986*; and

(4) Page 23 (after line 11), at the end of the Bill, add:

Schedule 2—Amendments contingent on the Federal Circuit and Family Court of Australia Act 2021

Australian Human Rights Commission Act 1986

1 Subsection 46PSA(1)

Omit "Federal Circuit Court", substitute "Federal Circuit and Family Court of Australia (Division 2)".

Federal Circuit and Family Court of Australia Act 2021

2 Before subparagraph 214(1)(b)(i)

Insert:

(ia) Division 2 of Part IIB of the *Australian Human Rights Commission Act 1986*; or

3 Subsection 214(1) (after note 1)

Insert:

Note 1A: Subparagraph (b)(ia)—see section 46PSA of the *Australian Human Rights Commission Act 1986* for proceedings in relation to matters arising under Division 2 of Part IIB of that Act.

These amendments pertain to costs and providing cost protections for complainants. As we all know, financial risks are a significant barrier to seeking justice, particularly for workers making complaints. I note that at the

Senate inquiry into the Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021, rushed though it may have been, the Women's Legal Centre ACT said:

We're disappointed that the bill fails to provide a cost protection provision for complainants. Many women worry that they will not be believed and will be forced to pay the other side's legal fees. In the case of large businesses and government departments, these fees can be so significant that the average person would face financial ruin. It's no surprise many women decide not to take this gamble.

The recommendation in the *Respect@Work* report to provide cost protection was justified; it was unequivocal and it was very sensible. The government's response was to say that they would review cost procedures in sexual harassment matters to ensure they're fit for purpose. But as the Human Rights Law Centre's Kieran Pender said:

WE DON'T NEED MORE REVIEWS, WE NEED TO MAKE SEXUAL HARASSMENT LITIGATION A VIABLE REMEDY FOR TARGETS OF HARASSMENT. The *Respect@Work* report offered a simple, technical measure that would materially improve the SDA & the Govt said: 'We'll think about it.'

Well, they've had 17 months to think about it. They've thought for a long time about the positive duty and they are not going to do that either. Frankly, I wish they would just be honest and say that they don't actually care about fixing this issue; they just want to look like they are fixing some of it, because there's an election coming. But, sadly, honesty is too much to ask for in parliament, it seems.

Anyway, coming back to the substance of this particular amendment, the decision to make a complaint against someone in your workplace will always be difficult, and costs should not be a factor in that difficult decision. Our amendment would prevent costs being awarded, as a matter of course, but it would still leave it open for the commission to make costs orders if they are satisfied that the complaints were frivolous or vexatious. There seems to be a bit of a theme here by the likes of the Pauline Hanson One Nation party that women make this stuff up. Well, the reality is that so many more women who are sexually harassed in their workplace don't make complaints, precisely because they fear that they won't be believed and because they fear they will end up having to pay enormous costs. So they just suck it up, put up with it, or decide to move on and seek other work, and inevitably the harasser continues on to the next person or gets a promotion.

So that's why we have a whole bevy of amendments to this bill. This one in particular is about cost protection. It's an important amendment and I commend it to the chamber.

Senator McALLISTER (New South Wales) (11:36): Labor is supporting these amendments. Indeed, as Senator Waters has indicated, this is also an area where Labor sought to have changes made to the bill. Commissioner Jenkins couldn't have been clearer, when she said in recommendation 25:

Amend the Australian Human Rights Commission Act to insert a cost protection provision consistent with section 570 of the Fair Work Act 2009 (Cth).

That's what these amendment do. This recommendation was endorsed by a number of submitters to the minister and to the inquiry, including the ACTU and the Law Council.

The government's response to the *Respect@Work* report says that this is agreed in principle. It's typical of the weasel words approach that was adopted in responding to the report. There's a total pretence that all 55 recommendations are accepted. The government accepted this in principle and then went on to explain all the ways in which it actually considers that it is not necessary. This government is so arrogant that it thinks it knows better—knows better than the people that Kate Jenkins spoke to when she conducted this piece of work, which everybody likes to describe as a landmark piece of work, and knows better than the people who submitted to the Senate inquiry that said that costs protection was absolutely critical, so that people weren't frightened of pursuing justice because of bankruptcy. Why this can't be pursued now, immediately, has never been made clear.

The recommendation and the amendments before us are based on an existing provision in the Fair Work Act. It's not complicated. The government could have drafted this amendment in an hour. But, instead, they are squirming away from it and kicking it into the long grass for a review at some future time. 'Maybe later' is not an answer. It is not an answer for the women who deserve access to justice, who deserve to have their claims heard and who deserve to do so free from fear that they will be financially persecuted and ruined if they dare to raise their voice and dare to seek the protection of the court.

I ask the government to think about this and to reconsider their position and to consider voting in support of these amendments today to ensure that recommendation 25, sitting there in the report, is implemented.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (11:39): I'll be brief, in the interests of time. The government acknowledges that the courts already have a broad discretion to award costs under their own legislation. This could include, for example, ordering parties to bear their own costs or pay another party's costs. There are mixed views on whether the model recommended by the *Respect@Work* report and adopted by this proposed amendment based on section

570 of the Fair Work Act will actually address the issues identified with the current model. For example, as part of the consultation process for the *Respect@Work* report, Victoria Legal Aid outlined their view that this model will still provide a disincentive for applicants, given it would not enable them to recover their costs even if they're successful.

As outlined in the government's response, the government will review costs procedures in sexual harassment matters to ensure they're fit for purpose, taking into account the issues raised by the report. As I've already articulated, my department does already liaise with the courts in consideration of this matter and it will continue to do so. I have also written to the federal courts to commend the report for their consideration and in particular the impact different cost orders may have on victims of sexual harassment.

The CHAIR: The question is that amendments (1) to (4) on sheet 1371 moved by Senator Waters be agreed to.

The committee divided. [11:45]

(The Chair—Senator Lines)

Ayes12
Noes14
Majority.....2

AYES

Brown, CL
Hanson-Young, SC
Lines, S
O'Neill, D
Pratt, LC
Urquhart, AE (teller)

Carr, KJ
Keneally, KK
McAllister, J
Polley, H
Siewert, R
Watt, M

NOES

Canavan, MJ
Colbeck, R
Hughes, H
McKenzie, B
Payne, MA
Ruston, A
Small, B

Cash, MC
Davey, P
Hume, J
O'Sullivan, MA
Reynolds, L
Seselja, Z
Smith, DA (teller)

Question negatived.

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (11:47): [by video link] Amendment (1) on sheet 1367 amends the objectives of the Sex Discrimination Act to include substantive gender equality. Recommendation 16 of the Jenkins report says that the objects of the act should be amended 'to achieve substantive equality between women and men'. But what the government did when they allegedly implemented this recommendation was change the wording, and they massively watered it down. The government's version in the current bill says that the new objective should be to achieve equality of opportunity between men and women 'so far as practicable'. So it's watered down not just on one level but on two: it's no longer substantive equality—it's just equality of opportunity—and it's only so far as is practicable. What an absolute crock! This government might as well have not bothered to have this amendment at all because they've watered down the recommendation so much that it's essentially meaningless. But I suppose that's what we've come to expect from this government.

Many submitters to the inquiry, including the Human Rights Commission, were concerned that the government's drafting does not reflect the intent of *Respect@Work* recommendation 16. The Law Council recommended deleting the qualification of 'so far as practicable'—and I strongly support that. The department's explanation for why they changed the wording was that it was beyond the scope of the Sex Discrimination Act to fix structural inequality. Frankly, it leaves me speechless, and like so much about this bill it entirely misses the point.

Objectives don't create positive duties to deliver on aspirational goals but they do require decision-makers to consider those objects when they're exercising discretion. When making decisions under the act they need to make sure that the decision will further the objects of that act, or at least not hinder the achievement of that goal. But this government just can't come at saying the words 'achieve substantive equality between men and women'. Maybe they just don't think that that's what society should be aspiring to do. They just want equality of

opportunity 'so far as is practicable'. Honestly, he just typifies this government. The sexism is so ingrained in this government—this 1950s Morrison government—that it can't even cope with the concept of substantive equality.

Structural gender equality is not simply about denial of opportunity; it reflects how discrimination, stereotypes and other factors can affect people's ability and capacity to take up opportunities. A goal of substantive equality recognises that opportunities might need to be offered differently in some circumstances in order to overcome structural barriers and to achieve substantive equality. But I think this government just doesn't understand structural inequality. As far as they're concerned, it's all up to the individual and if you work hard enough you can overcome anything. They are so imbued with privilege that they can't even fathom the concept of structural inequality, and they've made that abundantly clear in the drafting of this objects clause.

I now move Greens amendment (1) on sheet 1367:

(1) Schedule 1, item 31, page 8 (lines 6 and 7), omit "to achieve, so far as practicable, equality of opportunity between men and women", substitute "to achieve substantive gender equality".

This is to restore the wording that the Human Rights Commission initially proposed and that this government has sought to water down on not one but two terms. Their version is an absolute crock, so I move the Greens amendment on sheet 1367 to fix up the wording so that it does what the Human Rights Commission report recommended, which is the whole point of having this bill that the government keeps trying to wreck.

Senator McALLISTER (New South Wales) (11:51): Labor supports this amendment, and indeed it is one of the many questions where Labor had also drafted amendments. We agree to proceed with the Greens moving it on this occasion.

Some months ago I listened with interest to what most people described as a train crash of an interview, a very long interview with the Prime Minister on *A Current Affair* where he explained his shock and surprise at learning that Australian women were subject to discrimination and, indeed, some very frustrating experiences at work. That was galling enough. But the thing I observed in this extended interview that the Prime Minister offered to *A Current Affair* was that the Prime Minister was willing to say the word 'respect' some 14 times—14 times!—but, in an interview that was ostensibly about the interests of Australian women, he could not bring himself to mention the word 'equality' once, not once. I have a real question about the Prime Minister's commitment to equality for Australian women, because it rarely features in anything that he says. He is comfortable with respect, and I can see why that might be. It's possible to be perfectly polite and respectful to a person that you do not consider your equal at all. If you are a powerful man, indeed, it is quite possible to do so. Ask Julia Banks how the Prime Minister treated her. I am not surprised that this government, which has had eight long years to think about what it might do for women, baulks at the possibility of inserting an object of true equality between men and women into one of its acts.

The recommendation in the *Respect@Work* report, which, again, the government pretends to accept, is very clear. It says:

Amend the Sex Discrimination Act to ensure:

- a. the objects include 'to achieve substantive equality between women and men'

It's pretty straightforward. What do we get instead? This mealy-mouthed thing: 'to achieve, so far as practicable, equality of opportunity between men and women'. We used to tell a joke about a moderate's chant at a rally: 'What we want?' 'Gradual reform in due course.'

This couldn't be sillier. This couldn't be a sillier amendment. We'll go for equality—but only equality of opportunity—as far as is practicable. What does that mean? That is actually my question to the minister: Why do we need to insert that qualification? Is it to reflect the view put by the Prime Minister some time ago on International Women's Day—that he wants women to rise but not if it's at the expense of men? Is that what this qualification actually means? Why is it in here? Why is it necessary to insert into a piece of legislation something as mealy-mouthed as this? As Senator Waters has explained, the objects of the act don't require a positive duty to absolutely obtain those objects in every decision; they are merely a guiding factor in interpreting what the provisions of the act require of the decision-maker.

So, Minister, two things: why is the qualification 'so far as practicable' necessary in this context, and what does the government consider to be the difference between substantive equality and equality of opportunity?

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (11:56): The term 'equality of opportunity' was used because it better aligns with the existing approach of Australia's antidiscrimination law frameworks. In particular, it means that every opportunity that is afforded has to be afforded on an equal basis. Substantive equality, on the other hand, requires affirmative actions by workplaces and is actually a departure from the complaints based model that currently exists. The drafting is comparable to existing objects clauses in other antidiscrimination legislation.

The CHAIR: The question is that amendment (1) on sheet 1367, moved by Senator Waters, be agreed to.

The committee divided. [12:01]

(The Chair—Senator Lines)

Ayes12

Noes12

Majority.....0

AYES

Brown, CL
Hanson-Young, SC
Lines, S
O'Neill, D
Pratt, LC
Urquhart, AE (teller)

Carr, KJ
Keneally, KK
McAllister, J
Polley, H
Siewert, R
Watt, M

NOES

Bragg, AJ
Cash, MC
Hughes, H
Payne, MA
Seselja, Z
Smith, DA (teller)

Canavan, MJ
Colbeck, R
Hume, J
Scarr, P
Small, B
Stoker, AJ

Question negatived.

Senator McALLISTER (New South Wales) (12:02): by leave—I move amendments (1) to (6) on sheet 1405 together:

- (1) Schedule 1, page 3 (after line 18), after item 3 (after the heading specifying *Fair Work Act 2009*), insert:

3A Paragraph 3(e)

Repeal the paragraph, substitute:

(e) enabling fairness, gender equity, and representation at work and the prevention of discrimination, sexual harassment and harassment on the ground of sex by recognising the right to freedom of association and the right to be represented, protecting against unfair treatment, discrimination, sexual harassment and harassment on the ground of sex, providing accessible and effective procedures to resolve grievances and disputes and providing effective compliance mechanisms; and

3B Paragraph 6(2)(c)

Repeal the paragraph, substitute:

(c) provides other protections, including protection from discrimination, sexual harassment and harassment on the ground of sex.

- (2) Schedule 1, item 6, page 3 (before line 25), before the definition of *miscarriage*, insert:

harass on the ground of sex has the meaning given by section 28AA of the *Sex Discrimination Act 1984*.

Note: Other parts of speech and grammatical forms of "harass on the ground of sex" (for example, "harassment on the ground of sex") have a corresponding meaning (see section 18A of the *Acts Interpretation Act 1901*).

- (3) Schedule 1, page 4 (after line 6), after item 6, insert:

6A Section 12 (before paragraph (a) of the definition of worker)

Insert:

(aa) in section 351A—see subsection 351A(4); and

- (4) Schedule 1, page 4 (after line 21), after item 9, insert:

9A Section 334 (paragraph beginning "Division 5")

Repeal the paragraph, substitute:

Division 5 provides other protections, including protection from discrimination, sexual harassment and harassment on the ground of sex.

9B Paragraphs 336(1)(c) and (d)

Repeal the paragraphs, substitute:

(c) to provide protection from workplace discrimination, sexual harassment and harassment on the ground of sex;

(d) to provide effective relief for persons who have been discriminated against, victimised, sexually harassed, harassed on the ground of sex or otherwise adversely affected as a result of contraventions of this Part;

9C After section 351

Insert:

351A Sexual harassment and harassment on the ground of sex

(1) A person must not sexually harass, or harass on the ground of sex, a person (the *second person*) who is:

- (a) a worker or prospective worker; or
- (b) a person conducting a business or undertaking;

if the harassment occurs any circumstances connected with the second person being:

- (c) a worker or prospective worker; or
- (d) a person conducting a business or undertaking.

Note: This subsection is a civil remedy provision (see Part 4-1).

(2) A person conducting a business or undertaking must take all reasonable steps to prevent a worker or prospective worker (the *second person*) in the business or undertaking being sexually harassed or harassed on the ground of sex in any circumstances connected with the second person being a worker or prospective worker in the business or undertaking.

Note: This subsection is a civil remedy provision (see Part 4-1).

(3) In this section:

person conducting a business or undertaking has the same meaning as in the *Work Health and Safety Act 2011*.

worker has the same meaning as in the *Work Health and Safety Act 2011*, but does not include a member of the Defence Force.

Note: Broadly, for the purposes of the *Work Health and Safety Act 2011*, a worker is an individual who performs work in any capacity, including as an employee, a contractor, a subcontractor, an outworker, an apprentice, a trainee, a student gaining work experience or a volunteer.

(5) Schedule 1, page 4 (after line 27), after item 10, insert:

10A Subsection 539(2) (cell at table item 11, column 1)

After "351(1)", insert:

351A(1)

351A(2)

(6) Schedule 1, page 4 (after line 31), after item 12, insert:

12A Paragraph 578(c)

After "eliminate", insert "gender inequity, sexual harassment, harassment on the ground of sex, and".

These amendments implement an important—but, of course, again ignored—recommendation of the *Respect@Work* report. They create in the Fair Work Act the expressed prohibition of sexual harassment. For clarity, this is the act that governs the workplaces of Australians. It strikes me extremely strange—but I'm not surprised—that the government has failed to accept or implement this very important recommendation. The act confers functions and powers on the commission, including the power to conciliate sexual harassment complaints. The ACTU highlighted in their submission to the Senate inquiry that sexual harassment is undeniably a workplace issue that must be expressly prohibited and addressed through our workplace laws.

The Australian Human Rights Commission statistics show that in 2018-19 the majority—almost 70 per cent—of complaints made under the Sex Discrimination Act related to employment and almost a quarter of those related to sexual harassment specifically. It's happening in Australian workplaces, but the Fair Work Act does not expressly prohibit sexual harassment.

There's an argument that it can be indirectly addressed through a number of provisions, including the general protections against adverse action on the basis of a workplace right, general protections against adverse action on the basis of sex, the antibullying jurisdiction, unfair dismissal and unlawful termination on the ground of sex. But the *Respect@Work* report stated that the absence of any express prohibition under the main legislation that governs workplaces created 'ambiguities and gaps in how sexual harassment is handled under the Fair Work Act'. It's a pretty conclusive conclusion. The commissioner went on to say:

It is clear from the many submissions and consultations recommending reform that the current framework under Part 3-1 of the Fair Work Act does not provide the clarity and coverage needed for victims of sexual harassment in the workplace.

The lack of an express prohibition against sexual harassment within the Fair Work Act means that, in practice, sexual harassment matters are raised using provisions under Part 3-1 of the Fair Work Act that were not designed to address sexual harassment.

The ACTU has said a worker may have a claim under section 340 of the Fair Work Act if they are victimised for making a complaint about sexual harassment, but there is no right of action for the sexual harassment itself. It's ludicrous. But the government's weak response—and it is characteristically weak—to this very sensible and clear recommendation was only to agree to it in principle. The government stated:

The Government will review the Fair Work system once the amendments proposed under Recommendation 16 have been implemented and their impact assessed.

Well, unfortunately for this weak argument, which fails on almost every measure, recommendation 16 isn't relevant to this recommendation. Recommendation 16 relates to proposed amendments to the Sex Discrimination Act, which, in any case, the government only agreed to implement part of and which have no bearing whatsoever on whether sexual harassment is expressly prohibited in the Fair Work Act.

The Kate Jenkins report was all about looking at the big systems which legally govern sexual harassment and are presently failing to prevent it. She made a comprehensive recommendation about how to address that, but this is another part of her recommendations that is being ignored. It could be argued that by adopting a measure that could help stop sexual harassment in the workplace after it has occurred, the 'stop sexual harassment' orders, the government has failed to implement a regulatory change that could help prevent sexual harassment in the workplace from occurring in the first place. The introduction to the government's response explicitly states that prevention must be our focus. That's why we've moved these amendments, to ensure that our workplace laws explicitly state that sexual harassment and sex based harassment are prohibited, as all sensible people would agree they should be.

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (12:07): [by video link] I'll just rise briefly to note that the Greens will be supporting the amendments on sheet 1405. Once again, it's farcical of the government to claim that they are supporting recommendations in the Jenkins report in principle and then ask for more time when they've had 17 months. They should just be honest by saying that they don't want to fix this problem and that they don't want to have a prohibition against sexual harassment because probably many of the people in the ministry would be in trouble.

The CHAIR: The question is that amendments (1) to (6) on sheet 1405, as moved by Senator McAllister, be agreed to.

The committee divided. [12:13]

(The Chair—Senator Lines)

Ayes12
Noes12
Majority.....0

AYES

Brown, CL
Hanson-Young, SC
Lines, S
O'Neill, D
Pratt, LC
Urquhart, AE (teller)

Carr, KJ
Keneally, KK
McAllister, J
Polley, H
Siewert, R
Watt, M

NOES

Canavan, MJ
Colbeck, R
Payne, MA
Reynolds, L
Seselja, Z
Smith, DA (teller)

Cash, MC
O'Sullivan, MA
Rennick, G
Ryan, SM
Small, B
Stoker, AJ

Question negatived.

Senator McALLISTER (New South Wales) (12:14): by leave—I move amendments (1) and (2) on sheet 1382 together:

(1) Clause 2, page 2 (table item 1), omit the table item, substitute:

1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.
2. Schedule 1	The day after this Act receives the Royal Assent.

3. Schedule 2	Immediately after the commencement of the provisions covered by table item 1.
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(2) Page 23 (after line 11), at the end of the Bill, add:

Schedule 2—Ten days Paid Family and Domestic Violence Leave

Fair Work Act 2009

1 Section 12

Insert:

paid family and domestic violence leave means paid family and domestic violence leave to which a national system employee is entitled under section 106A.

2 Section 12 (definition of *unpaid family and domestic violence leave*)

Repeal the definition.

3 Subsection 17(2) (note)

Omit "unpaid family and domestic violence leave", substitute "paid family and domestic violence leave".

4 Paragraph 61(2)(e)

Omit "unpaid family and domestic violence leave", substitute "paid family and domestic violence leave".

5 Division 7 of Part 2-2 (heading)

Omit "unpaid", substitute "paid".

6 Subdivision CA of Division 7 of Part 2-2 (heading)

Omit "Unpaid", substitute "Paid".

7 Section 106A (heading)

Omit "unpaid", substitute "paid".

8 Subsection 106A(1)

Omit "5 days of unpaid family and domestic violence leave", substitute "10 days of paid family and domestic violence leave".

9 Subsection 106A(2)

Omit "Unpaid", substitute "Paid".

10 Subsection 106A(4)

Omit "unpaid", substitute "paid".

11 Paragraph 106A(4)(a)

Omit "5 day period", substitute "10 day period".

12 Subsection 106A(5)

Omit "more than 5 days of unpaid leave", substitute "paid or unpaid leave in addition to the entitlement in subsection (1)".

13 At the end of section 106A

Add:

(6) If an employee takes a period of paid family and domestic violence leave, the employer must pay the employee:

(a) for an employee other than a casual employee—at an employee's ordinary hourly rate, including applicable shift loadings and penalties.; or

(b) for a casual employee—at the rate of pay that the employer would be required to pay the employee, for the hours of work in the period for which the employee was rostered, including casual loading and any applicable shift loadings and penalties.

14 Section 106B (heading)

Omit "unpaid", substitute "paid".

15 Subsection 106B(1)

Omit "unpaid", substitute "paid".

16 Subsection 106B(1) (note 1)

Repeal the note, substitute:

Note 1: Examples of actions, by an employee who is experiencing family and domestic violence, that could be covered by paragraph (b) include (but are not limited to) attending legal proceedings, counselling, appointments with medical, financial or legal professionals; and/or relocation or making other safety arrangements.

17 Subsection 106B(2)

Omit all of the words before paragraph (a), substitute:

(2) *Family and domestic violence* is violent, threatening or other abusive behaviour by a close relative of an employee or a member of an employee's household that:

18 Subsection 106C(1)

Repeal the subsection, substitute:

(1) Employers must take steps to ensure information concerning any notice or evidence an employee has given under section 107 of the employee taking leave under this Subdivision is treated confidentially.

Note: Information concerning an employee's experience of family and domestic violence is sensitive and if mishandled can have adverse consequences for the employee. Employers should consult with such employees regarding the handling of this information.

19 Section 106D (heading)

Omit "unpaid", substitute "paid".

20 Paragraph 107(3)(d)

Omit "unpaid", substitute "paid".

21 At the end of Part 11 of Schedule 1

Add:

52 Entitlement to paid family and domestic violence leave

(1) Subdivision CA of Division 7 of Part 2-2, as amended by the *Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021*, applies in relation to an employee whose employment started before the commencement of that Act as if the period:

(a) starting on that commencement; and

(b) ending on the first day after that commencement that is an anniversary of the day the employment started; were a 12 month period.

(2) For the purposes of this clause, if an employee is employed by a particular employer:

(a) as a casual employee; or

(b) for a specified period of time, for a specified task or for the duration of a specified season;

the start of the employee's employment is taken to be the start of the employee's first employment with that employer

These provisions reflect a longstanding Labor position that paid domestic and family violence leave would make an enormous difference in the lives of Australian women. It's on that basis that I commend these amendments to the Senate.

Progress reported.

STATEMENTS BY SENATORS

Bragg, Senator Andrew

Senator BRAGG (New South Wales) (12:15): I rise to make some remarks about a defamation matter that I am dealing with in my role as a senator. On 18 May I received a letter and a concerns notice from Rebecca Sandford, special counsel for HWL Ebsworth Lawyers in Adelaide, which was marked 'urgent and confidential' and sent on behalf of The New Daily Pty Ltd. The letter alleges that I have made 'grossly defamatory remarks', and the lawyers said that they expected the awarding of 'substantial damages and costs'. Their claim effectively is that I have defamed The New Daily Pty Ltd by penning an article in the *Australian* in March entitled 'Lucky the ABC finally came to its senses'. This is quite a good article, and I commend this article to the Senate and anyone else who wants to read it. In that article, I said:

The New Daily is a superannuation sinkhole where \$12 million of workers' savings have disappeared. It is a loss-making business which calls into question the legal basis of the entity given super funds have a fiduciary responsibility.

This article was written following the cancellation of a deal between the Australian Broadcasting Corporation and The New Daily, which is frankly a deal that the ABC should never have entertained, given its status as the national broadcaster. Why on earth the ABC would be in bed with lobbyists shows, I think, a significant cultural problem inside the organisation.

Having had some experience of legal matters in my life, I was surprised to discover that it was in fact possible to defame a company. I thought this was something that generally could only be done to individuals. But, no, there are some arrangements in the model defamation code, and in the state of New South Wales there are corporations, which are excluded corporations, which can bring a defamation action for two reasons: a corporation is an excluded corporation if the objects for which it is formed do not include obtaining financial gain for its

members, or it has fewer than 10 employees. It would appear that this New Daily organisation significantly fails both of the tests.

On the first test, which goes to the question of it not being established for financial gain, I received a letter on 20 August 2021 from the Australian Prudential Regulation Authority, or APRA, which is the prudential regulator that looks after superannuation funds, governance and risk management. APRA explained to me that there were six superannuation funds that provided capital to The New Daily when it was founded between 2013 and 2016. Five of these funds treated it as an investment. One treated it as an expense. 'As we have previously advised,' APRA say, 'New Daily is no longer owned directly by the super funds. It is now owned by Industry Super Holdings.' Industry Super Holdings, according to APRA, is owned by 20 superannuation funds, 'all of which'—and I'm quoting APRA directly here—'treat their holding as an investment'. So if the superannuation funds are treating their money in Industry Super Holdings and The New Daily as an investment then it cannot be, by definition, an organisation set up for non-financial purposes, because that's not how the superannuation laws work in this country.

On the second test—whether or not it could satisfy this under-10-person test—I think it is rather hilarious, when you consider that the parent company here, the Industry Super Holdings company, has a billion-dollar balance sheet. I would imagine that a billion-dollar company employs more than 10 people. On that basis, we have to assume that the New Daily is not capable of suing for defamation, and this letter that I have received from Ms Sandford of HWL Ebsworth in Adelaide is certainly a strange event.

Senator Scarr: Trying to intimidate you.

Senator BRAGG: I think that's right—I take the interjection. Because I'm a proper person, of course my lawyers responded in the usual way and said, 'Please show cause.' And so far: crickets, nothing. So an organisation wanted to commence a legal proceeding with me; my lawyers did the right thing and engaged properly, providing back information; and we have heard nothing—nothing since May.

So you have to think: why would an organisation do this? I think there are probably three reasons. Firstly, they want to silence a critic; secondly, they wanted to stop anyone else raising these issues; and, thirdly, perhaps they like the deal they've already got so much that they want to put more money into this scheme, more money into this propaganda outfit—more money for lobbying. According to ASIC records, they've already spent \$30 million on this *New Daily* product. Thirty million dollars of workers' money has already been wasted. We have to assume they want to keep on doing this. As the good Senator Scarr just interjected, it is a classic case of trying to secure silence by bullying, and these tactics are totally out of step with a modern society.

The reason that I'm making these comments about this particular scheme is that I think it's very important for the Senate to reflect upon them. The superannuation guarantee is a government program established under law for various purposes. If, as a senator, I were precluded from making statements about a government program, what sort of democracy would we have? I think it's a very important line in the sand here. We can't have a situation where elected officials can't opine about the progress, capacity and success of government programs. It's very important that people are able to raise matters in the public interest, and I would say it is a matter of great public interest that an organisation has been set up, with \$30 million of workers' capital, to smear and, through its websites and various parties, engage in all sorts of underhanded behaviour against people it doesn't like. That's not what super is for.

In this chamber there are many different views about superannuation. Some I agree with; others I don't. I think most fair-minded people would say that it's a good idea, that it's an idea that should be made to work, and that these propaganda outfits who are pursuing people through the use of workers' capital really should hang their heads in shame, especially when they're seeking to silence elected officials. If this defamation action were allowed to proceed it would have a chilling effect on the capacity of members of parliament to make statements about government programs. It should not be allowed to stand, and that's why I will not be bullied by these particular organisations and people.

I would say, having conducted an ASIC search of these two companies—because you can't find out who's actually behind these organisations through the usual way—that they should seriously consider their positions and seriously consider how they can justify the expense of what these lawyers have been required to undertake. The directors of Industry Super Holdings are just three people—Michael Migro, Linda Rubinstein and Gregory Combet—and then at the New Daily there are nine people: Gerard Noonan, Glenn Thompson, Tessa Herd-Court, Christopher Walton, Catherine Smith, William Watson, Catherine Bowtell, Brad Crofts and Susie Allison. My message to these 12 people is: who on earth is paying for these legal expenses? Who is paying for these legal expenses, and how can you justify that?

The good news is that this parliament has recently enacted a law which requires the super funds to act in the best financial interests of members. I don't see any possible justification for the ongoing expenditure of the New Daily for legal expenses in trying to smear, close down or collapse public debate about government programs. I don't think your positions are tenable. I look forward to receiving your proper responses to my lawyer's letters, given you have sought to engage this matter. It would be a great shame for our democracy if people like this could lurk in the shadows, set up boondoggle propaganda outfits like the New Daily, and undermine and silence legitimate public debate about a perfectly good idea. Superannuation is a good idea, but it is not working particularly well, and one of the reasons it's not working well is that people have treated the money like it is their own. It is not your money; it is the money that belongs to the workers. I thank the Senate very much for its time.

Fabian, Mr Garry, Order of Merit of the Federal Republic of Germany

Senator KIM CARR (Victoria) (12:25): We should be deeply concerned about the growth in right-wing extremism, in Europe and in this country. ASIO tells us that 50 per cent of its time is now spent dealing with the threat of fascist groups. For me, this is a personal issue. Today I want to pay tribute to a great Australian, Mr Garry Fabian, who has recently been awarded the German Order of Merit by the Minister-President of Baden-Württemberg, Herr Winfried Kretschmann. Garry is a German-born Holocaust survivor who has been an Australian citizen for the past 70 years. I am proud to be his son-in-law. Like millions of European Jews, other minorities and opponents of Germany's fascist regime during the dark years from 1933 to 1945, Garry was deprived of citizenship. His human rights were routinely violated, and his boyhood was spent in a concentration camp. But, unlike the millions who died in the camps, Garry was fortunate to survive and to start a new life on the other side of the world. Since then he has worked tirelessly to rebuild understanding and to promote reconciliation with the people of his birth country.

Born Gerhard Fabian in Stuttgart, Germany, on 11 January 1934, Garry's early years were spent moving from place to place with his family to avoid persecution under the Nuremberg Laws. In 1935 the family moved to Bodenbach, in Czechoslovakia, and later to Prague, after the German invasion in 1938. Like so many other refugees, they carried false documents and had to move every few weeks to avoid detection. Life was hard, but the worst was yet to come. In November 1942, Garry and his family were deported to the Theresienstadt ghetto. Although called a ghetto, it was actually a concentration camp. Theresienstadt was not officially a death camp, like Auschwitz. But there was plenty of death as infectious diseases such as typhoid spread rapidly through the overcrowded barracks. The prisoners suffered malnutrition, exhaustion from harsh working conditions, and brutal treatment by the guards. Most of the inmates were sent on to death camps. As a small child in these unsanitary conditions, Garry endured, in succession, measles, chickenpox and whooping cough but somehow recovered from them all. Both his parents also survived, but his grandparents and numerous other relatives were murdered.

In May 1945, Theresienstadt was liberated by the Soviet Army. Of the 150,000 children who entered that ghetto, Garry was one of the 150 who survived. By Garry's account, luck played a large part in the family's survival. Garry's father was in charge of the medical supply store and was classified as an essential worker. But other 'essential' workers were sent to death camps, despite their classification. In 1947, the Fabians were able to leave the horrors of Europe behind and they emigrated to Australia. Despite huge gaps in his education, and with minimal English, Garry attended school. He gained a junior technical certificate and undertook an electrical apprenticeship. In 1952, Garry, having officially changed his name from Gerhard, became an Australian citizen, and in 1956 he joined the Royal Australian Navy to complete his national service.

Now 87, Garry has contributed much to his adopted home as a proud Australian. As well as working in electrical sales services, he fulfilled his dream of tertiary education by returning to study in his 50s. He gained both a Bachelor of Arts and a Master of Arts. He has always been active in his community. He has spent countless hours on school councils and on the committees of service organisations, like the Jewish social service organisation B'nai B'rith. He continues to work as a volunteer guide at the Shrine of Remembrance in Melbourne, and he lectures at the University of the Third Age. He has two daughters and five grandchildren; this is particularly significant to me because I married his daughter Carole.

Garry's story of resilience and of rebuilding a once-shattered life is familiar among the migrant stories that make up our national narrative. What makes Garry unusual is his commitment to reconciliation. Despite the trauma that he suffered under the Nazis, he has returned to Germany several times in the past 30 years. His early trips were not comfortable for him, but over time he has met many new generations of Germans who have a strong commitment to understanding their history. Garry has developed a relationship with a foundation in his birth town of Stuttgart known as the Geisserstrasse 7, or 7 Geisser Street. The foundation is dedicated to raising awareness of the dangers of racism and fascism. Its name comes from the address of a hostel for refugees that was burnt down in an arson attack.

This foundation has helped highlight Garry's personal story. He has appeared in a film about his experience on German public television, and he's appeared in German newspapers. His autobiography, *A Look Back Over My Shoulder*, was translated into German. He has been on speaking tours to schools, colleges and community groups. In fact, I've had the great pleasure of being with Garry at one of his town hall meetings. In Braunschweig, he met history professor Dr Herbert Scheibe, a former trade union official and SPD political activist with an interest in the treatment of unionists and socialists under the Nazi regime. This has led to more speaking engagements. Garry has spared no detail in sharing the story of his experiences with his—mostly young—German audiences. His message has always been very clear:

I don't blame your generation for the crimes of another. This could have happened anywhere if the conditions were right.

We are all responsible for ensuring that hatred, racism and discrimination at its most deadly are not allowed to flourish ever again.

In 2011, Garry applied to have his German citizenship restored. That happened within weeks. It is significant that German Jews are now accepting citizenship that was so infamously stripped from them, starting from 1933. Garry's message of acceptance for all races, religions and creeds and his willingness to return to a land that had treated him so badly have led to the award that he has now received.

Garry's story is not only about the past. It is vital for all of us today. It is a warning about what can happen when the foundations of both liberal democracy and social democracy falter. In 1930s Germany, Jews and communists were blamed for all of society's ills. Now, populist leaders around the world target immigrants, Muslims and others in the same way. Garry Fabian, I congratulate you on receiving this prestigious award. It honours you, your family and all who are willing to learn from the past to avoid repeating it. I wish to thank Garry's grandson, Seamus Carr, for his assistance in preparing these speaking notes.

Greyhound Racing

Senator FARUQI (New South Wales) (12:34): [by video link] Today, I want to talk about something we rarely hear about in this place: animals and their wellbeing. Australians love animals, yet so many of our animal welfare laws lag behind those of other similar nations. So many people have related to me stories of how their companion animals have been their saviours during the isolation of COVID-19 lockdowns. My ex-racing rescue greyhound, Cosmo, has been a loving companion to me and my husband during the pandemic as we have been separated from our children. Yet incredible brutality is inflicted on these dogs as they are raced to death for a so-called sport.

Throughout the COVID pandemic, so much has been forced to shut down. Schools are closed for classroom learning and so are universities. Businesses and workplaces across the country have either gone online or are barely staying afloat without daily trade. Gyms, libraries and even religious venues are shut. But one thing that has continued on is greyhound racing. So many in our community have been alarmed over the last 18 months by the persistent and ongoing operation of the greyhound racing industry, and the power and influence of the gambling lobby over politicians of both stripes has been clearly and shamefully on display. Over 200 precious dogs were killed at race tracks last year, in the middle of a pandemic. So far this year, at least 111 deaths have occurred at race tracks. Racing continues—though, thankfully, it has been suspended in some of the worst-affected hotspot areas.

Five years ago, in my home state of New South Wales, where I'm speaking from today, the government decided to make an important decision: it would shut down greyhound racing. Following the 2016 Special Commission of Inquiry into the Greyhound Racing Industry in New South Wales, then Premier Baird made a strong decision on the basis of animal welfare. In his report, Justice McHugh found overwhelming evidence of systemic animal cruelty, including mass greyhound killings and live baiting. The report said that the industry had fundamental animal welfare issues and integrity and governance failings and could not be remedied. It was horrific reading, but it did lead the government to take the position that it took. For those of us who had worked so hard for so long to expose the inherent cruelty of the racing industry, it was an enormous vindication. But the craven political opportunism of the Labor Party and the enormous lobbying and money of the gambling-fuelled racing industry eventually pushed a cowardly government to do a humiliating backflip. The greyhound racing ban was incredibly short-lived. I've said it before, but the day the ban was reversed was one of the worst days of my time in parliament.

So what has happened in five years? Let's start with the good news. The ACT government shut down greyhound racing more than three years ago. They should be proud of this. Scores of dogs have been inevitably saved from cruelty, drugging, death and injury. But, everywhere else, dogs continue to die or be critically injured at tracks in their thousands.

The New South Wales government is back to its old habits of propping up this cruel industry, and, in some ways, has never given it more full-throated support. It publicly funded \$500,000 of prize money for the Million Dollar Chase, in one such brazen example. Earlier this year, the New South Wales government announced what it called a new funding model for the industry. Despite the McHugh report recommending that the industry fund its own oversight body, this will now be funded by taxpayers. Regional grants continue to be piled on, and the public is now paying millions of dollars to boost this horrendous racing and gambling. What an absolute joke—and such a very cruel one, at that. While, sadly, the racing continues, we have exposed this industry for what it is: dirty, toxic and abusive. And we will not stop till it is shut down.

Enormous concern continues over the plight of greyhounds being exported from Australia for racing overseas. Between January 2016 and 31 July this year, at least 1,313 greyhounds were exported from Australia. Over the years, there have been horrific stories, photos and videos emerging from destinations overseas where dogs are malnourished, kept in small spaces, mistreated and gotten rid of when they are no longer turning a profit.

Today, I will introduce a bill to shut down greyhound exports once and for all. The bill will amend customs laws to prohibit the export and import of greyhounds for breeding, racing or any other commercial purpose. It includes a ban on the export or import of greyhound reproductive material. There are exemptions for domestic pet greyhounds.

The export of Australian greyhounds was the subject of a dedicated chapter in the scathing McHugh inquiry which found significant animal welfare concerns arising in connection with the export of greyhounds. An ABC 7.30 investigation with Animals Australia shed horrific light on the abuse and neglect of greyhounds from Australia in Macau, Vietnam and across mainland China. It led Qantas to decide not to export any racing greyhounds to Asia—but the practice goes on.

At the moment, peak body Greyhounds Australasia operates a greyhound passport scheme for export of greyhounds and will not grant passports to greyhounds travelling to countries of concern, including China and Vietnam, where greyhound racing has flourished on the back of exports from Australia. However, there are various significant loopholes. The passport scheme has no statutory authority and greyhounds can be exported without the so-called passport, with the only punishment for exporters resulting from contraventions of greyhound industry rules. In addition, greyhounds may be and have been exported to approved countries before being rerouted to countries of concern.

Recent reports show greyhounds are being exported without Greyhounds Australasia's approval, making a mockery of this so-called enforcement system. So far this year, 87 dogs have been exported, including four dogs to China. Commercial exports to China have been banned for some years, but loopholes still allow dogs to end up in terrible conditions at racetracks across the world. Greyhound Racing Victoria and other state authorities are reportedly currently investigating greyhounds being flown into the UK before being rerouted to China. In previous years, investigations took place into greyhound exports to the United States ending up in China. Greyhound Racing Victoria has reportedly requested the Australian government's assistance to put in place biosecurity requirements or national legislation that can prevent greyhound exports against the national rules, including via third countries.

But this will not stop the export of greyhounds for racing purposes. Once greyhounds have left Australia there is very little the Australian government can do to protect their welfare. Only a full commercial ban will work. Some of you here might know that I have been passionate about this issue for many years. In 2017, when I was a state MP in the New South Wales parliament, I started a campaign of writing to major airlines to ask them to rule out transporting racing greyhounds internationally. Many airlines responded to the Don't Fly With Me campaign and were very happy to get on board. It is time this parliament took the same approach. Banning commercial greyhound export is supported by all key animal welfare groups, and I want to thank them and the thousands of people who oppose the cruelty of greyhound racing and greyhound exports.

The closure of the racetrack in Macau, which was called a death camp for dogs, has had a big impact in slowing the number of greyhounds exported, but this practice hasn't stopped. With the ongoing investigations into continuing exports, we have to do the right thing and draw a line in the sand. No matter what the industry says, neither the welfare of the dogs nor where they end up can be guaranteed after they are exported. The only sensible and appropriate measure is to shut down the trade altogether.

Greyhound exports might make a buck for the industry in Australia, but it is unacceptable to sacrifice the welfare of the dogs at the altar of profitability and gambling revenues. More and more people in Australia see greyhound racing for what it is: gambling-fuelled animal cruelty. These beautiful dogs should be running for fun, not for their lives. My loving and trusting ex-racing greyhound, Cosmo, whom you might see in the background, is a reminder to me every single day of the plight of the hundreds of dogs that endure the cruelty of racing. I know

I have no choice but to keep pushing to end this cruelty. I am proud to be a voice for animals in this place. I really hope that more of you can join me.

Australian National Flag Day

Senator DEAN SMITH (Western Australia—Government Whip in the Senate) (12:43): I rise to note that this Friday, 3 September 2021, is Australian National Flag Day. On this day, we celebrate Australia's foremost national symbol and the most recognisable expression of Australian identity and pride. This year is a particularly special occasion as it marks the 120th anniversary of the Australian national flag and the 25th National Flag Day. When Sir Edmund Barton, Australia's first Prime Minister, revealed the national flag that was to represent Australia and its people on 3 September 1901, it was a significant event. The 5.5-metre-by-11-metre example that was flown over the dome of Melbourne's Royal Exhibition Building was a large and proud statement of a newly federated nation. While Australian National Flag Day doesn't have a long history, only being proclaimed by the Governor-General on 28 August 1996, it is a day worth celebrating because of what our national flag represents and because those who designed it have a story worth sharing.

At the time of Federation, when the six Australian colonies joined to form the Commonwealth, the Union Jack had been our official flag for a century. However, with the growing sense of Australian identity and of a new nation entering a new century, the sentiment was well behind a new national symbol. In April 1901 an international competition to design Australia's flag was announced. It's recorded that nearly 30,000 entries were received, with five near-identical designs awarded equal first place. The five winners were: Annie Dorrington from Perth; Ivor Evans, a 14-year-old from Melbourne; Leslie Hawkins from Sydney; Bert Nuttall from Melbourne; and William Stevens from Auckland. Together, they shared the 200 pounds of prize money, which by today's standards would be like winning almost \$30,000.

As a Western Australian senator it would be remiss of me to avoid sharing a little more about Annie Dorrington. The flag's designers are so rarely talked about, and their history remains largely unknown. Annie Dorrington was an artist born at Litchfield Ashe in Southampton, England, in 1866. She was the second of nine children of Richard Whistler, a farmer, and his wife, Sarah Mills. Shortly after her father died Annie migrated to Victoria with her mother and siblings in 1890. She married Charles Dorrington in St Alban's Church of England in Armadale, Melbourne, on 18 April 1892. They relocated to Western Australia in 1895 and lived in Fremantle, moving to Perth a few years later. Annie had a particular interest in painting native wildflowers, and by 1901 had a sizeable body of work that she offered to sell to Bernard Woodward, the director of the Western Australian Museum and Art Gallery. Annie's watercolours were exhibited in the Western Australian pavilion at the Paris and Glasgow international exhibitions in 1900 and 1902, the St Louis International Exposition in Missouri in 1904, and the Franco-British Exhibition in London in 1908. Annie was the only woman and the only Western Australian amongst the flag design prize winners.

Sadly, the later part of Annie's life is a more tragic story. Suffering from depression, she was admitted to Claremont Mental Hospital a number of years before her death in 1926. After her death Annie was buried in an unmarked grave at Karrakatta Cemetery. Fortunately, her grave was eventually discovered by the Australian National Flag Association of Western Australia, which honoured her contribution to our national story by erecting a monument in 1999. I congratulate the Australian National Flag Association for its dedication to restoring this important part of our national history and Western Australia's history.

Why do we celebrate National Flag Day? Events that celebrate the Australian national flag should be celebrated, for it's a symbol of our nation's values and achievements, and it belongs to every Australian. It is a symbol as relevant today as it was 120 years ago. However, every year some members across this chamber, aided by activist groups like AusFlag, call for a change to our national flag. They allege it's a colonial flag, a divisive symbol. They claim our country needs to cut its ties with its historical influences. 'Grow up and move forward with the times,' they suggest. But even former prime minister Malcolm Turnbull, a former head of AusFlag, has conceded that the 'change the flag' cause was going nowhere, noting in 2018 that younger Australians don't regard the Union Jack on our flag as a symbol alien to our history, our achievements or our values but as one very emblematic of them. Nevertheless, I'm sure we can expect the usual suspects to come forward, loud and noisy, to politicise this important celebration later this week.

In contrast, I encourage senators to reflect on Prime Minister Tony Abbott's address at the first official National Flag Day event held here in parliament in 2014. Paying tribute to a former governor of New South Wales, Sir David Martin, who was one of the early movers behind National Flag Day, the former prime minister, Mr Abbott, quoted him, saying:

'I can understand the wishes of many Australians to have more light-hearted symbols to wave on certain occasions, and I share their feelings. I'm a happy admirer of kangaroos, koalas, wattle, waratahs, broad-brimmed hats and cans of beer. By all means, let's make happy, slick, wonderful emblems for use on particular occasions. But in the midst of such light-hearted cheering,

I'm comforted to know that the Australian flag remains at the masthead, proclaiming our maturity, continuity and stability as a nation. In the short history of Australia, our people have been involved in many activities and events of great turmoil, anguish, strife, pressure, anxiety, unhappiness, hopelessness, but also, and most particularly, success, joy and jubilation. And on almost all of these occasions, this flag has been a rallying point. It's become associated with Australians and our great deeds, strong victories and some gallant defeats. It's become identified with our proud history and our fine traditions.'

It's a proud history indeed and one that deserves to be celebrated.

For this reason, I look forward to celebrating on Friday the 120th anniversary of our Australian national flag and all that it has come to represent. While we can't mark the occasion with an official ceremony in Canberra or in this building this year, I encourage every Australian to wear an Australian flag pin, to display the flag with pride, and to remember those great virtues that it has come to represent, hoping always it will be an enduring symbol that every Australian can rally behind and unite with.

Workplace Relations

Senator SHELDON (New South Wales) (12:51): [by video link] The Senate Select Committee on Job Security inquiry heard from working Australians, businesses, industry groups, academics and unions from around the country this year about the rise of insecure and precarious working conditions. During that inquiry, we heard time and time again from workers who have been ripped off and badly treated in insecure work. We heard truly shocking stories of exploitation being dressed up as flexibility. Throughout the inquiry, we heard that some employers are engaging in surveillance of their workforce, to intimidate people out of speaking out about their work conditions and their pay and to punish those who do.

At this time of rising surveillance and union busting I want to commend the bravery of workers around Australia who have spoken to the inquiry directly about their experiences. We heard evidence about blacklists, about workers being sacked for taking protected action and about casuals too scared to raise safety concerns for fear of not being rostered on for another shift. This evidence should be spurring the Morrison government to action. But, instead, the Morrison government and One Nation have combined to shut down the inquiry and to silence workers around Australia and not allow them to have their voice heard before the Australian Senate.

I would like to use this opportunity to put their evidence from the job security committee on the official Senate record. Mel is an enrolled nurse and a member of the United Workers Union. Mel revealed that the business model of many aged-care homes is to be constantly understaffed. Mel said she has seen care homes cut the shifts of cleaners and laundry workers and then ask nurses to pick up the slack on their own shifts. Mel told us about the aged-care workers who are regularly expected to work the overnight shift in the dementia ward by themselves, and that in the dementia ward that she manages the workforce changes daily as nurses on low-hour contracts are forced to work across several facilities. Mel often has to begin her shift by training a new group of staff, and the dementia patients in her ward are often distressed at the cycle of workers coming in and out and changing every day. They are forced to manage up to three rosters, travel to three different care homes and work under three different sets of safety and workplace procedures—all on minimum hours. It's conditions like these that led to such devastating COVID outbreaks in aged care in New South Wales and Victoria.

Mel told us that she often heard staff in the lunch room talking about how they were struggling to get on while being on low-hour contracts. Ultimately, when aged-care workers are forced into underpaid, understaffed and insecure work, the quality of care for aged-care residents suffers as a result. The royal commission itself made this exact point. To quote from the commission's final report:

The bulk of the aged care workforce does not receive wages and enjoy terms and conditions of employment that adequately reflect the important caring role they play.

It went on to say:

Inadequate staffing levels, skill mix and training are principal causes of substandard care in the current system.

This is exactly the evidence we received from aged-care workers like Mel throughout the job security inquiry. Of course, now, shamefully, Mr Morrison and One Nation are shutting down this inquiry to silence and stop aged-care workers from speaking out about their conditions of work.

We had evidence from Andy Davey, who is a member of the CFMEU Mining and Energy Division and lives and works on the South Coast of NSW. He gave shocking testimony to a forum on job security about the insidious rates of casualisation in the mining industry, where workers engaged through labour hire companies regularly earn 30 per cent less than their directly employed colleagues, working side by side with them on the same site. More and more roles in the mining industry every year are casual or contract positions. Andy gave us the example of labour hire firm WorkPac, which, even after granting a long-overdue 16 per cent pay rise, still pays their workers \$3 less an hour than the permanent mineworkers they work alongside. There is a pure profit being paid by

companies like BHP and Anglo American to labour hire companies like WorkPac. Money that should be going to the mineworkers performing the work is instead being diverted to multinational labour hire companies.

Labour hire is not only driving down pay and conditions in mining; it is also being used to intimidate and silence the workforce. Andy told us about the experience of WorkPac workers who are:

... too scared to speak out, not only for themselves but for safety concerns for any injuries ... These people are sucking the same dust. Their body is suffering as much as a permanent employee.

These casual workers can't get a mortgage, they can't get sick leave and they earn far less than their full-time colleagues. Well, this is the new standard of work in mining all across sectors of the Morrison economy, and now, shamefully, Mr Morrison and One Nation are shutting down this inquiry to silence and stop mineworkers from speaking out about their conditions of work.

We heard evidence from Chris Kirkby, who is an AMWU member in construction in Western Australia. He has seen the use of casuals explode in his industry since he began his career over a decade ago. He told us that casual employment has become the norm in construction and that casual-conversion clauses are routinely ignored or removed from the enterprise agreements. He totally rejected claims that the permanent casual work he is engaged in provides flexibility. He said that what he really wants is choice. If employers care so much about flexibility, they should give workers a choice of whether they are employed as casuals or in secure employment. Chris told us the story of how he went through a period of bargaining with his employer. He and his colleagues weren't even asking for a raise; they were just asking for their pay and conditions to be rolled over. I quote from Chris's testimony to the inquiry:

... just before Christmas, we were told that if we didn't sign up for what was essentially a 25 per cent pay cut, we would be getting the sack, so we had no other choice but to take protective action. So we took protective action, and ... we were handed redundancy letters.

They were immediately replaced by casuals. Chris and many of his workmates then had to take jobs with another contractor on the same building site, doing exactly the same job they had been doing before but now as casuals, for less pay and under worse conditions with none of the entitlements of a permanent employee.

This is disgraceful behaviour, but it isn't an isolated incident. We heard many such examples of threats, blacklisting and casual workers simply being let go for standing up for their pay and conditions. It's clear by listening to these stories that our industrial relations framework is broken, which makes it all the more appalling that Mr Morrison and One Nation are shamefully shutting down this inquiry to silence workers like Chris from speaking out about their conditions at work.

Naval Shipbuilding Plan

Senator PATRICK (South Australia) (13:00): [by video link] I rise today to speak about naval shipbuilding. When I was listening to the debate on Monday about the Defence Amendment (Parliamentary Approval of Overseas Service) Bill, brought forward by Senator Steel-John, I listened carefully to coalition senators. They rose on their high Senate horses stating that it is the first responsibility of government to make sure that the people of this country live within a safety net of security. They're important words and I believe in those words, but I feel they were hollow coming from senators who were really just momentarily wrapping themselves in the Australian flag. I say that because I haven't seen these senators rolling into the chamber and using adjournment speeches or senators' statements or two-minute statements to express their concern about the Naval Shipbuilding Plan, and in particular the submarines program and the Future Frigate program. Both are late, both are over budget, both have performance concerns relating to them and both have issues around Australian industry contact. This is particularly concerning, noting that we have changing geostrategic circumstances to our north—worrying changes in our geostrategic circumstances, enough so that our formal posture in relation to defence has basically signalled we can no longer rely on a 10-year warning. That warning time has in fact shortened dramatically.

I go to the submarines. In terms of the schedule, the project was stood up in 2009, and in fact I had some involvement prior to that personally in CASG, in Defence. The project was actually being considered well before 2009. It became public in 2009, with a view to purchasing 12 new submarines that would be brought into service by 2025. That date is important because that is the date on which the Collins class submarines are due to retire. We now find ourselves with a program that has a delivery date of 2035. We have some serious strategic concerns to the north, be it in relation to the South China Sea, with the CCP preferring to emphasise the word 'China' when they say 'South China Sea', or, of course, incursions on Taiwan, which is something that we need to have some regard to. So 2035 is simply too late, but that's where we find ourselves.

We've seen the cost go from somewhere around \$12 billion in 2009—that was the number being talked about—to ASPI reports talking about \$36 billion to \$50 billion, and it then moved to \$90 billion in out-turn costs. So we've seen a massive increase in the cost of these projects. The numbers are so big, not for the program itself but

for the blowout—\$40 billion in blowout for the future submarines, and of course that's been exacerbated, because we now have to extend the life of the Collins class submarines beyond their 2025 retirement date to meet the new submarines in 2035. There's no guarantee that they will arrive in 2035.

The performance of the future submarines has also been brought into question. We know from Senate estimates that the batteries that we will use on our future submarines will be lead-acid batteries. Madam Acting Deputy President, I can tell you that in 2025 the only place you will find a lead-acid battery, other than in our future submarines, will be in a museum. That's the only place. We see lithium ion batteries being used in Japanese submarines and planned for pretty much every brand-new submarine that is being placed on the market.

There is also the question of the pump jet propulsion on the future submarine, which creates a huge risk. We ought to be concerned about that risk, because it is by no easy means that we will change the propulsion arrangement should that not work out. That will be a catastrophic project problem if the high risks associated with that pump jet are realised.

Of course, industry involvement has been of particular concern as well. We were promised a project that would make sure that we had a sovereign industry capability. Industry are doing some work on this project, but by and large their expectations are not being met. We need to be able to make sure that, when these submarines are operating beyond 2035, we have the capacity to sustain them properly. That means we need to have industry involvement.

I turn to the schedule for the future frigates. We've recently learnt it has blown out by 18 months. We need to understand, in particular, what that means. When the project was first stood up, we were supposed to have construction starting in 2022. That was subtly shifted in relation to some of the blocks that are being built. There was some confusion around the actual start date, but let's go with 2022. We now know that that 2022 date has been shifted by 18 months as a result of delays in the future frigate program. The actual delivery of the first ship has moved from December 2029 to December 2031—another two-year shift. It makes us think there's nothing happening in the defence space, that there are no geostrategic problems, but these are significant issues. The cost of the Future Frigate program has gone from \$35 billion to \$455 billion—another \$10 billion. No-one seems to bat an eyelid; indeed, the coalition doesn't seem to think that's a topic worthy of addressing. It simply accepts it. It just accepts there's a blowout. We're also seeing issues associated with performance in relation to that project. We know that the weight margin for that project is only three per cent. That means that, over the life of the ship, there's not much scope for upgrades. It also means we're pushing a heavier ship through the water, which will put a load on the propulsion chain, and, as an acoustic specialist, I can tell you it will also make the ship noisier, which is problematic, noting it is an antisubmarine warfare vessel. Again, industry involvement in the program is falling well short.

How do we get into these situations? We have admirals, generals and air marshals who have little or no project experience making recommendations about ambitious and high-risk programs to cabinet ministers who have even less experience. Defence knows to buy off-the-shelf wherever possible. It was recommended to them by Kinnaird and by Mortimer in reviews of our procurement strategy.

That leads me to the life-of-type extension of the Collins class submarines. This was a program that was known about 10 years ago. I recall Cameron Stewart of the *Australian* reporting on life of type all those years ago. But the life of type has gone from one submarine to five submarines, and now we know it's basically going to be done for all six submarines at \$10 billion cost. I note, from answers I've received in the last day or so from estimates, that a second-pass decision on that particular program will not be made until 2022-23. That all leads to the final problem: in the meantime, we are heavily reliant on our Collins class submarines. They are maintained from a full-cycle docking perspective from our Adelaide shipbuilder ASC. They are doing a fantastic job—world benchmarks. Defence, so the government, are thinking about shifting this role to Western Australia. They know that the people won't move, and that's where all the expertise lies. In moving that, they will create a significant risk of nonavailability of the Collins class submarine, which is totally unacceptable, noting the geostrategic environment we are in and what's happening with our submarine programs. The government needs to stand up and make a decision on full-cycle dockings immediately for them to be retained in South Australia.

Jersey Day

Senator BROCKMAN (Western Australia—Deputy Government Whip in the Senate) (13:10): I rise today to speak about Jersey Day and the Nathan Gremmo Community Fund. Many of my colleagues here in this chamber today across all sides have supported this magnificent cause. This year, 2021, will see the seventh year of Jersey Day.

Where did this all begin? I was very touched by this inspirational story. Like many good things in life, its genesis began with a small group of individuals, and, sadly, it followed the tragic death in 2015 of Nathan

Gremmo. Thirteen-year-old Nathan was critically injured while crossing the road outside his home in Glenhaven, New South Wales. The next day, in Westmead Hospital, it became clear that Nathan's situation was impossible, and his parents, Michael and Kylie, made the decision to donate Nathan's organs. This decision led to six other people being given the opportunity of life. Ironically, hours before his incident, Nathan had posted on his Instagram account: 'You only live once, but if you do it right once is enough.' Nathan was a young boy full of beans, an active sporting individual with a great sense of humour. That post of Nathan's inspired not just his family but also the wider community and, ultimately, a nation.

Michael and Kylie wanted to honour Nathan's legacy, and the Jersey Day concept was born. The Gremmo Community Fund was an already established fundraising initiative in the hills area of Sydney, led by the Hon. Alan Cadman OAM, Dr Jim Taggart OAM, and the Gremmo family. While many of the efforts of the community fund were focused on assisting people with disabilities, the focus of the organisation soon became Jersey Day and raising awareness about the importance of organ and tissue donation. Through Jersey Day, the Nathan Gremmo Community Fund has built a vast network throughout the country which assists in the promotion of Jersey Day, including the Organ and Tissue Authority and state based DonateLife offices. Jersey Day is traditionally held the Friday before Father's Day. This year's Jersey Day will be held on Friday 3 September.

Jersey Day in Australia sees tens of thousands of people from schools, alongside sporting teams through corporate Australia, wearing their favourite NRL, AFL, NBL, Surf Life Saving, netball or even fishing jerseys. Most Australians, as we know, have a sporting jersey in their wardrobe and proudly wear it on such a special day as this not just to remember the active life that Nathan lived but also to promote the discussion of organ and tissue donation. A jersey represents a team, and as Australia we require a team effort to help the 1,400 Australians that are currently waiting on life-saving organ and tissue donation lists. Jersey Day not only promotes organ and tissue registration but also, perhaps more importantly, it encourages families to have a conversation about the topic. Instances of organ and tissue donation are extremely rare, but in the rare instance where this can occur, ultimately your loved ones will be asked to confirm your wishes. This is why these conversations are so important. In the words of Kerry Chikarovski, make sure you've had the conversation with your family so they don't override your wishes.

I'd like to recognise the hundreds of schools and businesses from around the country that have supported Jersey Day, and I'd particularly like to mention from my own state the Perth Glory football team for their support. More importantly, tens of thousands of Australians have been inspired by Jersey Day to have a chat with their families about organ and tissue donation. Of course, we need to reach even more Australians with this important message. Perhaps the most unique feature of Jersey Day is that there is no requirement to raise funds. Schools and businesses can involve their students and staff without the requirement to collect or administer donations. Jersey Day is about raising awareness. Jersey Day is part of the wider DonateLife network. I would like to recognise the Hon. Mal Washer, the national chair of the Organ and Tissue Authority, which is the government authority responsible for coordinating the DonateLife network. Of course, Dr Washer was a member of the other place for many years. In 2021, with a number of east coast states in lockdown, Jersey Day is expanding its network thanks to the Association of Financial Advisers, which is promoting the day across Australia to its members, who are, in turn, able to promote Jersey Day to their staff and clients.

In closing, I would like to ask all Australians to get behind this magnificent cause and to talk to their families, to their loved ones, to their friends and to their associates at work about the importance of organ and tissue registration and donation. By doing so, you can save so many other lives. I'll end with, again, those words from Nathan: 'You only live once, but, if you do it right, once is enough.'

COVID-19: Indigenous Health

Senator O'NEILL (New South Wales) (13:15): Deception, incompetence, neglect—words that hollowly echo the real anguish and fear spreading through communities in regional New South Wales. The Prime Minister on so many occasions has spoken of 'the forgotten Australians', although he's never seen their faces, never caring to avail himself of the facts of their lived realities. The New South Wales Premier seems to know Manly and Rushcutters Bay well, but she leaves regional Australia to her self-absorbed deputy. The people of the communities of Walgett, Wilcannia, Dubbo, Coonabarabran, Gilgandra and Orange are now becoming victims of the COVID-19 virus, illustrating to all that they have always been victims of a government ill concerned with them.

Allow me to disabuse you of any notion that the National Party actually cares for regional communities. Wilcannia is without food. In Walgett, people self-isolate in tents. In Dubbo, close contacts are sleeping in cars. All of these communities have serious questions for the government. Those are not my words; they are very powerful words spoken from the heart of the community constructed in Coonabarabran in the last couple of days by a good friend of mine, Jack Ayoub, who is Labor's shining star in that region. He was our candidate in the last

federal election for the seat of Parkes, which covers western New South Wales—for those who don't know it—from Dubbo as far out west as Dubbo is from Sydney, all the way out to Broken Hill, and as far north as up to Goodooga. He has lived in Coonabarabran all his life and he knows a thing or two about what's going on out there. They're his words, because they reflect the reality that is happening right now in New South Wales.

Wiradjuri man David Towney said to ABC News overnight:

All that little political bubble that was happening in Sydney ignored us. And now we're paying the consequences.

Barkindji man Michael Kennedy also told ABC News:

We were trying really hard then to put changes in place to keep our community safe ... everything that we mentioned and every plan we had got thrown out the window—no one would listen to us.

'No-one would listen to us'—this is the truth of elders in these First Nations communities. This truth needs to be told, because we can see, day after day, in the dismissive attitude of the minister for health in New South Wales, Mr Hazzard, and in the dismissive attitude of the minister for health here in this place, Minister Hunt, and his representative in the Senate, Senator Colbeck, that they are just failing to see the reality of what's happening on the ground. They come in here, refuse to answer questions with any truth or integrity, and rely on speaking notes that are intended to obfuscate and to absolve them of responsibility for what is actually happening on the ground right now in my great state of New South Wales. Euahlayi man Bhiamie Williamson summed up this government's attitude in one sentence:

It is absolutely clear that we Aboriginal people are a priority group in political rhetoric only.

That is the truth about this government.

I've been speaking with GPs, nurse practitioners and other health professionals from across the western New South Wales region, and this is what they are telling me: the missions are overcrowded. They acknowledge the important presence of the RFDS, who are there to support them and are doing a good job, but they are totally inadequately supported. One of them said: 'This was so predictable and so preventable. Instead, the government is reactive only, and now it's costing lives.' That is the truth of what's going on in western New South Wales. One said, 'We could all see it coming, but no-one would listen.' When did Pfizer, which is so desperately needed by this community, come through? Only in recent weeks: 'About a month ago,' was their response.

Yesterday I took some notes from the contribution of Senator Colbeck, who, when asked questions about what was happening, talked about a plan that he got together as far back as 5 March 2020, and an Indigenous plan from 26 March 2020. Well, the plan failed. March 2020 is a pretty long time ago. They had plenty of time to get on with the job, but, instead of being resourceful like the people of regional and rural Australia, the government think they're doing us a favour when they just show up, sit here and tell lies to the Australian people about what they're doing.

Yesterday the minister spoke about 9 March as the day when Indigenous vaccine programs got off the ground. On 22 March, he talked about Wilcannia getting access to a vaccination clinic through Maari Ma. But a vaccination clinic that opened up in the shadow of the Prime Minister's appalling press conference on the night of 8 April, where he basically completely compromised any community confidence in AstraZeneca, is the reality into which this plan entered. As First Nations leaders from across western New South Wales are saying, there was no adequate listening by this government. They are deaf to the voices of leaders in First Nations communities who have been pleading to be heard for months so that what has now been unleashed could have been prevented. Yet here we are, with COVID spreading rapidly throughout western New South Wales.

People knew that when COVID got to Dubbo it was going to get to every part of western New South Wales. The reality is if you live in Brewarrina, Burke, Wilcannia, or even Broken Hill, it's a long drive to get to Dubbo, but there are some facilities you can only get in Dubbo. People who live within four hours of Dubbo will be driving there to get food. Once it hit Dubbo, it was always going to go everywhere, and we have a government that failed to act. The South Australian border being closed has forced even more people than usual to go to Dubbo, and that is where this disease is really being fed.

I know health professionals out there are very, very concerned about the dismissive way in which their voices are ignored. What the people of western New South Wales really don't need is a top-down health bureaucracy with rules that have been poorly disseminated from Miller Street in North Sydney by people with no concept of rural and remote life, who have given no concern to the insights and experience of regional medical staff, who care and whose knowledge and connection to community will always prevail in the face of a dysfunctional, disorganised and utterly aloof government.

I refer to a GP in Coonabarabran, Dr Iannuzzi, who's been practising in regional New South Wales for 25 years. I reckon he might know a thing or two about what needs to happen. He gave evidence to the upper house

committee from the New South Wales state parliament that was going around. This is from a contribution he made, from the *Sydney Morning Herald*:

I can attest to the scandals and horror stories emerging from a state parliamentary inquiry into regional, country and remote health services: a teenager with an infected toenail dies of septic shock after being turned away three times from an emergency department; "tea ladies" check in on newborn babies because there are not enough nurses; doctors threaten to quit en masse because their working conditions are so dangerous.

They're his words, describing the reality of what it was like before COVID hit. That's the system that is now expected to cope with this COVID infection rate, growing at a massive rate. This is the system and infrastructure provided to the people by the National Party, in cahoots with this government of the day. A leader should deal in hope, not flummery and fiction. People of western New South Wales need more than what they're getting. They need Labor representatives and a Labor government. (*Time expired*)

COVID-19: New South Wales

Senator DAVEY (New South Wales—Nationals Whip in the Senate) (13:25): Thank you, Senator O'Neill, for giving me a very good opening to what I wanted to discuss today, because I also wanted to talk about the situation in western New South Wales. But it's not all negative in western New South Wales. Where there are incidences of COVID, it is being very successfully maintained. It is unfortunate that COVID made it out to our regions, but it is being successfully maintained, and I want to give credit to the communities that are working very hard in difficult circumstances. And what Senator O'Neill says is true—that border closures are having unintended consequences and putting extra pressure on health services in our regional and remote communities. The fact that Broken Hill residents struggle to get to South Australia because of border closures means they are turning their attention, if they need health services, to Dubbo, which is already facing problems.

I also want to bring your attention to the case of Mungindi. Mungindi is a town on the Queensland/New South Wales border. Unlike most border communities, Mungindi has the same name regardless of which side of the border you are on. It's not like Albury-Wodonga; it's not like Echuca Moama. It is just Mungindi. The people of Mungindi live in Mungindi. They're very proud of being from Mungindi. But at the moment the people of Mungindi can't go down the road to the local shops to buy a bottle of milk or a loaf of bread without doing a 14-day quarantine. Worse still, the people of Mungindi can't go to their local health clinic, because there is a border in the way—a border that is a river, but a border nonetheless. And the Queensland government has decided that for this lockdown there is to be no border bubble. So, the town of Mungindi has no border bubble. It has no protection, no ability to go about life as normal. The residents south of the border are in lockdown while neighbours only a few hundred metres away—literally across a bridge—are living in relative freedom.

This is made all the harder because Mungindi is a fairly isolated community. From Mungindi you can't just drive down the road for 45 minutes and get to the next town. In fact, if my memory serves me correctly I think the closest town on the Queensland side is St George, which has a fabulous hospital. My daughter was born there—thank you, Queensland Health. That is the closest town, of any significance, to the Queensland side. But if you were on the New South Wales side, the closest town would be Moree. That's over an hour's drive away. So, you want to hope you don't have an accident in Mungindi anytime soon, while these dreadful and draconian border closures are in place.

We faced our first border closures last year, and we learnt—well, I thought we learnt—from that experience, because in the early days of border closures there was grave confusion in border communities at both ends of New South Wales. But we learnt. We developed border bubbles at both ends. We developed a permit system that allowed agricultural workers to cross. We allowed freight drivers to cross. But it seems that every time we go into a new lockdown we face a new set of rules. Our border communities have no certainty whatsoever. Every single time, they don't know whether they'll be able to go to the shops. They don't know whether they'll be able to see their local doctor.

The ACTING DEPUTY PRESIDENT (Senator Chandler): Order, Senator Davey. It being 1.30 pm, I shall now proceed to two-minute statements.

STATEMENTS

Prime Minister

Senator AYRES (New South Wales) (13:30): [by video link] What we just saw was more apologies from the National Party for the utter failures of this Prime Minister. In regional New South Wales, the vaccine rollout, despite what the Prime Minister says, lags well behind the cities. And you know what? The Australian rollout lags well behind the rest of the developed world. Do you know what would fix border closures and lockdowns? A proper vaccine rollout would fix them. We have a Prime Minister who has utterly failed Australians, with a botched vaccine rollout and a failed national quarantine system. The government has been undermining the states

at every turn, including by again threatening today to take the Western Australian government to court, right in this moment of national crisis, when day after day we are getting a thousand new infections in New South Wales, all at the feet of this Prime Minister's failure.

What the country needed was a John Curtin, a Bob Hawke or even, I dare say, a John Howard. But instead what we've got is a poor man's Billy McMahon. This Prime Minister is more Billy McMahon than even Billy McMahon himself was. He is more marketing than man. He is fundamentally not up to the great national task that confronts this parliament: vaccinating Australia, keeping Australians safe and actually delivering on the national interest, a concept that this Prime Minister is fundamentally incapable of understanding. His complacency, his vanity, his refusal to take responsibility and his complete incapacity to distinguish between the national interest and his own narrow political interest have let Australia and Australians down, and the sooner he is in the rear-view mirror the better.

Intergovernmental Panel on Climate Change

Senator RENNICK (Queensland) (13:32): I rise today to speak again on the Intergovernmental Panel on Climate Change's latest release, just last month. I want to talk about TS17, where they say there is a 'near linear relationship between cumulative CO2 emissions and maximum global surface temperature' caused by carbon dioxide. Nothing could be further from the truth. Anyone who understands anything about mathematics or science knows that the relationship, at best, is logarithmic, not linear. What do I mean by that? Ultimately all the energy in the atmosphere, in the first place, comes from the sun. On average, across the 24 hours in the day, it hits the atmosphere at about 341 watts per square metre. About half of that gets reflected from the clouds in the atmosphere back into space, and about 160 watts hits the surface. That then bounces off the surface back up into the greenhouse gases. Greenhouse gases do absorb and emit radiation. That is one form of heat transfer. But, as anyone who understands anything about physics will know, unlike conduction and convection, where Newton's law of cooling applies and the difference between hot and cold is a direct relationship, radiation transfers basically to the power of four, so the faster it heats the faster it cools. So the idea that you have a linear relationship is completely wrong. The law is called the Stefan-Boltzmann law. It's just another example of how the Intergovernmental Panel on Climate Change is telling fibs. But, of course, it's a lot more complex than that, because the carbon dioxide in particular only makes up 0.04 per cent of the atmosphere, so, even if it does absorb heat, through conduction it's going to basically smash into billions and billions of other molecules in one second. *(Time expired)*

Media

Senator FARUQI (New South Wales) (13:34): Like many Australians, I watched the *Four Corners* series 'Fox and the big lie' over the last two Mondays. While it wasn't surprising viewing for those of us who closely monitor far-Right media and politics, it certainly was highly disturbing. There is no doubt that the Murdoch media played a key role in growing and consolidating public support for Donald Trump and his far-Right administration. There is also no doubt that the Murdoch media, and Fox News in particular, played a key role in fuelling conspiracy theories about the 2020 US election being stolen, amplifying illegitimate claims about voting machines and voter fraud. Obsession with this conspiracy amongst some American voters ultimately led to the deadly Capitol riots in January that were aimed at overturning the valid result of a democratic election.

Why does this matter here in Australia? Promoting the big lie was a political choice made by Fox and News Corp. Media ownership here is concentrated heavily in the hands of News Corp. Fox even has a local far-Right TV outpost in Sky News. Sky was famously suspended from YouTube last month over its COVID-19 conspiracy theories and has provided racism a platform in innumerable incidents over the last few years. When people challenge News Corp, the company will try to undermine their credibility and silence them. That certainly happened with *Four Corners*, with the dozens of critical articles written in News Corp papers about the investigation. But these stories of rotten power and influence must be told and critics of the Murdoch media will not be silenced. I look forward to continuing to speak out about the extremism and danger of these far-Right media outlets.

COVID-19: Employment

Senator CAROL BROWN (Tasmania) (13:36): I rise today to join with the Maritime Union of Australia, the Maritime Industry Australia Limited and Ports Australia in calling for greater recognition of maritime workers as essential workers during this long-running COVID pandemic. As colleagues would be aware, the Labor Party has been working as cooperatively as possible with the government to keep our communities safe and our supply chains operating as efficiently and as freely as possible. However, to keep these vital transport linkages open, get goods on our shelves and get Australia's exports to market the government needs to do more to recognise and

support the essential work of our seafarers and maritime workers. Labor has been calling on the government to recognise that maritime workers are essential since March of last year.

As recently as the meeting of national cabinet on Friday last week there was an announcement of the streamlining of COVID-19 measures for the land based freight industry. However, yet again nothing was done to recognise the vital role played by maritime transport. As MIAL said last week: 'Planes, trains and automobiles but no ships.' Our maritime workers still face hard borders when moving from state to state. International seafarers are often stranded working on vessels for over 20 months at a time because shore leave and crew changes are no longer facilitated. At the moment, frontline maritime workers in Australia are often unable to work, subjected to repeated periods in quarantine—in addition to their already long stints at sea. And businesses can't plan when workers will be available and whether their goods will arrive on time.

The government seems to think that our shelves will remain fully stacked as if by magic. Our national and international maritime workers play a vital role in keeping our economy moving and it's about time government recognised that and gave them essential worker status.

COVID-19

Senator ROBERTS (Queensland) (13:38): [by video link] I want to comment about the state and federal governments' lack of a plan. It's costing people enormously, sometimes costing people's livelihoods and lives. I checked with the Chief Medical Officer in Senate estimates and the secretary of the federal health department and they confirmed seven strategies for a plan. No. 1 is health and fitness. We have heard very little. No. 2 is personal behaviour and hygiene. We have heard very little apart from handwashing. No. 3 is proven treatments, cures and prophylactics like Ivermectin—not only have we heard little from the government, it has been suppressed and kept from the people. No. 4 is vaccines. I will come back to that in a minute. No. 5 is restrictions such as masks and social distancing. There is serious questioning now about the validity of these masks. No. 6 is testing, tracing and quarantining. There is very little done properly on quarantining. No. 7 is lockdowns. They have been used capriciously. These together show that the governments at the state level are relying on lockdowns which are capricious and ineffective—even the World Health Organization says that.

The federal government relies on vaccines so let's look at vaccines. The senior health officials won't say that the vaccines are safe. They admit the dosage is not known. They admit the frequency of injections is not known. They admit the number of injections is not known. They admit that it won't stop us getting the virus. They admit it won't stop the spread. So why get it? In addition, we find that efficacy is plummeting dramatically. These things are basically useless after a short time. Now Pfizer itself is applying for the third booster shot. How many will there be? We don't know.

The Liberals, Nationals and Labor have been pushing this, and this is the first time in history that governments are injecting healthy people with something that can kill and actually is killing some people. Parliaments have abandoned the people. We need to get parliament back to serving people.

Afghanistan

Senator DEAN SMITH (Western Australia—Government Whip in the Senate) (13:40): I rise to add my voice to those of Senate colleagues on what continues to unfold in Afghanistan. The country's collapse to the Taliban was a tragedy in itself, but to have been so quickly followed by terrorist violence is especially confronting. The American personnel targeted by the Kabul airport bombings were in harm's way because they were working to help Afghans trying to reach a better life. This evil behaviour must be strongly condemned, and of course our deepest sympathy is sent to the families and loved ones of those who have lost their lives.

During the past several weeks we've seen and heard terrible things, but we've also witnessed an extraordinary evacuation effort, one of the largest humanitarian airlifts in Australia's history. Our forces evacuated more than 4,000 people, in cooperation with our allies and partners. It was a dangerous mission carried out by Australian Defence Force personnel and supported by Australian Public Service civilians, whom we must thank for their outstanding contribution. Again, Australians can be very proud of those who act in our name abroad and the professionalism they bring. Their professionalism reminds me of the impressive conduct I witnessed when I travelled to Afghanistan and met with Australian Defence Force personnel participating in our Middle East area of operations. We must continue to honour their commitment, professionalism, dedication and sacrifice.

My office, and I know this is true of other parliamentarians, has received a significant influx of requests for help and information. It's an incredibly anxious time for many in Afghanistan, in Australia and around the world, with many people left vulnerable. This will only increase following the departure of United States forces in accordance with their deadline yesterday. The past few weeks have shown us the great value of our freedom here and how vital it is that we help Afghans following the loss of theirs, holding the Taliban to account for its behaviour and providing as much ongoing humanitarian support as we can, as a generous nation.

Cybersecurity

Senator GRIFF (South Australia) (13:42): [by video link] Yesterday Bloomberg confirmed what many of us already knew: China was responsible for hacking the parliamentary email system last year, and that was part of a much broader attack on Australian digital services. I condemn this attack, as I'm sure all senators do, but believe it is a mistake to focus on the perpetrators. Wherever a vulnerability exists there will be those who will exploit it. They may be Chinese state hackers, Russian criminal gangs, Middle Eastern terrorist sects or even a bored, very tech savvy 12-year-old genius living in Toowoomba. It doesn't matter who they are. It is pointless to fixate on that or even to seek some kind of digital vengeance, which some in this place have actually sought. We need to focus on better cybersecurity, identifying and fixing the vulnerabilities that allowed those attacks to occur in the first place.

I acknowledge the government's work in recent years, particularly with the Cyber Security Strategy, but more absolutely needs to be done. We must ensure the public better understand the risks we face online and the importance of cybersecurity and cyberresilience. We must move faster to develop the cybersecurity workforce that we are very much missing. Scarce workers and the high cost of procuring these services are deterrents to many that wish to invest in better security, so the government must do more to develop that workforce and ensure cybersecurity skills are available to all businesses, large and small. Only then will Australia be properly protected from cyberattacks.

Early Childhood Educators Day

Senator MARIELLE SMITH (South Australia) (13:44): Happy Early Childhood Educators Day. It's a day when we thank our incredible early learning educators and acknowledge, celebrate and recognise their work and the amazing contribution they make to the lives of our kids, to families and to our communities. We know how important our educators are. They do life-changing work every single day. But we also know that for far too long their contribution has been undervalued, and during this pandemic it took far too long for their essential work to be recognised.

I came to the Senate to do a very specific job. In my first speech, I couldn't have been clearer when I said that I came here to stand up for the children of my state of South Australia. I said:

In early childhood education, we have to be bold in our vision, broad in our approach and brave in our means of delivery, and we need to do so in partnership with our early years educators, in whose hands we place our youngest and most vulnerable minds and yet whose critical work we choose to undervalue ...

Those words are just as important to me now as when I first spoke them, and the mission remains just as relevant. Today, on Early Childhood Educators Day, I want to thank those caring for our kids in South Australia, and I say to them: I want you to know that, alongside my Labor colleagues, I am fighting for you in the Senate and I am fighting for the children you care for. Nothing will ever steer me off course from that work. Happy Early Childhood Educators Day, and thank you for everything that you do.

Gas Industry

Senator STEELE-JOHN (Western Australia) (13:46): [by video link] We are in a climate crisis, yet the major parties are continuing to approve fossil fuel projects to support the corporations who donate to them instead of taking the action that our community needs. In the beautiful Kimberley here in Western Australia, there is currently an application by an Australian gas corporation to establish fracking wells. This application is to open up 20 gas wells in this pristine part of the country, using 40 million litres of our precious water. It is clear that, as a community, we fear that, once this corporation gets its foot in, it will be a driving force behind more wells, more profits and more environmental destruction.

The consequences of fracking are clear. It pollutes the air, contaminates our drinking water and destroys our precious places. But WA Labor are continuing, regardless, to allow the Kimberley to be fracked by gas corporations and their billionaire owners. I would like to be absolutely clear: the Greens will always oppose fracking. I would like also to take a moment to acknowledge community organisations, including the Martuwarra Fitzroy River Council, Environs Kimberley and Frack Free WA, for their work in making submissions to the Environmental Protection Authority and for enabling others to do so. I'd like to thank the many community members who have taken time to make submissions. The Greens and the community know that we need to stop all new gas, oil and coal projects now in this critical decade if we are to stop climate change. Fracking the Kimberley will contribute to destroying our climate, but it is not too late. Together we can stop the Kimberley from being fracked.

Social Housing

Senator PATRICK (South Australia) (13:48): [by video link] Social housing was once viewed by Australian governments as an important safety net for low-income families. But over the last 30 years this has changed, and Australia is now facing a social housing time bomb, with looming shortfalls of nearly 200,000 homes by 2031. A report released this week from Compass Housing Services has outlined that across the country there were approximately 169,000 households on social housing waiting lists. In my home state of South Australia, the current waiting list is 17,051.

We're at a tipping point. We need the federal government to step in immediately with more support for social housing. This can't be like the bushfires, the lockdowns, hotel quarantine or many other issues that Scott Morrison has tried to palm off as state problems. Homeownership rates have fallen across the nation. The cost of living has gone up right across Australia. Too many Australians simply cannot afford to compete for housing in the sales or rental market. There is a national problem that cries for federal leadership.

What's more problematic is that, whilst all of this is happening, we are allowing companies to funnel money, by way of JobKeeper payments, from the taxpayer through to the wallets of executives and investors—billions of dollars that should not have been spent on some of these companies. They didn't need it, and they claimed it legally but without ethical consideration. This money could go to a number of social housing programs.

Human Immunodeficiency Virus

Senator PRATT (Western Australia) (13:50): There are nearly 29,000 people in Australia living with HIV. Thanks to treatment advances, it is now a treatable chronic illness, but there are still people in Australia going without treatment and, potentially, transmitting HIV. In 2019, some 3,000 people were unaware they were HIV positive. But every day there are unsung heroes making a remarkable difference to supporting people with HIV and preventing its transmission—behind the scenes in healthcare support services, in positive communities, and undertaking research and education—and there are countless allies helping to educate people and break down stigma.

To help recognise and celebrate these inspiring contributors to the community, the National Association of People with HIV Australia, NAPWA, and Gilead Sciences Australia and New Zealand are joining forces to launch, this week, the 2021 Community Champions campaign. A champion could be someone who works in research, care, support, advocacy or policy—and I know many of these people. It could be someone in a rural or remote community, a much-loved ally, a work colleague, a parent or a partner. There are people doing amazing things in this space. Champions' stories are going to be brought to life through this campaign and launched at an event on 25 November, ahead of World AIDS Day on 1 December.

We know the ongoing investment in HIV treatment and prevention can save billions of dollars and can save lives. That is why it is so important to bring to light the important work that's being done by so many in our community. I commend NAPWA and Gilead Sciences for launching this campaign.

Environment

Senator McKIM (Tasmania—Deputy Leader of the Australian Greens in the Senate) (13:52): [by video link] The takayna/Tarkine contains unique and precious Aboriginal heritage, spectacular wilderness and Australia's largest tract of temperate rainforest. It is deeply saddening that environment minister Sussan Ley recently refused to list it for the national heritage protection which it is so worthy of and which it is overdue for. Just yesterday the same minister amended Venture Minerals' permit for their Riley mine in the Tarkine to remove a condition that ore could be transported only during daylight hours. That condition was imposed to protect threatened Tasmanian devils from becoming roadkill at night. Now, thanks to a minister in the thrall of the mining sector, it will be open slather, with ore-laden trucks travelling 24 hours a day, seven days a week, and it is Tasmanian devils that will pay the price with their lives. Once again, profits take precedence over wildlife and nature. This is the very attitude that is causing our climate to break down around us and is causing the mass extinction event that we are living through. It's no wonder that Professor Graeme Samuel recently found that the EPBC Act is 'not fit to address current or future environmental challenges'. Obviously, given her track record, nor is the minister.

I want to end by sending a massive thankyou to the brave people who are working in the movement and who are on the ground and putting their bodies on the line to protect takayna/Tarkine from the loggers and the miners. You are the true heroes of our times, and history will record you as such.

Australian Agriculture Visa

Senator McMAHON (Northern Territory) (13:54): [by video link] I rise today to talk about our recently announced Agriculture Visa. This has been a long-held initiative of the Country Liberal Party and the National Party, and I am very glad it is going to come into effect from the 30th of this month. It will complement our

existing Seasonal Worker Program, which has been so vital and so successful in the Northern Territory. It will rely on us having bilateral agreements with the countries that we are going to invite these workers to come from, and I hope that these bilateral agreements will be able to be brought into play, nipped out and agreed to very shortly to allow Territory producers and farmers to take advantage of the Agriculture Visa.

The next part of the puzzle is that we need to be able to have quarantine arrangements, particularly during COVID, for these workers. It has been a struggle, even under the Seasonal Worker Program, to get the Northern Territory government to agree to quarantine arrangements. I'm very glad to see that 160 people have arrived from Vanuatu, who have gone into quarantine for their two weeks and will be available for the Northern Territory mango harvest. But it was disappointing that one of our biggest producers, Katherine based Nino Niceforo, had to have his workers quarantine in WA because the Northern Territory would not make places available for them.

We, the federal government, have done the heavy lifting here. We've provided the visas. We've provided the programs. All we ask of the states and territories is that they come to the party and support their people in agriculture—their farmers, their producers—by providing places for these workers to be able to complete their quarantine so that they can go onto farms and produce vital food.

Prime Minister

Senator WONG (South Australia—Leader of the Opposition in the Senate) (13:56): [by video link] We all know Mr Morrison is shameless when it comes to spin, but his most shameless spin yet is that he is the one who offers Australia a pathway to reopening, when he is the one most responsible for us not being open. His failure to order enough vaccines, his failure to roll out the vaccine, and his failure to build fit-for-purpose national quarantine facilities to stop the virus from entering the country are the very reasons we are locked down or unable to reach our loved ones. Now he has the audacity to spin himself as the saviour, when the one we actually need saving from is Mr Morrison. If it weren't for him we wouldn't be in this mess.

The pattern is clear. Mr Morrison dodges responsibility, only acts when it is too late, blames everyone else when everything goes wrong and actually even says everything is a matter for the states. It's only reasonable for Australians to be worried that he will be the same when it comes to reopening, which is why people are asking questions about how Mr Morrison is going to deliver reopening. Can testing and tracing keep up with so many cases in the community? Can we keep vulnerable communities safe after they've been so dangerously exposed by Mr Morrison's failings? Can our hospitals cope if there are thousands of cases in the community? How will Mr Morrison keep our children safe?

Everyone knows that over time we will need to be able to live with the virus. The emphasis is on living—living safely. It can't be about just casually accepting more people dying. Mr Morrison led us into lockdown. He's not the one to lead us out of it.

Queensland: COVID-19

Senator McDONALD (Queensland) (13:58): [by video link] Queensland markets itself as the Sunshine State, but, for people holed up in quarantine hotels, 'sunshine' is just the light source they can see from behind their locked doors. Maybe under this Labor state government it's more appropriate to put 'State of Paralysis' or 'State of Confusion' on our numberplates. The Queensland government insists people must quarantine in hotels at great personal expense, but just last week it approved interstate boarding school students to quarantine at home with their families. I fully support this move, but the question must be asked: why can't the convenience of home quarantine be extended to the wider population?

After putting up the 'no vacancy' sign on quarantine hotels last week and preventing people, even native Queenslanders, from coming home, Premier Palaszczuk suddenly found room for cricketers and the families of NRL players. The continual flip-flopping of COVID quarantine policy in Queensland is a direct reflection of a governing style that's based on focus groups, public relations flacks and image consultants rather than evidence based, practical action. The insistence on hotel quarantine and the resulting halt to new arrivals have prevented doctors from working and prevented people from attending funerals and seeing gravely ill relatives.

The PRESIDENT: Order, Senator McDonald. It being 2 pm, it's questions without notice.

QUESTIONS WITHOUT NOTICE

Western Australia: COVID-19

Senator PRATT (Western Australia) (14:00): My question is to the Attorney-General, Senator Cash. In an article this morning in the *Australian* titled 'Feds muscle up on borders', the Attorney-General warned state governments they may once again face High Court challenges to force their borders open. Given the Morrison-Joyce government has now spent more than \$1 million—

Government senators interjecting—

The PRESIDENT: Order. Sorry, Senator Pratt. On my right: I have repeatedly asked for silence during questions. Could you commence from the word 'Given', Senator Pratt. I got the preface to the question.

Senator PRATT: Given the Morrison-Joyce government has spent more than \$1 million of taxpayers' money supporting Clive Palmer's High Court challenge to the Western Australian borders, will the minister now guarantee that the Morrison-Joyce government will not spend any more taxpayers' money on challenging Western Australia's border decisions?

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (14:01): I am so glad that Senator Pratt read that article, and, Senator Pratt, can I say: the journalist completely sensationalised what was said. Let me be very clear to you, because what we have—

Opposition senators interjecting—

The PRESIDENT: Order on my left!

Senator CASH: is Labor in Western Australia, and—my Western Australian Liberal colleagues would understand this—these are just more Labor lies. Let me be very clear, Senator Pratt, for the Channel 7, the Channel 9, the ABC and the Channel 10 news tonight: the Commonwealth will not challenge Western Australia's border closures in the High Court. And we will not, in any way, support Clive Palmer. Can I be clearer? I do not believe so. What we are doing is working with the states and territories through the national plan. That is what we are doing: working with the states and territories to implement the national plan to reopen. And, on any analysis—and my Western Australian colleagues would agree with me—we have actually done incredibly well in Western Australia. Mr McGowan has done incredibly well in keeping COVID-19 out of Western Australia. But the states and territories have now agreed to the national plan. And when 80 per cent of Australians and Western Australians are vaccinated—and I'm so pleased to see Western Australians, every day more and more of them, putting their arms out and saying, 'I will be vaccinated'—the question becomes, for Mr McGowan: if not at 80 per cent, then when? That's all it comes down to. If not at 80 per cent, then when?

Honourable senators interjecting—

The PRESIDENT: Order on my left and right.

Senator CASH: But let me be clear: the Commonwealth will not challenge Western Australia's border closures in the High Court.

Honourable senators interjecting—

The PRESIDENT: Order, Senator Cash. Across the chamber, on my left and right: I know, if I can't hear Senator Cash, it's not my hearing. It means there is too much noise. Senator Pratt?

Senator PRATT (Western Australia) (14:03): Has the Attorney-General, the Prime Minister or any other member of the government started discussions with Clive Palmer regarding future legal challenges?

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (14:03): Let me make it clear again to Senator Pratt: the Commonwealth will not challenge Western Australia's border closures in the High Court and we will not support any challenge to Western Australia's border closures by Clive Palmer. What we are doing, though, is working with the states and territories in relation to the implementation of the national plan. And in Western Australia, I understand, we've now reached 50 per cent of Western Australians having had their first dose. That is actually a good thing. And very shortly you'll get to 60 per cent, then 70 per cent and then 80 per cent, and, once we are at 80 per cent, the question does become: what do we all do at 80 per cent? But we are working with the states and territories, as agreed, through the national cabinet, to implement the national plan for reopening.

Honourable senators interjecting—

The PRESIDENT: Order, on my left and right. Order. Senator Pratt, a final supplementary question?

Senator PRATT (Western Australia) (14:04): Why is the Morrison-Joyce government more focused on attacking Premier Mike McGowan and Western Australians than on taking responsibility for their failures on quarantine and on the rollout of the vaccines?

Honourable senators interjecting—

The PRESIDENT: Again, I am going to ask for silence during questions. Senator Cash.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (14:05): I certainly don't believe that I, in any way, knocked Mr McGowan. In fact, what I know I said is that Mr McGowan has done a very, very good job as the Premier of Western Australia in keeping our state relatively COVID-free. I commend Mr McGowan for the work that he's undertaken. That is

why the national cabinet has agreed to the national plan for reopening. That is why the Prime Minister, every day, goes out and says to Australians: 'You understand that sticking to the national plan is the key to getting back to as normal life as we can while living with COVID-19.' And, as I said, it is very pleasing that over 50 per cent of Western Australians have now received their first dose of the vaccine. That is a good thing, and we want to see more and more Western Australians receive that first dose so that we can eventually do what the national plan says and live with COVID-19. *(Time expired)*

COVID-19: Economy

Senator HUGHES (New South Wales) (14:06): My question is to the Minister representing the Prime Minister, Senator Birmingham. Can the minister advise the Senate of what the June 2021 national accounts demonstrate about Australia's economic performance during the COVID-19 pandemic, and how the Liberal and Nationals government's plan continues to protect Australians and support Australian jobs and businesses in the face of current challenges?

Senator BIRMINGHAM (South Australia—Minister for Finance, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:06): [by video link] I thank Senator Hughes very much for her question. Although we continue to be in the middle of a global pandemic, the greatest economic shock that Australia, and indeed the world, has faced since the Great Depression, the Australian people and the Australian economy continue to show enormous levels of resilience. As we look at the recent period of time reflected in the national accounts figures released today, we see that during that quarter, even with 29 days of lockdown occurring across at least one part of the country—indeed, including five out of eight jurisdictions across that quarter—we still saw strong economic growth, with real GDP growing by 0.7 per cent in the quarter, to be a record 9.6 per cent higher throughout the year. This was clearly well above median market expectations. This rise in GDP was broad based, encompassing household consumption, public final demand, business investment and dwelling investment, all contributing to growth across the quarter.

Our economy does of course continue to face significant challenges at this point in time, especially across those states still in lockdown, but it is an economy that remains bigger than it was before the lockdown. Although the delta virus is challenging us, just as it's challenging those who struggled with COVID last year, such as the US and the UK, or challenging those struggling with the delta strain this year, such as our friends in New Zealand and others, we absolutely have the economic support in place—some \$311 billion providing income support, business support and assistance—which will ensure that Australia sticks to the plan: getting vaccinated and reopening. We're going to continue to have health and economic outcomes very much the envy of the world through these most challenging of times.

The PRESIDENT: Senator Hughes, a supplementary question?

Senator HUGHES (New South Wales) (14:08): Minister, how does Australia's economic and health performance during the COVID-19 pandemic compare internationally?

Senator BIRMINGHAM (South Australia—Minister for Finance, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:08): Australia's health and economic performances have been world leading, and we were the first advanced economy in the world to see the size of our economy, our GDP and our employment market jobs levels surpass the pre-pandemic levels. More than one million jobs have been created across the Australian economy since May last year, with an estimated 160,000 more Australians in work than before the pandemic, notwithstanding the current lockdown challenges and difficulties. Our unemployment rate decreased for nine consecutive months, falling to 4.6 per cent in July.

In terms of health outcomes, while we've tragically seen millions of deaths occurring overseas and still significant daily deaths around the world, in Australia we've saved an estimated 30,000 lives as part of that health response. Tragic though the loss of life is in Australia, there is much to be proud of in the way we have managed this pandemic and managed to do so saving the lives and livelihoods of so many of our fellow Australians. *(Time expired)*

The PRESIDENT: Senator Hughes, a final supplementary question?

Senator HUGHES (New South Wales) (14:10): How can all Australians play their part in delivering the national plan agreed by national cabinet, and why is this critical to ensuring confidence in our recovery and securing Australia's future?

Senator BIRMINGHAM (South Australia—Minister for Finance, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:10): Our national plan is about safely opening up and safely ensuring that Australia can return to a greater level of pre-COVID normality than was the case. It's about a plan to provide confidence for business and confidence that states doing it tough right now, like New South Wales, can see restrictions ease as vaccination rates climb, but equally confidence that states like my own—South Australia—

Western Australia or elsewhere, which have continued to successfully suppress COVID-19 in highly suppressive ways, are equally able to see a normalisation, including ultimately a normalisation of travel arrangements, as they too hit higher and higher vaccination rates. How Australians can help us get there is to keep turning out in record numbers and getting vaccinated. Yesterday we saw huge numbers of vaccinations occur across the country yet again, with more than 330,000 doses administered, running at a per capita rate in excess of what the UK or the US have achieved at any point of their vaccination rollouts. It's a rate we're determined to help continue. (*Time expired*)

COVID-19: Indigenous Health

Senator McCARTHY (Northern Territory—Deputy Opposition Whip in the Senate) (14:11): [by video link] My question is to Senator Colbeck, the minister representing the Minister for Health. Does the national plan require First Nations vaccination rates to match those in the rest of the Australian population before we reopen?

Senator COLBECK (Tasmania—Minister for Sport and Minister for Senior Australians and Aged Care Services) (14:11): The national plan, which has been publicly released, for everybody to see, contemplates a number of thresholds—70 per cent and 80 per cent vaccination rates across the country—to facilitate a staged process to safely open up the Australian community again, to facilitate movement and to reactivate our economy, in support of all Australians. It doesn't discriminate against Indigenous communities or any other community, to be frank. We want to see vaccination rates in every single community as high as possible. We urge that. With respect to Indigenous Australians and their vaccination, that's why we prioritised them, understanding the sensitivities that exist with respect to Indigenous communities. That's why we opened vaccination to Indigenous Australians in phase 1b on 22 March last year. We made vaccines available to Indigenous Australians very early in the piece.

The PRESIDENT: Order, Senator Colbeck. I have Senator Watt on a point of order.

Senator Watt: It's on relevance. This was deliberately a very tight question about whether the plan requires First Nations vaccination rates, and we haven't had an answer to that yet.

The PRESIDENT: With respect, I was listening very carefully; I appreciate it was a very short, sharp question. Senator Colbeck, I believe, addressed that by saying that the plan did not discriminate. I believe that was the phrase he used. I believe to go any further would be requiring me to instruct the minister how to answer a question, but I believe he is being directly relevant through his answer thus far. A question can be debated after question time. Senator Colbeck.

Senator COLBECK: The plan seeks to see all Australians vaccinated as soon as possible. I join Senator Dodson in his condemnation, over the last 24 hours or so, in an article that I have seen today, of those who are peddling antivaccine messages into Indigenous communities. I agree with Senator Dodson fundamentally, and the government will continue to work with Indigenous communities, state governments and the ACCHOs in the interests of getting as many Australians—including Indigenous people—vaccinated as possible. (*Time expired*)

The PRESIDENT: Senator McCarthy, a supplementary question?

Senator McCARTHY (Northern Territory—Deputy Opposition Whip in the Senate) (14:14): [by video link] Will the Morrison government guarantee the First Nations vaccination rates will match those of the rest of the population before reopening at 70 and 80 per cent?

Senator COLBECK (Tasmania—Minister for Sport and Minister for Senior Australians and Aged Care Services) (14:15): The whole concept of the plan is to ensure that we can safely open the Australian community for all Australians, including Indigenous Australians. That's very important. We understood right from the outset the importance and the vulnerability of Indigenous Australians. That's why we set up a specific task force to work with the Indigenous Australians, to support them through the pandemic. That's why we prioritised Indigenous Australians in category 1b of access to the vaccine. That access was made available immediately when 1b opened on 22 March this year. So Indigenous Australians have had and continue to have priority access—

The PRESIDENT: I have Senator Watt on a point of order.

Senator Watt: It's on relevance, again. These have been deliberately tight questions, and this one is about whether the government will guarantee First Nations vaccination rates. I won't read the entire question out—

The PRESIDENT: I appreciate that, Senator Watt. I have been listening carefully. This would not be an appropriate question on which to talk about the general national plan for vaccination but, while the minister is very specifically addressing Indigenous Australians' rates of vaccination and programs, I think that is directly relevant. There is an opportunity to debate the question after question time. I can't instruct him on a particular word in the question, but by remaining tightly relevant to the terms of the question and the subject matter I believe it qualifies as directly relevant.

Senator COLBECK: We will continue to work with Indigenous communities to ensure that their vaccination rates are as high as possible. We have provided specific resources, developed and tailored specifically for Aboriginal and Torres Strait Islander audiences, to educate them and to mitigate the negative messages— *(Time expired)*

The PRESIDENT: Senator McCarthy, a final supplementary question?

Senator McCARTHY (Northern Territory—Deputy Opposition Whip in the Senate) (14:17): The Prime Minister has failed to deliver on his promise to vaccinate 1b priority groups by winter. Today, on the first day of spring, less than 20 per cent of First Nations Australians have been fully vaccinated. How many First Nations Australians will be unvaccinated and at risk of COVID-19 when the targets of 70 and 80 per cent are reached?

Senator COLBECK (Tasmania—Minister for Sport and Minister for Senior Australians and Aged Care Services) (14:17): As I've said, our objective is to ensure that all Australians have access to the vaccine, including Indigenous Australians. That's why specific measures have been put in place by the government to ensure that they can. We continue to work closely with the ACCHOs, which I have to say are doing a really good job, in working with Indigenous communities.

I again condemn the negative messages being spread in some Indigenous communities—and I'm sure Senator McCarthy will join me in doing that—that are frightening Australian Indigenous people off being vaccinated. We are working with those communities. We are adapting programs that have been run for the broader community specifically to Indigenous communities so that they can understand the importance of vaccination and then participate in the vaccination process. We will continue to do that, understanding how important vaccination is to Indigenous Australians. *(Time expired)*

COVID-19: Economy

Senator BRAGG (New South Wales) (14:18): My question is to the Minister representing the Minister for Employment, Workforce, Skills, Small and Family Business, Senator Cash. Can the minister outline to the Senate how the \$311 billion in direct health and economic support provided by the Liberal and Nationals government is continuing to protect lives and livelihoods during the pandemic and how this support is ensuring that our economy remains resilient as we implement the national plan agreed by national cabinet?

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (14:19): I thank Senator Bragg for the question. Certainly with the release of today's national accounts we continue to see the resilience of the Australian economy. Since the onset of the COVID-19 pandemic, the coalition government have been focused on protecting the lives and livelihoods of Australians. As I've said in this place before, and certainly as the former small business minister, small businesses continue to do it tough. Many are in and out of lockdown. We just need to look to New South Wales, Victoria and here now in the ACT. This of course continues to create uncertainty for them.

That is why, in terms of the policies we as a government are putting in place, we provided in the budget this year an additional \$20.7 billion in tax relief to businesses over the next four years. This includes the extension of the immediate expensing measure, and that is helping around 99 per cent of businesses in Australia to reinvest back into their businesses. As Senator Bragg knows, we as a government understand that there are some businesses that have that capacity to reinvest. We want those businesses to be able to access government policy to do exactly that: prosper, grow, invest in their business and create more jobs for Australians.

But we also recognise that many businesses continue to face uncertainty, in particular in terms of lockdowns. That is why we have worked with the states and the territories, through the national cabinet, to provide temporary, targeted grants to small and family businesses to assist them to get through the lockdowns and to assist them in relation to the impacts of the lockdowns. We've gone further in our policies by expanding our small and medium-size business loan scheme, and certainly this has been appreciated by the business community. *(Time expired)*

The PRESIDENT: Senator Bragg, a supplementary question?

Senator BRAGG (New South Wales) (14:21): How are the government's business investment incentives helping Australian businesses to grow, prosper and create jobs for Australians?

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (14:21): The business investment numbers for the June quarter showed that business investment was actually up by 4.4 per cent. Importantly, non-mining investment was up by six per cent, and it's up by 15 per cent for the year. This is the strongest growth in non-mining investment in more than 13 years. That is a good thing for this sector. The significant increase is a result of our government's measures to incentivise businesses, even during these challenging times, to, again, invest back into themselves through the immediate expensing measure.

If you look at order books across Australia, they're actually filling up. Again, that is a good thing for those businesses who have that capacity to invest. They're replacing old equipment with new equipment, utilising the government's policies. This assists in their efficiency and ultimately their productivity. (*Time expired*)

The PRESIDENT: Senator Bragg, a final supplementary question?

Senator BRAGG (New South Wales) (14:22): How is the national plan giving small and family businesses the confidence they need so that we can secure Australia's future?

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (14:22): The national plan is an agreement of national cabinet—the Commonwealth government and all states and territories. This is our pathway forward in learning to live with COVID-19 and at the same time get back to the freedoms we've given up in so many instances to combat COVID-19. The national plan—when you talk to businesses and in particular small businesses around Australia—sends them that message of hope. They know there is now a clear plan to move through various stages. It gives them that hope that there is light at the end of the tunnel. This is giving businesses the confidence they need. Obviously part of that national plan is increasing vaccination rates across Australia. In the last 14 days we've seen over 3.7 million vaccinations across our nation. That is a good thing, and Australians should be commended for that.

Animal Welfare

Senator GRIFF (South Australia) (14:23): My question is to Senator McKenzie, representing the Minister for Agriculture and Northern Australia. Three years ago more than 100 dogs died as a result of eating a particular brand of dry dog food. Since then, no effective action has been taken. Now—in fact, in recent weeks—there's been a spate of dog deaths linked to tainted raw pet meat. Pet owners have been waiting for more than three years, since the last Senate inquiry that I instigated, to see action on pet food safety. We had been advised that the report of the minister's pet food working group would be considered by state agriculture ministers last month, and now it seems that this won't happen until next month—maybe. Minister, why have agriculture ministers still not met to discuss this report? What is the delay? And why isn't there more urgency, given that we keep having more dog deaths while we wait?

Senator McKENZIE (Victoria—Minister for Emergency Management and National Recovery and Resilience, Minister for Regionalisation, Regional Communications and Regional Education and Leader of The Nationals in the Senate) (14:24): I thank Senator Griff not only for his question but also for his concern on behalf of pet owners across the country. I'm advised that the pet food working group, which was established with the agreement of all agriculture ministers, is currently finalising its advice to the ministers. The report of the pet food working group will be considered by senior agriculture officials in September 2021—this month. It has to go to those senior officials before then going to state and federal agriculture ministers at their ministerial council, which is planned to be held next month, for decision.

Minister Littleproud has responded to the letter signed by the RSPCA, the Australian Veterinary Association and the Pet Food Industry Association, informing them of the status of the report of the pet food working group. He's also written to agriculture ministers across the country to inform them of expected timing for advice to be received from the pet food review working group, as implementation of any regulatory options for pet food remains a decision for state and territory governments. It comes to the ministerial council next month. It will then be up to each and every state and territory minister to then return home to their jurisdiction and implement any decision that that body makes. Some are obviously going to be quicker at doing that than others. Some will have more will to do that than others.

Minister Littleproud has asked ministers to consider the working group report and the desire of many for a positive outcome for pets and pet owners when deciding on the best way forward to ensure the safety of pet food. He is also aware of the reports of deaths of pet dogs, linked to the consumption of raw pet meat from a knackery in Victoria. Since the end of May, it has been reported that at least 24 pet dogs have died and 68 have been hospitalised in Victoria.

The PRESIDENT: Order, Senator McKenzie. Senator Griff, a supplementary question?

Senator GRIFF (South Australia) (14:27): The RSPCA, the Australian Veterinary Association and the industry peak body, the Pet Food Industry Association, have also taken issue, of course, with the delayed reforms. They are calling particularly for a mandatory standard and mandatory recalls, as the Senate inquiry recommended. Will the states entertain these particular recommendations, or are they doomed?

Senator McKENZIE (Victoria—Minister for Emergency Management and National Recovery and Resilience, Minister for Regionalisation, Regional Communications and Regional Education and Leader of The Nationals in the Senate) (14:27): Thank you, Senator Griff. As I outlined in my previous answer, it will be a decision for state and territory ministers whether to adopt a mandatory or voluntary regulatory framework. That decision obviously

isn't going to be made until next month, so it's a bit premature to be making a call on that. That's obviously a decision for those ministers in that forum. But the concerns of the bodies you spoke about—the RSPCA, the Australian Veterinary Association and the Pet Food Industry Association—have been made clear not just to the federal agriculture minister but, I imagine, to jurisdictional ministers as well. Agriculture Victoria and PrimeSafe, as the responsible regulatory authorities in Victoria, led the investigation into the dog deaths and hospitalisations I mentioned in my earlier answer. They found that there was a toxin, found in native plants in northern Australia, which has been confirmed as the cause.

The PRESIDENT: Order, Senator McKenzie. Senator Griff, a final supplementary question?

Senator GRIFF (South Australia) (14:28): Minister, I appreciate what you're saying and the fact that the states do have the final say, but a key issue has been that there is no proper mechanism on a national basis for mandatory recalls. Should the states opt not to do what the industry associations wish to do, would the minister consider working out some format that could work on a national basis?

Senator McKENZIE (Victoria—Minister for Emergency Management and National Recovery and Resilience, Minister for Regionalisation, Regional Communications and Regional Education and Leader of The Nationals in the Senate) (14:29): There are strong food safety regulatory controls in place to prevent pet meat entering the human food supply chain, but I do appreciate that you are speaking about the animal food supply chain. Responsibility for the domestic oversight of raw pet meat and processed pet food sits with the states and territories. The Commonwealth's responsibilities extend to regulation and certification of exported pet food and addressing the biosecurity risks of imported pet food.

As I said, the minister has welcomed the parliamentary inquiry into the pet food industry. Our government's response to the recommendations was tabled in parliament on 18 June. The report that is coming before senior officials and the agriculture ministers over coming months considers the recommendations of your Senate committee report and will include regulatory and nonregulatory options to manage the health and safety of pet food in Australia. (*Time expired*)

Water Infrastructure: Queensland

Senator CANAVAN (Queensland—Deputy Leader of the Nationals in the Senate) (14:30): My question is to the Minister representing the Minister for Infrastructure, Transport and Regional Development, Senator McKenzie. Can the minister inform the Senate of the ongoing investment by the Liberal and Nationals government into water infrastructure projects in Queensland?

Senator McKENZIE (Victoria—Minister for Emergency Management and National Recovery and Resilience, Minister for Regionalisation, Regional Communications and Regional Education and Leader of The Nationals in the Senate) (14:30): Thank you, Senator Canavan, for your question and for your continuing championing of critical water projects for Queensland. Providing vital infrastructure to regional Australia is key to our nation's recovery from COVID-19, and getting water infrastructure out into regional Australia will provide them with a great platform to grow and prosper. We need it for the businesses that underpin our regional communities, create local jobs and support the way of life of thousands of regional Australians who wouldn't want to live anywhere other than in Central Queensland, I would say, Senator Canavan, with respect to you and your colleague. The Liberal and Nationals government is getting on with the job of building new water infrastructure to meet the needs of regional Australia. Projects such as Rookwood Weir and the proposed Urannah Dam are key elements to delivering for regional Australians who rely on vital water infrastructure.

Since the establishment of the National Water Grid Fund in 2015, the Australian government has committed \$1.9 billion towards water infrastructure projects in Australia—30 construction projects, eight of which are complete, six underway and a further eight expected to start construction in this financial year. Major projects under construction include the Rookwood Weir, a \$183.6 million Australian government commitment that will support 200 jobs during construction, and the Mareeba-Dimbulah Water Supply Scheme, an \$11.6 million Australian government commitment due for completion in early 2022. Then we come to the Emu Swamp Dam, a project near Stanhope, constructing a 12 gigalitre dam on the Severn River. The dam will increase water security and provide growers with the confidence and certainty to expand agricultural production. Further, we've committed \$4.8 million in Queensland through the grid Connections funding pathway. This is an initiative about driving the construction of smaller-scale projects to improve water security and reliability right across the nation.

The PRESIDENT: Senator Canavan, a supplementary question?

Senator CANAVAN (Queensland—Deputy Leader of the Nationals in the Senate) (14:32): What are the benefits of projects such as Rookwood Weir and the proposed Urannah Dam, especially in terms of supporting reliable power and jobs in North Queensland?

Senator McKENZIE (Victoria—Minister for Emergency Management and National Recovery and Resilience, Minister for Regionalisation, Regional Communications and Regional Education and Leader of The Nationals in the Senate) (14:33): I want to acknowledge the efforts of my National Party colleagues in the other place, the member for Dawson, George Christensen, and the member for Capricornia, Michelle Landry, who have both been very, very strong advocates for the Rookwood Weir and the Urannah Dam project. The proposed Urannah Dam project will be transformational, as it will open up vast tracts of high-use agricultural land and create more than 1,800 jobs during construction and in operation. It will provide vital water security to the region, with an additional water storage of up to 1.5 million megalitres, and facilitate an irrigation project of up to 25,000 hectares. Water for the project will underpin the need of the Burdekin's beef, sugar, fruit and vegetable industries, keeping our farmers producing the top-quality foods they are renowned for.

The planned Urannah Dam will also be a hydropower station, which will help back up the solar power and renewables in the regions and back up the power needs of North Queensland for approximately eight hours. We've also committed an additional \$7.5 million to the Rookwood Weir project. *(Time expired)*

The PRESIDENT: Senator Canavan, a final supplementary question?

Senator CANAVAN (Queensland—Deputy Leader of the Nationals in the Senate) (14:34): How is the development of water infrastructure more broadly enabling growth in regional Australia and why is this important to unlocking the value of our regions to help secure our recovery from COVID-19?

Senator McKENZIE (Victoria—Minister for Emergency Management and National Recovery and Resilience, Minister for Regionalisation, Regional Communications and Regional Education and Leader of The Nationals in the Senate) (14:34): We are growing regional Australia by adding the one ingredient you must have to grow anything, and that's water. In the 2021 budget, the Liberal-National government invested a further \$258 million from the \$3.5 billion National Water Grid Fund. This includes funding towards 12 new priority water infrastructure projects. Since 2015, our government has committed \$1.8 billion for 30 projects. Our investments will provide water into the future and unlock the economic potential for new and expanded agriculture.

New or augmented projects include the Eurobodalla Southern Storage project in New South Wales, the Werribee irrigation district modernisation project, the recycled water on the Bellarine project in Victoria, and the Warwick recycled water for agriculture, recycled water treatment upgrade project in Queensland. We've also delivered eight projects that are fully operational in South Australia and the Scottsdale irrigation scheme in Tasmania. Our investments will secure the future of the regions.

Climate Change

Senator HANSON-YOUNG (South Australia) (14:35): My question is to the minister representing the Prime Minister, Senator Birmingham. Morrison government MPs have asked the Prime Minister to fund chaplains in every school to allay young people's concerns about climate change. Minister, does your government seriously believe that climate experts and activists are robbing children of hope? Is it your government's view that the best way of dealing with climate concerns is with religion and prayer?

Senator BIRMINGHAM (South Australia—Minister for Finance, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:36): [by video link] I thank Senator Hanson-Young for the question. As far as I'm aware, Senator Hanson-Young was not in the coalition party room yesterday and did not hear the type of comments that were being made. I can tell her—through you, Mr President—that she is completely misguided in the way in which she is characterising those remarks.

It is certainly true that coalition members and senators have expressed their strong support for a program that provides assistance to young people in terms of navigating the many challenges of life, but particularly at these times when we see enormous additional stresses as a result of COVID-19 being placed on many young people in the environments in which they're studying and seeking to move ahead. So many young Australians have missed out on the traditional rites of passage on normal activities they'd go through in their schooling lives. This has created enormous additional stresses and pressures. The work of teachers, educators, schools chaplains, psychologists, and all of those supporting young Australians through these challenging and difficult times is to be commended and, indeed, supported in terms of the assistance they're providing.

Young Australians know that there are many different challenges they face in the world, but, of course, for them to individually get ahead, what's most important for them is to receive the opportunities of education and employment. As a government, our focus very clearly is on delivering those opportunities. When it comes to tackling climate change, as you raised, Senator, it's about making sure that we tackle it in ways that don't hurt the opportunities for young Australians to get a job. A 'technology not taxes' approach to tackling climate change is about ensuring Australia's economy transitions in ways that give young Australians the best possible opportunity to still get a job, to still live in a country with one of the best living standards in the world, but to do so while we

drive ourselves towards the ambition of net zero emissions. That's the best pathway forward to give hope and opportunity to young Australians—to give them a job and to give them the support that can give them the confidence to succeed. We're proud of the government to have created so many jobs— *(Time expired)*

The PRESIDENT: Senator Hanson-Young, a supplementary question?

Senator HANSON-YOUNG (South Australia) (14:38): The US, the UK and the world's leading scientists are pleading with the Australian government to commit to a stronger 2030 target ahead of the COP summit in Glasgow in November. Will you be sending chaplains to Glasgow to allay the concerns of world leaders?

Senator BIRMINGHAM (South Australia—Minister for Finance, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:38): [by video link] The Greens come in and pretend that they want us to take issues seriously and then feed up drivels like that. The reality is that we're going to Glasgow with some very strong messages. We'll go to Glasgow with the strong message that Australia, in terms of our Kyoto 1 target and our Kyoto 2 target, has met and exceeded those targets; that, unlike many countries in the world, when we've made a commitment, we've delivered upon it. We'll go to Kyoto with firm policies that we've outlined in terms of our investment in renewable energies, our investment in other technologies, but, crucially, the stretch goals that we've outlined that don't just talk about achieving net zero but talk about how to get to net zero—how to get to net zero through investment in hydrogen, how to get to net zero through investment in low emission steel and low emission aluminium and how to get to net zero through investment in soil carbon. We'll be going to Glasgow with very clear policies, very clear plans and a track record that, frankly, exceeds that of many of the other countries around the world. *(Time expired)*

The PRESIDENT: Senator Hanson-Young, a final supplementary question?

Senator HANSON-YOUNG (South Australia) (14:39): Will the government rule out funding more chaplains as a way of dealing with young people's legitimate climate concerns and instead put a halt to the expansion of fossil fuels and develop a proper 2030 target? Or is your government's new policy on climate change 'thoughts and prayers'?

Senator BIRMINGHAM (South Australia—Minister for Finance, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:39): [by video link] The pre-scripted question there from Senator Hanson-Young was no doubt designed to be distributed on her social media platforms—not listening at all to the answers that I've given today. The answers I've given today outline exactly what we intend to take to Glasgow in terms of our ambitions to drive towards net zero but, more importantly, our plans and our track record. These are plans and a track record that show Australia doesn't just make vague promises; Australia delivers on our promises. Australia is investing as a nation, in terms of investment that sees us have investment in renewable and rooftop solar at rates far and above much of the rest of the world and in terms of investment by government in the technology changes that will drive us forward as a country while preserving the job opportunities for young Australians. That is what the Greens should be caring about: getting that mix right. That gives us a low emissions pathway but also ensures young Australians can still have the job opportunities that our government has delivered in record numbers. We have seen, as I said earlier today, a million jobs generated recently, and our aim is for many more. *(Time expired)*

Defence Equipment

Senator PATRICK (South Australia) (14:41): [by video link] My question as to the Minister representing the Minister for Defence. It's almost two years since the then defence minister, Senator Reynolds, advised on 6PR radio that a decision would be made on the Collins full-cycle dockings by December 2019. Another Christmas has passed and it looks like a third Christmas will pass without a decision being made. What is standing in the way of a decision being made, and when will the uncertainty associated with the Collins workforce down in Adelaide be resolved?

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (14:41): I thank Senator Patrick for the question and some advance notice of the topic. May I say in response I disagree with the point Senator Patrick made at the end of his question. The government's been very clear in relation to the activities both in South Australia and in Western Australia which are vital to the sustainment of the submarine fleet. The decision has not been made in relation to the future location for Collins class submarine full-cycle docking, and it is the view of the government that we should consider the options that are put to government after full examination by the appropriate agencies in due course. We will do that, as we have consistently said.

I want to assure the Senate and assure Senator Patrick that a decision on the Collins class submarine full-cycle docking location doesn't impact on the currently planned work on the life-of-type extension activities for the Collins class submarine. It is important that the process that is underway is allowed to conclude, and, when an

announcement is ready to be made, it will be made. It will be made based on what is in our national interests, after the proper consideration of all of the relevant information and advice that is brought to government.

The PRESIDENT: Senator Patrick, a supplementary question?

Senator PATRICK (South Australia) (14:43): [by video link] It's not in dispute that the government intends to conduct the life-of-type extension during the full-cycle dockings. It's a significant body of work involving the change-out of the submarine's main motor. It involves the change-out of the submarine's diesels and significant electrical switchboard work. Does the minister agree that shifting full-cycle dockings whilst at the same time embarking on a significant life-of-type extension will simply alter the risk profile too far for the shift to occur?

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (14:44): No, in response to Senator Patrick's supplementary question, that is not the view of the government. We've been, obviously, planning the extension of the service life of the Collins class submarine for some time. In fact, the planning commenced in 2011. This government is actually progressing the work itself. Both defence and industry are continuing to progress the Collins class submarine life-of-type extension work on schedule to support the first boat that will need an extension. That's HMAS *Farncomb*. That commences in mid-2026. All six submarines will undergo life-of-type extension within the budget that is currently allocated, extending the life of each submarine by 10 years. We are engaging all of the expertise that we need to progress that life-of-type extension program successfully. That includes support from Saab Kockums to de-risk the delivery of the life-of-type extension activities. I don't agree with the proposition that Senator Patrick put at the beginning of his question.

The PRESIDENT: Senator Patrick, a final supplementary question?

Senator PATRICK (South Australia) (14:45): [by video link] I've been contacted by businesses that are involved in the full-cycle dockings here in South Australia. There can be no question that the uncertainty of the future location of full-cycle dockings is having an impact on business investment and things like training of workforces and long-term planning. Does the minister concede that the delays in the decision-making process are affecting business decisions?

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (14:45): I note the observations that Senator Patrick has made, but I would also note that this government's commitment to shipbuilding in South Australia is, frankly, unparalleled, and that includes the sort of work that Senator Patrick is referring to. Our commitment is to building up to 23 vessels at Osborne, which totals over \$120 billion out to the 2050s. It sees the offshore patrol vessels being built at Osborne by Luerksen Australia, which is directly employing up to 400 workers, and that includes some transitions from the Air Warfare Destroyer Program that we successfully reformed and delivered. It includes the work of BAE Systems Maritime Australia, which is ramping up its production efforts with prototyping for the Hunter class frigates. It includes the transformation of the Osborne Naval Shipyard itself into the national hub for advanced manufacturing of the most complex vessels for the Royal Australian Navy— (*Time expired*)

Inland Rail

Senator WATT (Queensland) (14:46): My question is to the minister representing the Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development, Senator McKenzie. When did the Deputy Prime Minister, Mr Joyce, make the final decision on the Inland Rail alignment in Queensland? When did Mr Joyce advise Mr Littleproud and Senator McDonald of his decision?

Senator McKENZIE (Victoria—Minister for Emergency Management and National Recovery and Resilience, Minister for Regionalisation, Regional Communications and Regional Education and Leader of The Nationals in the Senate) (14:47): The Inland Rail project is one of the most iconic nation-building projects that Australia has ever seen and is being delivered by the National Party in a Liberal-National government. Warren Truss announced the project as infrastructure minister. Since then it has been a very proud government that has stood by and watched this project proceed through the various iterations to see its fulfilment. We've now got track being laid out right through north-west New South Wales, as it makes its way north and south between Brisbane and Melbourne. It's a once-in-a-lifetime investment in regional Australia. As the current Deputy Prime Minister calls it, it will absolutely be 'a corridor of commerce'. I know some of the senators who take an interest in regional Australia's growth and development will have seen a fantastic—

The PRESIDENT: Order, Senator McKenzie. Senator Keneally on a point of order.

Senator Keneally: The point of order is on relevance. I know the minister is speaking to something important, but it is a very tightly worded question. It just seeks to know: when did the Deputy Prime Minister make the final decision and when did he advise Mr Littleproud and Senator MacDonald? There's no embroidery. It's just a simple factual question.

The PRESIDENT: I think the question goes to the decision-making, the alignment and the passing on of that to others. There are multiple elements of the question, but it goes to that. I have been listening, but I'm going to ask you to turn to those elements of the question, Senator McKenzie—having been speaking for a minute—rather than a general description of the project.

Senator McKENZIE: In terms of the route decision, there has been no change to where that has been planned through a whole variety of infrastructure ministers over many, many years. There have been many studies and plans done, particularly on the border to Gowrie route. Cabinet agreed to a route and we as a government are sticking to that. We don't need more reviews into this. The local community has been consulted. The local MPs have been consulted, and my understanding is that—

The PRESIDENT: Senator McKenzie, I have Senator Keneally on a point of order.

Senator Keneally: Again, on relevance: it was a very specific question. When did the Deputy Prime Minister make the final decision?

The PRESIDENT: I think, with respect, the question did ask that. It asked about the alignment, and it asked about whether others were advised. I do believe the minister was being directly relevant when she was speaking about the route. I can't instruct them how to answer a question. The minister referred to decision-making upon a route by the cabinet. I can't rule that as not being directly relevant to the question being asked. Senator McKenzie.

Senator McKENZIE: I'm very happy to table the alignment of the Inland Rail route, which has been agreed for a long period of time. Cabinet has re-examined that and absolutely backs the decision of the infrastructure ministers on the current route as it stands, and that will not be changing.

The PRESIDENT: Senator Watt, a supplementary question?

Senator WATT (Queensland) (14:50): It's been reported that, along with Senator McDonald, Mr Joyce recently met with community groups who felt misled by him over the Inland Rail route. Did Mr Joyce indicate, at this meeting with community groups in Mr Littleproud's electorate or to his Nationals colleagues, that he would consider an alternative route?

Senator McKENZIE (Victoria—Minister for Emergency Management and National Recovery and Resilience, Minister for Regionalisation, Regional Communications and Regional Education and Leader of The Nationals in the Senate) (14:51): Senator Watt, I've been very clear, as has the Deputy Prime Minister and as has the Deputy Leader of the Nationals. All National Party cabinet ministers support the decision of cabinet. They support the current route of the Inland Rail, and they've been very, very clear about that. What is clear also is that Labor has opposed the Inland Rail from the start.

The PRESIDENT: Senator Watt, on a point of order?

Senator Watt: I'll leave aside the misrepresentation Senator McKenzie just made, given Labor started this whole project—

The PRESIDENT: Senator Watt, please come to the point of order.

Senator Watt: The point of order is on relevance. The question was about the meeting that Mr Joyce had with Senator McDonald and community groups and what was said to those community groups in that meeting.

The PRESIDENT: The minister answered that part of the question, or was answering that part of the question, by—

Senator Watt interjecting—

The PRESIDENT: If I could rule, Senator Watt, please. I'll let that glancing comment by Senator McKenzie pass, as you said you would in your point of order. The minister was answering the question by talking about the decision-making on the route and who supported it—it being a decision of the government. I can't instruct the minister how to answer a question. There's time to debate them in 10 minutes. Senator McKenzie.

Senator McKENZIE: I just will read to the Senate the statement from the DPM I made on 25 August 2021: The Inland Rail alignment is settled—it has been refined over a number of years and delivery is well underway. As I mentioned in my first answer to you:

The Border to Gowrie section that includes the Condamine Crossing has been developed by world-leading rail engineering experts and enhanced through community consultation. ARTC's flood modelling and the reference design for the crossing of the Condamine floodplain has been thoroughly reviewed— (*Time expired*)

The PRESIDENT: Senator Watt, a final supplementary question?

Senator WATT (Queensland) (14:53): A private text message from Mr Littleproud to Mr Joyce, which happened to be published in the *Australian*, reads:

The Millmerran guys you spoke to on Friday would have preferred you either told them on Friday this or told them before a public statement from you.

Why did Mr Joyce refuse to listen to Mr Littleproud's constituents and to his Nationals colleagues and, instead, announce publicly that the Inland Rail line was 'settled' and 'well underway'?

Senator McKENZIE (Victoria—Minister for Emergency Management and National Recovery and Resilience, Minister for Regionalisation, Regional Communications and Regional Education and Leader of The Nationals in the Senate) (14:53): Because that's exactly what the Inland Rail project is about. We have decided a route. The government has, as I've said, reviewed it. We've got the environmental impact statement. We've got route reviews and multiple studies—one, two, three, four, five, six, seven different reviews. The government is very committed to the current alignment. That is what we're committed to delivering on, and that is absolutely what the Deputy Prime Minister wants to see happen and what the local community wants to see happen. I'm very happy to table third-party endorsements from the community affected.

As I was saying, the panel's draft report—that's the panel of experts on flood studies in Queensland—found that the work undertaken by the ARTC would be predominantly in accordance with national guidelines and current industry best practice. The border-to-Gowrie section has been subject to multiple studies and reviews. In 2020, a further independent assessment confirmed— (*Time expired*)

COVID-19: Pacific and South-East Asia

Senator SCARR (Queensland) (14:54): My question is to the Minister for International Development and the Pacific, Senator Seselja.

A government senator: Hear, hear!

Senator SCARR: Hear, hear, indeed! Can the minister advise the Senate how Australia is working with partners in our region to tackle the COVID-19 pandemic and to support our region's economic recovery as soon as possible, helping to ensure that we can all recover stronger together?

Senator SESELJA (Australian Capital Territory—Minister for International Development and the Pacific) (14:55): I thank Senator Scarr for his question and for his deep and abiding interest in the neighbourhood and the Pacific. Our neighbourhood continues to face unprecedented challenges from COVID-19. No nation is immune to the virus, but we must tackle it together, and this government is getting on with the job of shaping a region which is safer, healthier and more prosperous for all of us. We've now gifted over 2.1 million life-saving vaccines to our neighbourhood, because, until everyone is safe from COVID-19, nobody is safe. And, similarly, hundreds of thousands of Australian jobs depend on strong economic growth across our region.

To support that growth, in 2021 we delivered a record \$1.7 billion in support to the Pacific, over 50 per cent higher than when Labor were last in office, and we've delivered over \$1 billion in support to South-East Asia. Together with a \$1.5 billion loan to Indonesia, this represents our largest amount of funding to South-East Asia since the 2004 tsunami. Beyond our existing aid program, we've already delivered nearly \$200 million in emergency economic support to the Pacific. In Fiji, this funding is supporting social protection payments to the most vulnerable, benefiting more than 100,000 Fijians. In Timor-Leste, we are supporting new infrastructure projects in more than half of the nation's 450 villages, directly benefiting communities and economic recovery. In the Solomon Islands, we're improving water supplies for more than 4,000 households and sanitation facilities for over 2,000 households, and we're rolling out critical infrastructure support in the region that supports Pacific nations' long-term economic aspirations. We're investing in ports, roads, airports, energy generation and transmission, and telecommunications. Our high-quality loan financing is in high demand. These are projects that will create jobs and unlock new opportunities, ushering in an even stronger era of growth in partnership between Australia and the Pacific.

Senator SCARR (Queensland) (14:57): I'm pleased the minister touched on assistance to Fiji in particular, and I know Queensland has a wonderful Fijian diaspora. Could the minister provide further detail with respect to how Australia is working with Fiji in their fight against COVID-19? What support is Australia providing to the people of Fiji at this critical time?

Senator SESELJA (Australian Capital Territory—Minister for International Development and the Pacific) (14:57): Senator Scarr is right to reference the outstanding diaspora here in Australia, including in Brisbane. Fiji is one of Australia's closest partners in the region. The pandemic is having a grave impact on Fiji's people, but we're proud to be supporting our Fijian vuvale at this time of need. In addition to our longstanding development program, we've provided over \$80 million in emergency budget support to Fiji. We are directly funding doctors and nurses in the Fijian health system, and we've donated over 860,000 Australian vaccine doses. Now, with our support and our vaccines, Fiji is delivering a world-leading vaccine rollout, with first-dose coverage of over 95 per cent of their target population—an incredible performance. And we now have dispatched three Australian and

New Zealand medical teams to Fiji. These teams have helped to save countless Fijian lives. Their efforts and their sacrifices will not be forgotten. As Fiji sent its military to help Australia rebuild after the 2020 bushfires, we too are standing by our partners in their time of need. (*Time expired*)

Senator SCARR (Queensland) (14:58): If could lift the focus perhaps to the Pacific more generally, noting the outstanding contributions of Pacific workers to the Queensland economy, could I ask the minister: how is the Liberal and National government assisting regional Australian businesses to access more Pacific workers as part of the national plan agreed by national cabinet? Why is this important for securing our recovery from the pandemic, including in my home state of Queensland?

Senator SESELJA (Australian Capital Territory—Minister for International Development and the Pacific) (14:59): It's an outstanding question. Since our Pacific initiatives recommenced in September last year, more than 10,600 Pacific workers have arrived from seven participating Pacific nations and Timor-Leste. In the next few weeks another 1,000 Pacific workers will arrive, with a further 27,000 Pacific workers ready and waiting to come to Australia.

This is immediate action to address workforce shortages in regional Australia as part of the PM's commitment to double the number of Pacific workers in Australia by March 2022. We'll shortly announce practical improvements to these programs to offer greater flexibility and less red tape for Australian employers. These changes will boost worker welfare and deliver Pacific workers, who, throughout COVID-19, have proven themselves to be the lifeblood of regional business, ensuring meat could be processed and crops could be harvested.

These programs are a win-win for Australia and our Pacific family. We look forward to welcoming more Pacific workers and the invaluable contribution they make to Australia at this challenging time. (*Time expired*)

Senator Cash: I ask that all further questions be placed on the *Notice Paper*.

BUSINESS

Rearrangement

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (15:00): by leave—I move:

That:

(a) a motion relating to the 70th anniversary of the Security Treaty between Australia, New Zealand and the United States of America (ANZUS) may be moved immediately by the Minister for Foreign Affairs (Senator Payne); and

(b) the time limit for the debate be 45 minutes, after which the question be put, and senators may speak to the motion for not more than 10 minutes each.

Question agreed to.

MOTIONS

Australia, New Zealand and United States Security Treaty: 70th Anniversary

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (15:01): I move:

That the Senate—

(a) notes that today marks the 70th anniversary of the alliance between Australia and the United States of America under the ANZUS Treaty;

(b) reaffirms the commitment of Australia to that alliance, recognising its fundamental importance to our nation's security, sovereignty and prosperity, and to meeting the opportunities and challenges of our time;

(c) acknowledges that the alliance has underpinned peace, stability and freedom in the Indo-Pacific region and beyond, and that American leadership remains indispensable to the global rules-based order;

(d) acknowledges that next week marks the 20th anniversary of the September 11 terrorist attacks, in response to which the ANZUS Treaty was invoked;

(e) places on record its profound gratitude to the servicemen and women of both our nations who have served together over more than a century; and

(f) acknowledges that the enduring friendship between our nations is underpinned by shared liberal democratic values and principles, and these have been embraced by our peoples across generations.

Today, Mr President and colleagues, marks the 70th anniversary of the signing of the ANZUS treaty between Australia, New Zealand and the United States. In 1951 the world was still recovering from the horrors of World War II, and Australia's foreign policy was driven by a need to safeguard peace and security in our region. What Australia sought and what we found in the United States was a partner with whom we could work to build a better future.

As he signed the ANZUS treaty in 1951, Australia's then Ambassador to the United States, Sir Percy Spender, said the treaty marked 'the first step in building the ramparts of freedom in the vast and increasingly important area of the Pacific Ocean.' He described how the alliance was conceived, not in hostility to any country but in a devout dedication to the cause of peace. The truth of this description has never been more relevant than it is today. Over 70 years, ANZUS has helped us to achieve this goal. It continues to do so today, and we are determined that, as our region faces new challenges, it will do so in the future.

The treaty is more than just a collective defence agreement. It provides a framework for how our two countries have worked and continue to work together to foster and sustain a region that benefits all countries. It is an alliance based on shared values and principles, reflecting our commitment to international peace, democracy, freedom and the rule of law. It remains a cornerstone of Australian foreign policy, just as US leadership remains indispensable to stability and prosperity in the Indo-Pacific.

Australia and the United States have been reliable and steadfast allies, standing shoulder to shoulder during our darkest days. For over 100 years, our troops have fought side by side, from World War I to World War II, from Korea to Vietnam and from Iraq to Afghanistan. Twenty years ago this month, Australians watched some of the most distressing things imaginable playing out on their television screens. As the 9/11 attacks unfolded in the United States, Australians felt a deep sense of shock and horror at the events that had taken place. In the days that followed, then Prime Minister Howard invoked the ANZUS treaty, a step no Australian prime minister or US president had taken before. Prime Minister Howard's decision reflected the gravity of the situation, the scale of the attack and Australia's unwavering commitment to the alliance.

Following this invocation of ANZUS, Australia, along with the United States and many other nations, committed forces to Afghanistan, where our men and women have had each other's backs for the last 20 years. There will be time to debate the military mission in Afghanistan, but for today let me pay tribute to the 41 Australians and the more than 2,400 American military personnel who lost their lives in Afghanistan, including the 13 US service members killed last week while helping others to seek safety. In my roles as foreign minister and as Minister for Women, I am particularly focused on ensuring the gains made, particularly for women and girls, in Afghanistan are not eroded.

Our alliance finds strength not just in its endurance but in how it has evolved to meet the challenges of our times, including the global pandemic with which we are dealing now, with wide-reaching health, economic and social implications; the pressure on the international rules, norms and institutions that underpin the sovereignty of nations and the peace and trade between them; a changing climate that is impacting our environment, economies and way of life; malicious cyberactivity that is growing in frequency and sophistication; and the emergence of new and evolving threats, such as foreign interference and disinformation, that are being used to manipulate open societies. The partnership today between Australia and the United States is one of trust, grown through decades of cooperation and burden sharing, and recognition that each partner brings our own perspective.

We are working more closely than ever with regional partners, including Japan, India, the Pacific and ASEAN, to address the key health, economic and security challenges of our time. We are modernising our militaries, including through cooperation in guided missile technology, the F-35 Joint Strike Fighter and hypersonics, for example. We are collaborating on world-class science, technology and innovation, from the latest medical advances to new forms of renewable energy and the Moon to Mars initiative. We're strengthening the resilience of supply chains, including for critical minerals and rare earths. We're working together to deliver COVID-19 vaccines across the Pacific. We're driving a positive and proactive agenda to foster a free, open, inclusive and resilient Indo-Pacific region. Our partnership today goes beyond collective defence and security agreements. It touches the lives of every Australian in a multitude of ways. The United States is Australia's biggest source of foreign investment. More than 320,000 Australians are employed by majority US-owned companies in Australia.

When I visited the United States in May this year, the Secretary of State, Antony Blinken, pledged to me that the United States would not leave Australia alone on the field. His commitment embodies the spirit of ANZUS. Neither of our two countries stands alone. Across the three US administrations with which I have worked, I can sincerely say that the shared commitment to the alliance has been constant and enduring. The ANZUS treaty has provided the unbreakable foundation for our alliance to mature and prosper for 70 years. In 1951, Sir Percy Spender recognised only too well the dangers inherent in division, but in our alliance with the United States he saw a commitment to 'constantly labour to reduce the unhappy tension which today plagues mankind'.

I can say emphatically that for 70 years we have indeed strived together to build peace and stability for our region. We have stood together in the face of wars, threats of terrorism and great power rivalry. Despite the uncertain times in which we live, our relationship with the United States, with the ANZUS treaty at its heart, will continue to meet the challenges ahead. We look forward to continuing our work with President Biden and his administration to work for a better, healthier, safer and more prosperous future for all.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:10): [by video link] I'm pleased to speak on behalf of the opposition and join Minister Payne in supporting this motion to celebrate and commemorate the 70th anniversary of the ANZUS treaty. In the days ahead much attention will be focused on what conclusions are to be drawn from the 20-year war in Afghanistan that came to an end this week, but, whatever may be said on that debate, what is beyond dispute is the constancy of the bond between the United States and Australia through the struggles in Afghanistan and beyond. Throughout the final days in Kabul America was steadfast as an ally and a dependable friend. If it weren't for the presence and courage of our American allies, efforts to evacuate thousands of Australians and visa holders in the past weeks would never have been possible. That presence came at great cost, losing 13 of their own as they sought to help others. Their ultimate sacrifice reflects the heavy duty of leadership and it's a weight that America has carried since World War II, where the origins of ANZUS are to be found in the war in the Pacific and, of course, Prime Minister Curtin's turn to America.

In late December 1941, three weeks after the Japanese attack on Pearl Harbor, Curtin declared: 'Without any inhibitions of any kind, I make it quite clear that Australia looks to America, free of any pangs as to our traditional links or kinship with the United Kingdom.' Curtin was attacked by those who would become today's Liberal Party. American President Franklin Roosevelt was astonished because Curtin was ahead of the US in thinking about strategy and priorities for the war in the Pacific. The US 7th Fleet was formed in Brisbane in 1943. Australia fought with the US in major sea battles of the Pacific. General Douglas MacArthur used Australia as his launching pad for the Pacific land battles that eventually saw the defeat of Japan.

In armed conflicts over more than a century the military forces of Australia and the United States have worked together to secure our shared strategic interests, and the vehicle that gives principal expression to our sense of common security purpose is the ANZUS treaty, whose 70th anniversary we mark today. ANZUS arose in the broader context of the postwar settlement, the Cold War and the Korean War to our north and provided the strategic framework for dealing with re-emergent militarism as a possible threat to security in the Pacific. The treaty underwent a fundamental transformation at the hands of Bob Hawke's defence minister—my friend Kim Beazley—and his US counterpart, Caspar Weinberger, in the mid-1980s. They reoriented ANZUS from a threat based agreement to one that focused on the strategic aspirations and purposes of both parties. Of course, thankfully, our partnership with the US is not as controversial today and it has enduring bipartisan support, and much strategic cooperation has happened since.

Looking forward, Australia's alliance with the United States sits at the centre of the *2020 Defence strategic update*. With the US again engaged in a global force posture review, it is time for Australia to look again at our own posture to ensure that it fully meets the times—the last one having been conducted by the most recent Labor government, in which I was minister. So I reiterate to the Senate Mr Albanese's announcement today that a federal Albanese Labor government will initiate a new force posture review on coming to office. The Indo-Pacific will remain the key focus. The review will ensure that the government is considering both long-term strategic posture and, given the fast-moving events in the region, short-term imperatives. The review will also respond to the continued emergence of cybersecurity as a central challenge to Australia's strategic positioning in the coming decade.

The relationship with the US goes far deeper than a security alliance alone. The United States has been a core economic partner of Australia's, and its importance only continues to grow. It remains our key capital investor, underpinning Australian innovation and driving both our countries to take advantage of emerging technologies. At the foundation of our shared economic prosperity is the global rules based order—the systems, norms and institutions that guide the world's interactions and govern disputes. These are the rules of the road, and they are being tested in new ways—a global pandemic that continues to wreak havoc, terrorism and extremism that continue to find safe haven, the return of great power competition, the undermining of rules based trade and the use of economic coercion for strategic ends.

The US and Australia have been close allies in building and strengthening these rules of the road, including in our region. But we need to do more, and we can do more only with friends and partners. So we welcome the return of American leadership and the rules based order under President Biden and his dedicated effort to repair alliances. I've said before that Australia's partnerships and leadership in the Indo-Pacific are our principal value-add to the alliance. We have an opportunity and a responsibility to work closely with the administration as it develops its Indo-Pacific strategy, including building its economic footprint, particularly in South-East Asia. We must work with key partners such as India, Japan, Indonesia and other ASEAN nations, South Korea, the EU, and others to both strengthen economic engagement and uphold the rules of the road. This is because, as much as America's role has changed, its unique capacity to offer balance in the region and leadership in the international order means it remains the indispensable power.

Many of our neighbours want the balance that will come from greater US engagement, and they are clear that must mean economic engagement as well as security partnerships. We should be doing all we can to encourage the US to support Indo-Pacific regional pandemic recovery, reinforce ASEAN's centrality and strengthen regional architecture. We welcome the recent visits of Vice President Harris and Secretary of Defense Austin to South-East Asia, and see these as important first steps in the US step-up in the region. We hope to see this grow rapidly in recognition of the vital strategic importance of this region, and we must be prepared to step up our own engagement to support it. At a time when regional uncertainty is high, a deeper US commitment to ensuring all states have the capacity to protect their sovereignty is vitally important. President Biden's early embrace of the Quad was a welcome development, and there will be much opportunity for further US-Australia cooperation in that context.

While so much of the region's immediate focus is on the response to COVID, its more profound concern is climate change. How we address climate change demonstrates our engagement and alignment with our neighbours. It is in Australia's interest, as a continent highly vulnerable to the worst impacts of climate change, that we urgently apply ourselves to the task of reducing emissions, not only because the costs of climate change are so great for us but also because the world's climate emergency is Australia's job opportunity. Anything less would undermine Australian leadership in the region, leave vacuums for others to fill and abandon those most vulnerable to the worst impacts of a changing climate.

In the United States, senior leaders have talked for years about the security implications of climate change. We know it is having geostrategic and regional impacts as well as direct impacts on defence systems, infrastructure and operations. Secretary of Defense Austin has already identified climate change as a top priority for the US military. At his Fullerton address in July this year he described climate change as an existential threat and a challenge we must meet together, echoing what Pacific island leaders have been saying for decades. The US military has acknowledged that climate change is not a future defence problem but an immediate challenge, and it is time that the Australia-US alliance reflected this reality. We should deepen our cooperation on climate change security issues. We should develop capabilities and shared responsibility to respond to natural disasters, address humanitarian needs and mitigate the impacts of rising temperatures, particularly in our region. We should cooperate on technological development to take advantage of the economic opportunity that comes from the shift to clean energy to deliver cheaper energy prices and facilitate an expansion of high-value manufacturing capability. This helps build economic resilience in the event of future shocks.

An Albanese Labor government would make comprehensive cooperation on climate change a hallmark of alliance cooperation because we recognise that Australia's own action on climate change will shape our capacity to live in a region where our interests prosper in partnership with our neighbours and our American ally. We recognise that this is central to the next phase of an alliance with the United States that Labor has always innovated and that reflects the abiding friendship, trust and affection between our peoples.

Senator STEELE-JOHN (Western Australia) (15:20): [by video link] The government has brought this motion to the chamber today, a day after the last American force left Afghanistan and about a week from the 20th anniversary of the 9/11 attacks in the United States. They ask us today to unquestioningly endorse the American alliance and to recommit ourselves to a military relationship that we have had with the United States for 70 years. To do this would be politically easy. It is the united view of the major parties that a military relationship such as we currently have with the United States is a good thing for Australia. It's certainly a good thing for them. It's given them many opportunities to stand next to US military equipment, go on fancy visits overseas and meet with defence secretaries and secretaries of state, and feel like significant global actors. To do so, though, in the closing days of 20 years of conflict and war across the world unleashed by the 9/11 attacks, would be to do a great disservice to the Australian community and to those peoples and nations that were so savagely harmed in the aftermath of that event.

It is time, 20 years on, for us to speak the truth about exactly what happened in the aftermath of 9/11: that the United States entered into a blood-rage-induced, vengeful series of exercises whereby they set two nations ablaze and precipitated the loss of some 350,000 civilian lives. In a desperate attempt to reclaim what they felt was a bruised national honour and to reassert themselves in the new century, they took nations across the world to wage war in the Middle East based upon lies, and, when they were caught out on those lies, they invented new reasons for the maintenance of conflict and occupation.

At that critical moment 20 years ago, Australia's political leadership had a choice. They could either engage with the United States and seek to de-escalate the crisis unfolding in the aftermath of 9/11, seek to work with the international community to bring the individual perpetrators to justice, and maintain the so called global rules based order—which has been so much vaunted and celebrated during the course of this debate—or they could validate that period of vengeful blood rage, validate the conflicts that were carried out in the aftermath, participate

in them, justify them and attempt to lend them moral support. That is the choice that they made. John Howard took us into Iraq and Afghanistan, and prime minister after prime minister kept us there because it was in their political interest to do so.

Today we are discussing the mechanism by which that decision was played out: the ANZUS treaty, which is 70 years old this year. As we do so, we also need to speak the truth about what that treaty is and where it comes from. There has been much said about ANZUS as a defence treaty that guarantees Australia a level of mutual protection. This is the myth of ANZUS—the treaty of the mind; the treaty that exists only when Australian diplomats and Australian politicians look at that piece of paper. The reality of the wording of the treaty is that it says no such thing; it offers no such guarantee. The wording of the treaty simply states that, if there should be some kind of shared moment of conflict or concern, the parties to the treaty will act with concern to each other. It gives no guarantee of any kind of mutual protection.

Below that, though, sits an even more insidious reality, which is the context in which it was conceived. This treaty was signed in 1951 and, upon its signing, the relevant Australian ambassador called it the beginning of a bulwark in the defence of freedom. In that context the meaning was clear. The meaning was: this will offer Australia protection against the enemies in its region. And the enemies were the people of the Asia-Pacific region. It was the beginning of a narrative of fear against the Asian people of the Asia-Pacific region, a legitimisation of the idea that there was something to fear from those across our sea borders. It saw us enter into that horrific conflict, the Vietnam war.

It used to be the case that the Labor Party understood the dangers of following along in the wake of the United States. It used to be the case that those like Gough Whitlam and Jim Cairns were on the streets with the community as they protested against these violent imperial wars. It is to be noted that Gough Whitlam removed Australian troops from Vietnam as one of his first acts as Prime Minister, yet, all of these years on, we see a Labor Party which has given up in relation to criticism of the United States. It is, in fact, now in lock-step with the Liberal Party, ready to go all the way with the USA once again. The uncritical, unflinching nature with which the Labor Party now positions itself in relation to the American alliance does a huge disservice to the community, and it fails to reflect all of those in our community who want peace, who saw through the lies of George Bush and the complicity of John Howard and understood that there were no WMDs in Iraq, that there was no need to knock over the government of an entire nation to try to bring to justice a single individual, who by then was most likely within the borders of Pakistan. The community has always understood that, when it comes to war, the No. 1 thing on the mind of a politician is how to get electoral benefit out of it.

The hard truth for the major parties is that, in the aftermath of 9/11, as America, in its blood haze, decided to line people up on the board to take out its anger, Australian politicians sought political opportunity to bind themselves closer to an ally which, in response, could deliver them many more opportunities to fancy weaponry, with which they would be able to have pictures taken, and an opportunity to secure their electoral base here in Australia. It is very telling that, in a moment of genuine global crisis, when Australia could have benefited greatly from the supply of something as simple as a vaccine, the special relationship was not strong enough to enable that to occur.

It has also been commented upon that we are now seeking to engage ourselves in the hosting of missiles in the Northern Territory. This is another example of how the major parties are so willing to allow Australia to be used as the United States' most significant and well-armed aircraft carrier in the Asia-Pacific—regardless of the views of the Northern Territory, which so wholeheartedly opposes it.

Senator McKENZIE (Victoria—Minister for Emergency Management and National Recovery and Resilience, Minister for Regionalisation, Regional Communications and Regional Education and Leader of The Nationals in the Senate) (15:30): The Nationals seek to associate our party with the comments particularly of the foreign minister but also those of the opposition in supporting wholeheartedly the ANZUS relationship and treaty. Today we mark the 70th anniversary of the alliance between Australia and the United States of America. This anniversary comes after the withdrawal from Afghanistan and ahead of the 20th anniversary of the September 11 attacks.

First signed in San Francisco in 1951, the treaty confirmed both the United States' and Australia's commitment to a shared vision for an Indo-Pacific that is secure, stable and prosperous. The treaty reaffirmed Australia's unwavering commitment to our alliance, recognising its fundamental importance to our nation's security and sovereignty. At the time, Australia's then Ambassador to the United States of America, one of the architects of the treaty, Percy Spender, said:

This day we declare to the world that our three peoples share a common destiny. This treaty takes the first step towards what we hope will prove to be an ever widening system of peaceful security in this vital area.

That it has done, and it will continue to do so.

As a nation, we've been incredibly well served in both peacetime and war by an alliance that has been a testament to our common values and deep mutual trust. This alliance and our bond with the United States is stronger, broader and more vital today than it was 70 years ago. Few countries in the world enjoy such a close relationship, built upon our mutual support for democracy and shared respect for the rule of law. Our shared commitment to deterring aggression has seen us fight together in every major conflict since World War I. From Le Hamel all the way through to the evacuation we saw in Kabul last week, we've stood side by side with our mates, the United States of America and New Zealand.

On 14 September 2001, we saw Prime Minister John Howard formally evoke the treaty for the first time in response to the September 11 terrorist attacks. He said at the time:

In every way, the attack on New York and Washington and the circumstances surrounding it did constitute an attack upon the metropolitan territory of the United States of America within the provisions of articles IV and V of the ANZUS Treaty. If that treaty means anything, if our debt as a nation to the people of the United States in the darkest days of World War II means anything, if the comradeship, the friendship and the common bonds of democracy and a belief in liberty, fraternity and justice mean anything, it means that the ANZUS Treaty applies and that the ANZUS Treaty is properly invoked.

Australia therefore joined the coalition forces in Afghanistan, contributing to the war on terror, and ensured a safer Australia and a safer world.

As it has been for the last 70 years, our alliance is set to remain indispensable from our future. The Indo-Pacific has become a focal point of our alliance, benefiting our partners throughout this region and underpinning the strong relationships we already have with these nations. Our commitment to keeping the alliance strong is shown through Australia's *2020 Defence strategic update* as set out in the *2020 Force structure plan*. Australia's \$270 billion investment in new ADF capabilities will enable Australia to be a more effective and capable alliance partner. The investment also strengthens our industrial base collaboration to further bolster alliance interoperability and our supply chain resilience. Australia's force posture cooperation with the US, including the Marine Rotational Force-Darwin, is a tangible demonstration of the deep engagement in the region by both Australia and the United States.

As we look to the future, let us be reminded of the values and freedoms the ANZUS Treaty has secured for us as a nation. Let us commit to continuing to be vigilant and strong and to building the economic strength for the peace and prosperity of all and for a world that is free. Let us reflect on the sacrifices of all who have served under the flags of all three of our great nations who we will never forget and will continue to honour each and every day. And let us be reminded that, whatever lies ahead, the unbreakable friendship of Australia, New Zealand and the United States will continue to prosper.

Question agreed to.

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:34): by leave—Mr President, I ask that the Greens' opposition to the motion be recorded, other than for paragraph (e).

The PRESIDENT: So recorded.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

COVID-19: Western Australia

Senator PRATT (Western Australia) (15:35): I move:

That the Senate take note of the answer given by the Attorney-General (Senator Cash) to a question without notice she asked today relating to COVID-19 and Western Australia.

Yesterday and today in the chamber we have heard Attorney-General Senator Cash, herself a Western Australian, say that the legal pathways that led to the High Court determining that it was reasonable for WA to have closed its borders to stop the spread of COVID-19 may have a different outcome should those same policies be tested again. 'Things have changed,' Senator Cash said, and 'When is Mark McGowan going to open Western Australia up to the rest of the country?' I am exceedingly alarmed at these remarks. Premier McGowan put it best when he said, 'The Morrison government went through the Clive Palmer experience last year and now they want to do exactly the same thing again.' What kind of message is Senator Cash trying to send to Western Australians? Senator Cash must take us for mugs.

Of course Western Australia can't live in a bubble forever. But to open up at 80 per cent and invite the virus in when this government has not provided enough vaccines for the other 20 per cent of Western Australians who might want to be vaccinated to get vaccinated is a ridiculous proposition. So if Mark McGowan rightly says, 'I'm not going to open up the borders automatically at 80 per cent,' I'm very grateful and thankful for him saying that.

In fact, he fought in the negotiations in the national cabinet to ensure that Western Australia, as part of agreeing to the plan, is able to keep its border protection system in place.

It is a ridiculous notion that Western Australia should just allow COVID into the state when there are people who want to be vaccinated who will not be vaccinated by that point in time, including very vulnerable members of the community—older people, First Nations Australian and, indeed, children—due to this government's failure to roll out the vaccine and secure enough supply. But this government is instead focused on attacking premiers and chief ministers and drawing up legal schemes to force the pandemic into places where it doesn't exist already.

For the Attorney-General, the chief law officer in this country, to be openly advocating for future challenges to Western Australia's border closures is absolutely farcical. The Morrison government has spent more than a million dollars supporting Clive Palmer's failed High Court challenge. It failed, and I call on the government to move on. Yet we've heard the Attorney-General saying out of one side of her mouth that the government won't support a challenge led by Clive Palmer but, on the other hand, essentially saying that the laws are now ripe for challenging. Why won't the Attorney-General pay money to support Mark McGowan and the state government against a future High Court challenge if business wants to challenge those laws? Essentially, again, the Attorney-General is siding against the state of Western Australia.

A government senator interjecting—

Senator PRATT: It's all very well for those opposite to say, 'No, she didn't; that's not what she said.' She said: 'It is open for challenge.'

A government senator interjecting—

Senator PRATT: Why then shouldn't the Attorney-General say, 'It is in the best interests of Western Australia for its borders to remain protected for the time being, until every single West Australian has had an opportunity to get vaccinated if they want to be'?

Senator ASKEW (Tasmania) (15:40): Well, I think Senator Cash was pretty clear when she spoke earlier today. I'm not sure whether Senator Pratt actually was in the chamber at the time. Senator Cash did state that the government will not challenge state border closures in the High Court. That's pretty clear. Throughout this pandemic the federal government has worked constructively with premiers and chief ministers, through the national cabinet process, to ensure the safety of all Australians. The government has a solid four-step national plan to transition Australia's national COVID-19 response. That plan is based on the Doherty institute's COVID-19 modelling, utilising the economic analysis conducted by the Commonwealth Department of the Treasury. The national plan is supported by an overwhelming majority of the states and territories and has been agreed to at national cabinet on more than one occasion.

The government is clear: we will not do anything to jeopardise the staged national plan to get us out of this pandemic. What I would like to know is, what is opposition leader Mr Albanese's and the Labor Party's position? Mr Albanese has at times backed the national plan and at other times, well, a different time line for opening borders and ultimately Australia. Mr Albanese continues to have that each-way bet on the future of Australians. Instead, he should wholeheartedly support and get behind the national plan.

As I mentioned earlier, the Doherty institute examined COVID-19 infection and vaccination rates in order to determine the targets required for the national plan's staged pathway to living with COVID. The plan was put in place to provide assurance and comfort to all Australians that there is a light at the end of the tunnel, and the plan was agreed by national cabinet. We sought the research from the Doherty institute and have since agreed to the way forward. So, imagine the disappointment of the Australian public that we now have some premiers hesitating, stepping back from that commitment.

The open letter from the business community in national papers today really says it all. The full-page advertisement, signed by the heads of 81 of Australia's largest businesses, calls on governments across the country to work together to deliver on the plan:

As vaccination rates increase, it will become necessary to open up society and live with the virus, in the same way that other countries have done. The National Cabinet has agreed to a roadmap which provides a path out of lockdowns, with an easing of restrictions from 70% and 80% vaccination rates. We need to stay the course.

These are CEOs and managing directors such as Steven Cain from Coles Group, Steve Johnston from Suncorp, Tarun Gupta from Stockland, Peter King from Westpac, Jeanne Johns from Incitec Pivot Ltd, Tom Seymour from PwC—and the extensive and very impressive list goes on. They all understand the importance of sticking to the plan. My hope is that their plea is heard and all governments can work together to stick to the plan to enable our country to regain some semblance of normality—albeit a new norm—and allow businesses and the borders to reopen as planned. If not, jobs and businesses will be lost.

The vaccine rollout, which has also been raised, is increasing progressively each and every month: 7.3 million vaccinations were delivered in August, 4.5 million vaccinations in July, 3.4 million in June and 2.1 million in May. That is a massive increase. We're administering more than 1.9 million doses every week. Last week alone, there were nearly 1,929,000 doses, made up of 841,000 in state and territory health clinics, 50,362 in aged care and disability clinics and 1,037,000 in primary care clinics. Throughout this pandemic we have saved more than 30,000 lives, supported more than three million Australians through JobKeeper and got one million Australians back into work. With around one million Pfizer doses arriving every week, plus the additional half a million Pfizer doses secured through the doses swap with Singapore and the one million doses from Poland, our health and economic recovery is well and truly on track.

We need all states and territories to come online and make sure that we are delivering for the national plan that has been agreed and that we see a way out of this pandemic in Australia.

Senator O'NEILL (New South Wales) (15:46): The country is yearning for a man with a plan, but there's only one plan for Mr Morrison, and it's all about him—only a plan for himself and his survival. Everybody else is a casualty in Mr Morrison's plan. We have to acknowledge what he actually said. Despite a national plan, yesterday he said, 'Ultimately, everything is a state matter.'

Under the leadership of this man with many plans and no conviction, Australia has never been more divided. States that once had open borders and open commerce have had to resort to their own powers in order to protect their people. The only interventions the Prime Minister has seen fit to make in this debate are to undermine the ATAGI advice, to attack some of the premiers for taking action when he does nothing and to constantly blame everyone else for his colossal policy failures. And then, of course, he has the singular version of his interaction with New South Wales, encouraging Premier Gladys Berejiklian not to stick with the plan of a rapid lockdown, and the consequences of the Bondi failure are spreading right across the country.

There's one reason that all of this chaos is happening, and that is that Mr Morrison refuses all accountability. He shirks all the tough decisions, and he thinks only about his personal short-term political gain and not the benefit of the country. For the first time in federation, we have a head of government with whom the buck doesn't stop. As inept as Mr Abbott was and as aloof as Mr Turnbull was, can we really imagine that either of them would completely abdicate national leadership and stand up and say, 'Ultimately, everything is a state matter'?

Despite the constant leaks from hotel quarantine sites, Mr Morrison's failed to build a national quarantine facility, forcing Queensland Premier Annastacia Palaszczuk to build her own. Despite promising that all Australians would be able to return from overseas for Christmas last year, the Prime Minister was still failing at the end of July this year, when there were still 38,000 Australians waiting to get back into the country. Despite section 51 of the Constitution explicitly stating that quarantine is a federal responsibility, Mr Morrison continues to do nothing to build a safe and secure facility for Australians.

I have to wonder what this national cabinet he talks about really is. If this were a man with a plan that we could trust for the country, surely he would have created a national cabinet with the leader of the government and the Leader of the Opposition. He would have encouraged premiers and leaders of the opposition to come to the table and work in the national interest. Yet he couldn't wait to establish a form of cabinet, a national cabinet, that's been critiqued as not being a cabinet and as not having its documents worthy of protection. This show of a select group of people across the country—not bipartisan—is just not delivering for the country.

Nowhere has Mr Morrison's failure been more absolute than in western New South Wales. The delta variant has ravaged Indigenous communities from Wilcannia to Walgett to Dubbo, and, tragically, last week it claimed its first Aboriginal victim. Last week, only 6.3 per cent of the Indigenous population in western New South Wales was vaccinated, despite repeated warnings to the government from me and Aboriginal health leaders. It's a long way from 6.3 per cent to the 70 and 80 per cent that this government keeps talking about. The Prime Minister's failure to secure an adequate supply of Pfizer for the disproportionately young Aboriginal populations of western New South Wales has condemned them to being locked down in their homes, or in isolation in tents, or to trying to find refuge in their own cars, separate from their family, while the deadly virus is alive and moving around their community. Mr Morrison's plan for Indigenous people was announced in March 2020. He announced that there were going to be vaccines. Here we are, in September 2021, with only 6.3 per cent of the Indigenous population of western New South Wales vaccinated. That's how useless Mr Morrison's plans are. The goal he articulates might be what Australians want to hear, but the man is incapable of delivering it.

Senator CHANDLER (Tasmania) (15:51): In rising to take note of answers provided by Minister Cash in question time today, there's one point that I want to start with. It's a point that I have made a number of times in this place, in contributing to debates such as this in this chamber, and that is that there is not a single nation in the world, and not a single government, that I think would claim to have made all the right decisions when dealing

with this pandemic and to have dealt with the situation absolutely superbly and perfectly. But what is important is that we learn about what works with this virus and what doesn't and that we adapt and move forward to counter the challenges that it poses to us. And we have learned, we are adapting and we are moving forward.

What doesn't do us any good during a pandemic, though, is partisan politicking, and, quite frankly, that is what we have seen here from the Labor Party today. They have not listened to the responses provided by ministers in this place. I've been here two years now and I've got used to that. They are not listening to what is being told to them in question time. They are manipulating the words of Senator Cash and turning them into something that, quite frankly, they were not. But should I be surprised? We tend to get that from them every day.

This pandemic is fast-moving and constantly evolving, and, like I said, no government has got it exactly right—or claims to have got it exactly right. It makes you ask: why is it that all Labor has to offer at this point is to go back in time to 12 months ago or 18 months ago, instead of working to ensure that everyone is on the same page and everyone is working to the national plan that was agreed by all states and territories at the national cabinet?

The coalition government is continuing with the critical work to get Australians vaccinated, keep us safe, get us back into work, keep the economy turning over, end the lockdowns and ensure that people can cross borders unrestricted. Millions of Australians are struggling with community lockdowns and border closures that prevent them from seeing their friends and their families, and it is just heartbreaking. I hear, each and every day, from people—whether they're in my home state of Tasmania or across the country—who are frustrated with the lockdowns. They are frustrated with the restrictions. They want to be able to see their family and their friends face to face, and, sadly, that is not possible at the moment. But that is why we have the national plan to get vaccination rates to 70 or 80 per cent. That will allow us to open up safely, get our kids back into school, get Australians back to work, get our economy moving again and give people the opportunity to reunite with their loved ones, who they haven't been able to see for so long.

The national plan shifts the focus from continued suppression of community transmission to post-vaccination settings focused on preventing serious illness and fatalities, where the public health management of COVID-19 becomes consistent with that of other infectious diseases. I think I said this close to 18 months ago in this place: we need to learn to live with the virus. We absolutely need to learn to live with the virus, and vaccinating Australians is a really key part of learning to live with the virus. Once we have Australians vaccinated, we will be able to get back to living our lives in a manner closer to what we all remember as being normal. Currently, over 19 million doses have been administered across the country, and, if we continue on the rates that we've been on, we should hit the 20 million mark by the end of the week. That is incredibly exciting. I'm also advised that 60 per cent of eligible Tasmanians are now protected with at least one dose, while more than 42 per cent are fully vaccinated. That is fantastic news for my home state of Tasmania and certainly a testament to the hard work of the state Liberal government, led by Peter Gutwein and supported by the Morrison Liberal team, in ensuring that we are rolling out the vaccination program locally.

Importantly, the government continues to make new arrangements and deals to secure additional doses for the nation so that we can continue with this rollout to ensure that we can get back to normal. Make no mistake: we as a government are doing everything in our power to expedite the vaccination program and progress the national plan so we can reach a point where extended lockdowns and border restrictions are a thing of the past.

Senator WALSH (Victoria) (15:56): [by video link] It was indeed very refreshing to hear a member of the government benches congratulate a Labor state premier for doing a good job in dealing with the pandemic. It was very refreshing to hear Senator Cash acknowledge Mr McGowan and his incredible hard work to keep the people of his home state of Western Australia safe. It was as refreshing as a cool change in a heatwave, because the members of this government have done nothing but pile heat onto Labor state premiers during this pandemic. They have done nothing but pile on to Labor state premiers and to the people that they represent. They have done nothing but pile on to Labor state premiers, who have been doing everything they can to keep Australians safe—making the tough decisions, making the difficult calls, making those calls to keep all of us safe.

Right now Victorians, who are locked down, can only imagine what our lives would be like if Mr Morrison had spent last year doing his job instead of attacking Victorians, instead of attacking our state premier, instead of attacking the measures that were put in place in Victoria to keep us all safe. Victorians know that we would not be in the situation of being locked down yet again if the Prime Minister had only done his two jobs—rolling out the vaccine and establishing federal, dedicated, open-air quarantine facilities. If only he had secured those vaccines for the start of this year instead of saying that it's how you end the race, at the end of the year, that matters. If only he had understood the whole time that it was always a race. If only he had fronted up to his two jobs, the two jobs that Australians needed him to do: the speedy rollout of vaccinations and purpose-built quarantine. If only the

Prime Minister had spent his time on that instead of spending his time attacking Victorians and funding Clive Palmer's attack on the WA government and its health response.

Instead, what we have seen from this Prime Minister is 18 months of avoiding responsibility, looking for others to blame, blaming states for lockdowns—lockdowns that were caused by his failure to build purpose-built quarantine facilities and his failure in relying on leaky hotel quarantine, hotels that were built for tourists, not to keep a virus from entering the community. If only the Prime Minister hadn't spent his time blaming the very people who really need to be vaccinated for not being able to access the vaccines! He has been blaming essential workers and Indigenous people for his failure to vaccinate those vulnerable populations.

Now, this week, the Prime Minister doesn't even try to hide his extreme aversion to taking responsibility in this crisis. He said this week that ultimately everything is a state matter. Well, we know what the Prime Minister's responsibilities are. We know who is ultimately responsible. We know who has ultimately failed on vaccines and on quarantine, and that is Prime Minister Morrison. He failed to heed the advice of his own health advisers and invest in fit-for-purpose quarantine facilities, instead claiming again and again and again that the hotel quarantine system was effective—that it was 99.9 per cent effective. Well, tell that to the 60 per cent of Australians who are locked down today. Tell that to the children who are missing school. Tell that to all of the people who have lost their jobs. Tell that to all of the people who are relying on disaster payments.

What Australians want from the Prime Minister right now is leadership. They want him to do his job. They want him to take responsibility. They want him to bring people together—not to divide us and shift blame but to take responsibility.

Question agreed to.

Climate Change

Senator HANSON-YOUNG (South Australia) (16:01): I move:

That the Senate take note of the answer given by the Minister for Finance (Senator Birmingham) to a question without notice she asked today relating to school chaplains.

My question to Senator Birmingham was in relation to the reports that there is a new push on inside the government to fund chaplains to deal with the concerns of the young people of Australia about climate change, sending a chaplain into every school to allay their fears in relation to the state of the planet, the environment and our climate. This is bonkers. This is crazy. You couldn't make this stuff up. Rather than dealing with the reality of climate change and what we have to do, which is reduce pollution, we've got Prime Minister Scott Morrison and members of his government wanting to send in the chaplains to tell the kids it's all going to be okay. The last thing we need is to send more chaplains into schools at a time when young people actually need the government to show leadership. The only people robbing young people of a future and hope in this country are the members of the Prime Minister's government, who continue to delay and deny the action needed on climate change, and their mates in the fossil fuel industry, who continue to want to pollute, putting their megaprofits ahead of the future of our planet and the future of our young people.

It is just unthinkable that this government, rather than doing what it is required to do, wants to blame young people's anxiety and concern about the state of our environment on climate activists and scientists. Is there anything that this Prime Minister won't try and shift the blame to? The Prime Minister is going to be sending delegates to Glasgow ahead of the world climate summit in November. How is this going to go down there? Are we going to send the chaplains to represent Australia at the global summit to allay the fears of the rest of the world's leaders and scientists that we have indeed hit code red when it comes to our climate? We need science-led solutions, not religious chaplains in schools.

Let me say that I know that young people in this country are finding it really tough. They are worried about their future. They are anxious about the state of the environment. They are worried about the stresses and the threats of COVID-19. The last thing we should be doing is palming off this concern to religious chaplains in schools. If we want to look after the mental health of our young people, we should be putting in qualified counsellors and social workers—people who will be there to listen to our young people, not to push religion and ideology.

This is just crazy stuff. You didn't think this government could get much worse! The Prime Minister can have whatever beliefs he wants, but to pretend that the genuine concerns of Australia's young people and children in relation to climate change are simply alarmist and are not based in reality is absolutely negligent. We need a government that is prepared to take climate change seriously—to reduce pollution, to commit to a proper target for 2030 at the global summit and to listen to the concerns of children and young people, as legitimate things to act on. The only things chaplains in schools should be doing is telling the young people of Australia to pray that their parents vote this mob out.

Question agreed to.

NOTICES

Presentation

Senator Siewert to move on the next day of sitting:

That the Senate—

- (a) notes that the Morrison Government has abandoned people in lockdown on income support payments; and
- (b) calls on the Government to re-instate the Coronavirus Supplement, to ensure people are supported to stay safe at home.

Senator Steele-John to move on the next day of sitting:

(1) That a select committee, to be known as the Select Committee on Young People, be established to inquire into and report upon:

- (a) the impact of the events of 2019-21 on the lives and wellbeing of young people across Australia;
- (b) specific issues affecting young people into the future, including (but not limited to):
 - (i) housing affordability and accessibility,
 - (ii) employment,
 - (iii) financial security,
 - (iv) higher education and training,
 - (v) mental health,
 - (vi) access to healthcare,
 - (vii) loneliness and isolation,
 - (viii) climate change,
 - (ix) bullying and harassment, and
 - (x) experience of First Nations youth, culturally and linguistically diverse youth, disabled youth, LGBTQIA+ youth, and young women;
- (c) the adequacy and effectiveness of government policy in relation to young people;
- (d) the social and economic costs associated with failing to sufficiently include and co-design policy affecting young people and their broader inclusion in decision-making; and
- (e) any other related matters.

(2) That the committee present its final report by 30 June 2022.

(3) That the committee consist of six senators, as follows:

- (a) two nominated by the Leader of the Government in the Senate;
- (b) two nominated by the Leader of the Opposition in the Senate;
- (c) Senator Steele-John; and
- (d) one nominated by minor party or independent senators.

(4) That:

- (a) participating members may be appointed to the committee on the nomination of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate or any minority party or independent senator;
- (b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee; and
- (c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.

(5) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.

(6) That Senator Steele-John be appointed as chair of the committee, and the committee elect as deputy chair a member nominated by the Leader of the Opposition in the Senate.

(7) That the deputy chair shall act as chair when the chair is absent from a meeting of the committee or the position of chair is temporarily vacant.

(8) That the chair, or the deputy chair when acting as chair, may appoint another member of the committee to act as chair during the temporary absence of both the chair and deputy chair at a meeting of the committee.

(9) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.

(10) That the committee have power to appoint subcommittees consisting of three or more of its members, and to refer to any such subcommittee any of the matters which the committee is empowered to consider.

(11) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.

(12) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.

(13) That the committee be empowered to print from day to day such papers and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Senator Ruston to move on the next day of sitting:

That—

(1) On Monday, 18 October 2021, the notices of motion proposing the disallowance of section 7 of the Australian Renewable Energy Agency (Implementing the Technology Investment Roadmap) Regulations 2021 be called on together following the placing of business, and the question be put after 30 minutes.

(2) On Tuesday, 19 October 2021, the notice of motion proposing the disallowance of the Aged Care Legislation Amendment (Serious Incident Response Scheme) Instrument 2021 be called on following the placing of business, and the question be put after 30 minutes.

Senator Waters to move on the next day of sitting:

That the following matter be referred to the Environment and Communications References Committee for inquiry and interim report by 30 November 2021, and a final report by the first sitting Tuesday in March 2022:

The future of the National Electricity Market, including any changes necessary to deliver a secure, reliable and least cost electricity system, and with particular reference to:

- (a) the post-2025 market design final advice of the Energy Security Board; and
- (b) any related matters.

BUSINESS

Consideration of Legislation

Senator RUSTON (South Australia—Minister for Families and Social Services, Minister for Women's Safety and Manager of Government Business in the Senate) (16:06): I move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

National Health Amendment (COVID-19) Bill 2021

National Redress Scheme for Institutional Child Sexual Abuse Amendment Bill 2021

Paid Parental Leave Amendment (COVID-19 Work Test) Bill 2021

Treasury Laws Amendment (2021 Measures No. 6) Bill 2021.

Question agreed to.

DOCUMENTS

Great Barrier Reef

Order for the Production of Documents

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:06): At the request of Senator Whish-Wilson, I move:

That there be laid on the table by the Minister representing the Minister for the Environment, by 9 am on Wednesday, 8 September 2021, all documents relating to the Environment Minister's travel to Europe in July 2021 for the purpose of meeting with UNESCO World Heritage Committee members to discuss the 'In Danger' listing of the Great Barrier Reef that contain the following details:

- (a) who the Minister met with, when, where, and any records from these meetings;
- (b) the full planned itinerary and any changes made to the itinerary during the travel;
- (c) all costs associated with the travel, including for any ministerial or departmental staff who accompanied the Minister; and
- (d) details of scientific advice provided by the Commonwealth Scientific and Industrial Research Organisation or any other relevant government agency on the health of the Great Barrier Reef in relation to preparation for the travel to Europe.

Notice of motion altered on 12 and 30 August 2021 pursuant to standing order 77

Question negatived.

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:07): by leave—Could I please have it recorded that the Greens supported our own motion?

The PRESIDENT: So recorded.

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (16:07): by leave—Could I have it recorded that Labor also supported that motion?

The PRESIDENT: So recorded.

BILLS

Aged Care Amendment (Registered Nurses Ensuring Quality Care) Bill 2021

First Reading

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:07): At the request of Senator Patrick, I move:

That the following bill be introduced: A Bill for an Act to amend the *Aged Care Act 1997*, and for related purposes.

Question agreed to.

Senator SIEWERT: I present the bill and move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:08): I move:

That this bill be now read a second time.

I seek leave to table an explanatory memorandum relating to the bill.

Leave granted.

Senator SIEWERT: I table an explanatory memorandum, and I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The speech read as follows—

Today I introduce the Aged Care Amendment (Registered Nurses Ensuring Quality Care) Bill 2021. This Bill will make it mandatory for aged care facilities to have at least one registered nurse on duty 24/7.

This is an important change to the *Aged Care Act 1997*. As we have seen from the Royal Commission into Aged Care Quality and Safety, there is a very real problem with the standard of care being provided to residents.

The Royal Commission made 148 recommendations with recommendation 86 recommending nursing homes to have a registered nurse in every aged care facility by 1 July 2024.

However, there is no reason to wait, for some residents experiencing low quality nursing care, it's just too far away.

Nursing home residents, their families, the aged care workforce, and the wider Australian community cannot wait any longer.

Currently, the average aged care resident receives only 36 minutes of care per day from a registered nurse. The Royal Commission recommended that at least 44 minutes per day of care being provided by a registered nurse.

A registered nurse onsite, every shift for 24 hours, can achieve this. Is it really too much to ask that our elderly, our parents and grandparents, have access to a registered nurse when and as they need?

Eight additional minutes will make all the difference to a resident with complex multiple care needs - dementia, mental health, chronic and acute conditions, disabilities and frailty.

The reality is, we are all aging and it is our right to age with dignity, respect and with access to the health services we may need.

We're living longer than ever before and it is highly likely that most of us will require some level of care being provided to support us - this could be via a fulltime live in nursing home or through flexible care.

Presently, many aged care facilities have favoured a model of care for residents based on costs and a business profit model. They have elected to put the responsibility of the provision of essential and personal health care on staff not adequately trained or experienced to provide these services.

The result is increased risk of adverse health outcomes for the resident, less preventative health intervention, which often leads to increased referrals to local hospitals for issues that a registered nurse is trained to resolve.

I've heard many stories of registered nurses leaving the sector due to the decision to reduce registered nurses in aged care facilities.

They talk of burnout, exhaustion, being worn out and disheartened at the impacts of reduced staffing and added burdens being placed on too few staff. This has been further exacerbated by dealing with and responding to the COVID-19 pandemic.

They talk about residents being treated as cattle in a production line, being forgotten and not getting the level of care expected at the end of their life. All too often, there is just not enough staff and appropriate skills mix to deliver the care that is required. This has dire consequences on residents, their family and staff, as we have witnessed from the Royal Commission report.

They talk about the increased use of unqualified staff with limited training and no nursing experience replacing the care, experience and training of nursing staff.

For nurses, who have devoted their lives to caring for others, it must be a heartbreak to see how aged care residents are treated and know that it doesn't need to be this way, if only there was a registered nurse present on every shift twenty four hours a day.

It is time we listened and addressed this avoidable and preventative situation.

Aged care residents deserve more than to be forgotten as they approach the end of their life. They deserve more than to be treated as a commodity for profit. They deserve to be cared for by registered nurses who will care and support them, keep them comfortable and let them enjoy the rest of their life comforted in knowing they have access to appropriate medically trained staff as and when they need.

Proper care for our elderly requires access to a registered nurse imbedded in their aged care facility - it really is that simple.

This will be achieved with my Bill.

I'd like to thank the Australian Nursing and Midwifery Federation for all their assistance with the Bill.

I commend the Bill to the Senate.

Senator SIEWERT: I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Commonwealth Electoral Amendment (Integrity of Elections) Bill 2021

First Reading

Senator DEAN SMITH (Western Australia—Government Whip in the Senate) (16:09): At the request of Senator Roberts, I move to introduce this bill. I do so to reflect the normal practice and the will of the chamber for the introduction of bills, which, through the limitations of remote participation, has been disrupted. I move:

That the following bill be introduced: A Bill for an Act to amend the *Commonwealth Electoral Act 1918*, and for related purposes.

Question agreed to.

Senator DEAN SMITH: I present the bill and move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator DEAN SMITH (Western Australia—Government Whip in the Senate) (16:09): I move:

That this bill be now read a second time.

I seek leave to table an explanatory memorandum relating to the bill.

Leave granted.

Senator DEAN SMITH: I table an explanatory memorandum and seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The speech read as follows—

The Commonwealth Electoral Amendment (Integrity of Elections) Bill 2021 amends the *Commonwealth Electoral Act 1918* to provide for the routine auditing of the electronic component of Australian federal elections and for the provision of voter identification.

This bill does not cover referendums.

The restrictions around COVID have people at boiling point. Small business closures, job losses, unaccountable bureaucrats and politics have reduced many people to desperation.

The next election will be a powder keg.

It is essential to ensure that, whatever the result, the public can accept it and move on. Suspicion of the outcome can be easily fuelled and turned into violence by those who seek to manipulate the result for their own ends.

It is essential that the level of trust in the result must be commensurate with the current heightened level of risk.

New South Wales and Western Australia have provisions in their electoral acts to audit state elections.

New South Wales conducts an audit before each election to ensure systems are fit for purpose and then audits again after each election to ensure integrity and to see what can be improved for next time. Western Australia audits after every election.

There is no audit function currently specified in the *Commonwealth Electoral Act 1918*. This bill creates a function for the Auditor-General to audit the operation of the AEC twice in each election cycle:

- a) in the lead up to the election; and
- b) from when polling opens to the declaration of the poll.

The audit provided for in this bill covers electronic measures, and tests whether the use of authorised technology produces the same result as would be obtained without the use of authorised technology.

Put simply this is asking the Auditor-General to ensure that the use of computerised voter rolls, tallying and preference allocations produced a result that accurately reflects the will of the people expressed in that election.

Secondly, this bill authorises the Australian Signals Directorate to audit and monitor computer systems for unauthorised access internally and externally. This is targeting both unauthorised access from within the system and unauthorised external access by malicious entities.

This bill does not specify what will be audited. The decision regarding the operation of the audit is best left to the agencies conducting the audit.

It should also be noted that this bill does not look backward to previous elections, but rather forward to ensure confidence in the next and subsequent elections.

The Auditor-General, through the Australian National Audit Office, has conducted an audit of the 2016 Federal Election, which is the last known election audit for which details have been published. A copy of that audit is available online.

The Australian Signals Directorate is currently conducting a cyber "uplift program" at the Australian Electoral Commission. While the program is most welcome, there is no basis in the *Commonwealth Electoral Act 1918* for that program. This bill brings legislation into line with current practice.

The *Commonwealth Electoral Act 1918* does not have audit provisions.

In February, I started asking questions of the Australian Electoral Commission regarding their audit function. To be honest, I expected to hear that auditing was under control given the reputation the Australian Electoral Commission has.

That's not what I found.

In May Senate estimates I asked the Australian Electoral Commission simple questions regarding their auditing. On no occasion then or since have these questions been answered:

- Who conducted the audit?
- When was the audit conducted?
- What was audited?
- What was the result?
- Have any changes been made as a result of the audit?

It is disturbing that such an audit could happen behind closed doors without direction or without structure. It is more disturbing still that this program has no legal basis in the *Commonwealth Electoral Act 1918*.

We should not have to rely on the admirable conscientiousness of the Australian Signals Directorate. We should be able to rely on the completeness of our legislation. It must be fixed.

Then I looked at other issues around election integrity. First up was a simple question: is the electronic data file containing each vote ever compared back to the paper ballot after the vote has been adjudicated?

That answer is no. At no time is the electronic record of a vote checked back against the paper ballot once the ballot is adjudicated. Some disputed votes are held back and adjudicated later in the counting process, then filed away. There is no routine check beyond that point unless an issue arises around the electronic record.

Failing to conduct a routine check of the electronic record back to the paper ballot after that ballot is adjudicated is not an acceptable practice.

My second question was on the accuracy of the voter rolls. The Australian Electoral Commission used to check the accuracy of their rolls by conducting residency checks.

Before this system was discontinued in 1995, those checks revealed a significant number of false registrations: people who had left the country, people who had died and people who had moved. Most of the incidences of multiple voting stem from voting in their old location and their new location: double voting.

The Commonwealth Electoral Amendment (Integrity of Elections) Bill 2021 tasks ANAO with conducting an audit of the electronic record, which includes the voter rolls.

Recommendation 21 of the Joint Standing Committee on Electoral Matters inquiry into the 2019 Federal Election called for voter identification to be introduced. This same finding was made in 2016 and 2013.

Schedule 2 of this bill is drafted to give effect to the committee recommendation as it relates to elections, but not referendums.

Recommendation 21 in part: "The Committee recommends that, as per its recommendation in the 2016 report, the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984* be amended to require that:

- Voters must present a form of acceptable identification to be issued with an ordinary pre-poll or election day vote. Authorised identification must be suitably broad so as to not actively prevent electors from casting an ordinary ballot. [...]" This bill allows a wide range of acceptable voter ID.

The AEC noted in their submission to the JSCEM inquiry that: "multiple voting is frequently the subject of media commentary and social media speculation. Such a degree of focus is entirely understandable: there can hardly be a more emblematic component of trust in electoral results than ensuring eligible voters only exercise the franchise [appropriately]."

The bill is drafted to add voter identification to the existing exchange that occurs with the voting officer at the time of voting, which asks if the person has voted already and so on. These provisions are re-stated in this bill for clarity.

The *Commonwealth Electoral Act (Integrity of Elections Bill) 2021* is about protecting confidence in our elections.

The cyber integrity of the election and the use of voter identification is integral to that confidence.

Senator DEAN SMITH: I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Customs Legislation Amendment (Commercial Greyhound Export and Import Prohibition) Bill 2021

First Reading

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:10): At the request of Senator Faruqi, I move:

That the following bill be introduced: A Bill for an Act to amend customs legislation to prohibit the exportation and importation of greyhounds for commercial purposes, and for related purposes.

Question agreed to.

Senator SIEWERT: I present the bill and move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:11): I move:

That this bill be now read a second time.

I seek leave to table an explanatory memorandum relating to the bill.

Leave granted.

Senator SIEWERT: I table an explanatory memorandum and I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The speech read as follows—

It is with hope, pride and passion that I introduce the Customs Legislation Amendment (Commercial Greyhound Export and Import Prohibition) Bill 2021.

The bill amends customs laws to prohibit the exportation and importation of greyhounds for breeding, racing or any other commercial purpose. This ban includes a ban on the export or import of greyhound reproductive material.

The Minister or an authorised person may grant permission for the export or import of domestic pet greyhounds. This is to allow for pet dogs to be brought in and out of the country. The Minister must be satisfied that the import or export is not for the purposes of breeding, racing or any other commercial purpose. Record-keeping requirements are built into the bill.

Export of Australian greyhounds for commercial purposes has long been rightly criticised for putting dogs at risk of cruelty, abuse and neglect overseas. It was the subject of a dedicated chapter in the scathing 2016 Special Commission of Inquiry into the Greyhound Racing Industry in New South Wales report, which led to the short-lived ban on greyhound racing in New South Wales after the inquiry revealed the brutality of this so-called sport which could not survive without the deaths of thousands of dogs. The Inquiry found "significant animal welfare concerns arising in connection with the export of greyhounds." An ABC 7:30 investigation with Animals Australia shed horrific light on the plight of greyhounds from Australia in Macau, Vietnam and across mainland China. It led Qantas to decide not to export any racing greyhounds to Asia.

But the practice goes on. Between January 2016 and 31 July this year, at least 1,313 greyhounds were exported overseas from Australia. Over the years there have been horrific stories, photos and videos emerging from destinations overseas where dogs are malnourished, kept in small spaces, mistreated and gotten rid of when they no longer turn a profit.

I should note that while the policy focus of the bill is clearly on prohibiting commercial greyhound export, it also contains a corresponding import ban to ensure the scheme does not risk contravening international trade rules to which Australia is a signatory.

At the moment, peak body Greyhounds Australasia (GA) operates a 'greyhound passport' scheme for export of greyhounds, and will not grant passports to greyhounds travelling to countries of concern, including China and Vietnam, where greyhound racing has flourished on the back of greyhound exports from Australia.

However, there are various significant loopholes. The 'passport' scheme has no statutory authority and greyhounds can be exported without a so-called passport, with the only 'punishment' for exporters resulting from contraventions of greyhound industry rules. In addition, greyhounds may be - and have been - exported to approved countries before being rerouted to countries of concern such as China.

Recent reports show greyhounds are being exported overseas without Greyhounds Australasia's approval, making a mockery of the so-called enforcement system. So far this year, Department of Agriculture statistics show us that 87 dogs have been exported to 31 July, including four dogs to China. Commercial exports to China have been banned for some years, but loopholes still allow dogs to end up in terrible conditions at race tracks in China and across the world. Greyhound Racing Victoria and other state authorities are reportedly currently investigating greyhounds being flown into the UK before being rerouted to China. In previous years, similar investigations took place into greyhound export to the United States, and ending up in China.

In light of the current investigation, Greyhound Racing Victoria has reportedly requested the Australian Government's assistance to put in place biosecurity requirements or national legislation that can prevent greyhound exports against the national rules, including via third countries. This will not stop the export of greyhounds for racing purposes, which is why our bill bans the export of greyhounds for commercial purposes entirely. Once greyhounds have left Australia, there's very little the Australian government can do to protect their welfare. Only a full commercial ban will overcome the relevant concerns, along with strict processes for those exporting domestic pets.

Some of you here might know that I have been passionate about this issue for many years. In 2017, when I was a state MP in NSW Parliament, I started a campaign of writing to major airlines to ask them to rule out transporting racing greyhounds internationally. I started this campaign after the show of cowardice by the NSW Liberal-National government and craven political opportunism of the NSW Labor party which led to the backflip on the ban on greyhound racing.

Many airlines responded to the 'Don't Fly With Me' campaign and were very happy to get on board. China Southern, China Eastern, Virgin, Qatar, Air China, Thai Airways, and many others acknowledged the cruelty inflicted on the dogs and wanted nothing to do with it.

It's time this parliament took the same approach.

Banning commercial greyhound export is supported by animal welfare groups including Humane Society International, RSPCA Australia, Animals Australia, the Coalition for the Protection of Greyhounds, and Free the Hounds. I want to thank those groups for their advocacy against the cruelty of greyhound racing and greyhound export.

This is a simple bill but one that I hope will do a great deal of good. Numbers of greyhounds being exported have slowed significantly in recent years, which has been welcome. The closure of the racetrack in Macau - which was called 'a death camp for dogs' and where tens of thousands of greyhounds - including from Australia, have been raced or killed over the last 50 years - has had a big impact. Hundreds of Australian greyhounds have been rescued since the closure of the Canidrome in 2018. Animal advocates, rescue groups and volunteers put their money, compassion and hard work into rescuing and rehabilitating the greyhounds callously discarded by the racing industry, here or overseas. We owe them our gratitude.

With the ongoing investigations into continued exports, we have to do the right thing and draw a line in the sand.

A ban on commercial greyhound export is long overdue.

Greyhound export might make a buck for the industry in Australia, but the welfare of the dogs is routinely sacrificed at the altar of profitability and gambling revenue.

No matter what the industry says, neither the welfare of the dogs, nor where they end up, can be guaranteed after they are exported. The only sensible and appropriate measure is to shut down the trade altogether.

More and more people in Australia see greyhound racing for what it is: gambling-fuelled animal cruelty. These beautiful dogs should be running for fun, not for their lives.

My loving and trusting ex-racing greyhound Cosmo, is a reminder to me every single day of the plight of hundreds of dogs enduring the cruelty of racing. I know I have no choice but to keep pushing to end this cruelty.

I hope you can all join me in taking one step in stopping animal deaths and cruelty.

I commend the bill to the Senate.

Senator SIEWERT: I seek leave to continue my remarks later.

Leave granted; debate adjourned.

MATTERS OF URGENCY**COVID-19: Indigenous Australians**

The PRESIDENT (16:11): I inform the Senate that I have received the following letter from Senator Lines:

Pursuant to standing order 75, I give notice that today I propose to move "That, in the opinion of the Senate, the following is a matter of urgency:

"The need for Morrison-Joyce Government to stop blaming First Nations Australians and instead take responsibility for its bungled vaccine rollout, the dangerous situation in Western New South Wales and its failure to prepare and protect First Nations communities across Australia from the spread of COVID, including a failure to properly communicate and ensure access to health facilities, food security, adequate housing and isolation places."

Is the proposal supported?

More than the number of senators required by the standing orders having risen in their places—

The PRESIDENT: I understand that informal arrangements have been made to allocate specific times to each of the speakers in today's debate. With the concurrence of the Senate, I shall ask the clerks to set the clock accordingly.

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (16:12): At the request of Senator Lines, I move:

That, in the opinion of the Senate, the following is a matter of urgency:

The need for Morrison-Joyce Government to stop blaming First Nations Australians and instead take responsibility for its bungled vaccine rollout, the dangerous situation in Western New South Wales and its failure to prepare and protect First Nations communities across Australia from the spread of COVID, including a failure to properly communicate and ensure access to health facilities, food security, adequate housing and isolation places.

Senator McCARTHY (Northern Territory—Deputy Opposition Whip in the Senate) (16:12): [by video link] In early March 2020 the Australian government convened the Aboriginal and Torres Strait Islander Advisory Group on COVID-19 to develop and deliver a national management plan to protect communities and save lives. The four-phase plan developed included: firstly, preparedness; secondly, developing advice on a range of actions to prevent sustained community transmission; thirdly, developing an effective response to outbreaks in communities, including the potential deployment of mobile respiratory clinics; and, fourthly, standdown and evaluation.

Lessons learned from this plan were to be incorporated into future national pandemic planning. In the event of positive coronavirus cases in remote communities, provision was made to evacuate early cases to enable an effective response and limit exposure to other community members. Work was done towards opening GP led respiratory clinics to provide advice and health care to people with mild to moderate COVID-19 symptoms, while reducing the pressure on hospitals and the risk of transmission by visits to regular GP clinics. The advisory group, which became known as the task force, agreed the preparation of culturally appropriate and consistent advice to First Nations health services and communities was a priority.

Obviously, at the start of the pandemic vaccines were pretty much over the horizon, so planning for the rollout wasn't included in the initial planning phase. But the point here is that there was a plan. There was clear communication about the threat of COVID to First Nations people. Communities locked down and took their own initiatives to restrict visitors. The community based and controlled First Nations media organisations rolled out some innovative and creative content to get the message out. The government backed them with a small amount of funding, but what they did with that money was remarkable. Some great ads promoting good hygiene were produced, and jingles and songs were written and broadcast, with community leaders and identities leading the way. They used social media, radio and local leaders to get the facts out and keep communities safe, informing people about the importance of washing hands, keeping 1.5 metres apart and keeping movement to a minimum, and developing new ways to observe cultural obligations like sorry business. The government backed First Nations communities and organisations to get the job done. Community controlled organisations worked together to inform people about the facts. And guess what: until a few days ago we had not lost one elder. Earlier this year, we were celebrating that. In contrast to Indigenous populations in other parts of the world, Australian First Nations people had escaped the pandemic relatively unscathed, with just 147 cases until the start of the year and no deaths.

With all the planning done nearly 18 months ago and with what we knew worked to keep First Nations people and communities safe, all we can ask now is: what the hell happened? Let me tell you: it's not First Nations organisations and people who have dropped the ball and it's not our community controlled health sector; it's not our First Nations media organisations and it's not our housing associations or land councils. They have continued to strongly advocate for the need for adequate vaccine supplies, for health workers to be ready on the ground, for

facilities to be set up for people who need to isolate, and for assistance and backing in countering the dangerous misinformation that's getting around.

The Morrison-Joyce government and its ministers keep falling back on the line of vaccine hesitancy. This is their attempt to abrogate all responsibility for the ongoing tragedy that's continuing in western New South Wales. What they say every time they blame vaccine hesitancy for the spiralling caseload is that it's blackfellas' fault for not getting the needle, for believing the stories that are out there and for putting themselves at risk. Well, guess what: I didn't hear them saying that every time a person in Bondi, Byron Bay or the Whitsundays got COVID. I didn't hear the Prime Minister, the health minister or even the Minister for Indigenous Australians saying that those wellness gurus in Byron just needed to overcome their gullible beliefs and their susceptibility to being conned by COVID deniers and just get vaccinated. I don't hear the Prime Minister taking action against members of his coalition who are out there peddling COVID misinformation, directly leading to all kinds of thoughts on vaccine hesitancy. The Morrison government's cowardice in refusing to take strong action against the dangerous lies being spread by their own people, in particular the member for Dawson, is reprehensible. They won't take action because they're too scared he will pack up his bag of conspiracy theories and leave the government facing a by-election. In the words of the Deputy Prime Minister, in an interview last month:

If you start prodding the bear, you're going to make the situation worse for us as a government, not better.

And, further:

I'll say that to my colleagues, I can assure you that when you've got a thin margin, don't start giving reasons for a by-election.

The Morrison-Joyce government are happy enough for one of their own to go around promoting vaccine hesitancy. If one First Nations person says they're concerned about getting the needle, because of the misinformation being spread, such as by the member for Dawson, then it's all about First Nations people being foolish enough to believe what is said. It's their fault for putting lives and communities at risk. That's what this government are saying. It's nothing to do with the failures of their own performance and nothing to do with the Prime Minister's failure to deliver on his promise to vaccinate 1b priority groups by winter. Today, on the first day of spring, less than 21 per cent of First Nations Australians have been fully vaccinated.

The Morrison-Joyce government have failed spectacularly to get messages out there countering the misinformation and directly targeting First Nations audiences. At the outset of the pandemic, Labor supported the government's move to fund community controlled First Nations media organisations to produce and broadcast their messages about staying safe. The funding—and it was only about \$230,000—supported local broadcasters to produce and broadcast health and safety materials to address local issues, concerns and misinformation. It also helped broadcasters engage the support of local elders and leaders to pass on the importance and the gravity of the COVID-19 pandemic. It worked. The media organisations developed those messages in their language. They were relevant to their audience and they resonated with the community. They weren't messages devised in a boardroom in Canberra or Sydney and farmed out to broadcasters that no-one understood or listened to.

We knew what works. We knew about the vital role that First Nations community controlled organisations have to play, but the Morrison-Joyce government didn't learn. It hasn't listened and it did not prioritise the health and safety of the vulnerable. Its priorities have been made very clear in this vaccine rollout. This government prioritises the implementation of the harmful and unproven cashless debit card over keeping First Nations communities safe from COVID. The proof's there. This government has translated material about the cashless debit card into 13 Northern Territory First Nations languages. There are ads spruiking the card on First Nations radio. In print there are ads and articles flogging the benefits of the cashless debit card. There are even items in local council newsletters urging people to sign up. Yet, nationally, radio ads about COVID have been translated into just six First Nations languages and only two here in the Northern Territory. There is a woeful lack of relevant community information. It is completely down to this government being totally unable to hear, consult and coordinate with local First Nations organisations.

Vaccine hesitancy is nothing more than a failure of this government to firmly counter misinformation and to implement a comprehensive communication strategy with First Nations communities in First Nations languages. It's shameful that the Morrison-Joyce government sees no issue with continuing to not listen, to not heed, to not plan and to not care for the most vulnerable Australians in this country: First Nations people, people with disability—those that it said it would have vaccinated by the winter. Prime Minister, you had two jobs, vaccination and quarantine, and you have failed.

Senator BRAGG (New South Wales) (16:22): I rise to address the Senate on this urgency motion. These are very serious matters, and I will seek to spare you the talking points as we try to address what is a serious and grave situation. I agree with Senator McCarthy: it's not appropriate to blame the people. This is not about blaming

any Australian. I don't think it's a good look for politicians to blame people, and I don't think that is what is happening.

The issues here are acute. They are happening in the west of my state, in towns that I've visited and spent quite a bit of time in, like Brewarrina, Bourke, Walgett and Coonamble. They are towns that do not have ritzy facilities. They have, in many cases, quite reasonable medical facilities that are run by passionate people at the AMSs. The whole point of this was to try to keep COVID infections out of these communities for obvious direct health reasons but also because the facilities in these places are not what you would find in Sydney. It would be the same in any Australian state. It doesn't matter who you are, the facilities are not as good in the bush, in most cases, and the sort of treatment that is required for people who contract COVID-19, when it is a serious case, would stretch a basic medical service very heavily. So the objective right now in western New South Wales—and I've spoken to some people that have been there in the past few days—is to try and manage the people who have COVID, as well as can be achieved in those locations. When that is beyond the capacity of medical institutions in those parts of the state, they are taken by the Royal Flying Doctor Service to Sydney or to a larger hospital.

The second part of the plan is, of course, to vaccinate people—to vaccinate all the people who live there, because that is the best protection. And what we are seeing across New South Wales is a real commitment to getting vaccinated. I think, today, we've hit 70 per cent for first doses in New South Wales, which is a real feat. I have spoken to people who are from Brewarrina. Their view is that in some ways we have been a victim of our own success and there's been a sense of complacency. There were AstraZeneca vaccines available in these towns, towns like Dubbo, from 25 March this year. They were available, and perhaps there wasn't a sense of urgency. Perhaps that's because the country had done very well. I would argue, given how many remote Indigenous communities there are in Australia, the country is still doing very well at keeping COVID-19 out of these communities. There is COVID-19 in western New South Wales; there is also COVID-19 in the town that I grew up in, in northern Victoria—in Shepparton. Those are two communities which are dealing with COVID, but there are many, many more remote communities that are not having to deal with COVID. That is one of the reasons that have been put to me that we have not had the level of vaccination take-up that we would have liked. As it stands today, about 35 per cent of Indigenous people have had a first dose. That is not high enough, and that is something that we need to turn around quickly, particularly if there are likely to be further outbreaks, which we want to prevent at all costs.

The other point to make is that, beyond the Royal Flying Doctor Service and the vax hubs that have been set up in these towns, there are the AUSMAT teams. These are Commonwealth government teams, aided by the ADF, and they are going round to people's houses, to their premises, and offering them a vaccination. If you are living in Walgett, which is a lovely little town, you can go along to the mass vax hub—which I'm told is at the local footy oval—or you can be visited by an AUSMAT team or an ADF team to receive a vaccination in your front yard or in your house. That is really now the focus.

Of course, having these communities in lockdown presents the same issues that people have to consider in urban areas. It's only that they are more pronounced, because the technology is not as good. I was talking this morning to another person familiar with the situation, who made the point that homeschooling there is very, very different. Homeschooling is difficult because there is a low level of good internet penetration and there is, of course, in many cases, a lack of technology resources in the form of computers and iPads and the like, which are required to do homeschooling. Anyone who has become familiar with this concept of homeschooling would know that, in public schools, it often does rely upon having some access to the internet and having some access to an iPad or some other sort of tablet in order to facilitate that.

The issues in that part of the state are acute from a health point of view and these very significant other consequences have arisen. Vaccinations are happening now in Dubbo. They're looking at basically 18 sites in the Dubbo LGA. They are providing about 7,000 doses a week, which is a lot of doses in a town like Dubbo. I'm not sure what the exact population is, but it would be around 40,000 or 50,000. I'm expecting to see the vaccination rate go very quickly from 34 per cent on average—and I'm not exactly sure if it's the same in western New South Wales—to the overall populationwide average, which in New South Wales is hitting 70 per cent. These are serious issues. The only way we can manage this is through putting in a lot of resources through the military, through AUSMAT and through the vax hubs and having the additional home support and care that is required in these areas.

I would argue that the objective of keeping COVID-19 out of Indigenous communities has overall largely been met. There has been a high degree of Indigenous input into the management of this pandemic. We have had, sadly, one Indigenous death, but overall it has been a strong performance. We are dealing with this outbreak in western New South Wales. It is in a number of very small towns. I emphasise again for the Senate that Brewarrina and Bourke are really small towns. They were never going to have the capacity to deal with these things on their

own. Now that there has been an outbreak we have moved resources into those places. My hope is that we can get on top of these outbreaks pretty quickly. We can't get on top of them without vaccinations, which is why Pfizer shots are now available there. In a bigger town like Dubbo, which has more resources, I'm sure it is a bit easier, but again we do need these shots to go into arms. We are expecting 6,850 doses a week in the Dubbo LGA. It's really important that those go in, because we don't want to lose any more people. Losing one person is more than we should have.

Senator THORPE (Victoria) (16:32): [by video link] We are all without exception affected by COVID-19 and we are all weathering the storm, but we are definitely not in the same boat. There are the haves and the have-nots. The ongoing impacts of colonisation, land dispossession and the theft of our children by the governments of this country mean that our people are already experiencing the worst impacts of an inequality that we did not create. We are not strangers to dealing with infectious diseases to which we have no immunity. When the pandemic hit we led the way in keeping our communities safe, but governments, both Labor and Liberal, sent us body bags before they sent PPE, assuming that we would fail.

Our people are always the ones hit the hardest. Our health, legal assistance and income support services were already under strain before the pandemic because of neglect by Labor and Liberal governments. Don't make out that you care when, when you are in government, you do exactly the opposite of what the people want. Our people were very clear at the start of the pandemic, and for decades before, that we demand homes for all, higher income-support payments so that our babies would not go hungry, the immediate and safe release of imprisoned First Nations people and more resourcing and public money for our health, social support, legal assistance and family violence prevention services. What did we get? We got what the old colonial system has always done to us. We were dismissed, ignored and not allowed self-determination to decide our own destiny as the First Peoples of these lands.

I want to pay my respects to my fellow First Nations senators who have spoken in support of this MPI, particularly Senator Dodson and Senator McCarthy. Too often our people get talked about or spoken for, but we don't get to speak for ourselves. When you've got to deal with black senators in 2021, times have changed, haven't they?

Our people know how to look after ourselves and each other, and we certainly know how to do it better than any Labor or Liberal government. How long have you fellas been here? Just 200 years. We've been doing this for thousands and thousands of generations. When decisions are in our hands, our solutions work and we take care of our communities. That's why we need treaties or a treaty. We are better off when we are free to make the choices that are best for us. But, today, Labor and Liberal governments around the country decide who gets to eat, who gets to be vaccinated and who gets access to a good hospital, based on the colour of your skin.

Our people and our cultures are strong and resilient, and, just like everyone else, we thrive when we can set our own course. We need your solidarity. Our people are dying and our babies are hungry because too many Labor and Liberal governments over decades have pushed— (*Time expired*)

Senator LINES (Western Australia—Deputy President and Chair of Committees) (16:36): I rise today to speak about the absolute catastrophe that is unfolding in First Nations communities in western New South Wales because of the spread of COVID into those vulnerable communities. It was completely avoidable, yet the Morrison government, the Minister for Indigenous Australians Mr Ken Wyatt, Senator Colbeck in this place and, indeed, the Prime Minister are trying to convince us that all is well. It is not well.

Today we have yet another letter from the Maari Ma Health Aboriginal Corporation, pleading with Mr Morrison to send assistance, to put in place specialist quarantine facilities and to help with the overcrowding—something that was foreseeable. This is not the first time this Aboriginal community controlled health organisation has written to the Prime Minister. They wrote to the Prime Minister 18 months ago to say, 'We need an urgent plan.' Senator Colbeck stood in this place today and said, 'Oh, it's all okay because we offered First Nations people vaccines as part of the 1B group.' That's all they did! We've heard about communication failures, vaccine hesitancy and proselytising by religious groups, and all the while the Morrison government is trying to pretend that everything is hunky-dory. Well, it isn't. The Maari Ma corporation know what's going on. They're on the ground in western New South Wales.

We have put this government on notice. Earlier in the week Senator Dodson and I wrote an urgent letter to Minister Wyatt to ask, 'What are you doing about contingency planning in Western Australia?' Many of our remote communities are on the border with South Australia and the Northern Territory, so it's not rocket science to imagine that the disease can spread fairly quickly from western New South Wales into Western Australia. Indeed, we had two truck drivers cross the Nullarbor last Friday who turned out to be COVID positive. That's how quickly it spreads. Yet there's no plan, there's nothing, in place to protect remote communities anywhere in this

country. And we've now got the shocking statistic of a man who has passed away in western New South Wales. The responsibility for that rests fairly at the feet of the Morrison government. They're in control of the vaccine rollout and they are in control of quarantine, and they have failed at both of those jobs.

They failed at communication with First Nations communities. They sent white nurses into communities in Western Australia completely unannounced—and they wonder why we've got vaccine hesitancy. It takes communication, it takes elders and it takes cultural leaders to get communities vaccinated. It takes taking the vaccine out. There was the response earlier in the week that pharmacies are now able to give the vaccine. Where do they think the pharmacies are in the remote Kimberley and Pilbara regions in Western Australia? What a joke! It shows you just how out of touch the government are and how they don't really care about what is going on. Western New South Wales is a 'catastrophe'. They are the words being used by the Maari Ma Health corporation. It was absolutely avoidable, and the responsibility sits fairly and squarely with Mr Morrison.

There's time to fix things. There's time to protect other communities. But it needs you to sit down with, listen to and engage with Aboriginal community leaders. Just making vaccines available as part of the 1b group—tick, done—is not good enough. In many of those communities, English is the third or fourth language that is spoken. And what are we doing with our communication? Nothing. In fact, when we met with General Frewen a couple of weeks ago he admitted to us that they hadn't got the communication right. We're 18 months in and we're making fundamental errors like that. We have an uncaring government. The public will judge you. We are watching, and you'd better get to work right now, urgently, and fix the mess that you've created.

Senator DAVEY (New South Wales—Nationals Whip in the Senate) (16:42): I am bitterly, bitterly disappointed by the actions of Labor today in politicising a family's grief, politicising a community's angst and prioritising blame over solutions—which is exactly what they have accused us of doing, but this is what they are doing. I want to put some of the issues raised today in a bit of perspective, including this idea that once delta reached our shores it was still entirely possible to keep it out of our communities. As Senator Lines just said, there was a case of a truck driver, an essential worker with all the right permits, who travelled to Western Australia and, yes, it was then discovered he had COVID.

I want to commend all of the businesses, all of the roadhouses and all of the family businesses across the nation who have in place their COVID-safe plans, because the truth is that the delta variant is causing significant concern right across the world. No country has managed to contain a significant delta outbreak. In fact, we saw in the UK that, even though they had record high vaccination rates, when delta hit their shores, they went back into various stages of restrictions and lockdowns to try and deal with it. It is undeniable that the infectious nature of the delta variant is a significant factor in the situation we're seeing before us not only in regional New South Wales but also in regional Victoria and in Sydney and Melbourne.

I'm not for a moment trying to deny the problems faced by the people of Wilcannia and other communities. But we have been working and will continue to work with our Indigenous communities to find solutions. In fact, in March last year, in the very early stages of the pandemic and before any lockdown, we set up the Aboriginal and Torres Strait Islander Advisory Group, with Indigenous peoples, because—as is quite rightly said to us all the time—'Don't be the white people telling the Indigenous people what to do; listen to the Indigenous people.' And that's what our government has sought to do.

In late March last year that advisory group had developed a management plan. Indeed, the Maari Ma clinic, which Senator Lines was talking about, from May last year were a recognised GP respiratory clinic doing great work with their people in Wilcannia. From March this year they have transitioned to being a Commonwealth vaccination centre, giving out the AstraZeneca vaccine, and from June this year they've been able to give the Pfizer vaccine. I thank them for what they're doing in their community for their people. But we are also doing other things, because it is not a simple solution. In dealing with COVID there is not a simple solution. We need to take a holistic approach.

I'd like to address some of the other outlandish suggestions by those opposite. I want to draw to Senator Lines's attention and to Labor's attention comments by the first assistant secretary of the vaccine task force during his presentation to the Senate Select Committee on COVID-19 on 23 July this year, in response to questions that I asked—because I have been asking, through that committee, ever since its establishment: 'Are we rolling out vaccines in regional areas? Are we looking after our Indigenous people?' I've been asking those questions—more so than those opposite. The answer I got was that every aspect of the COVID-19 response and vaccine rollout has been done in partnership with the Aboriginal health sector. But don't just take my word for it. Let's look at the—

Senator McAllister interjecting—

Senator DAVEY: Working with them, thank you, Senator McAllister. We did; we worked with them. We asked them. But let's look at the figures. In Australia, over 200,000 Indigenous Australians have now had their

first dose. Over 108,000 are now fully vaccinated, which is over 20 per cent of the Indigenous population. Is that the same rate as that of the rest of the nation? No. But it is certainly a lot further than those opposite would have you believe. In relation to western New South Wales, an additional 600 doses of Pfizer have been reallocated to the Dubbo Shire, and an additional 600 doses have been reallocated to the Dubbo Regional Aboriginal Health Service. More broadly, our government is working with 2,645 primary care sites in regional Australia, including over 1,500 general practitioners, nearly 1,000 community pharmacies and 27 Aboriginal controlled healthcare providers, and, of course, our wonderful Royal Flying Doctor Service have set up 182 flying doctor service sites.

While I'm talking about the flying doctors—because they are one of my favourite organisations—it may be pertinent to repeat an anecdote that was provided by Minister David Gillespie during question time today. He told the story of RFDS nurse Kellyann Johnson, an Aboriginal woman with family from Jervis Bay, who is now with the flying doctors, providing vaccinations to residents in Wreck Bay, another Commonwealth territory. Yesterday Kellyann vaccinated both the youngest and the oldest Aboriginal resident in that population 'and everywhere in between,' she says. Kellyann has been a real inspiration to her community and, following her community engagement, is considered a local hero. As one Indigenous leader said, 'Some of the kids now want to be RFDS nurses.' I would strongly encourage them to follow that gallant career path.

So I want to thank not only Kellyann but all of our flying doctor nurses, and the doctors, and the pilots who facilitate getting them out there, and their logistics crew and ground crew. Thank you for the work you've been doing—because they have not just been vaccinating. They have also been providing medical evacuations. They've been providing the personal protective equipment deliveries into our regional and remote communities—and they are the ones who are going into the Kimberley and the Pilbara—that Senator Lines thinks our government was giving to community pharmacies. We know our geography. We know regional Australia, and we know how to service them.

Back to western New South Wales: following the current outbreak that leaked out of Sydney, there are currently 690 cases, and, yes, it is very sad that there has now been a death. An Aboriginal man in his early 50s, who was positive to COVID, has passed away, and my condolences go to his family, and I apologise that this place has chosen to take advantage of your grief for cheap political shots.

In western New South Wales, we have a multi-agency, multigovernment approach to vaccinating our regional and remote population. We are currently working with the state government and the Aboriginal health services. We've got over 100 Australian Defence Force personnel deployed. We're using the Royal Flying Doctor Service. We're using the on-the-ground GPs and pharmacists, who people trust and know and feel confident to go to. I am receiving feedback from those in these areas about how relieved they are to see these people and to hear the messages.

And yes, it is true: communications—we have been rolling out communications. But have we always got the message right? Not necessarily. But I thank the elders that have stepped up to encourage their communities. I thank Riverbank Frank and I thank the other Aboriginal elders who are strongly advocating amongst their populations for people to roll up their sleeves. And I implore Labor to come back to the bipartisan position we had. (*Time expired*)

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:52): I rise to make a contribution to the debate on this motion about:

The need for Morrison-Joyce Government to stop blaming First Nations Australians and instead take responsibility for its bungled vaccine rollout, the dangerous situation in Western New South Wales and its failure to prepare and protect First Nations communities across Australia from the spread of COVID, including a failure to properly communicate and ensure access to health facilities, food security, adequate housing and isolation places.

I read that out specifically because this is also about years and years and years of neglect of First Nations communities, to the point where the government knew that First Nations communities were highly at risk from COVID; they knew that at the beginning of the pandemic. They knew it when they set the plan for the vaccination rollout, which is why First Nations peoples are in 1a and 1b—importantly, to make sure First Nations people got vaccinated early on. And yet here we are, with exactly what was feared and what Maari Ma warned the government about.

But the government knew, because they've known for years and years and years about this—not just in western New South Wales, but in my home state of Western Australia and in the Northern Territory and in South Australia. And I'm sure it's the same situation in Victoria and Tasmania. They knew this. They knew that our First Nations communities have a significant gap in life expectancy and a much higher burden of chronic disease than any other community in this country. And yet the stroll-out didn't even bother to really prioritise First Nations communities—the same as they didn't prioritise people in residential aged care and aged-care workers and disabled people. In New South Wales, the data shows a huge gap between First Nations and non-First-Nations

vaccination rates in every region in the state. Why has it taken so long for the government not only to release this data but also to get these vaccinations into people's arms and to deal with the conditions that would lead to the situation that we find ourselves in now?

This situation is unacceptable, and don't blame delta. Don't blame delta for this. We knew with alpha that, if it got into communities, it would significantly impact on those communities. And don't say that we are taking advantage of this to push this point, because this is life and death for people, so of course we're going to raise it. Of course we're going to raise the point in this chamber that vaccinations are not getting in the arms of First Nations peoples and that they have been let down massively.

Senator McMAHON (Northern Territory) (16:55): [by video link] The first thing that I would like to do in speaking on this matter of urgency is to say that I absolutely reject the premise of this. It talks about the need for the Morrison-Joyce government to stop blaming First Nations Australians and instead take responsibility for their bungled vaccine rollout. I reject all of that comment, all of that sentence. Who has said that anyone is blaming First Nations Australians—or anyone else for that matter? And why do those opposite constantly have to find blame? We talk about how we're all in this together and we're all working together and we should have a bipartisan approach, yet those opposite continually politicise this issue and continually want to apportion blame to someone. I haven't heard anyone in this government blaming First Nations Australians, yet we're accused of doing that here, and I absolutely reject that. We're not blaming anyone, yet that's what those on the other side continually seek to claim. Why does there have to be someone to blame? Can they not just join with this government in getting on with the job?

Secondly, the government should take responsibility for its bungled vaccine rollout: there has been nothing bungled about this vaccine rollout at all. Yes, there have been aspects of it that may have been less than desirable, where things haven't worked out as planned, but it hasn't been bungled. Things happen. This is an absolutely unprecedented situation. We're being asked to do something that we as a nation—and we as a world—have never, ever attempted to do previously, so not everything is going to go absolutely according to plan all of the time, but that does not mean that the job is bungled. This government has been exceptionally good at dealing with it and dealing with everything that has been thrown our way. Many things have changed; this is a dynamic situation, and we have dealt with everything that has come our way and we've dealt with it practically and efficiently.

The governments that are actually responsible, as those on the opposite side say, for getting jabs into arms are the states and territories. They've decided that they want to be responsible for health and for the vaccine rollout, and that's fine. They probably should be. They know their communities. Particularly with regard to Indigenous communities, they know those communities, certainly better than the federal government does, so it's appropriate that they should be in charge. Yet we hear, for example, that in the Northern Territory there are some fairly poor results with regard to Indigenous communities. In Utopia, one community in Central Australia, at the clinic there, approximately 10 out of 700 residents have been vaccinated. At Kintore, another remote Indigenous community in Central Australia, it's reported one in 400 people consented to be vaccinated when a team went out there with enough vaccine to vaccinate that whole community of over 400 people.

This failure absolutely has to fall at the feet of the Northern Territory government. Again, I'm not laying any blame, but if they are incapable of doing this rollout then they need to ask for help. We are certainly here and prepared to help and to provide resources and funds where they are needed, but the Northern Territory government are very much in charge of this rollout in Indigenous communities in the Northern Territory. They need to admit that they are not capable of doing this effectively, and they need to ask for help where they are failing in their task of rolling out the vaccine to remote Indigenous Territorians. Come forward, say you're not doing the job—*(Time expired)*

Senator DODSON (Western Australia) (17:01): [by video link] Technology is a wonderful thing—I'm coming to you from Broome. This MPI wouldn't be on our agenda except that, in the other place yesterday afternoon, the Minister for Indigenous Australians was blaming hesitancy amongst First Nations people for the dreadfully low rates of vaccination against COVID. 'Hesitancy is an issue that has to be overcome, and we still have a lot of work to do,' is what the minister said. But why is it that in September 2021 this government thinks that having a lot to do is news in this particular space? There is only one answer to that. It's because this government has been scandalously and callously negligent.

At the very start of its rollout program, the government identified First Nations peoples as the No. 1 priority, the group to be focused upon and prepared for the virus when it arrived. The extent to which hesitancy amongst First Nations people is an issue is not their fault; the government's bungled and inadequate messaging is the cause of that. And then there's the impact of wrongheaded evangelists and tin-pot religious elements that are said to be spreading propaganda to create fear about the vaccine amongst the remote and susceptible communities. These are no more than wolves in sheep's clothing—that is the way I see them. What is the government doing to fix this

hesitancy and misinformation? Well, the minister gave us no comfort yesterday. If the government has a plan to avert whatever hesitancy there is, then the minister told us nothing about it. This government is more concerned, it seems to me, with punishing people than with managing the lives of First Nations people and getting them the vaccine that's necessary to avoid COVID.

We know COVID is raging in First Nations communities in western New South Wales, and my awful fear is that it is only a matter of time before communities elsewhere are overwhelmed. We've heard why the connection between east and west happens. What is happening in New South Wales is tragic enough, but if this scourge ever gets into remote Australia the impact will be catastrophic. My own state of Western Australia has a hard border. But, apart from occasional spot checks, the policing of that border is confined to the main access points, like the highways and airports. The border means very little to those in Aboriginal communities, who regularly travel for family or cultural businesses from the APY Lands of South Australia and the Northern Territory into Western Australia and vice versa. I know that the COVID-19 Vaccine Commander of Western Australia has sought assistance from the Morrison government for the Defence Force to help out in these remote reaches, but, as far as I know, there has been no ADF assistance provided from the Commonwealth government.

These are times that really call for leadership and vision. Leadership from the top of the Commonwealth government is needed, informed by a clear-sighted vision. We've heard Senator Siewert talk about the awful conditions, well known in this country, that prevail in the social-indicator areas that affect First Nations peoples. This calls for urgency, communication, organisation and action. We wouldn't be in this mess if the government had done their job and fulfilled their obligations to protect First Nations peoples. Lives are at stake, and the government shouldn't hide behind NACCHO and the peak organisations. Time's up—government, get out there and do your job!

Senator FARUQI (New South Wales) (17:06): [by video link] I couldn't agree more that this is a matter of extreme urgency. It calls on the Morrison-Joyce government to take responsibility for the dangerous situation in western New South Wales. Why was this government sitting on its hands and sitting on data that clearly showed vaccination rates in First Nations communities in western New South Wales were desperately low? Why did you not do something sooner? Because you just don't care.

There's such a severe lack of adequate housing in Wilcannia that people are having to isolate themselves in tents because their homes are overcrowded. Locals have said that the food being delivered is sometimes out of date and nutritionally poor. These failures and the utter disregard for First Nations communities are not new. They have been targeted systematically since the start of colonisation, and the pandemic has changed nothing.

According to the government's own vaccination plan, First Nations individuals were either in phase 1a or 1b. They should have been vaccinated by now. The government has no-one to blame but themselves. Scott Morrison's government was told clearly that, were the virus to enter a First Nations community, there would be devastating results, given the abysmal rollout of vaccinations, the food insecurity, and the lack of adequate housing and appropriate health services. A loud and clear alarm was sounded at the very beginning of this pandemic. The Maari Ma Health Aboriginal Corporation wrote to Minister Wyatt 18 months ago. The letter outlined grave fears for Wilcannia if COVID was spread to the at-risk population there. It said

Warnings from around the world are clear: the earlier we prepare and act, the better the outcomes will be. We cannot wait until the first case turns up in the community ...

And here we are now: not just the first case, but with a large percentage of people and children infected—and, sadly, a First Nations man has died of COVID-19.

The crisis unfolding in Wilcannia is not mere incompetence. It is a complete disgrace. The equally incompetent New South Wales health minister Brad Hazzard has bounced the responsibility off to the federal government. Mr Hazzard had the audacity to say that he had 'many friends who are Aboriginal in north-west and western NSW', and that he was 'quite frustrated'. Everyone knows Mr Hazzard can be very vocal about his frustrations when it suits him, so why was he so quiet about this one? Why didn't he turn his frustration into action? The federal and New South Wales governments have completely failed First Nations communities in western New South Wales. Wake up! First Nations people know what is best for their communities. Listen to them, and do what they are asking you to do.

Senator SHELDON (New South Wales) (17:09): [by video link] In my state of New South Wales, we are now seeing the tragic consequences of Mr Morrison's lack of urgency on vaccines, on quarantine and on protecting First Nations communities. We have seen the first death of an Indigenous person in the pandemic—a man in his 50s in Dubbo. Nowhere in New South Wales has a higher rate of infection than that of Wilcannia, where more than 10 per cent of the mostly Indigenous local community have contracted the virus.

Mr Morrison was warned about the potential for a COVID crisis in Wilcannia 18 months ago. In March 2020, the Maari Ma Health Aboriginal Corporation wrote to the Morrison government. That letter said:

We cannot wait until the first case turns up in the community, or worse, the first hospital case presents.

The poverty and extreme vulnerability of Aboriginal people and communities in the Murdi Paaki region is a direct result of decades of failed government policies.

The letter went on to say:

I'm sure you can understand our anxiety that these failures not continue, or worsen, throughout the COVID-19 crisis.

That was in March of last year. As of yesterday, there were 73 cases in Wilcannia, which has a population of just 745 people. The worst fears expressed by Maari Ma 18 months ago have, tragically, been realised. In a separate letter sent to the Prime Minister just last week, Maari Ma said,:

Disappointingly, no tangible plan was in place prior to this outbreak that could have been easily implemented.

As a result, we've been playing catch up from day one.

Our systems and services are ill-prepared, actions are too slow to be implemented, our responses have been substandard, existing resources and expertise is not sufficient.

It's clear, based on these comments, that there has been an utter failure of preparing and planning by the Morrison government.

Dr Peter Malouf from the Aboriginal Health and Medical Research Council of New South Wales said yesterday:

Our community-controlled health services in those areas certainly expressed to government 18 months ago about preparedness and investing in resources in those communities.

But those requests had obviously been silenced by both the commonwealth and NSW governments, and now we're seeing these high numbers of cases.

He went on to say:

It's just horrible.

While Mr Morrison is doing the rounds in the media talking about a 'national plan', it's worth remembering that, under Mr Morrison's earlier plan—his vaccination plan—First Nations people were part of phase 1b of the rollout and were supposed to be fully vaccinated by this winter. Winter has come and gone. Spring is here, and just 12.5 per cent of Indigenous people in New South Wales are fully vaccinated. So not only has Mr Morrison not heeded the warnings of Maari Ma and other groups and not only was there no plan in place to prevent the outbreak in far western New South Wales but he has also failed to hold up his own vaccination plan.

I want to contrast that with the inspirational leadership you're seeing from those in the local community. Last night, NITV shone a spotlight on Leroy Johnson and Warlpa Thompson, who are making five-hour round trips to hunt kangaroo meat in the Mutawintji National Park, which Mr Johnson manages, and deliver it to Wilcannia to prevent the local community going hungry. They call this 'Operation Deliver-roo'. If only the big platform Deliveroo had a sliver of the integrity and community spirit that you have shown. I commend Mr Johnson and Mr Thompson and those who are supporting their efforts, including the CEO of Barkandji Native Title, Derek Hardman, Barkandji elder Robert Kennedy and local broadcaster Brendon Adams for stepping up and demonstrating some sorely needed leadership during this outbreak. I hope the Prime Minister is taking notes.

Quite clearly the government does not know how to represent and support regional Australia, and quite clearly the concerns raised by this community are a rallying call for the government to get its act together— (*Time expired*)

The PRESIDENT: The question is that the urgency motion be agreed to.

The Senate divided. [17:18]

(The President—Senator Ryan)

Ayes12
Noes13
Majority.....1

AYES

Brown, CL
Hanson-Young, SC
Lines, S
O'Neill, D
Pratt, LC
Urquhart, AE (teller)

Carr, KJ
Keneally, KK
McAllister, J
Polley, H
Siewert, R
Watt, M

NOES

Canavan, MJ
Colbeck, R
Hume, J
Reynolds, L
Ryan, SM
Seselja, Z
Smith, DA

Chandler, C
Davey, P (teller)
McKenzie, B
Ruston, A
Scarr, P
Small, B

Question negatived.

NOTICES

Postponement

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:22): I seek leave to postpone business of the Senate notice of motion No. 1 standing in the name of Senator Whish-Wilson for today, proposing a reference to the Environment and Communications References Committee, till the first day in the next period of sittings, 18 October 2021.

Leave granted.

DOCUMENTS

Consideration

The government documents tabled today were called on but no motion was moved.

COMMITTEES

Scrutiny of Bills Committee

Scrutiny Digest

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (17:21): On behalf of the Chair of the Standing Committee for the Scrutiny of Bills, Senator Polley, I present *Scrutiny Digest 14 of 2021*.

Temporary Migration Select Committee

Report

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (17:21): On behalf of the Select Committee on Temporary Migration, I present the final report of the committee, together with accompanying documents. I move:

That the Senate take note of the report.

I understand that Senator Ciccone wants to speak to that report.

Senator CICCONE (Victoria—Deputy Opposition Whip in the Senate) (17:22): [by video link] As the Chair of the Select Committee on Temporary Migration, it is my pleasure to speak to the report on the occasion of its tabling today. The Select Committee on Temporary Migration was established by the Senate on 5 December 2019. Its mandate was to inquire into and report on the impact temporary migration has on the Australian economy and on wages and jobs, social cohesion, and workplace rights and conditions.

With international borders closed, COVID-19 has exposed the dependency of our economy on temporary migration. Prior to the global pandemic, Australia was home to the second-largest temporary migrant workforce in the OECD. There was significant and growing evidence of exploitation and wage theft in sectors with high levels of temporary migrant workers. This exploitation was facilitated by the vulnerability of their temporary status, the lack of workplace protections and their inability to assert their workplace rights. Over the course of the past two years, the committee has received 131 submissions from individuals, community groups, peak bodies, businesses, unions and a myriad of other stakeholders. In these submissions, the committee heard from those with all manner of life experience, but there is one story that rings true through almost every one of them, and that is the story of a broken system which is failing to deliver for those that need it to.

Over the course of the past two years, we've heard of temporary visa worker exploitation, of wage theft and of physical abuse and sexual abuse. We've heard of visa processing times stretching not just into the months but into the years and of a systemic lack of communication from the Department of Home Affairs to visa applicants. We've heard of farmers who are struggling to access the labour that they need to meet their demands in harvest periods and of their frustration at navigating visa programs and the bureaucracy surrounding Australia's various

labour schemes. We've heard from communities suffering from the social effects of transient workforces, desperate to offer temporary migrants permanent opportunities to settle but unable to do so, an all too common tale in regional areas. These voices, heard throughout the 131 submissions and 10 individual hearings over the past two years, have told us that Australia's temporary migration program and its migration program more generally are in desperate need of reform. These voices deserve to be heard, and it is in this report that we seek not just to tell the stories of those behind the voices but also to offer positive solutions to that which ails them and the nation at large.

Informed by expert testimony and firsthand accounts from witnesses, the recommendations contained in this report, all told coming to 40 in number, offer a bold yet sensible vision for the future of Australia's migration program. Part of that vision is for a comprehensive review of Australia's visa system to be undertaken by the government, with the objective of achieving greater simplification and improving usability. Time and time again the committee heard in submissions and testimony of the complex nature of our visa system—subclasses upon subclasses and endless mountains of paperwork. It was this theme of complexity that the committee encountered repeatedly in evidence that was received—complexity for visa applicants, for employer participants of the Seasonal Worker Program and the Pacific Labour Scheme, and for those who suffered wrong getting the help they need and the justice they deserve.

I am pleased to say that the report includes recommendations to address all of these matters. Further, the committee recommends that more resources be provided to our hardworking public servants in the Department of Home Affairs to give them what they need to improve assessment times and communication with applicants. Under the visa system envisaged by this report, applying for a visa would be straightforward and assessments would be conducted in a timely and transparent manner.

Skill shortages, where they may be suspected of occurring, will be assessed and declared by an independent body incorporating the voices of government, industry and unions. Australians will always have the first opportunity to fill job openings—as they should—through a refocusing of our migration on permanency. Those who do come here for work will have the ability to stay and to contribute should they wish to. As the pandemic has shown us, Australia's reliance on millions of guest workers is no longer sustainable, not that it ever was. Gone is the '88 days a slave' requirement of the Working Holiday Maker program. Farmers who need labour, where the labour cannot be sourced domestically, can access this through the Seasonal Worker Program or the Pacific Labour Scheme. These are workers who we know are more productive and are afforded more protections from those who do the wrong thing. Should these recommendations be adopted as I hope they will, if found to be exploiting workers those dodgy operators and hire companies not only will have a revamped and empowered Fair Work inspectorate holding them to account but also will be prohibited from employing temporary visa workers into the future.

Those who spoke to our committee told us that they were fed up with report after report, bandaid solutions and a lack of systemic improvement. These recommendations are that systemic improvement. They constitute a suite of solutions to persistent problems that will improve the temporary migration program and make it work for Australia. Migration is a key economic lever that can help the Australian economy, and if we get the migration settings right we can encourage economic growth and ensure that no Australian worker is left behind. Temporary migration has a very important role to play in areas where we cannot skill up Aussies quickly enough to meet demand. That is why we need to reset our migration program to meet the unprecedented economic challenges that we are currently facing.

Australia is a nation built by migrants just like my parents, who came here from Italy. We can remain the successful multicultural nation that we are, but only if we use migration to assist Australia's economic recovery and enable migrants to have a pathway to permanency. That is important.

I'm disappointed that as a result of the pandemic we as a committee didn't get to visit all the places in Australia that we hoped to. While we were fortunate to hold a number of hearings outside of Canberra, I would have liked to have spent more time in regional Australia, speaking to locals in their communities. Nonetheless, I sincerely thank those who made the effort to dial into our hearings to provide their testimony to us, as I thank all those who made contributions to the committee either in person or in written form.

I'd like to place on the record my thanks to fellow committee members Deputy Chair Senator Chandler and Senator Walsh. Throughout the course of our inquiry, proceedings of the committee were conducted in a very cooperative manner. Lastly, thanks must also go to the secretariat, without whom this report would not have been delivered, and to Bastian, in my office, for his advice.

To the government: I hope that you recognise the value of this report and consider it seriously, with all the recommendations contained within it. These recommendations represent a balanced assessment of the needs of

our community. Our migration program and the temporary migrants specifically are important to our community and our economy, and it is time that we all worked together to make sure that this program is everything it needs to be to guarantee our nation's future prosperity. I commend the report to the chamber.

Senator KIM CARR (Victoria) (17:30): I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Public Accounts and Audit Committee

Treaties Committee

Report

Senator DAVEY (New South Wales—Nationals Whip in the Senate) (17:31): I present reports on behalf of the Joint Committee of Public Accounts and Audit and the Joint Standing Committee on Treaties, as listed at item 16 on today's *Order of Business*, and I move:

That the Senate take note of the reports.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Public Accounts and Audit Committee

Executive Minutes

Senator DAVEY (New South Wales—Nationals Whip in the Senate) (17:31): I present executive minute responses in relation to various reports of the Joint Community of Public Accounts and Audit.

DOCUMENTS

COVID-19 Vaccination Certificates

COVID-19: Vaccination

Order for the Production of Documents

Senator HUME (Victoria—Minister for Superannuation, Financial Services and the Digital Economy and Minister for Women's Economic Security) (17:31): by leave—I table documents relating to two orders for the production of documents concerning COVID-19 vaccination rates.

COMMITTEES

Economics References Committee

Membership

Senator HUME (Victoria—Minister for Superannuation, Financial Services and the Digital Economy and Minister for Women's Economic Security) (17:32): by leave—I move:

That Senator Pratt replace Senator McAllister on the Economics References Committee for the committee's inquiry into the Australian manufacturing industry, and Senator McAllister be appointed as a participating member.

Question agreed to.

BILLS

National Health Amendment (COVID-19) Bill 2021

National Redress Scheme for Institutional Child Sexual Abuse Amendment Bill 2021

Paid Parental Leave Amendment (COVID-19 Work Test) Bill 2021

First Reading

Senator HUME (Victoria—Minister for Superannuation, Financial Services and the Digital Economy and Minister for Women's Economic Security) (17:32): I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator HUME (Victoria—Minister for Superannuation, Financial Services and the Digital Economy and Minister for Women's Economic Security) (17:33): I table a revised explanatory memorandum relating to the Paid Parental Leave Amendment (COVID-19 Work Test) Bill 2021, and I move:

That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in *Hansard*.

Leave granted.

The speeches read as follows—

NATIONAL HEALTH AMENDMENT (COVID-19) BILL 2021

This Bill ensures the Government can continue to purchase COVID-19 vaccines, including boosters. These vaccines will provide protection to Australians, reducing the risk of severe disease and hospitalisation from COVID-19.

This Bill also ensures the Government can invest in viable treatments for COVID-19, providing further protection for Australians against COVID-19.

Finally, this Bill allows for the purchase of consumables necessary for the delivery of these vital vaccines and treatments.

The Cabinet will retain its role in the consideration and decision of COVID-19 vaccine, consumables and treatment purchases.

This Bill confers a spending power on the Minister for Health to enter into arrangements and make payments to ensure Australia can secure COVID-19 vaccines and other related goods.

Following a Cabinet decision to purchase a relevant item, the Minister for Health will exercise the spending power under the new provision.

This ensures that payments can be made in a timely manner upon execution of Advance Purchase Agreements with vaccine and treatment manufacturers.

The amendment provision is time-limited and will sunset on 30 June 2022.

NATIONAL REDRESS SCHEME FOR INSTITUTIONAL CHILD SEXUAL ABUSE AMENDMENT BILL 2021

This Bill will amend the primary legislation for the National Redress Scheme for institutional child sexual abuse (the Scheme), with the aim of making ongoing improvements to the operation of this important Scheme.

The Scheme was established in response to the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse in its 2015 Redress and Civil Litigation report.

The Scheme commenced on 1 July 2018 and will run for 10 years. The Scheme was established by the National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (the Act), which is underpinned by an Intergovernmental Agreement with all Australian states and territories.

The implementation of the Scheme was an acknowledgement by the Australian Government and state and territory governments that sexual abuse suffered by children in institutional settings was a blight on Australia's history, and a betrayal of trust for some of our most vulnerable people.

The Scheme recognises the suffering survivors have experienced and accepts that these events occurred and that institutions must take responsibility for this abuse.

The Scheme is one important step towards healing and provides a monetary payment as a tangible means of recognising the wrong survivors have suffered; access to counselling or psychological services; and a direct personal response from the institutions responsible where a survivor wants that to occur.

Over the past three years, the Scheme has secured the participation of all states and territories, and as of 13 August 2021, 508 non-government institutions are participating in the Scheme. This means the Scheme now covers approximately 66,400 sites across Australia. In addition, over 6,100 payments totalling approximately \$519 million have been paid to survivors to date.

The Morrison Government remains committed to having all institutions who are named in applications to fulfil their moral obligation to join the Scheme.

While I am pleased most institutions are doing the right thing, we have introduced financial consequences for institutions that refuse to join the scheme including restricting access to future Commonwealth grant funding and possible loss of their charitable status and associated tax concessions.

It is completely unacceptable that institutions that know they have been named in applications would choose to shirk their responsibility to finally do the right thing by these survivors.

The Morrison Government has already made a range of improvements to the Scheme, and will continue to do everything possible to make survivors experience with the Scheme as smooth as possible.

Earlier this year we passed legislation to change minor and technical issues with the operation of the Act and addressed unintended consequences or oversights in the initial drafting of the primary legislation underpinning the Scheme.

These changes did not change how survivors or institutions deal with the Scheme. The intention was that substantial changes to the Scheme would be best pursued following the second anniversary review of the Scheme. This would ensure that any major changes to the Scheme would reflect survivor and other key stakeholder voices.

It is essential that the needs of survivors are being met; that the Scheme is operating effectively; and that the unique and evolving challenges in administering such a measure are being addressed.

We know that a monetary payment does not heal everything that survivors have had to endure, which is why the Morrison Government has also committed \$6.7 million to establish the National Memorial in Canberra to provide a dedicated and enduring place to reflect, pay tribute and remind future generations to be ever vigilant in protecting our children.

The Scheme's legislation requires that a review of the operation of the Scheme be undertaken following the second and eighth anniversaries of the Scheme. The *Final Report, Second Year Review of the National Redress Scheme*, presented by Ms Robyn Kruk AO, makes 38 recommendations to increase access to redress and improve the Scheme's operation, making it more trauma-informed, efficient and ultimately more survivor-focussed.

In undertaking the Review, survivor voices were front and centre and Ms Kruk consulted extensively with survivors, advocacy groups, support services, institutions and Commonwealth and state and territory governments.

I want to thank Ms Kruk, on behalf of the Government, for the significant work that went into the report. Thank you as well to all survivors and stakeholders who generously gave their time to share their experiences as part of the Review.

The Morrison Government values the views of survivors and other stakeholders, and has listened to the concerns raised and recommendations for improvement.

That is why we are prioritising initial action on 25 of the 38 Review recommendations in full or in part and investing over \$80 million over four years in the 2021-22 Budget to support implementation of these recommendations.

The Government released its interim response to the Review in June 2021 and we plan to provide a final response to all of the Review's recommendations in early 2022.

This Bill makes the first tranche of legislative changes giving effect to a number of Review recommendations. The measures in this Bill are relatively straightforward, however will make genuine improvements to the operation of the Scheme, will ensure the Scheme is more survivor focussed and enable fairer outcomes for survivors.

In line with the Scheme's governance arrangements, all state and territory governments have agreed to the amendments in the Bill.

This Bill will achieve its intended outcomes and improvements to the Scheme through progressing the following amendments to the Act.

Advance payments

The Bill introduces an advance payment of \$10,000 for priority redress applicants while they are waiting for their redress outcome.

The advance payment will be available for elderly applicants, who are aged 70 years and over, or 55 years and over for Indigenous and Torres Strait Islander applicants, or applicants who are terminally ill.

This measure reflects recommendation 4.2 of the Review. Given the nature of institutional child sexual abuse, the Government is aware that survivors may not come forward to seek redress for some time and may be elderly or ill when they apply to the Scheme. There is a risk that survivors may pass away before receiving their redress outcome and any acknowledgement of the abuse they experienced as children.

The purpose of the advance payment is to provide these applicants with a form of recognition of their abuse early on in the redress application process.

To assist survivors, they will not need to apply for the payment. Rather, the Scheme will identify eligible applicants for the payment after receiving a valid redress application, or at any time during the application process, and will then offer the advance payment to the survivor.

The amount of the advance payment will be deducted from the survivor's final redress payment amount. Whilst the Commonwealth will initially fund the advance payment when it is paid to the survivor, the amount will be recouped from the institution or institutions found responsible for the abuse of the survivor. There is no net change to institutions, and no changes to current processes for institutions.

While a person's application will not be assessed by an Independent Decision Maker at this point, the Scheme will look at general Scheme eligibility factors. Should it later be determined that a survivor who received the advance payment was not in fact entitled to redress, the Commonwealth will not seek to recover the payment from the survivor.

In these cases, survivors will be permitted to keep the advance payment and it will be funded by the Commonwealth. This acknowledges that a person may have applied in good faith, is elderly or terminally ill, and there would be additional trauma placed on the survivor in recouping the payment.

However, where an applicant receives the advance payment as a result of providing false or misleading information to the Scheme, funding would be recouped and there are existing provisions to enable this to occur. Similarly, if a person later chooses to withdraw their application or decline their final redress offer, they will be required to repay the amount of the advance payment. The advance payment is a component of a final redress payment, and is not in addition to, or a separate part of redress. This expectation will be made clear to applicants before they accept an advance payment.

Indexation of relevant prior payments

This Bill amends the date used for the calculation of indexation for prior payments from the date the determination on an application is made, to the date the application is submitted to the Scheme.

In line with recommendations of the Royal Commission, relevant prior payments an applicant has previously received from a responsible institution are taken into account in determining the final redress payment. This may be a state ex gratia payment for example. The payment is indexed to account for inflation, with the indexed prior payment amount deducted from the applicant's final redress payment.

Currently, a person can be disadvantaged due to the time it takes to process their application, including where an institution has not yet joined the Scheme.

By changing the date at which indexation is calculated to be the date an application is submitted, it will ensure that the time taken to process an application does not negatively affect the amount of their final redress payment. This change reflects recommendation 4.5 of the Review, which suggested removing indexation or if that was not supported, applying it at the date of application.

Importantly, these changes will not impact the liability for institutions, with the Commonwealth funding the increase to the redress payment, for the life of the Scheme.

The change to the calculation date for indexation will apply to all applications made to the Scheme. This includes all applications that have been finalised before the commencement of this measure.

Extending review and acceptance periods

The Bill introduces flexibility to extend the period a survivor has to consider and accept an offer of redress and the period to seek a review of a redress offer. This measure makes technical amendments to the Act and addresses known anomalies in the initial drafting.

Currently, if an applicant has not accepted an offer of redress or requested an extension within the six month acceptance period, the offer is taken to be declined. This restriction results in survivors being unable to access redress, given that they can only apply once for redress. The Bill introduces the ability for the Scheme Operator to extend the acceptance period after their six month acceptance period has expired, where needed to ensure the Scheme is survivor focused.

Further, there is currently no ability to extend the period a person has to seek a review of their offer of redress. A review must be requested within six months of receiving their redress offer. This is problematic, particularly where a survivor has requested their acceptance period be extended prior to it expiring. In these circumstances whilst the survivor has additional time to consider and accept their offer, they are unable to seek a review of the offer in this period. This is not trauma informed or fair for survivors.

Aligning the review and acceptance period will provide administrative flexibility to ensure no applicant inadvertently loses the ability to access redress or to procedural fairness due to the unintended restricted drafting of current provisions. It will apply to all future and past applications.

Remove statutory declaration requirement for applications

The Bill will remove the current requirement for redress applications to include a statutory declaration. Removing the requirement aligns with recommendation 3.6(c) of the Review and will make the Scheme more trauma-informed and efficient and may mean more survivors access redress.

Currently, redress applications are required to be accompanied by a signed and witnessed statutory declaration in order to be considered valid. This requirement has proven to be onerous for survivors, particularly vulnerable survivors. Many survivors consider the requirement questions the integrity of their application and they have concerns for their confidentiality. The requirement risks survivors not coming forward to access the redress they deserve.

The requirement to comply with the statutory declaration requirement was temporarily removed during the height of the COVID-19 pandemic as it became particularly difficult for survivors to comply with, particularly elderly and ill survivors. However, this was time limited and did not address the wider problems with the requirement. Social distancing restrictions continue to be felt as a result of COVID.

Removing the requirement will not lessen the requirement for applicants to be honest when applying for redress. In addition, institutions will continue to have the opportunity to comment and provide information on redress applications via the request for information process.

The Scheme will still be able to appropriately deal with fraudulent applications. Section 28 of the Act states that civil penalties apply where a person gives false or misleading information, documents or statements to the Scheme. The Criminal Code also contains provisions to address fraudulent applications and false or misleading information or documents provided to the Scheme, which are punishable by imprisonment of 12 months.

Payment by instalments

This measure will enable the ability to pay the redress payment and counselling and psychological care payment in instalments, if requested by the applicant. This would not change the amount of redress a person is entitled to, it would merely provide options for an applicant to determine how they wish to receive their payment.

Currently redress is paid as a lump sum, with the average payment amount of around \$85,100. The Royal Commission suggested that some survivors might experience difficulty receiving lump sum payments that are much larger than the amount of money they are used to handling. Recommendation 4.4 of the Review also recommended that payment by instalments be considered as an option for paying redress.

Electing to receive their redress payment in instalments will provide survivors with more control over the management of their finances as the number and frequency of the instalments will be agreed between the survivor and Scheme Operator.

This measure will not impact institutions responsible for the abuse. Institutions will be required to pay the entire amount of the redress payment to the Commonwealth as per the existing invoicing arrangements. The Commonwealth will arrange to make the payments in accordance with the agreement reached with the individual applicant.

Summary

In summary, this Bill makes legislative changes in order to implement initial action in response to the Review. This reflects the Morrison Government's commitment for continuous improvement of the Scheme and shows we have listened to survivors and other stakeholders.

The Morrison Government has been very clear about its support for other measures recommended by the two year review, as outlined in the interim response.

The Department of Social Services is working to have administrative arrangements in place to support the implementation of advance payments and payments in instalments as soon as possible.

Extending the review and acceptance period will commence on Royal Assent, and all other measures will commence on proclamation to ensure appropriate arrangements are in place to support their implementation, noting all measures will be treated with urgency.

In addition to the measures in the Bill, some actions do not require changes to legislation. For instance, the Government is working to respond to recommendation 3.9(c) of the Review which recommended that the Australian Government strengthen consistency and integrity in decision making. The Government is progressing a range of action in respect of this recommendation, including simplifications to the application form and letters; increased support will be provided to survivors to engage in a direct personal response; and more personalised and meaningful engagement with survivors will be introduced in the early stages of application and throughout the process.

Importantly, this Bill reflects initial action, and does not mean other recommendations will not be considered. Rather, the remaining recommendations, many of which constitute major changes to the Scheme, require further detailed development work and consultation with stakeholders. The Government will continue to progress consideration and consultation on these issues over the coming months, and plans to release a final response to the Review in early 2022.

The Review recommended expanding Funder of Last Resort arrangements. As previously announced, the Government supports expanding Funder of Last Resort provisions to cover defunct institutions where there is no government responsibility for abuse and existing institutions that do not have the financial capacity to join the Scheme. This change requires agreement from state and territory governments and I am working closely with my state and territory colleagues to progress this measure.

I am aware that some stakeholders suggest the maximum redress payment be increased from \$150,000 to \$200,000, consistent with the Royal Commission's recommendation. The maximum payment of \$150,000 was the amount supported by states and territories in the establishment of the Scheme. It balances the need to recognise the wrongs suffered by survivors while encouraging institutions to participate, and continue participating in the Scheme. The current average payment amount of around \$85,100 is actually higher than the average payment of \$65,000 that was suggested by the Royal Commission.

It is important to note that the independent Review did not make a recommendation to increase the current maximum redress payment to \$200,000. Ms Kruk concluded that increasing the maximum payment could have significant negative impacts on survivors, institutions and the Scheme. This includes risks to institutions, that have predicated their participation in the Scheme based on the \$150,000 cap, leaving the Scheme or refusing to join the Scheme which would be detrimental to survivors.

The Government is pleased to outline the important measures in this Bill and will continue to work hard to implement the Review recommendations and improve the Scheme for the benefit of survivors.

PAID PARENTAL LEAVE AMENDMENT (COVID-19 WORK TEST) BILL 2021

This Bill amends the Paid Parental Leave Act 2010, to assist people who have been affected by the economic impacts of the Coronavirus pandemic to be eligible under the Paid Parental Leave (PPL) scheme.

The PPL scheme is intended to support working parents, and as such, to be eligible for Parental Leave Pay or Dad and Partner Pay, a person must meet certain work test requirements, including having worked for 10 months out of a 13 month work test period and having worked a minimum of 330 hours in that 10 month period.

State-imposed lockdowns and restrictions are affecting the ability of some people to work. Across Australia, people are being stood down or experiencing a significant reduction in work hours. This may in turn have an inconsequential effect on the ability of these people to meet the work test requirements and qualify for payment under the PPL scheme.

Amendments to this legislation are proposed to allow periods a person is in receipt of the COVID-19 Disaster Payment (CDP) to count towards meeting the Paid Parental Leave work test.

The CDP is a lump sum payment for those who have lost work or income as a result of a COVID-19 lockdown. Allowing periods in receipt of CDP to count as qualifying work for the PPL work test, is consistent with the objectives of the PPL scheme and would align with the Government's response of being temporary, targeted and proportionate.

Qualification for the CDP is dependent on losing income and work as a result of living or working in a Commonwealth-declared COVID-19 hotspot. Aligning this proposal with CDP will ensure that the proposal is targeted and can be accurately applied to those whose workforce participation has been affected by COVID-19 lockdown restrictions.

These changes will ensure that parents with a genuine connection to work are able to access the Government's PPL scheme.

Without this amendment, parents who work part-time, or have been in lockdown close to or longer than the permissible 12-week period, may lose entitlement to the payments under the PPL scheme, due to failing the work test.

This Bill will support working parents to access the PPL scheme in areas affected by the recent COVID-19 lockdowns and mimics the amendments that were made to the Paid Parental Leave Act during the peak of the pandemic last year.

To remind the chamber, the amendments made under that Act allowed for time spent on the JobKeeper Payment to count towards the PPL work test, in recognition that meeting the work test during the pandemic was more difficult.

These important changes to the PPL scheme are about ensuring that the Government continues provide support to working parents to spend time with their new children.

The amendment will further allow the Secretary of the Department of Social Services the discretion to grant a parent access to Paid Parental Leave, in special circumstances, where the parent (typically the birth mother) does not meet the eligibility requirements under the work test. The nature of special circumstances that the Secretary will be able to take into consideration, includes cases where a parent is escaping family and/or domestic violence, has been affected by a natural disaster or impacted by severe illness.

I commend the Bill to the House.

Debate adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

Ordered that the bills be listed on the *Notice Paper* as separate orders of the day.

Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021

In Committee

Consideration resumed.

The TEMPORARY CHAIR (Senator Carol Brown) (17:34): The committee is considering the Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021, as amended, and amendments (1) and (2) on sheet 1382, moved by Senator McAllister. The question is that the amendments be agreed to.

Senator McALLISTER (New South Wales) (17:34): Earlier in the debate I moved these amendments and I indicated that the amendment proposed, amendment (2), replicates the private senator's bill that I earlier introduced in this chamber and seeks to establish 10 days paid domestic violence leave as part of the National Employment Standards. Essentially, what this amendment would do is improve the existing entitlement in the National Employment Standards from five days unpaid domestic and family violence leave to 10 days paid domestic and family violence leave, and that is a much-needed reform.

Businesses tell us that there is a very significant impact of family and domestic violence on their employees. In 2016, the National Retail Association estimated that in a single year almost 45,000 women working in the retail industry experienced some form of family and domestic violence. The Australian Council of Trade Unions estimate that it costs \$18,000 and 141 hours to leave a violent relationship. Many working women resign or are terminated from their employment because they need to take the time to deal with issues that arise as a consequence of domestic abuse: finding housing, attending a court or a doctor's appointment, and ensuring that children have the support that they need. It puts women fleeing violence in a precarious position. Many face the unacceptable choice of fleeing to safety or keeping their job. No-one should be forced to make that decision.

Given the prevalence of family and domestic violence in Australia and its impact on employment and the economy, there is a need to support women to flee violence and keep themselves safe. The current arrangements are simply inadequate. The experience of businesses who have already introduced paid leave is that, on average, women do not take the entire 10 days that are available to them but instead use part of that entitlement modestly, carefully to make the changes that they need.

Australian women want to keep working. They value their working lives. This amendment seeks to provide the choices—the real choices—that would deliver real equality for Australian women who are presently confronted by violence in their households.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (17:38): The government will be opposing these amendments. The primary purpose of this bill is to implement the government's commitments in response to recommendations made by the *Respect@Work* report. I would also observe that in 2018 an entitlement of five days unpaid family and domestic violence leave in a 12-month period was inserted into the National Employment Standards in the Fair Work Act.

This followed the Fair Work Commission's decision to provide five days of unpaid family and domestic violence leave for employees covered by a modern award. The Fair Work Commission itself is currently reviewing the family and domestic violence leave clause in modern awards, and further consideration of the issue of paid leave by this government will be appropriately informed by the commission's consideration of the issue.

I would also note that employers of course are able to write entitlements that suit their own workplaces.

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (17:39): [by video link] I rise to speak very briefly on the amendments before the chamber, amendments (1) and (2) on sheet 1382, which would give workers 10 days of paid family and domestic violence leave. This has been a longstanding Greens policy, and we fully support these amendments. We had a similar amendment drafted ourselves but, as I referenced earlier today, we have come to an arrangement about who moves what to try to make sure that the chamber is progressing smoothly. I just want to place on record that we think this is eminently sensible and, while it goes beyond the recommendations of the *Respect@Work* report, so too do the miscarriage leave provisions in the bill, which we also support. The point is that, if you are opening up the possibility of unrelated amendments, we think this amendment should also be moved.

I sat on the committee inquiry into the government's bill regarding five days of unpaid family and domestic violence leave, and the evidence was abundantly clear that workers need paid leave, that five days of unpaid leave is as good as nothing and that, in fact, it costs employers to have the relationship with their employee severed unnecessarily. So in fact it is a saving to business. So you'd think that the government would get right behind it. Most importantly, it is the right thing to do—and many employers, of course, want to do the right thing by their employees. So, to cut a long story short, we strongly support these amendments, and we urge the government to finally put its money where its mouth is and back the call for 10 days of paid family and domestic violence leave for all workers.

The CHAIR: The question is that amendments (1) and (2) on sheet 1382, as moved by Senator McAllister, be agreed to.

The committee divided. [17:46]

(The Chair—Senator Lines)

Ayes12
Noes13
Majority.....1

AYES

Brown, CL
Hanson-Young, SC
Lines, S
O'Neill, D
Pratt, LC
Urquhart, AE (teller)

Carr, KJ
Keneally, KK
McAllister, J
Polley, H
Siewert, R
Watt, M

NOES

Canavan, MJ
Colbeck, R
Hughes, H
McKenzie, B
Rennick, G
Ruston, A
Smith, DA

Cash, MC
Davey, P (teller)
Hume, J
O'Sullivan, MA
Reynolds, L
Seselj, Z

Question negatived.

Senator McALLISTER (New South Wales) (17:47): by leave—I move opposition amendments on sheets 1381, 1385 and 1399 together:

[Sheet 1381]

(1) Schedule 1, item 6, page 3 (before line 25), before the definition of *miscarriage*, insert:

harass on the ground of sex has the meaning given by section 28AA of the *Sex Discrimination Act 1984*.

Note: Other parts of speech and grammatical forms of "harass on the ground of sex" (for example, "harassment on the ground of sex") have a corresponding meaning (see section 18A of the *Acts Interpretation Act 1901*).

(2) Schedule 1, page 4 (before line 7), before item 7, insert:

6B Section 12 (before paragraph (a) of the definition of *worker*)

Insert:

(ab) in Part 3-1A—see subsection 378B(1); and

(3) Schedule 1, page 4 (before line 22), before item 10, insert:

9D After Part 3-1 of Chapter 3

Insert:

Part 3-1A—Sexual harassment and harassment on the ground of sex**Division 1—Introduction****378A Guide to this Part**

This Part allows for the granting of remedies to workers that have been sexually harassed or harassed on the ground of sex in any circumstances connected with being a worker.

378B Interpretation*Definitions*

(1) For the purposes of this Part:

person conducting a business or undertaking has the same meaning as in the *Work Health and Safety Act 2011*.

worker has the same meaning as in the *Work Health and Safety Act 2011*, but does not include a member of the Defence Force.

Note: Broadly, for the purposes of the *Work Health and Safety Act 2011*, a worker is an individual who performs work in any capacity, including as an employee, a contractor, a subcontractor, an outworker, an apprentice, a trainee, a student gaining work experience or a volunteer.

Former and prospective workers

(2) A reference in this Part to a worker includes a reference to:

(a) a person who is no longer a worker; and

(b) a person who may become a worker.

378C Object of this Part

The object of this Part is to establish quick, flexible and informal procedures for providing effective remedies for workers that have been sexually harassed or harassed on the ground of sex in any circumstances connected with being a worker.

Division 2—Remedies for workers that have been sexually harassed or harassed on the ground of sex**378D Power for FWC to deal with a dispute about sexual harassment or harassment on the ground of sex**

(1) A notification may be lodged with the FWC under this section:

(a) by a worker who claims that they have been sexually harassed or harassed on the ground of sex in any circumstances connected with being a worker; or

(b) jointly by 2 or more workers who claim that they have been sexually harassed or harassed on the ground of sex in any circumstances connected with being a worker for the same business or undertaking; or

(c) by an employee organisation that is entitled to represent the industrial interests of a worker or workers referred to in paragraph (a) or (b).

(2) The notification must be made within 6 years after the sexual harassment or harassment on the ground of sex occurred.

(3) If a person has made a notification under this section, the FWC must start to deal with the matter within 14 days after the notification is made.

(4) The FWC may deal with the notification by arbitration.

Note: The FWC may also deal with a dispute by mediation or conciliation, or by making a recommendation or expressing an opinion (see subsection 595(2)).

(5) If the FWC is satisfied that a worker has been sexually harassed or harassed on the ground of sex (the ***relevant harassment***) in any circumstances connected with being a worker, the FWC may make any order it considers appropriate in all the circumstances of the case to:

(a) prevent the worker from being sexually harassed or harassed on the ground of sex in any circumstances connected with being a worker; or

(b) prevent further sexual harassment or harassment on the ground of sex in the business or undertaking for which the worker carried out, or will carry out, work at the time of the relevant harassment; or

(c) provide the worker with a remedy, including compensation.

(6) In dealing with a notification by a worker under this section, the FWC must take the following into account:

- (a) fairness between the parties concerned;
 - (b) the public interest in the elimination of sexual harassment or harassment on the ground of sex;
 - (c) the extent to which the person conducting the business or undertaking for which the worker carried out, or will carry out, work at the time of the relevant harassment has taken all reasonable steps to prevent workers for the business or undertaking being sexually harassed or harassed on the ground of sex in any circumstances connected with being a worker.
- (7) A person must not contravene a term of a FWC order made under this Part.

Note: This subsection is a civil remedy provision (see Part 4-1).

- (4) Schedule 1, page 4 (before line 28), before item 11, insert:

10B Subsection 539(2) (after table item 12)

Insert:

Part 3-1A				
12A	378D(7)	(a) a person affected by the contravention;	(a) the Federal Court;	60 penalty units
		(b) an employee organisation;	(b) the Federal Circuit Court;	
		(c) an employer organisation;	(c) an eligible State or Territory court	
		(d) an inspector		

- (5) Schedule 1, page 5 (after line 4), after item 14, insert:

14A After Subdivision B of Division 3 of Part 6-1

Insert:

Subdivision BA—Notifications relating to sexual harassment and/or harassment on the ground of sex

733A General rule—complaints to the Australian Human Rights Commission

(1) A person must not lodge a notification under section 378D in relation to sexual harassment or harassment on the ground of sex if:

- (a) a complaint has been lodged by, or on behalf of, the person in relation to the same sexual harassment or harassment on the ground of sex under Part IIB of the *Australian Human Rights Commission Act 1986*; and
- (b) the complaint has not:
 - (i) been dealt with by the Australian Human Rights Commission; or
 - (ii) been withdrawn by the person who lodged the complaint.

(2) A person must not lodge a complaint under Part IIB of the *Australian Human Rights Commission Act 1986* in relation to sexual harassment or harassment on the ground of sex if:

- (a) a notification under section 378D has been lodged, by or on behalf of, the person in relation the same sexual harassment or harassment on the ground of sex; and
- (b) the notification has not:
 - (i) been dealt with by the FWC; or
 - (ii) been withdrawn by the person who lodged the notification.

733B General rule—applications under Part 6-4B

(1) A person must not lodge a notification under section 378D in relation to sexual harassment or harassment on the ground of sex if:

- (a) an application has been made by, or on behalf of, the person in relation to the same sexual harassment or harassment on the ground of sex under section 789FC; and
- (b) the application has not:
 - (i) been dealt with by the FWC; or
 - (ii) been withdrawn by the person who made the application.

(2) A person must not make an application under section 789FC in relation to sexual harassment or harassment on the ground of sex if:

- (a) a notification has been lodged by, or on behalf of, the person in relation to the same sexual harassment or harassment on the ground of sex under section 378D; and
- (b) the notification has not:
 - (i) been dealt with by the FWC; or
 - (ii) been withdrawn by the person who lodged the notification.

- (6) Schedule 1, item 28, page 7 (before line 7), before section 49, insert:

49A Notifications relating to sexual harassment or harassment on the ground of sex

Part 3-1A, as inserted by the *Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021*, applies in relation to sexual harassment or harassment on the ground of sex that occurred, or is claimed to have occurred, on or after the commencement of this section.

[Sheet 1385]

(1) Schedule 1, page 3 (before line 4), before item 1, insert:

1A Subsection 3(1) (definition of *class member*)

Repeal the definition, substitute:

class member:

(a) in relation to a representative complaint—means any of the persons on whose behalf the complaint was lodged, but does not include a person who has withdrawn under section 46PC; or

(b) in relation to a representative application—means any of the persons on whose behalf the application was made, but does not include a person who has withdrawn under subsection 46POA(7).

1B Subsection 3(1)

Insert:

representative application means an application made under section 46PO on behalf of at least one person who is not an applicant.

representative party means a person who makes a representative application.

(2) Schedule 1, page 3 (after line 17), after item 3, insert:

3A Subsection 46PO(1)

Repeal the subsection, substitute:

(1) If:

(a) a complaint has been terminated by the President under section 46PE, paragraph 46PF(1)(b) or section 46PH; and

(b) the President has given a notice to any person under subsection 46PH(2) in relation to the termination; an application may be made to the Federal Court or the Federal Circuit Court alleging unlawful discrimination by one or more of the respondents to the terminated complaint.

(1A) Subject to subsection (1B), the application may be made only by an affected person in relation to the terminated complaint.

(1B) If the unlawful discrimination alleged in the application is an act, omission or practice that is unlawful under Division 3 of Part II of the *Sex Discrimination Act 1984*, the application may be made:

(a) by an affected person in relation to the terminated complaint:

(i) on that person's own behalf; or

(ii) on behalf of that person and one or more other affected persons in relation to the terminated complaint or a related complaint; or

(b) by 2 or more affected persons in relation to the terminated complaint:

(i) on their own behalf; or

(ii) on behalf of themselves and one or more other affected persons in relation to the terminated complaint or a related complaint; or

(c) by a person or trade union on behalf of one or more other affected persons in relation to the terminated complaint or a related complaint.

Note: Part IVA of the *Federal Court of Australia Act 1976* also allows representative proceedings to be commenced in the Federal Court in certain circumstances.

3B Paragraphs 46PO(3A)(b) and (c)

After "the complaint", insert ", and any related complaints covered by the application,".

3C After subsection 46PO(4)

Insert:

(4A) In the case of a representative application, subsection (4) applies as if a reference to an applicant included a reference to each person who is a class member.

3D At the end of section 46PO

Add:

(9) In this section:

related complaint, in relation to a terminated complaint, means a complaint:

- (a) to which paragraphs (1)(a) and (b) apply; and
- (b) that is against the same person as the terminated complaint; and
- (c) that is in respect of, or arises out of, the same, similar or related circumstances as the terminated complaint; and
- (d) that gives rise to a substantial common issue of law or fact with the terminated complaint.

3E After section 46PO

Insert:

46POA Additional rules applying to representative applications

Class member may not make separate application

(1) A person who is a class member for a representative application in relation to a complaint is not entitled to make a separate application under this Division in respect of the same complaint.

Consent required

(2) A representative application may not be made without the written consent of all class members.

Requirements for representative applications

(3) A representative application must:

- (a) describe or otherwise identify the class members; and
- (b) include a statement from the representative party certifying that each class member has consented, in writing, to being a class member; and
- (c) specify the nature of the relief sought.

(4) In describing or otherwise identifying the class members, it is not necessary to name them or specify how many there are.

(5) However, a representative application must not identify, and must not contain information that is reasonably capable of being used to identify, a class member unless the class member has consented, in writing, to being so identified.

Right of class member to withdraw

(6) If a representative application is made, the court concerned must fix a date before which a class member may withdraw from a proceeding instituted by the application.

(7) A class member may withdraw from the proceeding by written notice given under the relevant Rules of Court at any time before the date so fixed.

(8) The court concerned, on the application of a class member, a representative party or a respondent in the proceeding, may fix another date so as to extend the period during which a class member may withdraw from the proceeding.

(9) Except with the leave of the court concerned, the hearing of the proceeding must not commence earlier than the date before which a class member may opt out of the proceeding.

[Sheet 1399]

(1) Schedule 1, item 4, page 3 (line 20), omit "or sexually harassed", substitute ", sexually harassed or harassed on the ground of sex".

(2) Schedule 1, item 5, page 3 (line 22), omit "or sexual harassment", substitute ", sexual harassment or harassment on the ground of sex".

(3) Schedule 1, item 6, page 3 (before line 25), before the definition of *miscarriage*, insert:

harass on the ground of sex has the meaning given by section 28AA of the *Sex Discrimination Act 1984*.

Note: Other parts of speech and grammatical forms of "harass on the ground of sex" (for example, "harassment on the ground of sex") have a corresponding meaning (see section 18A of the *Acts Interpretation Act 1901*).

harassed on the ground of sex at work: see subsection 789FD(2B).

(4) Schedule 1, item 10, page 4 (line 26), after "another person", insert "or harasses another person on the ground of sex".

(5) Schedule 1, item 11, page 4 (line 29), omit "**or sexually harassed**", substitute ", **sexually harassed or harassed on the ground of sex**".

(6) Schedule 1, item 12, page 4 (line 31), omit "or sexually harassed", substitute ", sexually harassed or harassed on the ground of sex".

(7) Schedule 1, item 13, page 5 (line 2), omit "or sexually harassed", substitute ", sexually harassed or harassed on the ground of sex".

(8) Schedule 1, item 14, page 5 (line 4), omit "or sexual harassment", substitute ", sexual harassment or harassment on the ground of sex".

(9) Schedule 1, item 15, page 5 (line 6), omit "**or sexually harassed**", substitute "**, sexually harassed or harassed on the ground of sex**".

(10) Schedule 1, item 16, page 5 (line 8), omit "or sexually harassed", substitute ", sexually harassed or harassed on the ground of sex".

(11) Schedule 1, item 17, page 5 (line 10), omit "or sexual harassment", substitute ", sexual harassment or harassment on the ground of sex".

(12) Schedule 1, item 18, page 5 (line 12), omit "**or sexually harassed**", substitute "**, sexually harassed or harassed on the ground of sex**".

(13) Schedule 1, item 19, page 5 (line 14), omit "**or sexual harassment**", substitute "**, sexual harassment or harassment on the ground of sex**".

(14) Schedule 1, item 20, page 5 (line 16), omit "or sexually harassed", substitute ", sexually harassed or harassed on the ground of sex".

(15) Schedule 1, item 21, page 5 (line 18), omit "**or sexually harassed at work**", substitute "**, sexually harassed at work or harassed on the ground of sex at work**".

(16) Schedule 1, item 22, page 5 (lines 21 to 23), omit subsection 789FD(2A), substitute:

(2A) A person is **sexually harassed at work** if:

(a) the person is sexually harassed by one or more individuals; and

(b) the harassment occurs in connection with the person being a worker.

(17) Schedule 1, item 22, page 5 (after line 23), after subsection 789FD(2A), insert:

(2B) A person is **harassed on the ground of sex at work** if:

(a) the person is harassed on the ground of sex by one or more individuals; and

(b) the harassment occurs in connection with the person being a worker.

(18) Schedule 1, item 23, page 5 (line 25), omit "**or sexual harassment**", substitute "**, sexual harassment or harassment on the ground of sex**".

(19) Schedule 1, item 24, page 6 (line 5), omit "either or both", substitute "any or all".

(20) Schedule 1, item 24, page 6 (after line 15), after subparagraph 789FF(1)(b)(ii), insert:

(iii) the FWC is satisfied that the worker has been harassed on the ground of sex at work by one or more individuals, and the FWC is satisfied that there is a risk that the worker will continue to be harassed on the ground of sex at work by the individual or individuals;

(21) Schedule 1, item 24, page 6 (lines 23 to 27), omit paragraph 789FF(1)(e), substitute:

(e) if subparagraph (b)(iii) applies—prevent the worker from being harassed on the ground of sex at work by the individual or individuals; or

(f) prevent any combination of the things referred to in paragraphs (c) to (e), as the case requires.

(22) Schedule 1, item 25, page 6 (line 29), omit "**or sexual harassment**", substitute "**, sexual harassment or harassment on the ground of sex**".

(23) Schedule 1, item 26, page 6 (line 31), omit "or sexually harassed", substitute ", sexually harassed or harassed on the ground of sex".

(24) Schedule 1, item 27, page 6 (line 33), omit "or sexual harassment", substitute ", sexual harassment or harassment on the ground of sex".

(25) Schedule 1, item 28, page 7 (after line 22), after clause 50, insert:

51 Orders to stop harassment on the ground of sex

For the purposes of subparagraph 789FF(1)(b)(iii) (as inserted by the *Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021*), it is immaterial whether the worker has been harassed on the ground of sex at work before, at or after the commencement of this section.

I've elected to move these together because I'm conscious of the time and the significance of passing those aspects of the bill that are important to Australian women. I will speak briefly about each of them in turn, commencing with the amendments on sheet 1385.

The *Respect@Work* report includes recommendation 23:

Amend the Australian Human Rights Commission Act to allow unions and other representative groups to bring representative claims to court, consistent with the existing provisions in the Australian Human Rights Commission Act that allow unions and other representative groups to bring a representative complaint to the Commission.

That recommendation could not be clearer—it is very straightforward—and neither could the government's rejection of this recommendation. The recommendation to facilitate representative actions has been endorsed by many submitters to the inquiry on this bill as an important means to provide greater access to justice for those

seeking redress for workplace sexual and sex based harassment. But ensuring access to justice is clearly not a matter that this government thinks is of any importance to those who have been sexually harassed or have suffered sex based harassment. This bill does not implement this recommendation, and the government's response to the report overall simply notes the recommendation. This is another example of weasel words, where the government say they support all 55 recommendations, but, when you read the fine print, as with most other things, in fact they have absolutely no intention of dealing with them.

The government's response asserts that there is an existing mechanism to enable representative proceedings in the Federal Court. It is directly contradicted by the *Respect@Work* report, in which Commissioner Jenkins says:

... standing provisions to commence proceedings in the federal courts are limited to an 'affected person' which is defined as a person on whose behalf the complaint was lodged with the Commission. This means that the ability to take court proceedings under federal discrimination law is currently more constrained than the ability to bring complaints to the Commission. It prevents public-interest-based organisations from bringing an action in the courts—even if they have pursued the complaint in the Commission first.

Although there are provisions to bring a representative complaint to the Federal Court²⁶⁴ (not the Federal Circuit Court), these provisions are technical and complex, and different to the requirements under the Australian Human Rights Commission Act.

It is a pretty clear problem, isn't it? The ability to bring representative complaints is constrained; it is limited to just one of the two relevant courts; it is not aligned with the process for the Human Rights Commission, which means that it is more than necessarily complex; and it acts as an impediment to justice. Why wouldn't you fix this? You asked Commissioner Jenkins to go and look at these issues, but now you ignore her advice. You note it and then you assert something entirely contradictory. Again, this arrogant government thinks it knows better. It asks an expert to do a piece of work, a piece of work it is happy to trumpet as being a landmark piece of advice, and then does absolutely nothing about it. The amendment before the chamber on sheet 1385 seeks to implement recommendation 23.

I turn now to the amendments which are on sheet 1381. These amendments perform a very important role in the way that workplace sexual harassment and sex based harassment are dealt with under the Fair Work Act. Workers who are sexually harassed do need access to a fair, effective and efficient complaints mechanism, and this set of amendments would establish this. Not only is there a need for a clear prohibition on sexual harassment and sex based harassment, as recommended by the *Respect@Work* report and rejected by this government; there is also the need for a complaints provision in the Fair Work Act which would be available to all workers, including former and prospective workers, who seek a remedy through the Fair Work Commission for current or past sexual harassment. That is the effect of the amendments on page 1381.

I turn finally to the amendments set out on sheet 1399. These amendments are quite straightforward. They pick up two recommendations made by the Australian Human Rights Commission in their submission to the Senate inquiry on this bill. In their submission, the commission note that the bill explicitly provides that not only sexual harassment but also other sex based harassment is prohibited. This reflects the experience of many people who experience harassment at work that is on the basis of their sex but is not sexual in nature. The Human Rights Commission said this:

The important changes in the Bill to the Fair Work Act (and regulations) in relation to sexual harassment should also encompass the new legislative concept of sex-based harassment. That is, the Fair Work Commission should be able to issue a 'stop sex-based harassment order' and employers should be given the confidence that if an employee engages in sex-based harassment this will be a valid reason for the termination of their employment.

What is the point of referring a bill to a Senate inquiry for the experts, the very people who drafted the report, to make a submission and recommend a sensible technical amendment if the government is going to ignore it?

I'll remind senators that the only amendment moved by the government so far in this debate has been to defer commencement. The government has received expert advice from the commission—from the people who wrote the *Respect@Work* report. I simply cannot understand why this amendment could not be agreed to.

I make this final point: throughout the debate today, Labor has sought to make the argument that there was a comprehensive review undertaken of the legal and regulatory framework to support women in their workplaces. It was undertaken by the people hand-picked by the government with the expertise to do exactly this kind of work. The Australian Human Rights Commission has done this work for many other organisations very successfully. Why would the recommendations not be implemented? And why would the government persist with a pretence that they support all 55 recommendations, if they have absolutely no intention of legislating a very good number of them?

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (17:56): [by video link] I'll make some very brief remarks, but I'll state at the outset that the Greens will be supporting each of these amendments that are being moved together tonight.

I'll start off with some brief comments on sheet 1385. These amendments would enable representative actions to be taken. These are very important amendments—again, the Greens had amendments to the same effect drafted, but these are the ones that have been moved. Addressing sexual harassment issues at a systemic level would help relieve the burden on individual workers to pursue complaints. Particularly where an employer is a repeat harasser, representative action on behalf of two or more employees can encourage cultural change. It should not be left up to workers to individually pursue complaints and potential court action as the only remedy available to them. Representative actions must be allowed to be taken. That's exactly what Commissioner Jenkins recommended, for the very reason that it is an enormous burden on the shoulders of workers, particularly young, junior, female workers, who find it unthinkable—and that's why we see so few complaints. We could fix that with representative action, so that unions or other representative bodies could—with the full consent, of course, of the complainants—take the action on their behalf. That would be a delivery of justice, and any opposition to this amendment is a denial of access to justice. For many workers, they want the harassment to stop. They don't want to be named as the victim. Importantly, these amendments require the consent of every person covered by a representative action. We are in strong support of the amendments on sheet 1385.

Moving to sheet 1381, these amendments propose a dispute resolution process which would make it simpler for complaints to be dealt with under the Fair Work Act. Workers who are sexually harassed need access to fair, effective and efficient complaints mechanisms. Not only is there a need for a clear prohibition on sexual harassment and sex-based harassment, as recommended by Commissioner Jenkins in the *Respect@Work* report, but there's also a need for a complaints process in the Fair Work Act which is available to all workers who seek a remedy through the Fair Work Commission for current or past sexual harassment. I understand these amendments were drafted based on the process for dealing with unfair dismissal claims. Essentially, they propose a simplified process to minimise trauma and to expedite outcomes for all parties. We will be supporting the amendments on sheet 1381, and I would urge the government to do the same—although it's not going to happen, sadly.

The final amendments are on sheet 1399, which, again, we support, and which propose stopping sex-based harassment orders. As folk understand, the bill provides some good enforcement options to allow workers to apply to the Fair Work Commission for stop-harassment orders when they're subject to sexual harassment. But the bill doesn't provide the same option for workers affected by sex-based harassment, as it should. These are technical amendments, as Senator McAllister described them. I hope it is just an oversight by government. I can only form the conclusion that the government in fact does not really want to be dealing with issues of sexual harassment in the workplace. Otherwise, why would it have bowled up a bill that so roundly ignores many of the key recommendations in the *Respect@Work* report?

We here collaboratively are giving the government the chance to legislate the full suite of 55 recommendations. These amendments cover off on all the recommendations that the government has ignored. It's incredibly disheartening, but perhaps not surprising, to see the government vote against them at every turn. It beggars belief that you would ask for such a report to be written and then draft a bill that bears so little resemblance to it and still try to claim that you're addressing the problem. Nobody believes you. Do better.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (18:00): In terms of these amendments, I actually addressed the government's view of them in the summing-up speech. In the interests of time, I won't make any further comments.

The CHAIR: The question is that opposition amendments (1) to (6) on sheet 1381, opposition amendments (1) and (2) on sheet 1385 and opposition amendments (1) to (25) on sheet 1399, be agreed to.

The committee divided. [18:05]

(The Chair—Senator Lines)

Ayes12
Noes13
Majority.....1

AYES

Brown, CL
Hanson-Young, SC
Lines, S
O'Neill, D
Pratt, LC

Carr, KJ
Keneally, KK
McAllister, J
Polley, H
Siewert, R

AYES

Urquhart, AE (teller)

Watt, M

NOES

Canavan, MJ
Colbeck, R
Hume, J
O'Sullivan, MA
Ruston, A
Small, B
Stoker, AJ

Cash, MC
Davey, P (teller)
McKenzie, B
Reynolds, L
Seselja, Z
Smith, DA

Question negatived.

Senator McALLISTER (New South Wales) (18:07): by leave—I move amendments (1) and (2) on sheet 1432 together:

(1) Schedule 1, item 60, page 14 (after line 25), after subsection 28AA(1), insert:

(1A) For the purposes of this Act, a person also harasses another person (the *person harassed*) on the ground of sex if:

(a) the person engages in unwanted conduct related to sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, breastfeeding or family responsibilities; and

(b) the person does so in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the conduct would:

(i) violate the dignity of the person harassed; or

(ii) create or facilitate an intimidating, hostile, degrading, humiliating or offensive environment for the person harassed.

(2) Schedule 1, page 14 (line 26), omit "subsection (1)", substitute "subsections (1) and (1A)".

The Respect@Work inquiry heard that the existence of a sexually-permeated, hostile environment was not routinely recognised by individuals or by their organisations as sexual harassment. The Human Rights Commission was of the view that this amendment would provide clarity and certainty in the law, which, as we are frequently reminded by the Law Council, is in fact essential for the administration of justice. It would assist in setting clear boundaries in the workplace for what is and is not acceptable conduct. On that basis, again, Commissioner Jenkins recommended this change that we are now proposing, as recommendation 16c.

Again and again and again, senators are rising in this chamber to urge the implementation of the recommendations of the *Respect@Work* report. At the risk of tedious repetition, I'll make this point again: the government said all of the 55 recommendations are supported, and yet so few of them appear in the legislation before us. On Monday, when Prime Minister Morrison stands up at the National Summit on Women's Safety and makes his big speech about how terrific it is that this legislation has made it through the parliament, I hope that he fronts up and is honest with Australian women. I hope he tells them that there are just a handful of the 55 recommendations that have actually been implemented as part of this legislation, and that, in fact, so many of the recommendations that they purport to accept are merely noted and then pushed to one side or kicked into the long grass for some interminable process for which there is no end point and no prospect of a meaningful conclusion. All we can conclude, witnessing the behaviour of the government in this chamber, is that they are not in any way interested in providing a meaningful legislative response to the issues that were identified by Commissioner Jenkins and which are so clearly laid out in this report.

It's clear that the change that I am now proposing in the final amendments to be moved by Labor does not have the support of the majority of the Senate at this time. Nonetheless, we are moving these amendment to ensure that this important recommendation of the Sex Discrimination Commissioner's landmark report is not ignored in this debate. Unfortunately, it has been ignored by the Morrison government. The Morrison government said that it agreed with recommendation 16(c) of the *Respect@Work* report in principle, but it has ignored it in practice.

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (18:10): [by video link] I will make a brief contribution on opposition amendments (1) and (2) on sheet 1432. We again support these amendments, which in fact address recommendation 16(c) of the *Respect@Work* report—that same report that the government claimed that they would accept all the recommendations of. And yet they seem to have put forward a bill that resembles Swiss cheese, but, with so many holes in it, it is more hole than cheese. We support recommendation 16(c) and we support these amendments, which would create a prohibition on creating or facilitating a hostile working environment.

In many ways, this creation of a positive duty to maintain a safe workplace could have obviated the need for this prohibition on creating a hostile workplace. But, since the government would not come at a positive duty to create a safe workplace, we're trying again, with this prohibition on creating a hostile working environment. But, sadly, it seems that once again the government will not be actually taking these recommendations seriously and will try to claim credit for doing a job that, in fact, they have barely scratched the surface of.

But, unlike Senator McAllister, I'm confident that they won't fool anyone at the Women's Safety Summit next Monday. I don't think anyone will buy any of the words that come out of the Prime Minister's mouth when he is talking about women's safety. I'm not sure whether he'll have to check with his wife before he makes that speech. She seems to be the moral barometer when it comes to things pertaining to women. And, of course, I'm sure he won't mention the fact that the front-line services that deal with domestic and family violence are still drastically underfunded. Even after the small increase that was given in the budget, it is still one-quarter of the funding that is needed to meet demand.

So it's yet more spin from this government. It's either spin or complete silence. We got complete silence on Equal Pay Day from the Prime Minister and from the relevant minister, and now we'll get spin overdrive when it comes to what they are doing for women—but, I'm sorry, you're not fooling anybody.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (18:12): Just very briefly: the *Respect@Work* report suggested that a new prohibition should be introduced in the Sex Discrimination Act on creating or facilitating a hostile work environment on the basis of sex. The government does not believe this is necessary given that the model work health and safety laws already require that workers are protected from health and safety risks, including psychosocial risks, that can result from a hostile work environment. There is currently a specific obligation under work health and safety laws to provide a safe work environment. Intimidating, hostile, humiliating or offensive environments would be considered a risk under existing work health and safety laws regardless of sex. Inserting an additional prohibition, including as drafted, may be duplicative and actually increase confusion for duty holders and workers.

The CHAIR: The question is that opposition amendments (1) and (2) on sheet 1432, moved by leave, be agreed to.

Question negatived.

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:14): by leave—I ask that our support for those amendments be noted in *Hansard*.

The CHAIR: Noted.

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (18:14): by leave—Given they were our amendments, could you please note that we also supported them.

The CHAIR: We will note that as well.

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (18:14): by leave—I move Greens amendments (1) to (3) on sheet 1433:

(1) Schedule 1, page 19 (before line 10), before item 78, insert:

77A After paragraph 48(1) (f)

Insert:

(fa) to inquire into any matter that may relate to systemic acts, omissions or practices that are unlawful under this Act; and

(2) Schedule 1, page 20 (after line 8), after item 83, insert:

83A After section 48

Insert:

49 Performance of functions relating to systemic acts, omissions or practices that are unlawful under this Act

(1) Subject to subsection (2), the Commission shall perform the function referred to in paragraph 48(1) (fa) when:

(a) the Commission is requested to do so by the Minister; or

(b) it appears to the Commission to be desirable to do so.

(2) The Commission may decide not to inquire into a matter, or, if the Commission has commenced to inquire into a matter, may decide not to continue to inquire into the matter, if:

(a) the Commission is satisfied that the matter does not relate to systemic acts, omissions or practices that are unlawful under this Act; or

(b) the Commission is satisfied, having regard to all the circumstances, that an inquiry, or the continuation of an inquiry, into the matter is not warranted.

(3) The function of the Commission under paragraph 48(1) (fa) shall be performed by the President, and a reference in this Act or the *Australian Human Rights Commission Act 1986* to the Commission or to a member of the Commission shall, in relation to the performance of that function, be read as a reference to the President.

50 Reports to the Minister

If:

(a) the Commission has inquired into a matter that may relate to systemic acts, omissions or practices that are unlawful under this Act; and

(b) the Commission is of the opinion that the matter relates to systemic acts, omissions or practices that are unlawful under this Act;

the Commission may report to the Minister in relation to the inquiry.

(3) Schedule 1, page 20 (after line 12), after item 85, insert:

85A After subsection 104(1)

Insert:

(1A) Subsection (1) does not allow the President to delegate any of the President's powers relating to the function of the Commission under paragraph 48(1) (fa) that is to be performed by the President because of subsection 49(4) to a member of the Commission other than:

(a) the Commissioner; or

(b) the Human Rights Commissioner.

85B Subsection 104(2)

Omit "The", substitute "Subject to subsection (3), the".

85C At the end of section 104

Add:

(3) If the President delegates any of the President's powers relating to the function of the Commission under paragraph 48(1) (fa) to the Commissioner, subsection (2) does not apply in relation to those powers.

I'll just speak briefly to that. Addressing sexual harassment issues at the systemic level rather than the individual level will help relieve the burden on individual workers to pursue complaints and to encourage cultural change. This provision, which would allow the Human Rights Commission president, or a delegate of the president if they so delegate, to inquire into matters that relate to systemic acts, omissions or practices, really goes to driving that cultural change and to giving the commission the power to do so of their own volition rather than waiting for an instruction—which would never come—from a minister. It certainly wouldn't come from a minister in this Morrison government. This provision would complement the, sadly, failed amendment to allow representative actions by unions or other representative bodies, again relieving the burden on individuals to avoid harassment or to confront their boss or to run the gauntlet of the legal system on their own. Examining systemic behaviour, practices, procedures and cultures of workplaces can make it safer for everyone, which is exactly why the government should vote for these amendments, but don't hold your breath.

Senator McALLISTER (New South Wales) (18:16): Labor supports these amendments on the same basis on which we've moved and supported so many others: that it implements a recommendation of the *Respect@Work* report—in this case recommendation 19. I don't intend to provide any further remarks. I think that the material set out in the report explains the importance of the recommendation, and it ought to be supported.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (18:16): These amendments seek to respond to recommendation 19 of the *Respect@Work* report: to provide the AHRC with a broad function to inquire into any matter that may relate to systemic or unlawful discrimination under any of the federal antidiscrimination laws either under its own initiative or at the request of the minister. These amendments alone would not fully implement recommendation 19, given that it's confined to unlawful acts under the Sex Discrimination Act rather than systemic unlawful discrimination under all federal antidiscrimination acts. This proposal must be considered together with a proposal to change the core functions of the AHRC with a positive duty, accompanied by compliance and enforcement powers. Given the lateness of the hour, I will leave my remarks there.

Question negatived.

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:17): by leave—Could you record our support for our amendments, please?

The CHAIR: Certainly. Senator Urquhart, the same?

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (18:17): by leave—Could you record that Labor supported these amendments as well.

The CHAIR: Sure.

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (18:17): [by video link] I move Greens amendment (1) on sheet 1434:

(1) Schedule 1, item 60, page 14 (line 19), omit "seriously".

While we welcome the new offence of sex based harassment, the bill sets the threshold for establishing sex based harassment as unwelcome conduct that is 'seriously demeaning'. That's a very high threshold. Many submitters, including the commission themselves, said that that was an inappropriately high bar that would prevent women from coming forward. The explanatory memorandum provides that the threshold avoids capturing mild forms of inappropriate conduct that are not sufficiently serious in nature. The Northern Territory government, throughout the inquiry process, shared their concern that victims might be deterred from making complaints, and those concerns were shared by many others. The Northern Territory government said:

There has been some discussion in the NT about the burden of proof, and the onus on an employee to prove an act is 'sufficiently serious' to warrant action under the proposed legislation. There is some concern that that this may cause additional distress to employees who are already required to establish the facts of the harassment or discrimination.

The test for sex based harassment would still require conduct to be unwelcome, demeaning and something that a reasonable person would have anticipated would cause offence or humiliation. In determining whether conduct amounts to sex based harassment, the commission is required to have regard to the seriousness of the conduct, amongst other things, already. Those provisions already imply a degree of seriousness is needed to establish the offence. So explicitly requiring something to be 'seriously demeaning' will put people off making complaints if they think their stories won't be considered sufficiently serious. It sends a message that so-called 'minor' sex based harassment should be tolerated. There is no justification for subjecting victims of sex based harassment to a higher bar than victims-survivors of other offences.

Once again, the government are trying to change the goalposts. They are trying to appear like they're doing something, namely establishing a new offence of sex based harassment, but they're making it so damn hard for anyone to actually be able to make out that offence that it's an offence in writing only. It's a pyrrhic victory to have this on our law books when the threshold for meeting it has been designed to be so high that most people won't bother trying to make that claim—a fact I'm sure the government knows full well, and I'm sure they've drafted it deliberately.

This amendment seeks to delete the word 'seriously' so that the test would simply be one of 'demeaning' rather than 'seriously demeaning'. As I've said, it already has those in-built other features that need to be met. There is no need to have that additional bar of 'serious' when it is already imputed by the other limbs in those sections and the surrounds. I commend this amendment on sheet 1434 to the chamber.

Senator McALLISTER (New South Wales) (18:21): Labor supports this amendment to the Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021. Significant concern has been raised by the requirement that conduct be 'seriously demeaning'. The word 'seriously' in this context creates too high a threshold. Surely it is sufficient for this form of harassment to be made out that a person engaged in unwelcome conduct that was demeaning. Is it not enough to merely demean someone? Must you seriously demean them before you're in contravention of this provision?

Our concern is that requiring a threshold this high will deter some people from making complaints. They will feel that the very first hurdle will be an assessment of their character based on an assessment of whether or not the unwelcome conduct, which they felt demeaned them on the ground of sex, was sufficiently serious. This is the entire cultural problem that we are trying to grapple with. In the Senate inquiry the Human Rights Commission made a submission expressing their concerns about the way the government has approached the drafting of this provision. They said that they were concerned that the threshold of 'seriously demeaning' set the bar too high.

I repeat my observations from earlier. This government should listen to experts rather than arrogantly presuming that it knows better. In this case, they should listen to the views of the commission to determine what constitutes sex based harassment rather than being guided by their own internal culture with respect to the kind of conduct that they consider acceptable.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (18:22): 'Seriously demeaning' is one of the requirements for conduct to meet the new statutory definition of sex based harassment that would be introduced by the bill to the Sex Discrimination Act. The term 'seriously demeaning' was chosen following stakeholder consultation but also to reflect the case law on sex based harassment, and it is to be interpreted using its ordinary meaning.

The CHAIR: The question is that amendment (1) on sheet 1434, as moved by Senator Waters, be agreed to.

The committee divided. [18:28]

(The Chair—Senator Lines)

Ayes 12
 Noes 12
 Majority 0

AYES

Brown, CL
 Hanson-Young, SC
 Lines, S
 O'Neill, D
 Pratt, LC
 Urquhart, AE (teller)

Carr, KJ
 Keneally, KK
 McAllister, J
 Polley, H
 Siewert, R
 Watt, M

NOES

Brockman, S
 Cash, MC
 Hughes, H
 McKenzie, B
 Ryan, SM
 Seselja, Z

Canavan, MJ
 Colbeck, R
 Hume, J
 Ruston, A
 Scarr, P
 Smith, DA (teller)

Question negatived.

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (18:29): [by video link] by leave—On behalf of Senator Rice, I move amendments (1) to (5) on sheet 1373 together:

(1) Schedule 1, item 6, page 3 (before line 25), before the definition of *miscarriage*, insert:

gender identity has the same meaning as in the *Sex Discrimination Act 1984*.

(2) Schedule 1, item 6, page 3 (after line 26), after the definition of *miscarriage*, insert:

sex characteristics means a person's physical features relating to sex, and includes:

(a) the person's genitalia and other sexual and reproductive parts of the person's anatomy; and

(b) the person's chromosomes; and

(c) the person's hormones and secondary physical features emerging as a result of puberty.

(3) Schedule 1, page 4 (after line 21), after item 9, insert:

9A Subsection 153(1)

After "sex," insert "gender identity, sex characteristics,".

9B Subsection 195(1)

After "sex," insert "gender identity, sex characteristics,".

9C Subsection 351(1)

After "sex," insert "gender identity, sex characteristics,".

(4) Schedule 1, page 4 (after line 31), after item 12, insert:

12A Paragraph 578(c)

After "sex," insert "gender identity, sex characteristics,".

(5) Schedule 1, page 5 (after line 4), after item 14, insert:

14A Paragraph 772(1)(f)

After "sex," insert "gender identity, sex characteristics,".

I'll give a very brief explanation of these amendments. The Greens support the elimination of discrimination in all forms and we recommend that the opportunity be taken to clarify the scope of protections for gender-diverse people in the workplace. This amendment would ensure that discrimination against gender-diverse workers and workers with intersex variations of sex characteristics is clearly prohibited. This is consistent with protections that already exist under the Sex Discrimination Act but it uses a preferred term. It uses the term 'sex characteristics' rather than 'intersex status'. With that said, we think this is a very meritorious amendment and we urge the chamber to take the opportunity to extend protections to gender-diverse people in the workplace.

Senator McALLISTER (New South Wales) (18:31): Labor supports simplifying federal laws by aligning the adverse action and unlawful termination provisions of the Fair Work Act with the provisions of the Sex Discrimination Act. This is also a question of fairness. Labor believes that all Australian workers should receive

the same protections under the Fair Work Act, including gender-diverse and intersex employees. We understand that this is the intent of the Greens amendment and we support this intent. That is why we will support the alternative amendment, which I understand will be moved subsequent to this one, which brings the relevant Fair Work Act provisions into alignment with the Sex Discrimination Act. However, rather than aligning the adverse action and unlawful termination provisions of the Fair Work Act with the Sex Discrimination Act, the amendment before us would introduce a new definition, of 'sex characteristics' into the Fair Work Act, and this would create a new inconsistency between the two acts.

Just equal and a number of other organisations have argued that the definition of 'intersex status' in the Sex Discrimination Act is out of date. They have recommended that the Fair Work Act adopt the new definition of 'sex characteristics', like the definition that was recently adopted by the ACT government in its Discrimination Act, rather than using the old definition of 'intersex status'. In this amendment, the Greens propose to adopt that definition in the Fair Work Act, but they're not proposing to replace the current definition of 'intersex status' in the Sex Discrimination Act. The subject matter of the amendment is really important, but it is different to the subject matter of the bill, which is already complex and far ranging.

In relation to this particular bill, Labor's focus has been on implementing the recommendations of the *Respect@Work* report. Consequently, we have not had the opportunity to consult widely on other issues relating to the Fair Work Act and the Sex Discrimination Act, including the new definition that is proposed in this amendment. We know from our long experience that it is unwise to amend antidiscrimination laws—in particular, key definitions—without a thorough and focused consultation process. Labor will not support these amendments.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (18:33): The government will also be opposing the amendments moved by the Australian Greens. The government believes that people are entitled to respect, dignity and the opportunity to participate in society and receive the protection of the law, regardless of their sexual orientation, gender identity or intersex status. The Sex Discrimination Act prohibits discrimination on these grounds in a range of areas of public life. The primary purpose of this bill is to implement the government's commitments in its response to the *Respect@Work* report and to implement, as a matter of urgency, measures to strengthen national laws to better prevent and respond to sexual harassment in Australian workplaces. Discrimination on the basis of gender identity and intersex status is already prohibited in the Sex Discrimination Act. These amendments use different terminology that does not align with the definitions in the Sex Discrimination Act. The amendments also do not address the constitutional head of power for the provisions, which may require amendments to other parts of the Fair Work Act. On that basis the government will be opposing the amendments.

Question negatived.

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:35): by leave—Could we please have it noted in *Hansard* that the Greens support our amendments.

The TEMPORARY CHAIR (Senator Askew): So noted.

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (18:35): [by video link] by leave—I move amendments (1) to (4) on sheet 1427 together:

- (1) Schedule 1, item 6, page 3 (before line 25), before the definition of *miscarriage*, insert:

gender identity has the same meaning as in the *Sex Discrimination Act 1984*.

intersex status has the same meaning as in the *Sex Discrimination Act 1984*.

- (2) Schedule 1, page 4 (after line 21), after item 9, insert:

9A Subsection 153(1)

After "sex," insert "gender identity, intersex status,".

9B Subsection 195(1)

After "sex," insert "gender identity, intersex status,".

9C Subsection 351(1)

After "sex," insert "gender identity, intersex status,".

- (3) Schedule 1, page 4 (after line 31), after item 12, insert:

12A Paragraph 578(c)

After "sex," insert "gender identity, intersex status,".

- (4) Schedule 1, page 5 (after line 4), after item 14, insert:

14A Paragraph 772(1)(f)

After "sex," insert "gender identity, intersex status,".

I am also moving this is on behalf of the excellent Senator Janet Rice, who would be able to speak much more eloquently on these matters than I. Given the lateness of the hour, I will just explain that this set of amendments is very similar to the one that I just sought to move, which went down in flames, but this one would use the term that is currently used in the Sex Discrimination Act. We will see if we can get some more support for this one, although we note that the community does actually prefer using the term 'sex characteristics', rather than 'intersex status'. With those brief explanatory remarks, I commend the amendments on sheet 1427 to the chamber.

Senator McALLISTER (New South Wales) (18:36): As I indicated earlier, we will support these amendments. They have the effect of aligning the Fair Work Act with the Sex Discrimination Act and provide an important protection for workers. We support simplifying federal laws by aligning the adverse action and unlawful termination provisions of the Fair Work Act with the protections in the Sex Discrimination Act.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (18:36): The government will be opposing these amendments, and it is for the same reasons as I outlined in relation to the previous amendments moved by the Australian Greens.

Senator PATRICK (South Australia) (18:37): This is just to cover off on all of the amendments that have been moved by the Greens and Labor thus far. I have been paired in support of them, but it might not be obvious to anyone watching or reflecting back on it in *Hansard* or the *Journals of the Senate* later. I want to make it very clear that I have supported all the amendments moved in the Committee of the Whole by the Greens and by Labor, and I have done so on the basis that they seek to basically fill in all of the holes that have been dug by the coalition around the *Respect@Work* report. What has happened, of course, is that the government has moved some way towards dealing with the recommendations, but I don't believe that it has fulfilled the necessary standard in relation to the work that has been done on this. So, again, I indicate my support for all of the Committee of the Whole amendments moved by Labor and the Greens.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (18:38): Just listening to Senator Patrick's contribution and the contribution of other senators around the chamber, I want to make it very clear that this bill, which I do hope will pass tonight—certainly that does appear to be the will of the chamber—will strengthen and streamline the national legal frameworks that deal with sexual harassment. This is part of the government's strategy for preventing and addressing sexual harassment, as outlined in *A roadmap for respect: preventing and addressing sexual harassment in Australian workplaces*.

I have listened carefully tonight to the amendments that we are making. They are substantial amendments and they will make a difference in workplaces—in particular, clarifying that the Sex Discrimination Act covers judges, members of parliament and ministerial staff and ensuring that state and territory public servants are covered by the Sex Discrimination Act by removing the existing exemption that is in place. This is actually a very important change that we are making and, certainly based on the stakeholder feedback, one that is wholeheartedly supported. In fact, I was pleased, when the government did announce that it would be making this change, that the feedback, particularly from the legal fraternity, was very supportive of what the government was doing.

In terms of expanding the coverage of the protection from workplace sexual harassment under the Sex Discrimination Act—and we're doing that by picking up the broader concepts of 'worker' and 'persons conducting a business or an undertaking', and that definition comes from the Work Health and Safety Act—what we're doing with this amendment is ensuring that all paid and unpaid workers, which will very importantly now include volunteers and interns, are protected from sexual harassment under the act. Again, this is about expanding coverage of the protection from workplace sexual harassment under the Sex Discrimination Act.

What we're also doing is introducing an express provision to clarify that sex based harassment is prohibited under the Sex Discrimination Act. There did appear to be some confusion in relation to that. This will certainly go a long way in, in particular, ensuring that employers well and truly understand that sex based harassment is prohibited under the Sex Discrimination Act. We're also in the bill that is before the Senate tonight expanding the coverage of the ancillary liability provisions in the Sex Discrimination Act to include sexual harassment and the new sex based harassment provision.

Another important amendment, which we probably haven't reflected on during the committee stage, is amending the Australian Human Rights Commission Act to extend the time period for making a complaint under the Sex Discrimination Act, meaning that a complaint cannot be terminated on the grounds of time unless it has been 24 months since the alleged incident, rather than six months. Certainly this was based on feedback that this would be a more appropriate time frame to allow those people who are or who have been subjected to sexual harassment in the workplace to bring their claim. We're also clarifying, because there was confusion in relation to

this, that victimising conduct can form the basis of a civil action for unlawful discrimination under the Sex Discrimination Act, in addition to a criminal complaint.

In relation to the Fair Work Commission, we are clarifying that the Fair Work Commission can, under the existing antibullying jurisdiction, make orders to stop sexual harassment. This is a very important clarification. But we are also clarifying that sexual harassment can be conduct amounting to a valid reason for dismissal under the unfair dismissal provisions of the Fair Work Act. Again, there was—and it was sometimes disappointing to receive this feedback—confusion in relation to whether or not sexual harassment can be conduct amounting to a valid reason for dismissal under the unfair dismissal provisions of the Fair Work Act. We are ensuring that we take steps to clarify that.

The final change that I would like to comment on is something that I think was embraced by the chamber and is also something that I know there has been a lot of support for. In particular, I'd like to acknowledge Julian Simmonds and the work that he has done with the Pink Elephants Support Network—and I think everybody here knows Pink Elephants—in relation to miscarriage. While not recommended in the *Respect@Work* report, the bill will also enable an employee to take up to two days of compassionate leave if the employee or the employee's current spouse or de facto partner has a miscarriage.

These are the changes that, should the bill be supported—and it does appear to be the will of the chamber—will go through tonight.

Senator HANSON-YOUNG (South Australia) (18:45): I'd like to rise at this point of the debate. We have been debating this bill for over a day now. Of course, it is important that we put in place laws to protect women from harassment, from sexualised bullying and from being berated and belittled in their workplace. I find it extraordinary that, in the course of the debate on this bill here today, we had some comments made by Senator Pauline Hanson that really only made the situation worse for a young woman who wasn't treated properly or looked after properly in this place. And that, of course, is Brittany Higgins, a woman who stood up and called out her treatment and what had happened to her. If she hadn't done that—and been prepared to expose herself with such vulnerability—we wouldn't even be debating this bill here today. It wasn't okay for a member in this place to come in here and victim blame. It wasn't okay, and it needs to be called out.

There are people in this chamber who have worked with Ms Higgins. There are others who know her well. She deserved better than to be used as part of a political attack in the debate on this bill today. In fact, we actually all owe a great debt of gratitude to Ms Higgins for being brave enough and courageous enough to tell her story. And the reason her story was so powerful—and it didn't shake just this building; it created waves right across the country—was that her experience resonated with so many other women in workplaces right around this country, in social clubs right around this country, in friendship groups, in universities, and, sadly, even in schools. Those protests, which happened on the lawns of Parliament House and elsewhere around the country, organically appeared because women in this country have had enough of being told to be silent and have had enough of sucking it up and not declaring what has happened to them for fear of shame, of embarrassment, of not being believed. They're the women that we should be listening to.

I know that there are many women in this place who understand that. They understand that from a very personal perspective. They understand it because it resonates with all of us. It's either been our experience or it's been the experience of one of our loved ones: our sister, our friend, our mother. We all know somebody who has been assaulted, harassed or abused and was made to feel like they had to stay silent for fear of retribution or shame. One of the most powerful contributions to this such desperately needed change in public policy on how we deal with harassment at work and the laws that protect women was when Brittany Higgins and other women, like Grace Tame, decided to step out and speak the truth about their experiences, throwing off the cloak of shame. That meant that more and more women knew that what had happened to them wasn't okay and that if they came forward they would be believed. I find it extraordinary that, in a debate such as this that has been brought forward because of this entire incident, members of this chamber are prepared to belittle that experience and that bravery. It's not acceptable.

This bill does not go far enough. We have spent hours debating amendments because it is not good enough. The Prime Minister didn't hold true to his promise, but this bill is recognition that coming forward and breaking one's silence can make a difference. For that we should all be thankful to Brittany Higgins.

Question negatived.

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:51): by leave—I ask that *Hansard* record the Greens support for our amendments.

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (18:51): by leave—I ask that *Hansard* note the Labor Party's support for those last amendments.

The TEMPORARY CHAIR (Senator Askew): So noted.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (18:52): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Treasury Laws Amendment (2021 Measures No. 2) Bill 2021

Second Reading

Consideration resumed of the motion:

That this bill be now read a second time.

to which the following amendment was moved:

At the end of the motion, add ", but the Senate notes that:

(a) despite promising to streamline reporting in the charity sector, this Government is instead pursuing changes to charity law that could stop charities and churches from speaking up for core principles and articles of faith in civil society, limiting their freedom of political communication and participation in our democratic system; and

(b) while the Government boasts about its multinational tax measures, it has failed to curtail the use of tax havens and tax avoidance schemes by multinational corporations".

Senator HUME (Victoria—Minister for Superannuation, Financial Services and the Digital Economy and Minister for Women's Economic Security) (18:53): I'm not entirely sure where I was up to in my summing-up speech, so I will quickly again run down the details of the Treasury Laws Amendment (2021 Measures No. 2) Bill 2021. Obviously, schedule 1 of the bill amends the Income Tax Assessment Act to require non-government entities seeking endorsement as a DGR to be a charity registered with the Australian Charities and Not-for-profits Commission or be operated by a registered charity. Ancillary funds and specifically listed entities will be exempt from this requirement. The requirement to be a charity already applies to the majority of DGR categories in subdivision 30-B and the measure will amend special conditions applying to the remaining general DGR categories, requiring non-government entities to maintain charity registration in order to retain their eligibility for DGR endorsement.

Schedule 2 of this bill contains amendments to the Income Tax Assessment Act that remove the preferential tax treatment provided by offshore banking units, which are commonly known as OBUs, and provide transitional arrangements for existing OBUs. In October 2018 the OECD Forum on Harmful Tax Practices found that Australia's OBU regime contains harmful features. As a result, the Treasurer announced in October 2018 that the government would seek to address the OECD's concerns. The OBU regime has been closed to new entrants since the Treasurer's announcement. Passing this bill will allow the OECD to confirm that Australia has amended the OBU regime to ensure that it is not a harmful tax practice. This is consistent with the Morrison government's ongoing support for international tax integrity and will protect Australia from potential reputational damage and other possible consequences. The bill provides for two years transitional arrangements to assist existing OBUs to transition away from the regime. I commend this bill to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Askew): The question is that the second reading amendment moved by Senator McAllister be agreed to.

Question negatived.

Senator McALLISTER (New South Wales) (18:54): by leave—I ask that my vote be recorded in *Hansard*.

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:54): by leave—The Greens too.

The ACTING DEPUTY PRESIDENT: So noted that you have voted in favour.

Original question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator CASH (Western Australia—Attorney-General, Minister for Industrial Relations and Deputy Leader of the Government in the Senate) (18:55): by leave—At the request of Senator Hanson, I move Pauline Hanson's One Nation's amendments (1) and (2) on sheet 1442:

(1) Clause 2, page 2 (table item 1), omit the table item, substitute:

1. Sections 1 to 3	The day this Act receives the Royal Assent. and anything in this Act not elsewhere covered by this table
2. Schedules 1 and 2	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.
3. Schedule 3	The day after this Act receives the Royal Assent.

(2) Page 12 (after line 14), at the end of the Bill, add:

Schedule 3—Disclosure of information

Corporations Act 2001

1 At the end of Part 2M.3

Add:

Division 9—Disclosure by listed entities of information about jobkeeper payments

323DB Requirement to notify market operator about jobkeeper payments

(1) A listed entity must give each relevant market operator a notice, for release to the market, in accordance with this section for a financial year if the listed entity, or a subsidiary of the listed entity, received a jobkeeper payment (within the meaning of the *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020*) in the financial year.

(2) The notice must set out the following information for the financial year:

(a) the listed entity's name and ABN;

(b) the number of individuals for whom the listed entity or a subsidiary of the listed entity received a jobkeeper payment for a jobkeeper fortnight (within the meaning of the *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020*) that ended in the financial year;

(c) the sum of all jobkeeper payments the listed entity and each subsidiary of the listed entity received in a jobkeeper fortnight that ended in the financial year;

(d) whether or not the listed entity or a subsidiary of the listed entity has made one or more voluntary payments (whether or not in the financial year) to the Commonwealth by way of a repayment of jobkeeper payments received by the listed entity or a subsidiary of the listed entity in the financial year;

(e) if the listed entity or a subsidiary of the listed entity has made such a voluntary payment or payments—the sum of those payments.

(3) The notice must be given:

(a) if the listed entity has lodged a report for the financial year under Division 1 with ASIC on or before the day on which Schedule 3 of the *Treasury Laws Amendment (2021 Measures No. 2) Act 2021* commenced—within 60 days after that day; or

(b) otherwise—within 60 days after the listed entity lodges a report for the financial year under Division 1 with ASIC.

(4) If the listed entity becomes aware that a notice given in accordance with this section for a financial year has become out of date or is otherwise not correct, the listed entity must give each relevant market operator, for release to the market, an updated notice within 60 days of becoming so aware.

(5) An offence based on subsection (1) or (4) is an offence of strict liability.

323DC ASIC must publish report

(1) ASIC must publish on its website a consolidated report of all notices given to relevant market regulators under section 323DB and released to the market.

(2) ASIC must publish the consolidated report as soon as practicable after a notice or notices under that section are released to the market.

(3) ASIC must ensure the consolidated report is regularly updated.

2 In the appropriate position in Schedule 3

Insert:

Subsection 323DB(1)	60 penalty units
Subsection 323DB(4)	60 penalty units

Senator ROBERTS (Queensland) (18:56): [by video link] I speak on behalf of Senator Hanson on the Treasury Laws Amendment (2021 Measures No. 2) Bill 2021. The key point here is accountability. I know now of organisations that had a disastrous first two months of JobKeeper and then very quickly recovered. They tried to stop JobKeeper payments and couldn't. We also know that some businesses gamed the system. What this shows is that we need a proper audit.

I'll give you some background. March and April 2020 was a time of great uncertainty. Deaths overseas were reportedly very high—in the tens of thousands. There was a lot of fear and uncertainty, and that meant erring on the side of safety. So all the parties in the Senate supported the government's approach on JobSeeker and JobKeeper. We basically gave them a blank cheque and waved it through because it was a time of perceived threat. I warned at the time of a need to get data and develop a proper plan, and that we would hold the government accountable. I noted Taiwan's stellar performance and Ivermectin.

The government got it wrong with JobKeeper. We all saw that, and that's not a criticism of the government—so long as the government doesn't make too many mistakes it's very easy in hindsight to see that JobKeeper and JobSeeker could be open to criticism. I'm proud to say that I erred on the side of caution and safety in a time of great uncertainty. Senator Hanson and I are not afraid of admitting errors. But it was an error that was based on making sure that we erred on the side of safety, so we cannot hold that against anyone. Senator Hanson later questioned continuing JobKeeper. I did the same. Parliament did not stop it. Labor wanted to extend it and widen it. The parliament failed to hold the government accountable. The federal government continued to support capricious and unjustified lockdowns, and still does. The parliament condones the lack of a proper comprehensive plan, yet has blasted billions out into the community.

That's the broad perspective. We were faced with a lot of uncertainty. The government made some initiatives. We supported them, and some parties wanted to continue them through until now. Let's have a look at some specifics. Labor is claiming that, out of the \$90 billion paid out in JobKeeper, \$25 billion has apparently been paid to companies that did not suffer a decline in revenue. The Treasurer says he doesn't know because he does not have companies' profit and loss statements. And some of them had an increase in revenue and some have paid huge bonuses to executives. So we have a problem. Naming and shaming by itself does nothing, though. The people need action to get the money back from those who've rorted the system. We need a better system. We need more accountability to the public. We need a plan and a system in place for the future.

I want to comment on tax law. Tax law has always had secrecy provisions, unless there's a higher purpose—for example, criminal prosecution. There are many practical occasions when the Australian Taxation Office releases data. Its JobKeeper administration, though, is not part of the income tax system. The Australian Taxation Office systems were used not for tax but for shovelling taxpayer money to companies. That does not affect tax office secrecy provisions.

Our tax system is based on voluntary compliance, including for company tax. Prior to 1986, every individual's tax return was checked by the ATO. That hasn't happened since 1986. It is done on a sampling basis. We need to remember, also, that 75 per cent of tax raised is from individuals, so it's the individual's confidence in the taxation system and confidence in government spending that needs to be maintained.

Now, the parliament makes the laws. There is only one position in the Australian tax office that is of significance: that's the taxation commissioner. Why should the commissioner approach the Senate President? Why did he write to the President, when he reports to the parliament? The parliament hires him and fires him. The commissioner, on this occasion, has overstepped the mark.

ASIC will publish the JobKeeper figures for publicly listed companies, and, for them, the context, including the number of employees and revenues, is available. That's not the case when it's published for private companies because there's a need for context. There can be unintended consequences if people simply know the JobKeeper payments without the comprehensive context. We need to prevent various third parties targeting the businesses and taking JobKeeper out of context.

Now, the government will support this in the House of Representatives, whereas Senator Patrick's original amendment—which we acknowledge and appreciate—would have been defeated. I'm sure that Senator Patrick is doing this to do good, not just look good. So we thank Senator Patrick for his idea, which we have built on and enhanced. Those in the Senate who believe in transparency with safeguards will support this amendment.

I want to make two final points. This highlights yet again that central government quite often gets it wrong. We highlight parliament's lack of accountability. Instead, parliament has been posturing over this COVID situation. We must restore parliament to serve the people. So that's why we're moving this amendment, on behalf of Senator Hanson, and I would welcome people's support.

Senator HUME (Victoria—Minister for Superannuation, Financial Services and the Digital Economy and Minister for Women's Economic Security) (19:03): The government will be supporting the Pauline Hanson's One Nation amendments on sheet 1442.

Senator PATRICK (South Australia) (19:03): [by video link] There will be companies—big private companies—clinking their champagne glasses tonight, toasting to Pauline Hanson. This is a strategic victory for companies that have received taxpayers' money and funnelled it straight through to their dividends and executive bonuses. Senator Roberts suggests that this is an improvement upon my amendment, but it is not. Look, I'll end up supporting it on the basis that it does help to consolidate some information, but in actual fact what his amendment seeks to do is to cause companies who are listed to disclose their details or ASIC to disclose their details, in circumstances where most of them have to disclose them anyway. It's a dud—it actually doesn't do very much.

We know that there are a whole range of different companies that received JobKeeper and did much better than they had originally thought they would. We know that because they are businesses that are listed and have a requirement to disclose details to their shareholders. Most of the ASX companies, such as Harvey Norman, have already disclosed. Senator Hanson is pushing an amendment to disclose information which is already published.

What we need to understand about this amendment is what it doesn't do—what my amendment does do but theirs doesn't. It does not include hundreds of foreign controlled companies operating in this country that may have put up their hands for JobKeeper, because they're not listed on the Australian stock market. So everyone should absolutely know what's happening here. Senator Hanson and One Nation are permitting foreign controlled companies to get away with taking Australian taxpayers' money that was given to them by way of JobKeeper. That's what's happening—companies such as the Bank of China, Jemena and Wilson. They're all companies that are Chinese owned and are not listed on the stock market yet may well have received JobKeeper. I'll go to some other ones. The big four consultants, with their very secretive partnerships, are not required under this amendment to disclose how much JobKeeper they may or may not have received. Thank you very much, Senator Hanson and Senator Roberts! Those companies get to take the JobKeeper and keep it, even if they did not fare poorly as a result of the pandemic.

It doesn't include clubs. It doesn't include private schools. It doesn't include political parties that have stuck their hands up for JobKeeper and may not have had a change in revenue at all but are basking in taxpayers' money and will continue to do so because Senator Hanson and One Nation have moved an amendment which will get government support, and I presume that, as a result of that, they're not going to support my far more encompassing amendment. So those political parties may well enjoy that taxpayer funded benefit, money that could have been used for other things.

What about the very large private companies? We've all been talking about these large companies that don't even have to file financial reports because they're grandfathered. Not only do they not have to file financial reports but One Nation has given them a free kick. Again, they'll be sitting in their private jets thanking One Nation for permitting them to get away with a huge strategic victory. Meanwhile, Treasurer Frydenberg will be getting a pat on the back from them because he's managed to successfully talk One Nation down from support of my amendment. I'll tell you One Nation have previously supported my amendment. They've supported my order for production. But they've been talked down by big business somehow.

What about companies such as Salesforce, Dow, GE, IBM, KKR, McDonald's and McKinsey—all US companies? What about the tax haven entities that are not listed on our stock market? They are likely not paying much in the way of tax but potentially are collecting JobKeeper—companies like Wilson Group, Brookfield and EnergyAustralia, which is domiciled in Jersey, off the UK. What about those companies, Senator Roberts? Are you happy for them to get bucketloads, trailer loads or truckloads of Australian taxpayers' money by way of JobKeeper? They may not have suffered the downturn, as you accepted in your speech. They just truck this money off overseas to a tax haven where we'll never, ever get to know anything about them, and you have just exacerbated the problem by doing this.

This is nothing but a dud. That's all I can describe it as. It was circulated in the last 15 minutes. It's not well thought through. How about some of the banks that operate here that are not listed on our stock market, that may well have employees here and that may well have put up their hand for JobKeeper? I'll be asking the minister to assure us that no foreign controlled entities receive JobKeeper, and I'm absolutely sure that the representing minister won't be able to tell me that. They won't be able to say: 'No, no, it's okay, Senator Patrick. All of those companies are all good. They didn't receive JobKeeper.'

This is an honesty system that was put in place. The parliament said we needed to help Australian companies, and no-one begrudges that sentiment. We passed laws back in April, on 8 April, last year that had no detail. I remember it well because I'd just got out of isolation from COVID and flown to Canberra to deal with JobKeeper.

We basically had flyers being passed around the chamber, talking about what JobKeeper would do, but in actual fact the legislation that we passed was only a head of power. We left all of the rules to the Treasurer. He created an honesty system. He created an honesty system that said if you predict you are going to have a loss in turnover then you can put your hand up and get JobKeeper. But he made a massive prudential failure that will now cost us billions. It has cost us billions. In fact it hasn't cost us billions; it's cost our children billions because it came from debt, and it's cost our grandchildren billions because it came not from the bank accounts of government but from the debt side of the ledger. That's what's happened here—no safeguards.

For people who put up their hand and say, 'I want to protect the privacy of these companies,' well, sorry; this is not their private money. If they go to a bank and get some money from the bank, that's a matter for the company and for the bank. If they go to the public and get some money, that is a matter for the public. In this country, we disclose grants that go to companies, including the total amount. We disclose government contracts that go to companies. The total amount is on AusTender. This is no different. This is money that went from the taxpayer to a company. It is not private information.

I do not understand for one moment why it is that One Nation has decided to limit the disclosure to companies that have to disclose anyway. That's the stupidity of it. It makes no sense. I urge One Nation to reconsider not supporting my amendment, because my amendment does do the job of capturing all the people that I just labelled. I will have some more to say on this shortly. (*Time expired*)

Senator McALLISTER (New South Wales) (19:13): Well, this is all actually kind of funny, isn't it, at least to the extent that it exposes, in the most ridiculous way, the entirely frivolous approach that One Nation has to actual decision-making in this chamber. Let's reflect on how we got here.

Some weeks ago, Senator Patrick moved a very similar amendment to the one that he has circulated for debate this evening in this chamber. Labor's very supportive of that amendment because it requires companies that received JobKeeper and the amount that they received to be disclosed. I won't go into the policy merits of that—I might come back to it later—but of course we support that. I acknowledge my colleague Dr Leigh, who has worked very hard to elevate this issue in the public debate and expose the significance of transparency. One Nation supported it at that time. Then Labor sought to move a similar amendment to this legislation. We got word back that, although One Nation had supported this position previously, they weren't prepared to support it if it were moved in the name of the Labor Party, because they felt that the Labor Party hadn't been sufficiently kind to them in recent times. What are you—five years old? This is not how public policy is made. Generally, people who seek to participate in the Australian parliament vote on the merits of the issue. It is rare indeed for a political party to actually concede that the reason they're not voting for an issue is not that there's any merit in the policy argument that's being brought forward but that they have hurt feelings. How absolutely ridiculous, although slightly terrifying. It's slightly terrifying, I would imagine, for Australians who look to the Senate to be the place where legislation is scrutinised and government is held to account, because that's what this amendment is about, of course. It is about accountability. It is about government accountability, and it is about accountability being placed on the businesses that received this money. Transparency and accountability—the bedrock on which this Senate has been built. But that's not important for One Nation, at least not if it's going to be moved by people in the chamber who have hurt their feelings from time to time.

So how shall we deal with this? Senator Patrick says: 'I'll put it in my name. If that's what's required to get support, I'll circulate it in my name.' He does so. Now we've got this backflip. We don't know what One Nation's voting position is on Senator Patrick's amendment, but we can assume—by their decision, at the very last minute, to circulate this amendment, a pale imitation of the policy position advanced in the amendment circulated by me and Senator Patrick—that they have changed their position again.

The amendment that they've circulated is essentially absolutely meaningless, because Australian listed companies have already been directed to report government payments. ASIC has already given them that direction, and that includes JobKeeper. So the effect of the amendment that's before us now—while it doesn't do any harm and it might make tracking down the information a little simpler—is simply to replicate, essentially, an obligation that already exists. As Senator Patrick pointed out in his contribution just now, it leaves untouched large numbers of organisations—companies that are not Australian listed companies. There will be no obligations for them under the amendment that's being proposed here.

It comes as the Australian public are increasingly demanding that there be transparency around this program. The *Herald* reported just recently that 65 per cent of Australians not only want to know who got the money but think that there ought to be some obligation to pay it back if you received it on terms that were not consistent with the original intention of the program. None of the amendments before us tonight go to that place, but they do ask for transparency, and it is not unreasonable that we do so.

In New Zealand, they've established an online register listing all of the recipients of their wage subsidy scheme. In New Zealand, about five per cent of businesses have repaid some of their receipts, because the truth is it was not really reputationally sustainable for them to hold on to them. Businesses do have ethical obligations. They are part of a political community, or they certainly seek to be part of it. All that we are asking is that the government be transparent about which businesses have been in receipt of funds. It is quite astonishing that the government are so afraid of this scheme that they have twisted and turned and turned themselves upside down. I will be intrigued to find out what it is that they've offered to Senator Hanson in exchange for the ludicrous amendment that's before us tonight, but that will have to wait until another day.

Progress reported.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Askew) (19:20): Order! I propose the question:

That the Senate do now adjourn.

Afghanistan

Senator CANAVAN (Queensland—Deputy Leader of the Nationals in the Senate) (19:20): The sacrifice of Australian forces in Afghanistan shows our nation at its best. Almost 40,000 Australian troops served in Afghanistan to defeat terrorists and support our allies. Forty-one Australians lost their lives, another 260 were wounded in battle, and hundreds more remain with the mental scars for life. Consistent with our proud history, our Australian diggers served with unparalleled courage and their performance was respected by other armed forces around the globe. With the help of our allies, our Australian troops achieved their mission's primary aim of bringing justice to Osama bin Laden and his al-Qaeda operatives, who were responsible for one of the greatest acts against humanity in history. As we approach the 20th anniversary of the September 11 attacks, we should remember the loss of thousands of innocent lives on that day.

The secondary objective of our mission was to support our allies, especially the USA. Following September 11, Prime Minister John Howard invoked the ANZUS treaty for the first time. There had been an attack on America's homeland, and we had an obligation to help them. But our commitment was not just borne from a contractual requirement; we share a common bond with the US as countries formed under God to defend freedom, equality and peace between nations. We have fought alongside America in every war since World War I and we have been proud to fight with them again in Afghanistan. Fighting with America is in our nation's interest because we have an interest in defeating any ideology that seeks to undermine our freedom and our liberty. Over the past 100 years we have helped defeat fascism and communism, and now Islamic terror.

As good friends, though, we must be willing to tell home truths when needed as well. The war in Afghanistan was launched for a just moral cause, but, as the years rolled on, the mission became aimless and it wasn't always clear how success could be achieved. To the extent there was an objective, it appeared to be the establishment of a free and democratic country in Afghanistan. As former president George W Bush said in his second inaugural address in 2005:

The survival of liberty in our land increasingly depends on the success of liberty in other lands. The best hope for peace in our world is the expansion of freedom in all the world.

In hindsight, this was the folly of vaulting ambition. Our reach exceeded our grasp. We must vigilantly protect the freedom and rights we enjoy, but we cannot impose our system on other countries at the point of a gun. Some now say the West should have left troops in Afghanistan, just as we have in Korea, Japan and Germany since World War II, but those troops were not facing IEDs 20 years after the war ended, and by 1965 there were no ongoing hostile civil wars in those nations. We need to concentrate on building our own nation first, before we build the nations of others.

I support the member for Herbert's call for a parliamentary inquiry into the war in Afghanistan. We owe it to the sacrifices that he and other Australians made to conduct a warts-and-all review of what went right, what went wrong and what we should never do again. Such an inquiry should also examine the chaotic withdrawal of citizens and visa holders over the last few weeks. I'm increasingly concerned about the misplaced priorities of our military leaders. Just three months ago, 30 current and former defence personnel formed the Australian Security Leaders Climate Group. At the time, former Chief of the Defence Force Admiral Chris Barrie claimed that climate change was one of the two existential threats that keep him awake at night. There was no mention of the exit from Afghanistan, or the South China Sea, or China's bellicose statements about Taiwan. Our increasingly woke armies have been embarrassed by the Taliban in the last few weeks, and it is time for a rethink.

And what better time than today, which marks the 70th anniversary of the ANZUS treaty. The ANZUS treaty was signed in 1951. We were at war on 1 September 1951 against Communist Korea. China, less than a year

before, had sent 200,000 Red Army troops across the Yalu River to fight us. At the time, Robert Menzies wrote in *Foreign Affairs*:

... the real and deadly and present question is whether, inside the next two years, we shall ... be strong enough to resist (and therefore deter) a vast Communist aggression against one manifestation of which we are actually now fighting in Korea.

The ANZUS treaty was a pact of free nations against the tyranny and destruction of communism. Seventy years later, once again our biggest security threat is communism from a resurgent and bellicose communist China. A day after Kabul fell, the Chinese tabloid daily *Global Times* wrote:

From what happened in Afghanistan, those in Taiwan should perceive that once a war breaks out in the Straits, the island's defense will collapse in hours and US military won't come to help.

But now we see our leaders talk of the threat of climate change rather than the threat of communist China. We risk making the same mistake as we did in Afghanistan, reaching for what we cannot grasp. We cannot alone change the climate, but we can defend our country and our freedoms and that is what we should return to doing now that we have left central Asia.

Employment

Senator POLLEY (Tasmania) (19:25): I rise to speak regarding two reports which have been released this year: the Productivity Commission's productivity insights report and the *Intergenerational report*. Together they have painted a picture of Australia's recent past, current situation and future trajectory. The reports are concerning because under this Morrison Liberal government our standards of living are lower, and this trend is likely to continue if there is no intervening action. In a world that seems uncertain, our communities want a government that can deliver what they set out to achieve. So how does this aspirational essence ring true in contemporary Australia? It must start with a vaccine rollout and end with secure, well-paid, full-time jobs.

Let's talk about full-time and secure work or, as I would refer to it, boosting the living standards of Australians. The Productivity Commission released figures which determine that we are currently living in the worst decade for living standards in 60 years. This is a truly shocking finding but probably not surprising to many who are struggling to make ends meet and see a more certain future in a COVID world. The latest *Intergenerational report* has predicted that this trend will likely continue. If we don't meet the aspirational average 1.5 per cent productivity growth over the next 40 years, Australians will see their income be \$32,000 lower by 2060. I say that 1.5 per cent is aspirational because there is nothing that the Liberal government are doing right now to boost productivity. They will not join the rest of the world and commit to net zero by 2050. They are not sending any clear signals to the private sector about technological adaptation. They are cutting funding to our universities, which are engines of innovation. They are continuing to cut from TAFE. To put it simply, they are not investing in the future of Australia. This will be the Liberal Party's legacy and their lasting impact on Australia.

A Labor government will introduce a start-up year to potentially create 200,000 new businesses and provide a platform for future job growth and economic opportunity. Labor will offer income-contingent loans to 2,000 final year students and/or recent graduates to support their participation in accelerated learning programs. Start-ups have been shown to possess very good job creation and they show great potential, encouraging new firms, which will be good for our economy, good for job growth and even better for wage growth.

It is the duty of government to work with the private sector to inspire and stimulate national focus and to champion the growth that is so desperately needed and to provide direction and leadership for our business community, especially those businesses created by young Australians. Working with higher education institutions, being entrepreneurial and working with investors will ensure that Australia is better placed to identify opportunities and better placed for investment in universities and further research. Building this cooperation should also make it easier for people to actually see that there are real business opportunities here in Australia. We need investment in our universities, not cuts to the universities, not making it more difficult for Australians to be able to attain a university degree, pricing it out of the reach of most Australians. There is a need for government to assume a leadership role in encouraging entrepreneurial activity and the emergence of new firms that can use tech for social good or improve the productivity and efficiency of other businesses. If government does not invest in policy with an intention to reform, then Australia's living standards will continue to flatline. Australians can't afford for this to happen. Australians deserve hope for better living standards so they can get up in the morning and go to work, save for their future, buy a home and be able to raise a family. The next generation deserves better living standards than their parents. This is the new Australian dream, but it may remain just that—a dream—if we continue to elect Liberal governments, because Scott Morrison's legacy will be one that will see our living standards dive.

Economy

Senator GRIFF (South Australia) (19:30): [by video link] I rise to speak tonight on productivity, hardly an original issue to raise but an important one all the same. Many here have spoken previously about the importance of productivity and the danger of our long-running productivity crisis. It is important because we have had poor productivity growth for too many years. It is the main reason why our economic and wage growth has been low for so long and why our standard of living is less than it could be. But previous contributions on this topic have been full of warnings and dangers. I would like to contribute something more optimistic. We may be about to turn the corner on productivity, and we must do all we can to take advantage of this opportunity.

For many Australians—millions of Australians—working from home has been a silver lining in the pandemic. While few would want to do it exclusively, many of us have had our eyes opened to a very different way of working. It has shown workers they can, in fact, work remotely. It has shown them the cost of a long daily commute. It has shown managers that workers can, in the main, be trusted to deliver when they work from home, and it has shown managers a world of possibility in restructuring their businesses and offices to take advantage of that flexibility. It will likely be months until the data is published, but we will see significant productivity gains made in the last year. This will be mainly concentrated in those industries that could adapt to flexible work arrangements. That has certainly been the international experience in countries where lockdowns and work from home arrangements were less common than here. The effect here could be even stronger.

We will likely see those gains in the November data release, but they should be sustained for several years, as firms adjust and apply the lessons they have learnt. There is an expectation that productivity growth will taper out as that adjustment is completed. This is possible, if the only lesson we learn is about remote work. But we can sustain that growth if we learn the deeper lesson—that is, the value of experimentation and innovation in our workplaces. This is the one area where Australia has always struggled. Management proficiency is an undervalued skill. Most in management jobs have no special training. In the main, new managers learn by copying other managers, through mentoring, or even from random management books. Amateurs learning from amateurs is a terrible way of developing proficiency. People learn bad habits as well as good ones. They simply don't know the difference. But they may never learn the difference if they just copy their peers. And, if none of your peers are willing to experiment, you won't learn to experiment either. This kind of direction holds us back.

I hope the pandemic shakes up this kind of thinking. I hope managers have viewed the pandemic as an experiment in doing things differently: an experiment in determining a way to learn the value of innovation and change. I hope they keep trying new approaches, new methods and new ways of doing business. I hope it becomes instinctive for managers everywhere, because the pandemic has shown how experimentation can unlock a huge amount of value—value that means more productive businesses, more positive staff and a greater ability to satisfy customers.

We also need to nurture an instinct for innovation. It is already natural for Australians outside the workplace. We are a people who naturally want to have a go, to figure things out and to do things better. If we can bring that attitude into our workplaces, we could see real and sustained productivity growth, not just for a year or a few years but a sustained increase that would raise our incomes, improve our wellbeing and ensure better lives for ourselves and for our future generations.

Women's Health Week National Summit on Women's Safety

Senator ASKEW (Tasmania) (19:35): Within days, one of the most important weeks of the year will be upon us. Women's Health Week begins next Monday, 6 September, and runs through until Friday 9 September. It will be five big days dedicated to the health and wellbeing of Australian women and girls. Good health is powerful and it begins with each of us making health a priority. We are sending a strong message about the importance of women's health and wellbeing via a national campaign of events and online activities.

Women's Health Week was first run in 2013 by Jean Hailes for Women's Health. It is now a permanent fixture in the Australian calendar, held in the first week of September each year. Last year, despite being in the grip of a global pandemic, more than 90,000 women participated in 1,400 events and 45,000 women subscribed to the online program. Imagine what will happen with this year's online program now that we have an even better understanding of technology.

During Women's Health Week, boardrooms, classrooms and living rooms will be transformed into spaces where women and girls can share information and stories about health checks, health conditions or any issue that impacts their wellbeing. More than 2,200 online and offline events are running across the country, including walks to watch the sunrise, online health checks, meditation tools, a women's adventure film and a five-day self-

love challenge. Articles, interviews, recipes, quizzes, podcasts, tips and discussions will be shared on the five-day daily topics. You can see them at www.womenshealthweek.com.au during the full week.

The week starts with 'Move it Monday!'—a day dedicated to moving the body. Join a live fitness class, find out how much you need to move to be healthy and learn life hacks for working from home. Day 2 deals with tricky periods—a women's health topic that needs more attention. This topic covers everything you need to know about the menstrual cycle, including busting some common myths about what is and is not normal. Gynaecologist Dr Amanda Ward will talk to Young Australian of the Year Isobel Marshall about her mission to eliminate period poverty. Wednesday's topic is 'Private Lives', a day when the discussion centres on sex and relationships for women and girls. Sexuality educator Vanessa Hamilton will be discussing how to have better conversations around sex, consent and intimacy.

Mental health has received a lot of attention during the COVID-19 pandemic. Liptember will be sharing tips on 'Mind Matters' day to help participants find a new normal for mental health in these times. Professor Jane Fisher will discuss grief, while psychologist Dr Sarah Cotton will talk about the stressful convergence of work and personal lives during lockdowns. New South Wales CWA Chief Executive Danica Leys puts the health of regional and remote women on the agenda. Naturopath Sandra Villella will share foods that can improve your mood, and the Gidget Foundation's Arabella Gibson will address the difficulties facing new mums in the pandemic world. Women's Health Week concludes with one big slumber party—sleep and how important it is to women's health. That is the focus for Friday. Facts about the impact of sleep disorders and sleep deprivation in women will be shared. Jean Hailes for Women's Health will also publish five days of free evidence-based health formation on their website.

MS Australia is also presenting a mix of activities, presentations, resources and events during the week. Multiple Sclerosis affects around three times as many women as men, and I was pleased to be able to share my family's experience as part of MS Australia's Women's Health Week video. MS Australia's digital hub for Women's Health Week can be found by searching their website.

Although not solely focused on women's health, the Australian government's two-day National Summit on Women's Safety also falls next week. Topics exploring financial security, policing and justice, sexual violence, and challenges facing diverse members of the Australian community will be covered virtually on Monday and Tuesday. You can view the program at womenssafetysummit.com.au. The Australian government invested \$535 million to support the health and wellbeing of women and girls in this year's budget. I encourage women across Australia to visit the Women's Health Week and National Summit on Women's Safety websites, make that appointment for a health check, get active and connect with family and friends. Good health starts with you.

Climate Change

Senator FARUQI (New South Wales) (19:40): [by video link] In another episode of 'We will do anything but tackle climate change', a bunch of Liberal and National MPs are jumping up and down and wanting more school chaplains so they can knock the very real fear of looming climate catastrophe out of the minds of young people. The problem isn't the kids' activism and recognition of climate emergencies. It is your inaction on the climate crisis that is the real problem. Schoolkids don't need religious chaplains. They need a government that embraces science and takes responsibility to protect their future. Here's an idea: if the coalition is so alarmed that young people are worried about climate change, maybe it should take their concerns seriously. Climate activism is not the source of anxiety for young people. The government's climate denialism is.

It's not just young people who are worried about the climate crisis. Australia's biggest climate poll was taken recently. The results are in, and they are unequivocal: voters in every single state in this country, in regions and in cities, want more action on climate change. They want renewable energy, not a senseless, gas-led recovery. The people of Australia are united in their ask. They are pleading for us to take stronger action to save the planet and humanity along with it. They are asking us to invest in renewable energy. They are telling us to keep coal in the hole and keep gas and oil in the soil. People know we are in deep shit. They know that, if strong and urgent action is not taken, there will be mass extinctions of animals and plants, and the very survival of humans will be in jeopardy.

The PRESIDENT: Sorry, Senator Faruqi. A point of order, Senator Van?

Senator Van: I thought that language was very unparliamentary.

The PRESIDENT: I didn't hear the word. If there was something that was unparliamentary there, Senator Faruqi, I'll ask you to withdraw it, or I'll have to review the *Hansard* and come back to the chamber. If there was something unparliamentary, it is easier to withdraw it. I didn't hear the word in question.

Senator FARUQI: Sure. I withdraw, if there was something unparliamentary.

The PRESIDENT: You either withdraw or you don't, Senator Faruqi. If you don't, I'll review the *Hansard* and come back to the chamber tomorrow, but I'm asking you if you do. If you don't, I'll review the *Hansard*.

Senator FARUQI: Thanks, Mr President.

The PRESIDENT: Alright. I'll review the *Hansard* and come back tomorrow.

Senator FARUQI: The problem we have is that the two big parties, Liberal and Labor, are also united in an opposite quest. Driven by their donors in the fossil fuel industry, they refuse to break ties with outdated, redundant and dirty energy sources. It really does boggle the mind that in a climate crisis, when a majority of people are demanding action, both Liberal and Labor want more coal and gas. They don't want to clean up the influence of money in politics, because it would ruin their business model. The road to Glasgow should be paved with solar panels, but I fear, with Scott Morrison and Barnaby Joyce at the helm of our government, this is a pipedream. Crowding about emissions reductions during COVID-19 when the country is shut down and at a standstill is as ridiculous as it is misleading. A pandemic is not a climate strategy.

I can tell you this: political parties and politicians who ignore their communities and constituents do so at their own peril. People have had it up to here with career politicians whose only goal is to cling onto power by hook or by crook and who, in this pursuit, steamroll over the wishes of the community. People are tired of being taken for granted. More and more are waking up to the fact that politics is not just the domain of parliamentarians.

I meet these people every single day. Their activism and organising is what will get the action that we need. I met with them in Berrima, in the New South Wales Southern Highlands, where their 10-year-long struggle has just blocked plans for a new coalmine. I've stood with them in Breeza, where their relentless 13-year campaign has ended with the cancellation of the Shenhua Watermark coalmine. I have joined them in Bentley, where their blockades saved their land and water from coal seam gas fracking. Even though the choice to destroy our planet is a political decision made time and time again by self-serving politicians and destructive corporations seeking endless power and profits, it gives me great hope to see communities forging ahead and winning, because, no matter how out of touch politicians in this place are, out there the people know change is possible when we fight for it. And, by God, people are fighting, and we are winning.

Afghanistan

Senator VAN (Victoria) (19:45): The fall of the Afghan government and the subsequent Taliban takeover have quite rightly sent shockwaves around the world. Largely, the public discourse is centred around a narrative that the Taliban takeover means that the last two decades have accomplished nothing. I rise tonight to say that I strongly disagree. What that narrative fails to see is that, over the last 20 years, generations of women have seen what gender equality—or, more accurately, nearly gender equality—looks like. This gave the whole country hope for a freer life and a better future.

These brave Afghan women unshackled themselves from restraints placed upon them and achieved things that seemed unimaginable 20 years ago. In the past two decades, Afghan women have fought for their equal and rightful place in society, protected by our coalition forces. Young girls were free to attend school. Women were welcomed into universities, the police force, politics and professions such as the law. In Afghanistan, this was a radical step forward, evolving the very fabric of their society. Make no mistake: the Taliban's likely unravelling of these gains is an atrocity, and this is the greatest tragedy to come out of the fall of Kabul.

Recent pronouncements by the Taliban that they have somehow modernised themselves are being proven false by anecdotal evidence every day, as brutalities are being reported. However, to say that the withdrawal of troops from Afghanistan discards the last 20 years of work is a fundamentally flawed notion that erodes the progress that was achieved by Afghan women. It erodes all the progress that those Afghan women achieved in patriarchal Afghanistan. With or without the Taliban, Afghan society was still a hyperconservative, patriarchal society. The presence of our coalition forces simply provided these women with the space to fight their own battles and take up their rightful place in society.

If the Taliban want Afghans to live in peace, women must play a role in that peace process. Women's participation in peace processes results in a more durable and stable peace. It is just over 20 years since the adoption of UN security resolution 1325, which affirms the important role of women in the resolution of conflict, peace negotiations, peace building and postconflict reconstruction. The foundations of an inclusive and fair society stand strongest when they are built on the active participation of all of its population. The quality of a society is determined not only by the form of civil institutions within it but also by the extent to which different social groups participate in these institutions.

A nation cannot modernise without progress on women's rights. The women of Afghanistan have fought to improve the quality of the governing systems within their country over the last 20 years. They freed themselves from the shackles constraining their civil liberties in a big step towards modernising the region. What the

'achieved nothing' discourse fails to recognise is that decades of progress made by these women cannot be eroded in a few days. The opportunity, the freedom and the hope provided by the last 20 years of progress are firmly seeded in their minds. However, there is a finite period before the memory fades. It is in this period, starting right now, that the international community must insist that the Taliban not completely erase these gains. If the Taliban want to be recognised as the leaders of Afghanistan, they must demonstrate that they lead all Afghans equally.

The gender norms and values of a whole generation have been challenged. Afghan society has seen how important gender equality is and the great many benefits that come with empowering women in society. While hard-won territorial battles may have been overrun by the recent Taliban takeover, the notions and ideas of a freer society still burn bright within the hearts of Afghan women—the women who fought off the oppressive yoke of society and who are changing the country by existing the way that they wish to exist. The liberation of Afghan women was the greatest accomplishment in the region, and it is this loss that should be mourned along with the lives of our 41 defence personnel, whose sacrifice enabled this accomplishment.

Senate adjourned at 19:51