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**SITTING DAYS—2019**

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FORTY-SIXTH PARLIAMENT
FIRST SESSION—FIRST 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, Bernardi, Bilyk, Brockman, Brown, Faruqi, Fawcett, Fierravanti-Wells, Gallacher, Griff, Kitching, Polley, Sterle and Stoker
Leader of the Government in the Senate—Senator the Hon. Mathias Cormann
Deputy Leader of the Government in the Senate—Senator the Hon. Simon Birmingham
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. Mathias Cormann
Deputy Leader of the Liberal Party in the Senate—Senator the Hon. Simon Birmingham
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. Don Farrell
Leader of the Australian Greens—Senator Richard Di Natale
Deputy Leader of the Australian Greens in the Senate—Senator Larissa Waters
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

Printed by authority of the Senate
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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.

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

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

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


[7] Chosen by the Parliament of Tasmania to fill a casual vacancy (vice M Fifield), pursuant to section 15 of the Constitution.

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—J Wilkinson
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<td>Prime Minister</td>
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<tr>
<td>Minister for the Public Service</td>
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<tr>
<td>Minister for Women</td>
<td>Senator the Hon. Marise Payne</td>
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<tr>
<td>Minister Assisting the Prime Minister for the Public Service and Cabinet</td>
<td>The Hon. Greg Hunt MP</td>
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<tr>
<td>Minister for Indigenous Australians</td>
<td>The Hon. Ken Wyatt AM MP</td>
</tr>
<tr>
<td>Assistant Minister to the Prime Minister and Cabinet</td>
<td>The Hon. Ben Morton MP</td>
</tr>
<tr>
<td>Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development</td>
<td>The Hon. Michael McCormack MP</td>
</tr>
<tr>
<td>Minister for Water Resources, Drought, Rural Finance, Natural Disaster and Emergency Management</td>
<td>The Hon. David Littleproud MP</td>
</tr>
<tr>
<td>Minister for Population, Cities and Urban Infrastructure</td>
<td>The Hon. Alan Tudge MP</td>
</tr>
<tr>
<td>Assistant Minister for Road Safety and Freight Transport</td>
<td>The Hon. Scott Buchholz MP</td>
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<tr>
<td>Assistant Minister to the Deputy Prime Minister</td>
<td>The Hon. Andrew Gee MP</td>
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<tr>
<td>Assistant Minister for Regional Development and Territories</td>
<td>The Hon. Nola Marino MP</td>
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<tr>
<td>Treasurer</td>
<td>The Hon. Josh Frydenberg MP</td>
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<td>Minister for Population, Cities and Urban Infrastructure</td>
<td>The Hon. Alan Tudge MP</td>
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<tr>
<td>Assistant Treasurer</td>
<td>The Hon. Michael Sukkar MP</td>
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<tr>
<td>Minister for Housing</td>
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<tr>
<td>Assistant Minister for Superannuation, Financial Services and Financial Technology</td>
<td>Senator the Hon. Jane Hume</td>
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<tr>
<td>Minister for Finance (Vice-President of the Executive Council)</td>
<td>Senator the Hon. Mathias Cormann</td>
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<tr>
<td>(Leader of the Government in the Senate)</td>
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<td>Senator the Hon. Bridget McKenzie</td>
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<td>Senator the Hon. Jonathon Duniam</td>
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<tr>
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<td>Senator the Hon. Marise Payne</td>
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<tr>
<td>Minister for Trade, Tourism and Investment (Deputy Leader of the Government in the Senate)</td>
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<td>The Hon. Greg Hunt MP</td>
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<td>Minister for Aged Care and Senior Australians</td>
<td>Senator the Hon. Richard Colbeck</td>
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<td>Minister for Youth and Sport</td>
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Thursday, 28 November 2019

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 as listed on the Dynamic Red. Full details of the documents are recorded in the Journals of the Senate.

COMMITTEES

National Disability Insurance Scheme Joint Committee

Meeting

The Clerk: A proposal to meet has been lodged as follows:

National Disability Insurance Scheme—Joint Standing Committee—private meeting otherwise than in accordance with standing order 33(1) on Thursday, 28 November 2019, from 3.30 pm.

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

BUSINESS

Rearrangement

Senator CORMANN (Western Australia—Minister for Finance, Leader of the Government in Senate, Vice-President of the Executive Council and Leader of the Government in the Senate) (09:31): I seek leave to move a motion to provide for the consideration of the Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019.

Leave not granted.

Senator CORMANN: Pursuant to contingent notice of motion, I move:

That so much of the standing orders be suspended as would prevent him moving a motion to provide for the consideration of a matter, namely a motion to provide that a motion relating to the consideration of the Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019 may be moved immediately and determined without amendment or debate.

It is critically important that the government's ensuring integrity bill is passed by the Senate this week. We've now had about 10 hours worth of second reading debate. Every single Labor senator has had the opportunity to speak and express their views. This bill has been on the Notice Paper for some time. It was first introduced in July. There has been a very significant Senate inquiry with lots of submissions, lots of scrutiny and lots of opportunities for people to express their views, and today the government is proposing to make available to the Senate another five hours of committee debate. If we get cracking very swiftly, we can get into the meat of dealing with the amendments and dealing with the legislation in detail.

Let us remind ourselves why this legislation is so important. Court imposed fines of millions and millions of dollars for the most militant of unions around Australia clearly have
not had any impact, and it's very important for our economy and for jobs that we can maintain the rule of law, in particular on construction sites across Australia. Clearly, some of the most militant unions across Australia consider court imposed fines nothing more than a cost of doing business. They factor it into their business model. But it's the taxpayer who ultimately pays the price for this ongoing lawlessness which the Master Builders Association has estimated adds up to 30 per cent to the cost of construction projects. That is money that clearly could be, and should be, used to build roads, schools and hospitals. It should not be used to pay for inflated costs of construction projects on the back of consistent and persistent lawless behaviour in the fines of court imposed orders.

Our bill provides a fair and transparent framework which sets out when organisations and their officers can be referred to a court for an order seeking disqualification or deregistration. It is a court that will make the decision. So this proposition that somehow there is something untoward here is completely false. And, despite some of the more hysterical claims that have been made, this bill does nothing to prevent organisations which respect the law from continuing to work in their members’ interests. In fact, we support them to continue to work in their members’ interests.

The amendments circulated late last week and agreed upon with Centre Alliance and One Nation are sensible, and of course we will be supporting them during the committee stage. These amendments include: making the independent regulator, the Registered Organisations Commission, the only body with power to refer organisations and officers to a court for deregistration or disqualification; a demerit points system effectively giving officials three strikes before they can be referred to the courts for disqualification; removing overseas convictions as a trigger for officials to be banned; making it clear that courts have complete discretion in making decisions and that they must take into account the gravity of matters when considering an order for disqualification or deregistration; and, indeed, a new public-interest-test trigger for amalgamations based on the compliance history of those organisations.

We are very grateful for the constructive engagement by the crossbench, and we look forward to the Senate considering this legislation in detail. In order to ensure that we can get on with it as fast as we can, I will leave my available additional minutes for the Senate.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (09:35): What do we have today? We have a government with no integrity—a government whose integrity is in tatters—coming into this chamber and demanding that the Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019 be passed in the name of ensuring integrity. This bill is actually about undermining the capacity of working people to organise. A government that has no integrity wants to push it through. We have a government in which a minister has doctored documents—

Senator Cormann: Mr President, I have a point of order. Senator Wong is making an imputation against a member of the other place, and she should withdraw. Obviously, these sorts of imputations are inconsistent with the standing orders.

Senator WONG: On the point of order, Mr President: I'm happy for us to look at the Hansard, but I think Mr Taylor himself has recognised that the documents were doctored. He has said that himself, has he not?
Senator Cormann: Mr President, on the point of order: I raised the point of order because Senator Wong specifically alleged and made the imputation that it was Minister Taylor who doctored the documents. That is an imputation that is inaccurate and it is inconsistent with the standing orders.

The PRESIDENT: Thank you. I invite Senator Wong to withdraw and rephrase.

Senator WONG: I will withdraw and rephrase. He has used doctored documents. Thank you for demonstrating precisely what I'm saying, Senator Cormann. He jumped to his feet to defend a minister of the Crown who is under criminal investigation—and who is refusing to stand aside—for using doctored documents on ministerial correspondence. He has the gall to stand here and tell the Senate that this is about integrity. He was defending the Prime Minister, who has had to correct the record in the House. That's what he had to do. The Prime Minister rang his mate to check out what's happening in a criminal investigation. And you come in here and ask the crossbench of the Senate to ram through legislation that you say is about ensuring integrity!

Senator Cormann says that this bill is critically important. Do you know what's critically important? That you find some integrity over there. That's what Australians would like. Do you know what's critically important? That the Prime Minister actually finds some integrity, because, I tell you what, there hasn't been much on display. I'm unsurprised that they're pretty quiet, because they're defending a cabinet minister who has used doctored documents on ministerial correspondence, who is under criminal investigation and who's refusing to stand aside. The Prime Minister rang up his mate to check on a criminal investigation. And you want to come in here and talk about integrity—seriously!

This bill is not about integrity. This bill is an attack on working people and their representatives. It is the same ideological agenda that I saw 14 years ago when I stood here as the shadow employment minister. Senator Abetz was over there. You got through Work Choices and you were all rejoicing. But do you know what? It showed the Australian people what you are really like. You are obsessed with smashing trade unions and you are obsessed with reducing the power of working people to organise and debate. That is in the Liberal Party's DNA, and that is what this bill is all about. So the government is now demanding that the Senate rush through this anti-worker legislation. This is the party that implemented Work Choices, voted against—

Senator Rennick interjecting—

Senator WONG: Oh, tell us what you think! Why don't you stand up, Senator Rennick? You're always very tough on the back bench. Why don't you stand up and tell us what you really think about working people and trade unions? Come on: you stand up next in the debate and have the guts to actually put something on the record.

The PRESIDENT: Order, Senator Wong. Please address your comments through the chair.

Senator WONG: I'm taking the interjection. This is a government that says, 'We're for working people, but we're going to vote against penalty rates; we're going to vote to refuse to restore penalty rates'—for people who depend on penalty rates to pay their bills and put food on the table. It's an utter disgrace. You voted against the restoration of penalty rates.

Senator Payne interjecting—
Senator WONG: You may never have had to struggle, Senator Payne, but people who are relying on penalty rates do, and the fact that you walked away from them says something about you. You're pushing this bill through with your own integrity in tatters: a minister under investigation by police, a special strike force for a criminal offence, a PM who is interfering in that police investigation and a Prime Minister who is loose with the truth and who shows nothing but contempt for parliament and the principles of ministerial integrity and accountability, and you can't even bring yourselves to say in the parliament that the member for Chisholm is a fit and proper person. You can't even say that.

There has never been a government with less integrity than you lot. You are all about one standard for yourselves and your mates and another for Australian workers. Well, we on this side will not stand for it. We on this side will do what we did with Work Choices. We will fight this legislation in here and we will fight it between now and the next election and we will expose your hypocrisy and your anti-worker bias, which has always been the Liberal DNA.

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (09:41): I didn't expect anything better from those opposite, and I wasn't disappointed. The Leader of the Government in the Senate has moved a resolution this morning to bring on the debate on this bill. We have had 34 speakers, which has taken just over 11 hours of time—as it should for a bill that is a very important bill for this chamber to discuss. The bill was introduced into the parliament in July. It's been the subject of multiple inquiries, and it has been the subject of intensive and extensive debate in this chamber. Interestingly: what does it mean those opposite are afraid of? Are they afraid of recognising the fact that registered organisations in this country, both employer associations and unions, have a privileged position in the Australian industrial relations system and in the economy more broadly and should be accountable? Is that what they're afraid of? Are they afraid of making accountable people who breach the trust they hold in leading registered organisations, breach the trust of their members? Is that what they're afraid of? Are they afraid of those who exercise their own interests at the expense of their members' interests being held to account? You could be forgiven for thinking that.

As the Attorney-General pointed out in the House of Representatives yesterday, in the beginning of the second reading debate on this bill, there were 15 speeches by Labor senators. Apparently it amounted to 37,000 words, and I feel slightly sorry for the person who had to count that. In those 37,000 words, the attributes of the principal registered organisation that concerns part of this bill, the CFMMEU, was mentioned—how many times? How many times do you think it was mentioned? It was mentioned only once, and it wasn't acknowledged at all—no errors, no mistakes, no excesses acknowledged at all. They are living in oblivion.

They are completely oblivious to the impact these organisations have on workers, they're oblivious to the impact these organisations have on the economy and they are asserting that this is a process of endeavouring to rush through a bill. Nothing could be further from the truth—34 speakers, and over 11 hours of debate.

So, after multiple inquiries, after months of the bill being on the table, the government seeks to bring the bill on, because we have seen egregious, persistent and consistent ignoring of the requirements of basic lawful behaviour in this country. And Australia is a rule-of-law country. We absolutely have the reasonable expectation that registered organisations will
behave according to the law and will comply with the law, but in mountains of examples they do not. So, this bill is absolutely required to have been reintroduced. It is required in order to restore integrity. It is required in order to provide that, where an organisation, a division, a branch or an officer is doing the wrong thing, something can be done to stop the misconduct and to assure members that organisations are acting with integrity and that they are acting in the interests of members and not in the interests of their leaders. We know that the existing laws have proven to be lacking, including observation of those laws, in addressing the widespread culture of misconduct in some registered organisations. We went through some of that last night, and I am sure we will discuss it at length today.

Our intention to is to ensure that registered organisations are representative of and accountable to their members. We want to encourage the efficient management of organisations, with high standards of accountability providing for the democratic control of organisations. They are basic principles of competent administration and they are completely rejected by those opposite, which speaks volumes for the way they would approach government. We have seen that in the past, as well.

This bill is absolutely consistent with the purpose of the act under which it sits because its provisions are directed at ensuring that all organisations act with integrity and act in the best interests of their members. I would have thought that would be in the nation's interest, I would have thought it would have been in the interests of the registered organisations, and I would have thought it would have been in the interests of the Senate to continue the discussion of this bill today.

Senator FARRELL (South Australia) (09:46): Senator Payne wants to know what we are afraid off. Well, I know what we are afraid of, and I know what all Australian workers are afraid of, and that is that at some time today, with the support of the crossbenches, Work Choices mark 2 will be back on the Australian agenda. We have Work Choices back. That's what we, and the Australian people, are afraid of. Tony Abbott said that Work Choices was dead, buried and cremated. Well, it's not. Work Choices is right back here. How does a government with no integrity seek to introduce a piece of legislation that affects workers and their organisations that deal with integrity? How does a government with no integrity introduce a piece of integrity legislation? I see Senator Birmingham smiling there.

Senator Birmingham: Shaking my head.

Senator FARRELL: Well, I'll give you some examples of no integrity.

Senator Cormann: Aren't you smiling, too?

Senator FARRELL: Yes, I am smiling, because I'm going to give some examples of a government with no integrity. Minister Taylor: whether he wrote the document or whether his office wrote the document, the fact of the matter is that a newspaper in New South Wales got a false and misleading document. When that was exposed, what did Minister Taylor do? What act of integrity could have been done in those circumstances? It would have been to stand down. Did Minister Taylor stand down? No, he stuck to his position.

What happened next? Well, the police started investigating the issue. Forget about where the proposal for the investigation started. New South Wales Police started investigating this minister. What would a government with integrity do in those circumstances? Well, they
would do the honourable thing. They would stand down while this police investigation took place. Minister Taylor hasn't stood down. There is no integrity there.

The Prime Minister decided to ring his good mate, his next door neighbour, the police commissioner to find out whether he should sack Minister Taylor or keep him on. Again, that is not the appropriate thing to do. That is not a sign of integrity. That is not a government acting with integrity. So, again I ask: how does a government that says it wants to introduce so-called integrity into the trade union movement do that, when they themselves have no integrity?

I give you one other example: Minister McKenzie. We now discover that she overturned decisions of Sport Australia to award sports grants to well-deserving organisations in this country. We still haven't got any answers from her about what that involved and which organisations were affected. But we were expecting to have by today a report from the ANAO about that event. It's been delayed. It hasn't just been delayed for this month or next month; the best we know is that it will be sometime in January. If this is a government with integrity, why didn't they tell us about the sports rorts? Why haven't they released that document? Why is it being withheld from the Australian people? If this were a government concerned with integrity then they'd have done all the things I suggested that they should do.

This is all about the introduction of Work Choices at a time when we see that wages are either falling or stagnating, where retail sales are falling or stagnating and where unemployment is rising. The thing this government should be doing is promoting unions, giving them a bit of help. There's still time to withdraw this legislation, Leader. They can withdraw this legislation and they can start turning around the Australian economy.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (09:51): The irony of debating a so-called integrity bill when this government is up to its neck in scandal and muck isn't lost on anyone. You see, ensuring integrity means behaving with integrity, and we've got a minister using doctored documents. We've got a Prime Minister who calls in favours from his mates and then has to go in and correct the record. What we have is a government that doesn't know what integrity means.

If the government were concerned about integrity, its first course of business would be to introduce a national anticorruption watchdog. Its first order of business would be to make sure it shines a spotlight not on the behaviour of unions that basically represent the rights of working people but on the institutions here that represent the Australian community. We need a national anticorruption body as a first order of business, and boy would they be busy. They would be looking at the actions of Minister Taylor and, indeed, the Prime Minister himself. His actions would come into question.

We heard a former commissioner in New South Wales describe the actions of the Prime Minister as suspect. What a shocking decision to pick up the phone and call a police commissioner when an active investigation is underway. How could the community think anything other than that undue influence is being exerted in an effort to do a favour for a political mate? What a disgrace.

The list goes on. A national anticorruption body would look at the corruption and mismanagement when it comes to the Murray-Darling Basin. It would look at the half a billion dollars that was gifted to the Great Barrier Reef Foundation without any substance or
due process. The government has shown of itself that, when it comes to integrity, what it needs is a mirror, not an attack on working people.

When you think of the issues that are confronting us right now as a nation, you see we've got wages that are flat and going nowhere fast, corporate profits at record highs and rife multinational tax avoidance. We've got the banks right now breaking the law after a royal commission which sounded a siren to the financial services industry. They haven't heard it, and we have CEOs getting golden handshakes at a time when they've effectively facilitated money laundering and paedophilia. And what's the government's response to this? 'We'll go after the unions.' We've got coal, oil and gas companies flaunting how they own this parliament and who are dictating lawmaking in this country. We've got 40 per cent of people trapped in insecure work, household debt at record levels and, let's not forget, the greatest challenge facing us collectively as a species: record pollution, runaway climate change, a climate crisis, with the people who are at the frontline of responding to that crisis, while half the country is on fire, our firefighters, urging the government to do something. And their calls are falling on deaf ears.

The government have no agenda, no plan for the future. All they can resort to is a tired ideological attack on the rights of working people. It's about time we started to understand that it's working people in this country who are being screwed over, and they need more representation, not less. The government say they can't intervene in the financial services industry—where a CEO has just been given a golden handshake of close to $3 million, following on from another CEO who got close to $8 million as a reward for shocking behaviour—and yet they can intervene in the actions of the union movement and their right to organise how they choose to best represent working people. It is a disgrace.

We say to the government: drop this legislation and start focusing on the real issues that confront Australian people: the climate crisis, flat wages, corporate tax evasion and insecure work. All of these are issues that the Australian community is begging for leadership on, and all you can do is go back to tired old ideological union bashing. It shows you are a government with no agenda, no vision for the future. When it comes to integrity, the government need a mirror.


Senator BIRMINGHAM (South Australia—Minister for Trade, Tourism and Investment and Deputy Leader of the Government in the Senate) (09:56): We've heard the arguments from those opposite on this motion, and those arguments have shown just what a pack of rank hypocrites they are. Firstly, they come in here claiming that they are caring for workers and for hardworking union members in their opposition to this legislation. But they ignore the fact that workers are the ones who pay the cost of the lawlessness of the CFMMEU. The CFMMEU has racked up $16½ million worth of fines and penalties as a result of thousands of different law breaches over the last few years. Who pays those fines, ultimately? The CFMMEU members are the ones who ultimately have to pay those fines, through their levies. They're the ones who pay the cost.

The Labor Party come in here and, perversely, they defend the law-breaking union leaders rather than standing up for the union leaders who don't break the law. Why do they want to continue a circumstance and a situation where union leaders face reputational damage across the board because of those who see breaking the law as a price of doing business, who see the
current penalties as just a reasonable cost of doing business? That shouldn't be the case. Where we have laws, and penalties apply to those laws, those penalties are intended to be a deterrent to breaking the law. It is quite clear that the current legal frameworks do not deter the CFMMEU from breaking the law. They simply see it as the cost of doing business and they keep on going. How do we know that? There might have been thousands of breaches in the past, but there are still dozens of CFMMEU officials before the courts right now, so we know full well that the current deterrents are not working. That's why this legislation is here. It's here to create a deterrent regime that simply ensures people operate within the laws of the land.

It's not just the union members who pay the price of this lawlessness. All Australians pay the price of it, because the lawlessness of the CFMMEU drives up the cost of construction activity and the cost of building public infrastructure, and that means that we have a weaker economy and more expensive building projects, so ultimately taxpayers pay the price of that lawlessness, as does every single builder and investor right around the country.

Those opposite come in here claiming that they're standing up for workers, but in reality they're letting down workers, they're letting down taxpayers and they're letting down law-abiding union leaders in terms of the approach they're taking in opposing this legislation. Then they complain about the fact that the government is seeking to get the legislation through the Senate this week. It's legislation that has been on the books for months. It's legislation that has now been subject to extended parliamentary sittings for the last two days and that the government's creating more time for today. Yet, of course, you'll hear howls of complaints from those opposite claiming that it is somehow being rammed through.

I remember sitting here on 23 June 2013. Do you know what happened that day? Fifty-three bills were guillotined in one day by the Labor Party. Fifty-three bills were guillotined by the Labor Party and the Greens. Do you know how much debate happened on most of those bills? None at all! Not one minute's worth of debate was accommodated. We gave you all of the time in the world. The Senate could have sat until midnight last night, but we ran out of speakers. We had all of the time in the world last night, but you ended up not needing all of the time. Today we're providing extra time for the committee stage so that you can debate the amendments.

These laws ought to pass because they will then provide for a circumstance where workers can have faith that their unions will actually operate in accordance with the law of the land and put their interests first and where we can have confidence that lawlessness won't drive up building costs. Your hypocrisy will be exposed when these laws work and change behaviour, as they should.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (10:01): This government aren't serious about integrity. If they were serious about integrity, they would apply a bit to their own frontbench. We wouldn't have this situation where we're in here debating laws about ensuring integrity and over there they're defending the indefensible—the chamber wrapped up, doing no work, as they defend the indefensible.

If they were serious about integrity, they would have done things about Minister Dutton's au pair affair. Remember that? They would have done things about the Gold Coast shopping
for apartments affair. They would have done things about the $38,000 internet bill affair. They would most definitely have done something about a Prime Minister picking up the phone to a police commissioner to find out what's going on with one of his ministers under investigation. If they cared about integrity, they would be applying integrity standards to themselves. But they don't care about it. They only care about ensuring integrity against their political opponents.

The President: Order, Senator Gallagher! The time for the debate has expired. The question is that the motion to suspend standing orders moved by Senator Cormann be agreed to.

The Senate divided. [10:05]

(The President—Senator Ryan)

Ayes ..................... 39
Noes ..................... 33
Majority ............... 6

AYES

Abetz, E
Askew, W
Birmingham, SJ
Brockman, S
Chandler, C
Davey, P
Fawcett, DJ
Griff, S
Henderson, SM
Hume, J
McDonald, S
McKenzie, B
Molan, AJ
Paterson, J
Payne, MA
Reynolds, L
Ruston, A
Scarr, P
Smith, DA (teller)
Van, D

Antic, A
Bernardi, C
Bragg, A J
Cash, MC
Cormann, M
Duniam, J
Fierravanti-Wells, C
Hanson, P
Hughes, H
Lambie, J
McGrath, J
McMahon, S
O'Sullivan, MA
Patrick, RL
Rennick, G
Roberts, M
Ryan, SM
Seselja, Z
Stoker, AJ

NOES

Ayres, T
Brown, CL
Chisholm, A
Di Natale, R
Farrell, D
Gallacher, AM
Hanson-Young, SC
Lines, S
McCarthy, M
O'Neil, D
Pratt, LC
Sheldon, A

Bilyk, CL
Carr, KJ
Ciccone, R
Dodson, P
Faruqi, M
Gallagher, KR
Kitching, K
McAllister, J
McKim, NJ
Polley, H
Rice, J
Siewert, R
Senator CORMANN (Western Australia—Minister for Finance, Leader of the Government in Senate, Vice-President of the Executive Council and Leader of the Government in the Senate) (10:09): I move:

That a motion to provide for the consideration of the Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019 may be moved immediately and determined without amendment or debate.

And I move:

That the question be now put.

The PRESIDENT: The question is that the question be now put.

The Senate divided. [10:10]

(The President—Senator Ryan)

Ayes .....................39
Noes .....................33
Majority .................6

AYES
Abetz, E
Askew, W
Birmingham, SJ
Brockman, S
Chandler, C
Davey, P
Fawcett, DJ
Griff, S
Henderson, SM
Hume, J
McDonald, S
McKenzie, B
Molan, AJ
Paterson, J
Payne, MA
Reynolds, L
Ruston, A
Scarr, P
Smith, DA (teller)
Van, D

SENATE
Thursday, 28 November 2019

NOES
Smith, M
Sterle, G
Walsh, J
Watt, M
Wong, P

Steele-John, J
Urquhart, AE (teller)
Waters, LJ
Whish-Wilson, PS

PAIRS
Canavan, MJ
Colbeck, R

Green, N
Keneally, KK

Question agreed to.
Thursday, 28 November 2019  SENATE  4493

NOES

Ayres, T  Bilyk, CL
Brown, CL  Carr, KJ
Chisholm, A  Ciccone, R
Di Natale, R  Dodson, P
Farrell, D  Faruqi, M
Gallacher, AM  Gallagher, KR
Hanson-Young, SC  Kitching, K
Lines, S  McAllister, J
McCarthy, M  McKim, NJ
O’Neill, D  Polley, H
Pratt, LC  Rice, J
Sheldon, A  Stiewert, R
Smith, M  Steele-John, J
Sterle, G  Urquhart, AE (teller)
Walsh, J  Waters, LJ
Watt, M  Whish-Wilson, PS
Wong, P

PAIRS

Canavan, MJ  Green, N
Colbeck, R  Keneally, KK

Question agreed to.

The PRESIDENT (10:12): I’ll now put the procedural motion moved by Minister Cormann. The question is that that motion be agreed to.

The Senate divided. [10:14]

(The President—Senator Ryan)

Ayes .....................39
Noes .....................33
Majority ...............6

AYES

Abetz, E  Antic, A
Askew, W  Bernardi, C
Birmingham, SJ  Bragg, A J
Brockman, S  Cash, MC
Chandler, C  Cormann, M
Davey, P  Duniam, J
Fawcett, DJ  Fierravanti-Wells, C
Griff, S  Hanson, P
Henderson, SM  Hughes, H
Hume, J  Lambie, J
McDonald, S  McGrath, J
McKenzie, B  McMahon, S
Molan, AJ  O’Sullivan, MA
Paterson, J  Patrick, RL
Payne, MA  Rennick, G
Reynolds, L  Roberts, M
Ruston, A  Ryan, SM

CHAMBER
Question agreed to.

Senator CORMANN (Western Australia—Minister for Finance, Leader of the Government in Senate, Vice-President of the Executive Council and Leader of the Government in the Senate) (10:16): I move:

That—

(1) The Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019 be called on immediately and have precedence over all other business today, except as follows:

(a) at 11.45 am:

(i) the giving of notices of motion,

(ii) tabling and consideration of the Selection of Bills Committee report, and

(iii) placing of business;

(b) at 2 pm, questions, followed by

(c) consideration of the notices of motion proposing the disallowance of the Quality of Care Amendment (Minimising the Use of Restraints) Principles 2019 standing in the names of the Chair of the Standing Committee on Regulations and Ordinances (Senator Ferravanti-Wells) and Senator McKim, for not more than 30 minutes, and the question on the motions shall then be put.

(2) If consideration of the bill listed in paragraph (1) is not completed by 4.30 pm, the questions on all remaining stages shall then be put.

(3) Paragraph (2) shall operate as a limitation of debate under standing order 142.

(4) Divisions may take place after 4.30 pm for the purposes of the bill only and after conclusion of consideration of the bill, the Senate shall return to the routine of business.
The PRESIDENT: The question is that the motion moved by Senator Cormann be agreed to.

The Senate divided. [10:17]

(The President—Senator Ryan)

Ayes ......................39
Noes ......................33
Majority ...............6

AYES

Abetz, E
Askew, W
Birmingham, SJ
Brockman, S
Chandler, C
Davey, P
Fawcett, DJ
Griff, S
Henderson, SM
Hume, J
McDonald, S
McKenzie, B
Molan, AJ
Paterson, J
Payne, MA
Reynolds, L
Ruston, A
Scarr, P
Smith, DA (teller)
Van, D

Antic, A
Bernardi, C
Bragg, AJ
Cash, MC
Cormann, M
Duniam, J
Fierravanti-Wells, C
Hanson, P
Hughes, H
Lambie, J
McGrath, J
McMahon, S
O'Sullivan, MA
Patrick, RL
Rennick, G
Roberts, M
Ryan, SM
Seselja, Z
Stoker, AJ

NOES

Ayres, T
Brown, CL
Chisholm, A
Di Natale, R
Farrell, D
Gallacher, AM
Green, N
Kitching, K
McCarthy, M
O'Neill, D
Pratt, LC
Sheldon, A
Smith, M
Sterle, G
Walsh, J
Watt, M
Wong, P

Bilyk, CL
Carr, KJ
Ciccone, R
Dodson, P
Faruqi, M
Gallagher, KR
Hanson-Young, SC
McAllister, J
McKim, NJ
Polley, H
Rice, J
Siewert, R
Steele-John, J
Urquhart, AE (teller)
Waters, LJ
Whish-Wilson, PS

Question agreed to.
Consideration resumed of the motion:
That this bill be now read a second time.

The PRESIDENT (10:19): The debate was closed by the minister last night. I now put the
question that the bill be read a second time.

The Senate divided. [10:23]

(The President—Senator Ryan)

Ayes ...................... 39
Noes ...................... 33
Majority ............... 6

AYES

Abetz, E
Askew, W
Birmingham, SJ
Brockman, S
Chandler, C
Davey, P
Fawcett, DJ
Griff, S
Henderson, SM
Hume, J
McDonald, S
McKenzie, B
Molan, AJ
Paterson, J
Payne, MA
Reynolds, L
Ruston, A
Scarr, P
Smith, DA (teller)
Van, D

Antic, A
Bernardi, C
Bragg, A J
Cash, MC
Cormann, M
Duniam, J
Fierravanti-Wells, C
Hanson, P
Hughes, H
Lambie, J
McGrath, J
McMahon, S
O’Sullivan, MA
Patrick, RL
Rennick, G
Roberts, M
Ryan, SM
Seselja, Z
Stoker, AJ

NOES

Ayres, T
Brown, CL
Chisholm, A
Di Natale, R
Farrell, D
Gallacher, AM
Green, N
Kitching, K
McCarthy, M
O'Neil, D
Pratt, LC
Sheldon, A

Bilyk, CL
Carr, KJ
Ciccone, R
Dodson, P
Faruqi, M
Gallagher, KR
Hanson-Young, SC
McAllister, J
McKim, NJ
Polley, H
Rice, J
Siewert, R
Question agreed to.
Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator FARRELL (South Australia) (10:27): The opposition makes it very clear that it's totally opposed to this legislation. The fact that we're in the committee stage and are dealing with amendments, particularly amendments by the government, is a pretty good indication that there's something crook about this bill. The government will be moving amendments. While they will improve the bill—it won't be as bad as it was going to be—the fact of the matter is—

Senator Pratt: Doesn't make it right!

Senator FARRELL: I take that interjection from Senator Pratt. The fact of the matter is that a bad bill can't be made better with these amendments. This legislation is designed to deal with integrity. It is trying to improve integrity in one section of the community. But what do we know about the integrity of this government, the government that's proposing this legislation? The fact of the matter is that a government with no integrity can't seriously introduce a piece of legislation to improve integrity in the body politic of Australia. Obviously, we have a government that is well past its use-by date—it's getting up to seven years. The reality is that each day that goes by in this parliament we see another example of a government that has no interest in integrity. If it did, then when the first issues regarding Minister Taylor arose—where either he, his office or somebody else sent to a New South Wales newspaper a letter clearly detailing false and misleading allegations—Minister Taylor would have immediately resigned. That is what would have happened if the minister had had some integrity. But, even if he wasn't prepared to do that, if we had a Prime Minister who had some integrity, then that Prime Minister would have called upon the minister to immediately tender his resignation or, at worst, step aside while those issues were being dealt with. But what do we see? Further indications that this government is not a government of integrity. Therefore, if it has no integrity, how can it introduce a bill into this parliament that seeks to impose so-called integrity measures on other parts of the community?

There is a police investigation into Minister Taylor about his behaviour regarding this document. Forget about the source of the complaint; the reality is that we now have a senior minister of the Crown being investigated by the New South Wales Police Force. When that became clear, that would have been the first opportunity, of course, for Minister Taylor to stand aside or resign. I would have thought resignation was appropriate in these circumstances, but he could have stood aside. That would be the integrity thing for this government to do. But what's happened? The minister has stayed in his place—no suggestion,
whatever, that he's going to move. So, what is the integrity thing to do for a government? The Prime Minister should have gone and had a quiet little conversation with Mr Taylor and said, 'Look, you're now under a police investigation. Serious issues have been raised.' Bear in mind that these are on top of all the other allegations that have been raised about this particular minister over the last six months. This is not a first offence, let's be clear. There are a whole series of allegations about this particular minister and about conflict of interest. So he's not coming to this debate as a cleanskin. The integrity thing to do would be for the Prime Minister to get up and say, 'Okay, you've got this investigation happening. Either resign or stand aside while we get the results of the investigation.' That would have been the correct thing to do.

What does this Prime Minister do in these circumstances? Does he call upon the minister to resign? No. He rings his good mate, his next-door neighbour—I forget who took whose rubbish bins out, whether it was the Prime Minister taking the police commissioner's rubbish bins out or the police commissioner taking the Prime Minister's rubbish bins out, but either way it was completely inappropriate for a prime minister to ring a chief of police about investigations into one of his ministers. Firstly, the Prime Minister should have been the one making the call about Minister Taylor. He should have been the one saying, 'Look, this is inappropriate.' He's done nothing in those circumstances. What a complete breach of propriety for the Prime Minister to seek to put pressure on by ringing the police commissioner in New South Wales. That's a completely inappropriate thing for the government to do.

We talk about integrity. The government are saying they want to improve integrity in the body politic of Australia—they're particularly focused on unions—but how do they have any credibility when all of these things are happening within their government on issues specifically in respect of integrity, yet they do nothing about it? How can the Australian community take the government seriously when a all of these things are happening within their government on issues specifically in respect of integrity, yet they do nothing about it? How can they have any credibility when all of these things are happening within their government on issues specifically in respect of integrity, yet they do nothing about it? How can the Australian community take the government seriously? When they refuse to take integrity measures in respect of their own government, how can anybody believe that they'll be serious about integrity measures within trade unions and within the Australian working community?

Of course, the fact of the matter is that they're not serious about this. They are simply not serious about this legislation. What they are after is not improving integrity; what they are after is a reintroduction of Work Choices. Former Prime Minister Tony Abbott made it very clear what the Liberal Party position was on Work Choices. He said it was 'dead, buried and cremated' and he went to an election with that very promise—he promised the Australian workforce that the Liberal Party had learnt its lesson from the 2007 election. In fairness to Prime Minister Abbott, he did oppose Work Choices in the Howard government. I think he was the only minister who opposed it. So, I think that, when he had the opportunity to kill, bury and cremate Work Choices, that is what he genuinely wanted to do, and he took it to the Australian people. But Work Choices is now roaring back. It's like a zombie. It should have been cremated, but, zombie-like, it has come back. It has been brought back, on this day, in order to reintroduce all of those things that sought to weaken unions but, more importantly, deny ordinary working Australians the opportunity of improving their wages and conditions.

What do we know about Australian industry? I know that you, Temporary Chair Griff, have a background in retail. You've seen all of the figures that have been coming out about retail sales. Retail sales in this country have flatlined. That's always a pretty good barometer of what's happening in the community. Why are retail sales flatlining in this country,
Temporary Chair? You know the answer: people have no extra spending money to go into the shops and buy things. Wages, under this government, have stagnated in this country. And there are no signs anywhere that that's about to change.

How do I know that? Well, when the Reserve Bank starts dropping interest rates, what do you know? You know that the economy is in big trouble. What is the Reserve Bank saying at the moment? It hasn't stopped cutting interest rates. It's got another two in its arsenal. It says it's not going to go below 0.25, but it's got another two. That's a sign that this Australian economy is in heaps of trouble. It's in deep trouble.

So, at a time like this, a good and sensible government would be doing a couple of things. It would start trying to ramp up the economy—start trying to get the economy moving again. But also it would be supporting workers to get wage rises. That's what they'd be doing. They be out there doing every single thing they could to ensure that workers were able to go out and bargain with their employers or apply to awards to get increases, so that ordinary working people in this country could, for the first time under this government, start getting decent wage rises. But no! What is this government seeking to do? By virtue of this piece of legislation, what this government is seeking to do is to ensure that the very organisations to whom we give the job of getting wage rises in this country are going to be bogged down in paperwork. And, if that paperwork turns out to be a bit tardy or a bit mistaken, those unions are going to lose their registration. That's a preposterous thing to do in circumstances where the economy is travelling so badly. The government should be doing exactly the opposite of what this legislation is proposing to do. The government should be getting out there and saying to unions: 'Go as hard as you can, because we want to start stimulating this economy. We want to get more people employed.'

That's the other thing I didn't talk about: what's happening with unemployment. I know that you, Temporary Chair Griff, know this is true because of what is happening in your own state of South Australia. Unemployment is rising. So, wages are stagnating, retail sales figures are flatlining and, of course, unemployment is going up. All of the things that this government ought to be doing right now to get the economy moving will be set back and made more difficult if this legislation passes, because, if unions are tied up doing paperwork or tied up in the courts by virtue of all of the new powers that employers will have to stop them doing their job, then the reality is that wages won't just stagnate like they're doing at the moment; they'll simply go backwards, unemployment will continue to rise and the economy will spiral down and down.

I say to the crossbench, and I can't see too many of them—yes, of course, you, Mr Temporary Chair; I've spotted you—rethink what it is you're doing here. If the government has to introduce all of these amendments to their own legislation, that's a pretty good clue that there's something really wrong with the legislation in the first place. While they might ameliorate some of the absolutely worst aspects of the legislation, they don't solve the problem. This bill certainly doesn't restore integrity to unions or to workers who rely on those unions; it simply ties these people up in a whole lot of paperwork, litigation and conflict when they should be doing the very thing that this economy absolutely needs right at the moment—that is, stimulating wage growth, getting the economy moving again and ensuring that unemployment starts going down rather than going up. I see you nodding quite a bit there, Temporary Chair. I hope that's an indication that you're agreeing with everything I'm saying,
because we need to ensure, when this bill is voted on sometime after 4.30 this afternoon, that exactly what Tony Abbott said should happen to Work Choices happens here too: this bill should be 'dead, buried and cremated'.

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (10:42): by leave—I move government amendments (1) to (48) on sheet RC114 together:

(1) Schedule 1, item 8, page 5 (line 23), omit ", or another country,".
(2) Schedule 1, item 11, page 6 (lines 10 and 11), omit ", the Minister or another person with a sufficient interest".
(3) Schedule 1, item 11, page 6 (lines 15 to 20), omit subsection 222(1), substitute:

(1) The Commissioner may apply to the Federal Court for an order under this section if the Commissioner considers that any of the grounds for disqualification set out in section 223 apply in relation to a person.

Note: A person who reasonably believes that a ground applies may refer the matter to the Commissioner (see section 223A), but the Commissioner does not need a referral to make an application under this section.
(4) Schedule 1, item 11, page 6 (line 23), omit "the Court".
(5) Schedule 1, item 11, page 6 (line 24), before "is satisfied", insert "the Court".
(6) Schedule 1, item 11, page 6 (line 26), omit "does not consider that it would be unjust", substitute "the Commissioner satisfies the Court that it would not be unjust".
(7) Schedule 1, item 11, page 6 (after line 31), after subsection 222(2), insert:

(2A) The Court must not make the order unless it is satisfied that, having regard to the gravity of the matters constituting the ground, disqualification would not be unjust.
(8) Schedule 1, item 11, page 7 (line 4), omit subsection 222(4).
(9) Schedule 1, item 11, page 7 (lines 6 to 10), omit subsection 223(1), substitute:

Designated finding or contempt in relation to designated law

(1) A ground for disqualification applies in relation to a person if:

(a) a designated finding within the meaning of paragraph 9C(1) (a) (criminal) is made against the person (other than a designated finding that relates to an offence covered by subsection (4)); or

(b) both:

(i) one or more designated findings within the meaning of paragraph 9C(1) (b) (civil) have been made against the person within the last 10 years (other than a designated finding that relates to a contravention covered by subsection (4)); and

(ii) the maximum penalty, or combined total of the maximum penalties, for the contravention or contraventions to which the designated finding or findings relate is, or is equivalent to, at least 180 penalty units (see section 4AA of the Crimes Act 1914 for the value of a penalty unit); or

(c) the person is found to be in contempt of court in relation to an order or injunction made under a designated law.
(10) Schedule 1, item 11, page 7 (lines 20 to 30), omit subsection 223(3), substitute:

Multiple failures to prevent contraventions etc. by organisation

(3) A ground for disqualification applies in relation to a person if:

(a) more than one of the following is made against any organisation in relation to conduct engaged in while the person is an officer of the organisation:
(i) a designated finding within the meaning of paragraph 9C(1) (a) (criminal);
(ii) a designated finding within the meaning of paragraph 9C(1) (b) (civil);
(iii) a finding that the organisation is in contempt of court in relation to an order or injunction made under a designated law; and
(b) at least one of them is covered by subparagraph (a) (i) or (iii); and
(c) the person failed to take reasonable steps to prevent the conduct.

(11) Schedule 1, item 11, page 7 (after line 30), after subsection 223(3), insert:

(3A) A ground for disqualification applies in relation to a person if:
(a) 2 or more designated findings within the meaning of paragraph 9C(1) (b) (civil) have been made against any organisation within the last 10 years in relation to conduct engaged in while the person is an officer of the organisation; and
(b) the combined total of the maximum penalties for the contraventions to which the designated findings relate is, or is equivalent to, at least 900 penalty units (see section 4AA of the Crimes Act 1914 for the value of a penalty unit); and
(c) the person failed to take reasonable steps to prevent the conduct.

(12) Schedule 1, item 11, page 8 (line 1), omit the heading to subsection 223(4), substitute:

Breach of directors' and officers' duties

(13) Schedule 1, item 11, page 8 (before line 3), before paragraph 223(4) (a), insert:

(aa) a designated finding is made against the person and it relates to an offence against, or a contravention of, a provision of Division 2 of Part 2 of Chapter 9 (general duties in relation to the financial management of organisations); or

(14) Schedule 1, item 11, page 9 (after line 5), at the end of Division 3, add:

223A Referral to Commissioner

(1) If a person (the referrer) reasonably believes that a ground set out in section 223 applies in relation to a person, the referrer may refer the matter to the Commissioner.

(2) The referral must:
(a) be in writing; and
(b) identify and provide contact details for the referrer; and
(c) set out the basis for the reasonable belief mentioned in subsection (1).

(3) The Commissioner may, but is not required to, take action in relation to the referral.

Note: If the Commissioner considers that a ground set out in section 223 applies in relation to a person, the Commissioner may apply for an order under section 222 (disqualification orders).

(15) Schedule 1, item 14, page 11 (lines 11 and 12), omit ", Minister, or a person with a sufficient interest".

(16) Schedule 1, item 17, page 12 (line 8), omit "223(1) (b)", substitute "223(1) (c)".

(17) Schedule 1, item 17, page 12 (line 14), omit "223(3) (a) (ii)", substitute "223(3) (a) (iii)".

(18) Schedule 1, item 17, page 12 (after line 17), after paragraph 17(2) (b), insert:

(ba) for the ground mentioned in subsection 223(3A):
(i) a designated finding made in relation to conduct engaged in after commencement; and
(ii) a failure, after commencement, to take steps as mentioned in the subsection;

(19) Schedule 2, item 4, page 15 (line 7), omit "An applicant", substitute "The Commissioner".

(20) Schedule 2, item 4, page 15 (line 8), omit "an applicant", substitute "the Commissioner".
(21) Schedule 2, item 4, page 15 (lines 11 to 13), omit "only if the organisation satisfies the Court that cancellation would be unjust", substitute "if the Commissioner fails to satisfy the Court that cancellation would not be unjust".

(22) Schedule 2, item 4, page 15 (line 23) to page 16 (line 14), omit sections 28 to 28B, substitute:

28 Application for cancellation of registration

The Commissioner may apply to the Federal Court for an order cancelling the registration of an organisation, if the Commissioner considers that any one or more of the grounds in Division 3 exist in relation to the organisation.

Note: A person who reasonably believes that a ground exists may refer the matter to the Commissioner (see section 28HA), but the Commissioner does not need a referral to make an application under this section.

28A Application for alternative orders

The Commissioner may apply to the Federal Court for any one or more of the orders under Division 5 in relation to an organisation, if the Commissioner considers that any one or more of the grounds in Division 3 exist in relation to the organisation.

Note: A person who reasonably believes that a ground exists may refer the matter to the Commissioner (see section 28HA), but the Commissioner does not need a referral to make an application under this section.

28B Multiple applications

(1) Nothing in this Part prevents the Commissioner applying under section 28 for cancellation of registration and under section 28A for alternative orders in relation to the same organisation.

(2) If the Commissioner does so, the Court must deal with the applications together.

(23) Schedule 2, item 4, page 16 (lines 24 to 30), omit paragraph 28C(1) (b), substitute:

(b) affairs of the organisation or a part of the organisation have been or are being conducted in a manner that is contrary to the interests of the members of the organisation or part as a whole; or

(24) Schedule 2, item 4, page 17 (line 30), after "units", insert "(see section 4AA of the Crimes Act 1914 for the value of a penalty unit)".

(25) Schedule 2, item 4, page 19 (after line 28), at the end of Division 3, add:

28HA Referral to Commissioner

(1) If a person reasonably believes that a ground in this Division exists in relation to an organisation, the person may refer the matter to the Commissioner.

(2) The referral must:

(a) be in writing; and

(b) identify and provide contact details for the person making the referral; and

(c) set out the basis for the reasonable belief mentioned in subsection (1).

(3) The Commissioner may, but is not required to, take action in relation to the referral.

Note: If the Commissioner considers that a ground in this Division exists in relation to an organisation, the Commissioner may apply for orders under either or both Divisions 4 and 5 (cancellation of registration and alternative orders) in relation to the organisation.

(26) Schedule 2, item 4, page 20 (line 5), omit "must", substitute "may".

(27) Schedule 2, item 4, page 20 (lines 9 and 10), omit "organisation does not satisfy the Court that it would be unjust to cancel its", substitute "Commissioner satisfies the Court that it would not be unjust to cancel the organisation's".
(28) Schedule 2, item 4, page 20 (lines 18 and 19), omit "organisation satisfies the Court that it would be unjust to cancel its", substitute "Commissioner fails to satisfy the Court that it would not be unjust to cancel the organisation's".

(29) Schedule 2, item 4, page 20 (after line 22), after subsection 28J(1), insert:

(1A) The Court must not cancel an organisation's registration unless it is satisfied that, having regard to the gravity of the matters constituting the ground, cancellation would not be unjust.

(30) Schedule 2, item 4, page 21 (lines 11 and 12), omit "organisation satisfies the Court that it would be unjust", substitute "Commissioner fails to satisfy the Court that it would not be unjust".

(31) Schedule 2, item 4, page 21 (after line 12), after subsection 28L(1), insert:

(1A) The Court must not make an order under this Division unless it is satisfied that, having regard to the gravity of the matters constituting the ground, the order would not be unjust.

(32) Schedule 2, item 4, page 22 (line 9), omit subsection 28M(3).

(33) Schedule 2, item 9, page 24 (lines 24 to 26), omit paragraphs 343(2) (a) to (c).

(34) Schedule 4, item 2, page 34 (lines 19 to 22), omit the paragraph beginning "Before an amalgamation can take effect", substitute:

Before an amalgamation can take effect, the FWC must decide whether the amalgamation should be subject to a public interest test. The amalgamation does not take effect if the FWC decides that the public interest test is to apply to the amalgamation and that the amalgamation fails that test.

(35) Schedule 4, item 6, page 35 (lines 13 to 15), omit subsection 67(4), substitute:

(4) Subsection (2) does not authorise the FWC to dispense with deciding under subsection 72A(1):

(a) whether the test in paragraph (b) (the public interest test) is to apply to a proposed amalgamation; or

(b) if the public interest test is to apply to the proposed amalgamation—whether the amalgamation is in the public interest.

(36) Schedule 4, item 7, page 35 (lines 19 to 27), omit section 72A, substitute:

72A Decision whether the public interest test is to apply to the proposed amalgamation and, if so, whether the amalgamation passes that test

(1) Before fixing an amalgamation day under section 73 for a proposed amalgamation, the FWC must:

(a) decide whether the test in paragraph (b) (the public interest test) is to apply to the amalgamation; and

(b) if the public interest test is to apply to the amalgamation—decide whether the amalgamation is in the public interest.

Note 1: The FWC must have regard to the matters in section 72D in deciding whether the amalgamation passes the public interest test.

Note 2: An amalgamation does not take effect if the FWC decides that the public interest test is to apply to the amalgamation and that the amalgamation fails that test (see section 72F).

(2) The FWC must, and may only, decide under paragraph (1) (a) that the public interest test is to apply to the amalgamation if there is information before the FWC that at least 20 compliance record events have occurred for at least one of the existing organisations concerned in the amalgamation within the 10 year period ending on the day the application, or the most recent application, under section 44 is lodged in relation to the amalgamation.

Note: The FWC has ways of informing itself about whether events have occurred (see section 590 of the Fair Work Act).
(3) The FWC may make decisions under subsection (1) at any time after an application under section 44 is lodged with the FWC in relation to the amalgamation.

72AA Writing and publication requirements for these FWC decisions

(1) The FWC's decisions under subsection 72A(1) must be in writing.
(2) The FWC must give written reasons for any decision it makes under that subsection.
(3) Such a decision, and the reasons for it, must be expressed in plain English and be easy to understand in structure and content.
(4) The FWC must publish such a decision, and the reasons for it, on its website or by any other means that the FWC considers appropriate. The FWC must do so as soon as practicable after making the decision.
(5) Subsections (1) and (4) do not limit the FWC's power to put decisions in writing or publish decisions.

(37) Schedule 4, item 7, page 35 (line 29), omit "(1) The FWC must", substitute "If the public interest test in paragraph 72A(1) (b) is to apply to a proposed amalgamation, the FWC must".
(38) Schedule 4, item 7, page 36 (lines 1 to 3), omit paragraph 72B(1) (a), substitute:
(a) fix a time and place for hearing submissions in relation to:
   (i) the matters mentioned in subsection 72D(1) (record of compliance with the law); and
   (ii) whether the amalgamation is otherwise in the public interest; and
(39) Schedule 4, item 7, page 36 (lines 9 to 18), omit subsection 72B(2).
(40) Schedule 4, item 7, page 37 (lines 3 to 10), omit subsection 72C(2), substitute:
(2) The FWC must have regard to any submissions made.
(41) Schedule 4, item 7, page 37 (line 13), after "deciding", insert "under paragraph 72A(1) (b)".
(42) Schedule 4, item 7, page 37 (line 16), omit "and age", substitute ", age and gravity".
(43) Schedule 4, item 7, page 37 (line 19), omit "section 72A", substitute "paragraph 72A(1) (b)".
(44) Schedule 4, item 7, page 37 (line 23), after "deciding", insert "under paragraph 72A(1) (b)".
(45) Schedule 4, item 7, page 38 (line 30), omit "section 72A", substitute "paragraph 72A(1) (b)".
(46) Schedule 4, item 7, page 39 (line 2), omit "section 72A", substitute "paragraph 72A(1) (b)".
(47) Schedule 4, item 9, page 39 (lines 11 and 12), omit "the FWC has decided under section 72A that the amalgamation is in the public interest", substitute "after concluding its decisions under section 72A the FWC is not prevented by subsection 72F(1) from fixing an amalgamation day for the amalgamation.".
(48) Page 42 (after line 22), at the end of the Bill, add:

Schedule 6—Functions of the Commissioner

Fair Work (Registered Organisations) Act 2009

1 Section 329AB

Before "The Commissioner", insert "(1)".

2 At the end of section 329AB

Add:

(2) In carrying out the Commissioner's function of promoting efficient management of organisations and high standards of accountability of organisations and their office holders to their members, the Commissioner must give priority to matters that raise serious or systemic concerns.
The government is moving a number of amendments to the bill, to respond to responsible and constructive suggestions from senators and from stakeholders, aimed at ensuring the bill targets only sufficiently serious misconduct engaged in by registered organisations and their officials. Specifically, the amendments will:

• limit standing to apply to the Federal Court for an order seeking disqualification from office, cancellation of registration or the making of an alternative order to the Registered Organisations Commission only, and allow for a person who reasonably believes a ground applies to refer the matter to the commissioner;

• provide that the sum of the maximum penalties for designated findings must be above a certain threshold and within a certain time frame before certain grounds for disqualification can apply;

• clarify that, before the court can make a disqualification, cancellation or alternative order, it is the commissioner who must satisfy the court that disqualification, cancellation of registration or the making of an alternative order would not be unjust, including by reference to the gravity of the matters constituting the ground;

• clarify that the court may, but is not required to, make disqualification, cancellation or alternative orders when satisfied of the relevant statutory criteria;

• remove, as a ground for cancellation of registration and alternative orders, affairs of the organisation or party being conducted in an oppressive, unfairly prejudicial or unfairly discriminatory manner against a member or class of members;

• remove an offence under a law from other country, punishable on conviction by imprisonment for life or a period or five years or more, as a proscribed offence for the purposes of the automatic disqualification regime;

• better target the public interest test for proposed amalgamations of registered organisations by allowing the Fair Work Commission to decide as a threshold matter whether the public interest test is required based on the compliance history of the relevant organisations; and

finally, provide that, in carrying out his or her statutory function of promoting efficient management of organisations and high standards of accountability of organisations, which includes taking the new disciplinary action available under the bill, the commissioner must prioritise matters that raise serious or systemic concerns.

As I have said, the government's moving of these amendments is about responding to sensible, constructive suggestions from those senators who have taken the time to consider the legislation on its merits and who have engaged with their own stakeholders and constituents on it, and it is also about taking reasonable and constructive suggestions from stakeholders within the industrial relations committee to ensure that the bill is targeted to that sufficiently serious misconduct engaged in by registered organisations and their officials. That contrasts dramatically with the approach of those opposite, which is to pretend that there is nothing to see here, that there is nothing wrong with the system, that it requires no adjustment or amendment. Apparently we should not require registered organisations to operate within the law and be responsive to the law in a rule-of-law nation. This government does not agree with that view, so I have moved those amendments, and I table a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.
Senator SHELDON (New South Wales) (10:45): Isn't it interesting that yesterday we heard this whole Trumpism of fake news. Somehow there was a mandate to turn around and make these sorts of changes to the representation of working people in this country—to rip out their rights to democratically decide about unions amalgamating; to take away their democratic right to say who their leadership is; to turn around and put substantial resources, in case after case that will result from this point system that is being proposed, into defending what obviously, even to some courts, will be defendable cases. But those substantial resources will be taken away from the fight against wage theft.

Six billion dollars were stolen in the construction industry. We have a government who has not acted on the task force about the exploitation of migrant workers. We see today that, in the last three years, temporary workers in this country have risen from 1.8 million to 2.2 million—where people have been grossly exploited. In all the studies carried out, average incomes are well below the minimum wage. And yet the government turns around and says that the people who can hold all that to account have to be tied up in defending what are defendable cases, 'Don't worry; the court will make a decision about what is in the public interest!'

This is directed at the minister. When I give these examples, I want to hear from the minister whether these are legitimate, defendable cases and why are unions going to be paying for legitimate, defendable cases? The following examples are on industrial action, taking in regard the issue of public safety. As is often the case, working Australians in democratically elected unions use industrial action to draw the public's attention to issues of safety in workplaces that affect not only members but also the public at large. These sorts of actions are deemed illegal and unprotected by the Fair Work Act. They are!

Now, under the government's amendments to the ensuring integrity bill, unions and their officials would be punished twice: first, with fines that already exist and, second, with a punitive demerit system resulting in the disqualification of officials and deregistration of whole unions. These punitive fines would soak up members' money and divert resources from the core business of unions, which is representing members and lifting the boat for all Australians on income. If a union accrues more than 900 demerit points in a 10-year period, it will allow applications to be made for a union official's disqualification or the union's deregistration. These amendments are at odds with the core business of unions fighting for and delivering the rights and conditions of everyday working Australians.

Firstly, I draw the minister's attention to the armoured car industry, in which workers are regularly faced with the threat of violence, robbery and, in some instances, injury or death. The Senate Education and Employment Committee inquiry into the ensuring integrity bill heard firsthand from Charles McKay, a 25-year veteran and worker for Armaguard. He testified about a string of attacks and assaults on armoured car workers between 1994 and 1995 and in the early 2000s. In the instance that a worker had been assaulted or murdered, and as was the case at Armaguard if workers were devastated and scared for their lives, they decided to take unprotected industrial action to raise the issue of public safety with the company, outside of the bargaining process. Under this bill it would be deemed illegal and a breach of the Fair Work Act. The Armaguard industrial actions led to the Peterson inquiry in New South Wales in February 1997. The recommendations that flowed from this inquiry led
to a number of safety measures being implemented for saving lives in the armoured car industry to this day.

The second example is that of public safety in hospitals in my home state of New South Wales. Our hospitals have some of the highest rates of assault, with 465 incidents in the last year alone. There are thousands of health workers in New South Wales and hundreds of thousands across Australia, who deserve to go to work without the fear of injury or assault.

The work that they do is paramount to the health and wellbeing of all citizens, including in my home state of New South Wales. We know that assaults in our hospitals can be prevented, or the risk substantially reduced, by properly resourcing hospitals with the staff and support necessary to provide security. Health workers know that this is a problem. Your Health Services Union has been raising it with the state government, but those pleas have fallen on deaf ears.

If workers are fed up with government inaction and are scared to go to work, in case of injury and assault, including knifings, bashings, attacks with syringes and the ongoing threat of violence, if they take industrial action, that would presently be deemed as a breach of the act and would result in the collection of demerit points by the union. This is an example where the very action of this Senate, in passing a motion on 31 July this year, would be made redundant. It was where the Senate supported those very same actions. This leads to a situation where unions can be deregistered for taking what is a public interest test. They not only can be deregistered but ultimately can turn around and be held to a situation where they have to spend substantial sums of money diverted from appropriate causes in representing Australian workers' security.

Another example is the bus industry, where there has been a great deal of evidence, over many, many years, of threats of violence and assault in bus drivers' day-to-day work. A horrible situation and example was with Manmeet Alisher, a Brisbane bus driver who was killed by a homemade bomb thrown into his bus. Workers took various kinds of industrial action following that. In the same situation, bus drivers in New South Wales, particularly in my home city of Sydney, and also in Newcastle and Wollongong, have put bans on various bus routes. All of those are breaches of the Industrial Relations Act. In the cases of the bus industry and the armoured car industry I was very proud to support those workers and also very determined to make sure that I supported those workers when they decided to take that action. I encouraged others to take that action. In those circumstances I would at that time have been accountable for that illegal industrial action.

In actual fact, a number of undertakings were given in the Supreme Court regarding the armoured car disputes. In the case of the armoured car area, there was a particularly horrendous hold-up at Padstow RSL. The company at the time, Chubb, was providing services to Padstow RSL. There were four known gangs operating in the Sydney area, and one of those gangs was believed to be particularly domiciled in that area, as there had been a series of other attacks. Chubb tried to change its delivery standards on the basis of trying to win bank contracts and then trying to win club contracts to move large sums of cash from poker machines. Rather than using an armoured vehicle with a three-person crew and two escorts, with two people in each escort, for Padstow RSL in particular, because it was a high-risk position, the company decided to subcontract that work to a soft-skin operator—that was
a person in a 10-year-old sedan who had been in the country, unfortunately for him, for only six months. The crim walked up to the side of the vehicle and blew his head off.

My union and I had given undertakings to the Supreme Court that we would not take further industrial action because the banks were turning around and suing us. As a result of talking to delegates following the assault, the following day delegates said that we had to have a meeting of all workers—firstly, as a result of that fatality and, secondly, how could we wait for WorkCover to make some decision over some months and various court hearings over a period of years to decide whether that is a risk to the safety of all in the armoured car, soft-skin or cash-in-transit industry. Those workers went on strike regardless of the Supreme Court undertaking and they went on strike regardless of it being a breach of what is now the Fair Work Act. Under the system that's being proposed, not only would they be fined but they would receive demerit points and would have their organisation deregistered, and I would hazard a guess that their own official would have their right of registration withdrawn as well.

I put the question directly to the minister: could these kinds of unprotected industrial actions, when successfully prosecuted, lead to the deregistration and/or the possible disqualification of a union official?

**Senator PAYNE** (New South Wales—Minister for Foreign Affairs and Minister for Women) (10:56): I thank Senator Sheldon for his contribution, which, as I understand it, broadly relates to the obstructive industrial action ground. The ground that is set out in section 28G of the bill is not a new one. It's an existing ground in the legislation, and it was included by those opposite in their Fair Work (Registered Organisations) Act 2009. But, to be clear, the bill doesn't affect in any way the ability for registered organisations to organise and for employees to take protected—that is, lawful—industrial action. It also doesn't change the longstanding industrial relation rules under the Fair Work Act.

If the question is around employees instituting a work ban because of safety concerns and whether that is grounds for cancellation, I'm advised that it's not likely that the bill would apply to this scenario because the action by the employee in participating in a work ban would not be industrial action if it's based on a reasonable concern about an imminent risk to their health or safety and the employee does not unreasonably fail to comply with the direction of their employer to perform other available work that is safe and appropriate for the employee to perform, which goes to subsection 19(2)(c) of the Fair Work Act.

If, on the other hand, the work ban, as such, is industrial action, the bill wouldn't apply if that ban is lawful—that is, protected industrial action. So, unions that organise and workers that take lawful industrial action are not impacted by this bill because, to be clear, the bill doesn't change the long-established industrial action rules under the Fair Work Act. In addition, the ground in section 28G of the bill only captures obstructive industrial action, and that is industrial action that prevents, hinders or interferes with the activities of a federal system employer, the provision of any public service by the Commonwealth, state or territory or authority thereof, or has had or is having or is likely to have a substantial adverse effect on the safety, health or welfare of the community or part of the community. So, the ground in section 28G of the bill is not new; it is an existing ground in the legislation. It was included by those opposite in their Fair Work (Registered Organisations) Act 2009. I refer to subsections 28(1)(b) and (c). There may be an assertion otherwise, but the fact is that, with the additional safeguards being introduced in this bill—the amendments that we've moved—there will
actually be a higher threshold for the court to make an order than is currently the case under the existing registered organisations act.

Further to that, if I may, just on the specific example around armoured guards, we have said in relation to any number of health and public welfare concerns that the bill won't impact a person's right to stop work if it's based on a reasonable concern about an imminent risk to their health or safety. And, as I said in my previous remarks, the bill doesn't apply to lawful protected industrial action. So, unions that organise and employees that take protected work stoppages are not impacted by the bill in that context. To be very clear: even in the case of unlawful industrial action, the action has to be obstructive for it to be a ground for deregistration under the bill. That is a significant threshold, and unlawful action without those necessary features will not give rise to a ground for deregistration under the bill. In the case of the matter that Senator Sheldon has raised, as I understand it, particularly relating to the Armaguard examples, I'm advised that there are no publicly available records to suggest that any order was made in relation to this instance of industrial action, so the ground for cancellation could never apply in that context.

Senator SHELDON (New South Wales) (11:00): Minister, even if I took the genuineness of your answer at face value, frankly your advice is fundamentally inaccurate because, in the case of the armoured car industry, workers there refuse to follow directions by their employer. In the case of the bus industry, workers there refuse to follow directions from bus employers. In actual fact, they extended actions because of concerns that some workers might feel compelled to go and do work in dangerous areas because of fear of ramifications—for example, casual employees not getting shifts—or, in the case of the armoured car industry, outside work still being delivered to other businesses or continually ratcheting up the unsafe practices. I previously went through the horrific Padstow RSL shooting.

With regard to those matters and the case of the security action, first of all I put to you two things: one is that those matters can be taken to court. The unions can be turned around and found guilty, and they can also lose points as a result of getting to a trigger point. Then, they have to answer those questions in court. Now, all those actions were taken because they disagreed with direction from the employer and disagreed to do alternative work. I will just put you in the scenario. One of your workmates has just been shot dead. There are gangs operating in various parts of the city. You're trying to work out which part of the city the gang's likely to operate in. This is an industry which has inherent risk. The families of those workers are obviously concerned, as are the workers, about what the next assault or attack might be and how imminent that might be—whether it's a matter of days, weeks or months—so the workers stop work and refuse to go to other areas and do other work which could be deemed as being relatively safe and relatively low risk. They are in breach of the act. So I'm putting this to you: if they are found in breach of the act on those matters, will that add to demerit points that can result in deregistration?

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (11:03): There are two points that I think are important to reiterate. The bill won't apply, because the action by the employee of participating in the work ban would not be an industrial action, because it's based on a reasonable concern about an imminent risk to their health or safety. The scenario and the very real case that Senator Sheldon has put forward, and I appreciate that he is using specific examples, would certainly qualify in the context of an
imminent risk to health or safety. I would also remind the chamber that these amendments will actually provide a higher threshold for the court to make an order than is currently the case under the existing Fair Work (Registered Organisations) Act, because this section, section 28G, and the ground only captures obstructive industrial action, and that means industrial action that, as I said before, has prevented, hindered or interfered with the activities of a federal system employer or the provision of a public service and has had, is having or is likely to have a substantial adverse effect on the safety, health or welfare of the community or a part of the community. The facts that Senator Sheldon is advancing in support of his argument don't meet, on the advice I have, that level in the context of the case you're putting forward and in the context of section 28G as it stands.

I am also advised that, on the deregistration point, as you have put it, it is absolutely a requirement for any ground for deregistration to be established that the organisation, its officers or its members have engaged in unlawful conduct. The grounds for deregistration cover a range of behaviours, including the commission of serious criminal offences, being in contempt of court and conducting the affairs of the organisation in a way that leads to the organisation, its officers or its members having a record of not complying with the law. The facts in the scenario and the circumstances that you have put to the chamber, Senator Sheldon, don't meet that test.

Senator SHELDON (New South Wales) (11:05): In 2010 a 59-year-old security guard from the Sutherland shire was shot and killed during a routine cash pick-up in Sydney's CBD. That led to an unprotected strike the following day by those workers and also workers in non-risk areas across the state of New South Wales in various parts where there had not been hold-ups on previous occasions. In actual fact, to my recollection, there had not been hold-ups for a period of over 40 or 50 years. Those workers took industrial action in solidarity with their fellow workers after someone had been shot dead. Their concern was about the company not seriously dealing with this—actually, a better way to describe this is clients demanding low-cost security arrangements. Workers took industrial action in other parts of the state. They were not in imminent risk. The union and those workers were found to have taken illegal industrial action, and points were then awarded. Under those circumstances, would that lead to deregistration?

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (11:06): The court has to be satisfied that the ground for cancellation has been made out. The Registered Organisations Commissioner bears the onus of proving that the relevant conduct occurred, whether that includes court findings and/or contraventions of the relevant laws. The court then has to determine whether cancellation would be unjust. That is broadly consistent with the test the court is currently required to apply to a cancellation application under the registered organisations act in section 28(3). In deciding whether it would be unjust to cancel an organisation's registration, the court has to consider a number of factors: the best interests of the organisation's members; the nature of the conduct that constitutes a cancellation ground; whether other action has been taken to address the conduct; and, broadly, any other relevant matters, as you would expect. The court has a broad discretion and can give regard to any other matters it considers relevant, which equips the court to fully consider any reasons why it would be unjust to cancel or disqualify. It's a very broad discretion. Under the government's amendments, the court can't make an order unless it is satisfied, having regard
to the gravity of the conduct that constitutes the ground, that the making of an order would not be unjust. I would also add that, in the court's process of determining what's in the best interests of members, it is open to an organisation to present evidence of members' views on this point, and members would also, of course, be able to seek leave to appear.

**Senator SHELDON** (New South Wales) (11:08): So, yes, a case can be made for deregistration of the union and then an argument can be put forward—at great expense to the organisation—that the illegal action taken was understandable in the circumstances, according to the pub test. It's a breach of the law. That doesn't mean it's unethical or immoral, but it's a breach of how the law actually operates. As a result of that breach, they can then face a case. And in the case of the armoured car industry and those particular periods of assaults—at one point we had over 23 assaults and hold-ups over a period of a few months, particularly around ATMs—there were a series of industrial actions that were taken. That would have constituted a consistent position over that period and over 10 years to be answered, because there had been many strikes involving people who were not directly at imminent risk as well as people who were at imminent risk.

I'll go back to my other examples. In the bus industry and trucking we've had a series of occasions where rocks have been dropped off overhead bridges. On those occasions workers decided to ban major highways. They had been threatened with dismissal as a result of turning around and taking that action. The rock throwers could be on a weekend, in the evening or in the morning. Hundreds of trucks would use those highways. After talking to union delegates and subsequently having meetings in transport yards, which were not authorised—it's a breach because it's not protected action—the workers decided that they would not use that road any longer. Some workers were threatened that, if they didn't use that road, they would be terminated. Under those circumstances, their colleagues took industrial action to support them. They didn't want to take those roads. That was unprotected industrial action.

In fact I recall a situation where a delegate, who had been with the company for close to 30 years and had won a number of awards from the company for his diligence—he was a very staunch unionist; you can actually do both—stood up for workers and said when he thought things were wrong. When he pressed that issue, he was terminated. The workers went on strike. That was illegal unprotected industrial action. Why wouldn't they go on strike? They were upset that somebody who was standing up for them was terminated and made an example of. They knew that a court case would take months upon months, if not years, in certain circumstances. They weren't going to see him economically damaged. They wanted the company to see the light. As a result of that strike, within 24 hours that employee was put back on. That was illegal industrial action.

Minister, under those circumstances would demerit points be allocated to a union to be deregistered if they were found guilty of what was clearly a breach of the Fair Work Act—and with a case before the Fair Work Commission, if the employer decided not to reinstate that delegate and they decided to take a court case forward? Would those circumstances in a case that was clearly a breach of the Fair Work Act result in demerit points being added to the union and the official responsible for that area? I might also add that as an official I very happily supported what those workers did.

**Senator PAYNE** (New South Wales—Minister for Foreign Affairs and Minister for Women) (11:12): Senator Sheldon, the examples that you have continued to give have a
certain consistency about them, and that is the workers, the employees, that you're talking about who are taking the action. If you look at the grounds for cancellation, which I have spoken about before, it is most unlikely that the bill would apply to these scenarios because the action of the employee in participating in the work ban or in the actions you've outlined would not be industrial action; it is based on a reasonable concern about an imminent risk to their health or safety, and the employee didn't unreasonably fail to comply with the direction of their employer.

It's important that we recognise that there's more than one element to this. The second element is about the nature of obstructive industrial action. You have pointed to a number of examples where the imminent health or safety of the workers is relevant and paramount—that is, in relation to the actions that endanger the drivers you've spoken about. It would be obstructive industrial action if it:

... has prevented, hindered or interfered with:

(i) the activities of a federal system employer; or
(ii) the provision of any public service—

as I said, or:

... has had, is having or is likely to have a substantial adverse effect on the safety, health or welfare of the community or a part of the community ...

So there is an even higher threshold in this bill for the court to make an order than is currently the case under the existing registered organisations act. Not only does the action have to be obstructive, within the context of the bill, but there has to be an application to the court by the Registered Organisations Commissioner in relation to that. The court then has to make a decision to agree. There are a number of steps attached to that, which I also went through in my previous comments. So there are a number of factors, and all those elements combine to say that it would not lead to the cancellation or the deregistration that you've raised.

Senator SHELDON (New South Wales) (11:15): So we're not ruling out that these matters can go to a circumstance of deregistration and also culpability, under the demerit system, against individual officials. What wasn't answered in that is the question of the sacked union delegate who had acted on behalf of those workers. A worker—who, as I said, had an exemplary record with the company—had been, as a payback for refusing to use that road, terminated. Those workers took illegal industrial action to support that worker being reinstated. That is a breach of the Fair Work Act; demerit points would be allocated for that action. That would then add to a case to be heard in the courts, amongst other cases—because, you might be surprised to hear, union delegates do get sacked reasonably regularly in different industries. And it's not because they are—as your party describes them—'thugs' but because they are hardworking people defending their workers and their fellow Australians and the general public. So, Minister, I'm still seeking an answer to the question of the union delegate being sacked and a Fair Work case being heard after an industrial action has been taken in support of that union delegate. When those demerit points are allocated, is there a case to be heard? Is there cost incurred? And can that lead to the potential of deregistration?

As you're contemplating your answer to that, I'll say this. The ROC is a judicial organisation who turned around, in the case of the Transport Workers Union, and gave them a fine for paperwork breaches, as a result of taking the matter up to court, because, the way the
language of the law is set out, they, as a result of paperwork breaches—where the court ruled there was no advantage to anybody from the paperwork breaches, but it was a breach of the act—got a fine in the first instance of over $200,000. I might add: the Queensland Hotels Association, which hadn't had an election for 12 years, got a fine of $100,000. But—heaven forbid!—the system's obviously balanced! The courts are balanced! It seems very balanced to me—doesn't it to you? A paperwork breach gets a fine of over $200,000, which means you can't go out and use those resources to fight in the field, in an industry that has nine times the national average of deaths and has seen the exploitation of gig workers in the new economy, armoured car drivers being shot and bus drivers being assaulted! And we're going to have the ROC make a judicial decision. Without prejudice—'without prejudice'; that's a laugh!—they have to look at what the law says they have to do and what their obligations are. They can't say, 'I like the way he parts his hair,' or, 'I like the way she wears her dress,' or—I don't know—whatever horrible things they might say when they make these decisions. They have to make the decision based on the facts.

I'll just go back to the question. If a union delegate, as in the example I gave before, gets sacked because he puts a ban on and supports a ban, as a spokesperson for those workers, where rocks are being thrown off overhead bridges and the workers are taking illegal industrial action—which it is—will there be demerit points? And can those demerit points lead to a case and the expense of deregistration or potential deregistration if enough points are lost?

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (11:19): The bill, as it was introduced, defined 'designated finding' by reference to whether the person was found to have committed a relevant criminal offence or found to have contravened a civil penalty provision in a designated law. What the amendment at item 1 on sheet 8975 revised 2 would provide is that only contraventions of core industrial laws which result in a conviction or a court-imposed pecuniary penalty are designated findings for the purposes of the bill; a finding alone will not be sufficient. This is an amendment which further ensures that the bill only targets serious contraventions of core industrial laws, and to accommodate the amendment of this definition, of course, there are consequential amendments made throughout schedules 1, 2 and 4 of the bill. But, ultimately, Senator Sheldon, the point is that the behaviour and actions that you describe don't reach the levels set out in the bill in terms of deregistration or disqualification.

You also raised paperwork breaches. I do think it's important to remind the chamber that it is not true—it is in fact an absolute untruth—that, under the bill, registered organisations could be deregistered and their officers disqualified for trivial paperwork breaches, which include submitting a form to the regulator a few days late. But what we've seen are significant breaches characterised as paperwork breaches by registered organisations and their officers, who have sought to downplay that conduct. And you're right; there was a penalty applied to the Transport Workers Union chair. The Federal Court applied a penalty to the Transport Workers Union for breaking the law that requires organisations to keep a proper register of their members. In this case, there were repeated and serious breaches, over 12 years, of record-keeping laws. The primary judge said in that matter:

It needs to be understood by registered organisations that this is a serious piece of legislation and the apparently mundane obligations it imposes are to be obeyed.
The judge also noted that these laws can go to the very 'democratic integrity' of an organisation.

We know that, where an organisation doesn't publish financial reports or disclose loans, grants or donations, that might also be characterised as a paperwork breach—but it can actually lead to corruption. It can lead to workers getting a very bad deal from the people who represent them. It might be the case that an organisation doesn't keep ballot papers or disclose conflicts of interest; it might want to dismiss those as paperwork as well. But those breaches are serious. They can cover up fraud. They can cover up a corrupt election. So there are a range of examples in this context. I suspect those opposite wouldn't think that, if an employer failed to provide a payslip, that should in all circumstances be characterised as a trivial paperwork breach for which there should be no consequences. That is why it is important that every contravention is looked at on its relevant merits and in context. The court is properly equipped to do that and to determine what the appropriate consequences are in particular circumstances.

Senator SHELDON (New South Wales) (11:22): Minister, I appreciate you're only getting briefed from the side about the Transport Workers Union, but I just might add that the court said that no-one was materially affected, and no election was affected, by how the registration was kept and that a series of elections had taken place without any interference. It was a technical breach of substantial size.

I'll just go to another, final question. In July this year, 22,000 Health Services Union members went on strike after a series of assaults and abuse at work. In January, a worker was stabbed by a patient. Two nurses and a patient were also stabbed, with scissors, by a patient. Now, a number of those workers who went on strike were not in directly high-risk areas. In fact, you would consider a number of those workers who went on strike as being in substantially low-risk areas. They were not in imminent danger. They went on strike in solidarity, in collectivism, in unity, with fellow Australians who were being stabbed. This was not a risk question for them. It was a question of doing the right thing, and getting the government to stand up and do the right thing. It was an illegal strike by many of those workers; there was no risk to them. In the circumstances, if that union and the workers were found to have breached the Fair Work Act—which, I might add, they did, proudly—and points were awarded against that union, would that add to a case of deregistration, with all the expense that incurs and with the deflection of the substantial resources that the union is presently putting into dealing with aged care and dealing with the rip-offs in the NDIS?

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (11:24): Senator Sheldon, the scenario that you raise is a hypothetical one, but let's be very clear: in the last seven years—

Senator Sheldon: It's actually happening.

Senator PAYNE: Yes, I know it's happened, but this is a scenario in relation to an outcome under this bill. In the last seven years there have been no orders or findings made against the Australian nursing federation, I am advised, concerning unprotected industrial action. So that demonstrates that the organisations of the nursing profession, like the vast majority of unions, are able to advocate for and campaign on issues lawfully. If nurses and their unions want to advocate and campaign for particular issues, they clearly know and understand that there are lawful avenues to achieve this. There are a number of those.
But this ground for cancellation of registration is an existing ground in the legislation as included by the Australian Labor Party in the Fair Work (Registered Organisations) Act 2009. So, to the extent that you have a problem with this ground, you have an issue with your own legislation that has, in fact, sat on the books for over a decade. On that, it's important to note that there hasn't been a single application made under this ground, which reflects the appropriately significant threshold required, despite the fact that both the minister and a person interested, such as an employer, have had the power the make an application in all of that time. So, even in the unlikely event that the ground could apply, with the government amendments the court cannot make a cancellation of registration or an alternative order unless it's satisfied that, having regard to the gravity of the conduct constituting the ground, the making of the order would not be unjust. The court is required to consider whether the making of the order would not be unjust.

The court will also specifically have to consider the gravity of the matters constituting the ground to determine that cancellation would not be unjust—that is, section 28J—and the same considerations will be relevant to the court's determination on whether to make alternative orders under new proposed section 28L. You may like to assert otherwise, but the fact is that, with the additional safeguards being introduced in this bill and the amendments that I have moved here today, there will actually be a higher threshold for the court to make an order than is currently the case under the existing registered organisations act as legislated by the Australian Labor Party a decade ago, with the support of the trade union movement.

Senator FARRELL (South Australia) (11:27): I thank Senator Sheldon for his very incisive questions. He is a new addition to the parliament here but brings with him a significant amount of experience in the industry and a significant amount of knowledge about the practical problems that are going to arise from the passing of this legislation—and, I might say, he's very passionate advocate for working people—in explaining why so much is wrong with this legislation. It's been a long time since I have been a union official, but I am a great supporter of them; you can understand why when you hear the passion with which Senator Sheldon speaks about the practical issues that are going to arise from the passing of this legislation.

The minister seemed to have some information about the nurses federation and what might apply to that organisation. In New South Wales there are two organisations. There's the nursing federation, but there is also a state registered union in New South Wales, which I assume still exists. The response of the minister may have been to that federal organisation and not to the nurses organisation that is registered in New South Wales. So that might be something that Senator Sheldon might want to follow up on, if he gets an opportunity, to clarify the circumstances there. There was that old decision of Moore v Doyle where a union was divided into two separate organisations. If I recollect correctly, Moore v Doyle might have been a Transport Workers Union case.

Senator Sheldon: It was, Senator.

Senator FARRELL: Well, there you go. What a memory—a memory like a steel trap; like the Bourbons: learn nothing but forget nothing.

Senator Payne interjecting—
Senator FARRELL: My mum used to say that self-praise was no recommendation. But there was an element of self-deprecation in what I've just said. So you need to take that into account, Minister, in an assessment of the point I was trying to make. My recollection is that there is a difference between the state and federal unions, and I am just not sure these days exactly how those organisations might interact and, more particularly, how this legislation might apply to an organisation under state registration—which I'm assuming still exists for most of those public sector organisations in just about every state. So there might be different answers to that question.

In the few remaining minutes I have left to talk on this particular issue, I wanted to raise with the minister some issues regarding corporate equivalence. This was one of the great emotive issues that the government raised in its defence of this rather indefensible legislation and in seeking to draw comparisons between what obligations unions, union officials and volunteers in unions might have in respect of the legislation and similar obligations and responsibilities that might exist in the corporate sector, the people the unions are negotiating with. I think it is fair to say that, in respect of at least some of the crossbenchers, this issue seemed a determining factor in their decision to ultimately get behind the legislation—because they saw that there was some need for equivalence between what obligations you apply to a union official and what obligations you apply to a company director. But I would put to the minister that the suggestion that unions should be held to the same regulatory standard as corporations in these circumstances has an implication that the unions themselves are innately bad and need to be brought up to the same standard against which public companies are held.

But I would like to talk about the nature of unions. While the main obligation or the main purpose of companies is to carry out commercial activity with an aim to generate revenue and, of course, if they're successful hopefully make a profit, the nature of trade unions is quite a different concept in our community. It stems from quite a different philosophical basis in our society. They have a different purpose—and, might I say, a higher purpose. Rather than simply being vehicles for making money, their purpose, their obligation, is to protect the conditions, the wages and the entitlements of Australian workers. Shareholders in a company of course want to see that company make a profit so they can receive dividends and get a return on their investment. That's fair enough. That's our system. It's a capitalist system that we work in. Trade unions, on the other hand, are democratic organisations. Their work is concerned with improving—

Senator Payne interjecting—

Senator FARRELL: No; they're democratic organisations. Every union that I know of, Minister, has to face, every so often, a ballot of their members to determine whether they think they are doing a sufficiently good job to be returned to their office. That is a requirement under the legislation. But more interestingly, thanks to, I think, legislation introduced by Clyde Cameron, those ballots, as least as they relate to federal organisations, are conducted by the Australian Electoral Commission to ensure the integrity of those ballots—Senator Ayres is nodding at me. It's still the situation that if the members of an organisation are up for their regular term of office—which I think is four years for most organisations—then, of course, they conduct a ballot.

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CHAMBER
Unions have a higher purpose in our community. They're not simply about getting a return on investments. They're not simply about making a profit for their shareholders. They're out there day in, day out trying to lift the wages and improve the conditions of the people they represent—and very often the conditions of people who are not members. One of the great aspects of the Australian trade union movement is that, by and large, unions don't just raise the terms and conditions of the people that pay fees to unions; nine times out of 10, they're also raising the conditions for those who are not union members. Historically in this country—and let's face it: we have very high wages and conditions in comparison to a lot of our immediate neighbours—the unions that have managed to achieve improvements in wages and conditions have done that not only for union members but also for nonmembers. I think that in itself is another distinguishing feature where this idea of corporate equivalence between unions and companies simply doesn't apply. As I said, unions are democratic organisations, and their sole purpose is to improve the wages and conditions of their members. They're not out there making a profit and making a return on their investments. They're out there day in, day out—very hardworking union officials, like Senator Sheldon was a few months ago—to improve the standard of living of their members.

I believe the government has made some very misleading statements about the way in which the bill brings the regulation of trade unions into line with the regulation of corporations. We hear a lot about fake news these days, and my concern is that the government's attempt to draw an equivalence between unions and corporations may have misled some of the crossbenchers into thinking that that's what this legislation actually does. It certainly does not do that.

We've seen only this week the circumstances in Westpac—one of our big four banks in this country. There were 23 million breaches of AUSTRAC obligations. I didn't get a chance to read the whole story this morning, but I understand that the figure may be significantly higher than 23 million breaches of the AUSTRAC obligations. What's happened to the person who oversaw those breaches? Have they been sacked or forced to stand down from their company? Has their company been forced out of business? Has it lost its licence? No. In fact, what happened to that particular CEO of that particular company is that he was allowed to resign, apparently with the consent of the board, and then get a $2.69 million payout—shocking! There is this idea of some equivalence between how corporations are treated by this government and how unions who work day in, day out to try to improve the living standards of their members are treated—and, of course, we know that under this government living standards are falling. Why are they falling? Because wages are not increasing. Retail sales, as I mentioned when I spoke earlier today, are flatlining or falling in this country right as we speak.

I note that the minister seemed to draw some comparison with a boss who fails to give their employees a payslip and how that's a bad thing. Well, I agree it's a bad thing. Everybody is entitled to a payslip. But, of course, if that employer does fail to provide the payslip, they don't get the sack. They're not dismissed. The organisation that fails to provide the payslip is not then deregistered and forced out of business to stop doing what they are doing. So the idea that there's any sort of comparison between an employer who fails to provide an employee with a payslip and a union who takes certain actions or fails to provide certain details to the
Registered Organisations Commission, the so-called ROC, is simply preposterous. We have these unions working in the interests of their members.

This is a question I've got for the minister on this subject of corporate equivalence: is it not correct that this bill allows for union officers to be disqualified for contravening industrial or work health and safety laws but that the Corporations Act does not allow company directors to be disqualified for contraventions of those same laws?

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (11:42): There are a couple of minutes available, and Senator Farrell's canvassed a number of areas. In the context of comparison to corporate regulation and the difference between corporations and the role of unions, I did say last night in my summing-up speech that, of course, in the context of bringing forward this legislation, and in all of our work in industrial relations, we acknowledge the important role of registered organisations, both unions and employer associations, because they're representing their members' interests in the industrial relations affairs of this country, and that is a valuable contribution that should quite rightly continue. But it is the government's view that registered organisations should not be immune from the law in carrying out their functions.

Senator Farrell asked a number of questions and raised a number of issues in relation to the treatment of registered organisations versus the treatment of corporations. I can absolutely assure the chamber that the bill does not assume that registered organisations are the same as corporations. The bill does mirror some parts of corporate regulation to address concerns that have been raised by some stakeholders, but it's been appropriately adapted to the particular nature, structure and purpose of registered organisations.

Senator Farrell in his remarks also canvassed his perception of the views of other members of the Senate and the crossbench, how they might be regarding these matters and how they might be construed. I think that, from the government's perspective, we have a very healthy respect for the approach that other members of the chamber and members of the crossbench have taken to this legislation. You may not think so, Senator Farrell, but I think they are more than capable of making their own assessments on the merits of the legislation that comes before this chamber. They will consider arguments put to them by the opposition, they'll consider arguments put to them by government and they will, as highly capable and extremely engaged members of the Senate, make their decisions accordingly. I think to suggest otherwise would be somewhat disappointing.

In the short amount of time available, I will be very clear: the bill doesn't assume that registered organisations are the same as corporations. Where corporate regulation has some application, we have been able to mirror some parts of it to address concerns that have been raised by some stakeholders, but those processes have been appropriately adapted in the drafting to the particular nature, structure and purpose of registered organisations. There are a number of other things I would like to add in response to Senator Farrell, and I think we'll probably come back to this point.

Progress reported.
NOTICES
Withdrawal

Senator McKIM (Tasmania) (11:45): Pursuant to notice given on 27 November 2019, I withdraw business of the Senate notice of motion No. 2 standing in my name for today proposing the disallowance of the Quality of Care Amendment (Minimising the Use of Restraints) Principles 2019.

Senator FIERRAVANTI-WELLS (New South Wales) (11:45): Pursuant to notice given on 27 November 2019, I withdraw business of the Senate notice of motion No. 1 standing in my name for today proposing the disallowance of the Quality of Care Amendment (Minimising the Use of Restraints) Principles 2019.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:46): I seek leave to make a statement of no more than two minutes.

The PRESIDENT: Leave is granted for two minutes.

Senator SIEWERT: The Greens will not oppose the withdrawal of these notices of motion. The chamber will be aware that last sitting week I withdrew a similar notice of motion on these particular regulations, knowing that these two disallowances were still active and that there were ongoing discussions about the regulations. I thank the minister for engaging very meaningfully in those discussions. While I welcome some of the amendments to the regulations, while a step in the right direction, do not do the job. It's quite clear that they do not go far enough. The sorts of issues that I put to the government and that the sector put to the government about the need for the changes to the regulations include: much better requirements—for informed consent; behaviour support plans; an administered register—that is, a clear register for traceability and accountability—for the use of chemical restraints; increased education and awareness; and a clear timeline for the elimination of chemical restraints. A key part of what we also raised was a change to the wording so that the regulation wasn't seen to be a permissive process for chemical restraints. While there was a change in the heading to say chemical restraints are a last resort, the actual wording didn't change. So I'm pleased that we've made some significant progress, but it's not far enough. We will continue to pursue this with the government.

The PRESIDENT: There being no other notices of motion. I advise the Senate that the consideration of those motions, pursuant to (1)(c) of the motion passed earlier today, is no longer relevant, because both of the motions have been withdrawn.

COMMITTEES
Selection of Bills Committee
Report

Senator DEAN SMITH (Western Australia—Government Whip in the Senate) (11:48): I present the ninth report for 2019 of the Selection of Bills Committee and I seek leave to have the report incorporated in Hansard.
Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE

REPORT NO. 9 OF 2019

1. The committee met in private session on Wednesday, 27 November 2019 at 7.30pm.

2. The committee recommends that—

(a) the Agriculture Legislation Amendment (Streamlining Administration) Bill 2019 be referred immediately to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 31 January 2020 (see appendix 1 for a statement of reasons for referral);

(b) the provisions of the Australian Sports Anti-Doping Authority Amendment (Enhancing Australia's Anti-Doping Capability) Bill 2019 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 3 February 2020 (see appendix 2 for a statement of reasons for referral);

(c) the provisions of the Migration Amendment (Regulation of Migration Agents) Bill 2019 and the Migration Agents Registration Application Charge Amendment (Rates of Charge) Bill 2019 be referred immediately to the Legal and Constitutional Affairs Legislation Committee but was unable to reach agreement on a reporting date (see appendix 3 for a statement of reasons for referral);

(d) the provisions of the Telecommunications Legislation Amendment (Competition and Consumer) Bill 2019 and the Telecommunications (Regional Broadband Scheme) Charge Bill 2019 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 21 February 2020 (see appendix 4 for a statement of reasons for referral);

(e) the Telecommunications Legislation Amendment (Unsolicited Communications) Bill 2019 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 17 April 2020 (see appendix 5 for a statement of reasons for referral);

(f) the provisions of the Transport Security Amendment (Serious Crime) Bill 2019 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 21 February 2020 (see appendix 6 for a statement of reasons for referral); and

(g) the provisions of the Treasury Laws Amendment (Your Superannuation, Your Choice) Bill 2019 be referred immediately to the Economics Legislation Committee for inquiry and report by 21 February 2020 (see appendix 7 for a statement of reasons for referral).

3. The committee recommends that the following bills not be referred to committees:

- Commonwealth Electoral Amendment (Transparency Measures—Lowering the Disclosure Threshold) Bill 2019
- Commonwealth Electoral Amendment (Transparency Measures—Real Time Disclosure) Bill 2019
- Family Law (Self-Assessment) Bill 2019
- Farm Household Support Amendment (Relief Measures) Bill (No. 2) 2019
- Health Legislation Amendment (Data-matching and Other Matters) Bill 2019
- Interactive Gambling Amendment (National Self-exclusion Register) Bill 2019
- National Self-exclusion Register (Cost Recovery Levy) Bill 2019
- Military Rehabilitation and Compensation Amendment (Single Treatment Pathway) Bill 2019
- Official Development Assistance Multilateral Replenishment Obligations (Special Appropriation) Bill 2019
- Treasury Laws Amendment (Reducing Pressure on Housing Affordability Measures) Bill 2019

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Foreign Acquisitions and Takeovers Fees Imposition Amendment (Near-new Dwelling Interests) Bill 2019.

4. The committee deferred consideration of the following bills to its next meeting:

- Air Services Amendment Bill 2018
- Australian Crime Commission Amendment (Special Operations and Special Investigations) Bill 2019
- Constitution Alteration (Freedom of Expression and Freedom of the Press) 2019
- Crimes Legislation Amendment (Combatting Corporate Crime) Bill 2019
- Customs Amendment (Safer Cladding) Bill 2019
- Discrimination Free Schools Bill 2018
- Family Law Amendment (Western Australia De Facto Superannuation Splitting and Bankruptcy) Bill 2019
- Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2019 Measures)) Bill 2019
- Financial Sector Reform (Hayne Royal Commission Response—Stronger Regulators (2019 Measures)) Bill 2019
- Governor-General Amendment (Cessation of Allowances in the Public Interest) Bill 2019
- Great Australian Bight Environment Protection Bill 2019
- National Integrity (Parliamentary Standards) Bill 2019
- Regional Forest Agreements Legislation (Repeal) Bill 2017
- Social Services Legislation Amendment (Better Targeting Student Payments) Bill 2019
- Social Services Legislation Amendment (Ending the Poverty Trap) Bill 2018
- Social Services Legislation Amendment (Payment Integrity) Bill 2019
- Special Recreational Vessels Bill 2019
- Student Identifiers Amendment (Enhanced Student Permissions) Bill 2019
- Trade Support Loans Amendment (Improving Administration) Bill 2019

(Dean Smith)
Chair
28 November 2019

Appendix 1

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill:
Agriculture Legislation Amendment (Streamlining Administration) Bill 2019

Reasons for referral/principal issues for consideration:

- To investigate the impact of the bill on current biosecurity systems and imported food requirements.
- Any additional charges or savings associated with the amendments
- Impact on biosecurity staff
Any other related matters.

Possible submissions or evidence from:
Department of Agriculture and Water Resources
National Farmers Federation
Inspector-General for Biosecurity
Border Force
Ports Australia
Shipping Australia
Committee to which bill is to be referred:
Senate Rural and Regional Affairs and Transport Legislation Committee

Possible hearing date(s):
To be determined by the committee

Possible reporting date:
31 January 2020

Appendix 2

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee

Name of bill:
Australian Sports Anti-Doping Authority Amendment (Enhancing Australia's Anti-Doping Capability) Bill 2019

Reasons for referral/principal issues for consideration:
Stakeholders have raised concerns with the Opposition, mirrored in issues with this bill raised by the Senate Standing Committee for the Scrutiny of Bills, relating to the impact of certain clauses on the individual rights of athletes.

Possible submissions or evidence from:
Australian Athletes Alliance, players associations of individual sports, Exercise and Sports Science Australia, ASADA, others.

Committee to which bill is to be referred:
Senate Community Affairs Legislation Committee

Possible hearing date(s):
Suggest similar or identical timeframes to the inquiry on the Australian Sports Anti-Doping Authority Amendment (Sport Integrity Australia) Bill 2019, which was referred by the Senate on 14 November following the recommendation in Selection of Bills Committee's Report No. 8 of 2019.

To be determined by the committee

Possible reporting date:
3 February 2020

Appendix 3

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee

Name of bill:
Migration Amendment (Regulation of Migration Agents) Bill 2019
Migration Agents Registration Application Charge Amendment (Rates of Charge) Bill 2019

Reasons for referral/principal issues for consideration:
To determine whether the Parliament of Australia should vote in favour of this bill in its current form (or in an amended form), having regard to the views of industry and other key stakeholders.

Possible submissions or evidence from:
Migration Institute of Australia, Law Council of Australia, key stakeholders from the migration agent sector, Australian Migration Citizenship Service and others.

Committee to which bill is to be referred:
Legal and Constitutional Affairs

Possible hearing date(s):
To be determined by the committee

Possible reporting date:
27 March 2020

Appendix 4

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee

Name of bill:
Telecommunications (Regional Broadband Scheme) Charge Telecommunications Legislation Amendment (Competition and Consumer) Bill

Reasons for referral/principal issues for consideration:
Complex levy that effectively proposes to introduce a broadband tax, and has been criticised by the Productivity Commission and the ACCC. Is a potential building block for privatisation.

Possible submissions or evidence from:
Department of Communications, Telstra, Optus, Vodafone, Vocus, TPG, Opticomm, ACCC, ACCAN and other Greenfield telecommunications providers.

Committee to which bill is to be referred:
Senate Environment and Communications Legislation Committee

Possible hearing date(s):
To be determined by the committee

Possible reporting date:
21 February 2020

Appendix 5

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee

Name of Bill:
Telecommunications Legislation Amendment (Unsolicited Communications) Bill 2019

Reasons for referral/principal issues for consideration:
To assess impacts of the bill's operation

Possible submissions or evidence from:
Fundraising Institute of Australia; CHOICE; ACMA; TIO; AEC; COTA; National Seniors; ACCC; Digital Rights Watch; Communications Alliance
Committee to which bill is to be referred:
Environment and Communications Committee

Possible hearing date(s):
TBA

Possible reporting date:
17 April 2020

Appendix 6
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Transport Security Amendment (Serious Crime) Bill 2019
Reasons for referral/principal issues for consideration:
To ensure that the Bill sufficiently achieves its intent of addressing criminal activity at Australia’s security controlled airports, security regulated seaports, and security regulated offshore oil and gas facilities.

Possible submissions or evidence from:
Department of Home Affairs;
Australian Federal Police;
Australian Criminal Intelligence Commission;
Australian Institute of Criminology;
Ports Australia;
Australian Airports Association and one or two Airport Corporations (eg Sydney, Melbourne);
APPEA and/or one or two offshore oil and gas facility operators (eg INPEX, BHP, Woodside);
Fair Work Ombudsman; and
One or two relevant employee Groups (eg The Australian and International Pilots Association and the Australian Services Union)

Committee to which bill is to be referred:
Legal and Constitutional Affairs

Possible hearing date(s):
December 2019

Possible reporting date:
21/02/2020

Appendix 7
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Treasury Laws Amendment (Your Superannuation, Your Choice) Bill 2019
Reasons for referral/principal issues for consideration:
Potential impacts on worker's super balances. Potential defaults into underperforming funds.
Possible submissions or evidence from:
ISA, FSC, Treasury, ACTU, unions

Committee to which bill is to be referred:
Senate Economics Legislation Committee

Possible hearing date(s):
To be determined by the Committee

Possible reporting date:
21 February 2020

Senator DEAN SMITH: I move:
That the report be adopted.

Senator KENEALLY (New South Wales—Deputy Leader of the Opposition in the Senate) (11:48): I rise to speak on the report of the Selection of Bills Committee, specifically the Migration Amendment (Regulation of Migration Agents) Bill 2017 and the Migration Agents Registration Application Charge Amendment (Rates of Charge) Bill 2017. I rise to speak because at least one of the dates that was discussed at the committee meeting last night has been changed. I would like to put on the record why we made this decision and the absurdity that it underlines.

The opposition did seek to have a longer reporting date on both of these bills. Originally we proposed to have an inquiry into these bills run until later in March in order to give the committee more time to hold hearings and to thoroughly inspect these bills. This would allow for a proper inquiry process. We could seek submissions from key stakeholders, hold public hearings and give these pieces of legislation the attention that they deserve. This is the expectation of the community. We, the Senate, are the house of review and we should consider the laws we are passing. Senate committees, when given the time to inquire properly, can produce very productive and helpful reports; however, this was not the wish of those opposite. Rather than a significant committee inquiry, the government wanted to ram this legislation through. In the interests of cooperation, the opposition has agreed with the government to have this bill report on 18 March. This will allow the government to deal with the bill in late March in the Senate if they choose to do so.

Yet—and here is the kicker, the absurdity—the recommendations that have informed this piece of legislation were first made in 2014. A reminder to those listening: back in 2014, who was the Prime Minister? Tony Abbott. He was still the Prime Minister of Australia. The No. 1 song that year was that catchy tune 'Happy' by Pharrell Williams. Here is a sad reflection, I think, on the state of our society: they still made Coke Zero back in 2014. I don't know if the chamber agrees with me, but I really do feel like 'Coke no sugar' is a pale imitation.

Senator Dean Smith interjecting—

Senator KENEALLY: Thank you, Senator Smith, for your observation. However, back to the serious matters at hand: here we are, five years later, and it is laughable. In 2014 this government handed down a second set of recommendations in relation to the pieces of legislation that are currently before us. Five years ago, back when you could still drink Coke Zero, dance around to the song 'Happy' by Pharrell Williams and acknowledge Tony Abbott as the Prime Minister of this country, this government made a set of recommendations around migration agents. They didn't introduce them into legislation until 2017, then that legislation
sat here on the Notice Paper in this Senate, not moved or acted upon by this government, and now suddenly they have this extreme urgency not to hold an inquiry but to ram it through a committee, to have a short reporting date, to get it done as fast as possible.

Let's understand here that this bill will make changes to how migration agents are registered—specifically, to how lawyers are registered as migration agents. Back several years ago, when this legislation was first moved, Labor did support it, but we do think it is right and proper that we have a thorough examination of this legislation. Things have changed. How do we know that they have changed? We know they have changed because we've had the Report of the inquiry into efficacy of current regulation of Australian migration and education agents.

Senator Cormann: Are you going to read us the report?

Senator Keneally: I am going to read you a section of it, thank you, Senator Cormann. In this report, no less than the now minister, Jason Wood, said that there is 'exploitation' and that a 'loophole' is being exercised by 'organised crime' to come into this country by aeroplane and then seek to use the asylum process to access the Australian labour market. That is the observation of no less than the minister, Jason Wood. We think these laws deserve a proper inquiry, we are disappointed the government tried to ram them through and we look forward to the committee doing its work.

Question agreed to.

BUSINESS

Rearrangement

Senator Ruston (South Australia—Minister for Families and Social Services and Manager of Government Business in the Senate) (11:54): I move:

That the order of general business for consideration today be as follows:

(a) general business notice of motion no. 303; and
(b) orders of the day relating to documents.

Question agreed to.

Rearrangement

Senator Ruston (South Australia—Minister for Families and Social Services and Manager of Government Business in the Senate) (11:54): I move:

That the following business be considered at the time for private senators' bills on Monday, 2 December 2019:

(a) all general business notices of motion for the introduction of bills for that day (introductory processes only, no debate);

and

(b) general business order of the day no. 34, Productivity Commission Amendment (Addressing Inequality) Bill 2017.

Question agreed to.
Thursday, 28 November 2019

SENATE

4527

BILLs

Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019

In Committee

Consideration resumed.

The CHAIR (11:55): The committee is considering the Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019 and the amendments on sheet RC114.

Senator PRATT (Western Australia) (11:55): Senator Don Farrell has asked questions in relation to corporate equivalence, and I'm certainly not satisfied with the answers in relation to that. Evidence before the Senate committee on these issues really put to bed the idea of any real corporate equivalence in the legislation at all. So I'm keen to pursue these issues with the minister in terms of a suitable level of accountability upon corporations who also may breach occupational health and safety laws and some of the kinds of offences in this act for which union officials are targeted but which corporations seem to get away with quite frequently.

The Attorney-General's made repeated remarks about the bill striking some sort of balance or equivalence with laws that apply to corporations and company directors. Indeed, he said so in the House of Representatives in these debates. But the evidence to this committee certainly doesn't back that up. Industrial organisations are not corporations, nor are they equivalent to corporations. I note that the government's way of arguing that there was some kind of corporate equivalence between businesses and unions was simply to say, 'Well, employer organisations represent employers in the same way that unions represent workers, so we will subject employer organisations to the requirements of registration and the provisions of this act.' What a complete nonsense! Employer organisations aren't in the workplace. They're not-for-profits overseen by elected officers who are mostly volunteers. You'd be very aware that, when you work in a corporation, the corporation's leadership are paid, and they're paid to do the industrial work. On the other hand, your union members within a workplace, who will be involved in these negotiations and in industrial action, are not. The structure and purpose of unions are not comparable to those of profit-making corporations, which do not have elected leaders.

In addition, industrial organisations are often small. They're not-for-profits overseen by elected officers who are mostly volunteers. You'd be very aware that, when you work in a corporation, the corporation's leadership are paid, and they're paid to do the industrial work. On the other hand, your union members within a workplace, who will be involved in these negotiations and in industrial action, are not. The structure and purpose of unions are not comparable to those of profit-making corporations, which do not have elected leaders.

Even if the false pretext that a registered organisation is comparable to a company were to be accepted, the bill, frankly, places a significantly more onerous obligation on registered organisations than exists for companies. A great deal of effort was taken by witnesses to highlight these issues to the Senate inquiry. We know company directors cannot be disqualified for contraventions of legislation that do not pertain to corporations. This bill increases the scope of laws and offences that a union official could be found in contravention.
of and subsequently disqualified for, far beyond the equivalent for company directors and corporations.

The minister highlighted that changes have been made to the legislation, but, quite frankly, this is not parity with the Corporations Act. Ms Volzke, in evidence to the committee, explained:

Changes have been made to the bill based on feedback from the previous iteration to ensure parity, as far as possible, with Corporations Act equivalents, noting that the bill has been appropriately adapted to the regulation of registered organisations... the definitions of 'designated laws' and 'designated findings' have been amended and are now limited to core workplace laws. The concept of wider criminal findings has been removed from the bill entirely. These are core definitions which flow through the various schedules of the bill.

That has nothing to do with corporate equivalence when it comes to this legislation. The simple fact is that a union official can be disqualified for breaches of occupational health and safety law or industrial law but company directors cannot. They are not automatically disqualified. It is not a ground for a company director to be disqualified for contraventions of legislation that do not pertain to corporations.

We regularly see company directors breach industrial law. That's not a ground for disqualification under this legislation. It's only a ground for disqualification of union officials and unions. Maurice Blackburn highlighted these issues in evidence to the committee when they said:

The main problem with the policy settings underpinning the Bill is a failure to acknowledge that there are profound differences between organisations and corporations in terms of their reason for organisational existence, decision making processes and how they are resourced.

Professor Anthony Forsyth said:

… the significant differences between the two types of organisations mean that there is no basis for the automatic application of the corporate model of regulation to unions. Many of the provisions of the Bill therefore proceed from a flawed assumption.

You say that there is corporate equivalence because unions deserve to be regulated in the same way that corporations are, but you've not recognised the purpose of unions, their model of operation and how they work. In turn, you do not hold corporations to the same standard as unions and union officials under this legislation. The very best way of highlighting that is to come to grips with some of the core questions around this legislation.

I ask the minister: do you think that company directors should be subjected to possible disqualification for contraventions of industrial or work, health and safety laws? If the government agrees that it's appropriate, that would be some kind of corporate equivalence. Unions uphold occupational health and safety. That's the very reason that they go in to workplaces: to uphold occupational health and safety and to secure the working conditions of employees.

It seems absolutely ludicrous that we can have a whole debate about so-called corporate equivalence in the context of this legislation where union officials will be held to account for breaches of industrial law, health and safety laws or work safety laws but corporations are not. It is a complete furphy of a debate to say, 'Yes, we are going to regulate unions just like corporations, but we are not going to hold corporations to the same standard as which union
officials and unions will be held to in this legislation.' The 'corporate equivalence' this government has debated questions of is a complete misnomer.

In the context of debates about corporate equivalence, the ACTU explained to the committee:

By extending the range of contraventions that can ground a disqualification order to industrial laws and work health and safety laws, the court-ordered disqualification regime in the Bill goes beyond that applicable in the corporate context. For example, the 'designated findings' might relate to conduct that contravenes an FWC order to stop unprotected industrial action, regardless of whether or not the union members considered that such action was in their best interests, or to a failure to give 24 hours' notice of entering a workplace to investigate a suspected contravention of a work health and safety law, because the union officer knows that if they give the requisite notice the employer will hide the evidence. On the other hand, directors of companies that engage in systematic wage theft as part of their business model, or that recklessly expose workers to risk of serious illness or injury or death, are not exposed to disqualification.

We need to take these issues very seriously in this place. I am tired of this government talking about some kind of corporate equivalence when it refuses to hold companies to account for this kind of behaviour.

Let's step through what the ACTU have said here. They have said there could be grounds for a disqualification because a union official breaches a court order in relation to unprotected industrial action. Do you know why they took that unprotected industrial action? It's because for it to be protected they would have had to go through a process that would have alerted the corporation to the fact that they were going to take industrial action on that issue. That means already they are prospectively in breach of the legislation in terms of having committed an offence that would put them up for disqualification. On the other hand, for a company that might have gone away and hidden the evidence in relation to workplace injury or illness the director is not subject to disqualification because that has taken place in their company.

The government might like to say that, on the one hand, if it is to do with occupational health and safety and there is imminent danger then that will protect the action. But these issues could be in relation to wage theft. They could also be in relation to occupational health and safety issues that are not imminent. There are big debates going on at the moment about the level of carcinogens that welders are exposed to. We have all seen the emerging evidence that's got the attention of occupational health and safety agencies in relation to silicosis, I think—I can't remember the terminology, but it's widespread in the construction industry. People are now realising that they need to go on strike and they need to make sure that industrial action is being taken seriously around a whole range of occupational health and safety issues that represent a long-term danger to someone's health.

This was exactly the case with asbestos. There is widespread use of products that may not fall inside or outside particular concerns around health at the moment, but I absolutely respect the right of people to take industrial action, protected or not, around raising awareness on those issues. We would have not had the action on asbestos that we had in our nation without unions being prepared to do that. So, Minister, do you think company directors should be subject to disqualification for contraventions of industrial— (Time expired)

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (12:10): There have been a number of issues raised both by Senator Farrell, prior to
the placing of business, and by Senator Pratt. But I do find the propositions advanced by those opposite somewhat inconsistent, both internally and more broadly. It isn't clear whether they do want the Corporations Law to apply to registered organisations or whether they think registered organisations are fundamentally different and, therefore, it should not be applied. Any reading of the Hansard of both of those contributions would find that to be a very confusing proposition that they have put.

Let me make a few points. The Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019 doesn't assume, as I said before to Senator Farrell, that registered organisations are the same as corporations. It does mirror some parts of corporate regulation to address concerns that have been raised by some stakeholders, but the government has, in these amendments, appropriately adapted those to the particular nature, structure and purpose of registered organisations. But there are a few points to make about registered organisations, which, if I remember correctly, were described in Senator Pratt's contribution as not-for-profit organisations and, therefore, deserving of a different approach on some matters.

It is our view that registered organisations should be as accountable to their members as company directors are to their shareholders. Much like companies, we know—and it is naive or perhaps even disingenuous to suggest—that registered organisations don't control assets worth millions of dollars. They do. They have a large amount of trust placed in them by their members. One of the reasons we know they control assets of that value is that we know what they're able to donate to those opposite. They also have special rights and privileges—

Senator Gallagher: There it is!

Senator PAYNE: It's a statement of fact. If you don't like statements of fact, you might be in the wrong job. Unions also have special rights and privileges in the industrial relations system. They have a very powerful role in the economy, they have special rights and privileges in the industrial relations system and they should be required to observe the law. They have a very powerful role in the economy. In fact, as Commissioner Heydon observed, as I recall, many modern registered organisations are large and complicated commercial enterprises. Many of the larger registered organisations receive significant revenue from commercial agreements, they operate under complex commercial structures, they have large numbers of staff, they operate over multiple jurisdictions—all of which paint a slightly different picture from that portrayed to this chamber by both Senator Farrell and Senator Pratt—and that is a very important aspect of the processes and laws that registered organisations should observe.

So the bill does not place higher standards on registered organisations and other laws placed on corporations. In fact, as far as possible, we have pursued parity with Corporations Act equivalents and maintained those. In fact, some of the comparable Corporations Act provisions carry higher penalties and broader powers than those that are contained in this bill. Let me go through some of those. For example, a single imposition of a civil penalty by the court for what are described as paperwork offences can see a director disqualified by the court, if you want to look at section 206C, section 1317E or section 344. In fact, under section 286 of the Corporations Act, what the opposition are choosing to characterise as 'paperwork breaches', such as failing to ensure compliance with obligations surrounding a financial report, can also lead to two years imprisonment where a person fails to keep required financial
records for the mandated seven years. I was taken to task in the chamber earlier by Senator Sheldon over a 12-year failure by the Transport Workers Union to maintain proper records. But this is a matter which leads to two years imprisonment where a person fails to keep required financial records for the mandated seven years. The penalty that attaches to the offence of acting while disqualified from being a company director is significantly higher than the comparable offence applicable to officers of registered organisations in this bill.

Under the Corporations Act, we know that the court has a very broad power to wind up a company where it considers it just and equitable to do so. That is section 461(1)(k). There's no such broad power in this bill, which requires law-breaking or misconduct against members in all cases. Those opposite consistently, wilfully fail to acknowledge that. There is no such broad power in this bill in relation to registered organisations because what is required in this bill is law-breaking or misconduct against members in all cases. But it would seem those opposite would defend those sorts of behaviours.

Under the Corporations Act, the regulator—in this case ASIC—can disqualify directors of companies in certain circumstances without any court action being required. If you want to look at that, that's section 206F. Under the bill, the regulator cannot disqualify an organisation's officials. Only the court can do so, and only where it would not be unjust. So, while Senator Pratt a number of times in her contribution made reference to automatic deregistration of an organisation or an official, only the court could do so, and only where it would not be unjust. Under the Corporations Act, in relation to some of the matters that Senator Pratt and Senator Farrell have raised issues about, ASIC can even deregister a company in certain circumstances without any court action being required, including for not filing paperwork or paying an annual fee in time. That is section 601AB. Under this bill, only the court can deregister a union, and only where it would not be unjust to do so. There is a significant difference between the laws that apply and the application thereof.

There have been questions raised about how the bill compares more broadly with corporate regulation. What we have endeavoured to do is to broadly mirror comparable corporate regulation and industrial legislation in the states. In relation to, for example, disqualification, there are disqualification powers in part 2D.6 of the Corporations Act. That includes powers which allow courts to disqualify a person from managing corporations for a single contravention of the Corporations Act, including so-called paperwork offences, and for repeated failures to prevent a company from contravening the Corporations Act. There is some state government legislation governing labour hire registration schemes which also applies a 'fit and proper person' test to employers, requiring consideration of their history of contravening industrial and criminal laws.

In relation to deregistration, the Corporations Act provides wide powers for the court to wind up a business, including where the directors have acted in their own interests rather than the interests of the members as a whole, where they have otherwise acted unfairly or unjustly towards members, or where the court considers it just and equitable to do so. In terms of administration, another issue raised by those opposite, the administration powers in the Corporations Act provided the model for the administration provisions in this bill, and this bill also draws on the administration regime under industrial legislation in New South Wales. The bill further clarifies that the minister has standing to apply to place an organisation into administration, which was an issue raised when the Health Services Union branches were
placed into administration, as those opposite might recall. In relation to public interest and the 
public interest test, the application of a public interest test to organisations seeking to merge, 
administered by the independent Fair Work Commission, is not dissimilar to the ability of the 
ACCC to apply public interest considerations when considering a corporate merger.

We've also looked, in the legislation and in these amendments, at how the standing 
provisions in the bill compare to those in the Corporations Act. Under the Corporations Act, 
the company, a creditor, a contributor, a director, a liquidator or ASIC can apply to the court 
for a company to be wound up, and ASIC can apply for a disqualification order. Indeed, under 
section 601AB of the Corporations Act, ASIC has the power to deregister a company without 
the involvement of an independent umpire, such as the Federal Court, on grounds including a 
failure to pay a fee within a specified period. Under this bill, however, as amended, only the 
Registered Organisations Commissioner will have the standing to apply for a deregistration or 
cancellation order, and the decision is ultimately a matter for the court. Concerning the 
appointment of an administrator, beyond those who already have standing under the act, only 
the Registered Organisations Commissioner, which is the relevant regulator, and the minister, 
to ensure that there are no repeats of the Health Services Union uncertainty, have been given 
standing.

Senator Pratt also raised a number of issues in relation to recent events in the banking 
industry, and Westpac specifically. So I wanted to be very clear about the remedies which are 
available under the law in relation to matters such as this. But let me clarify a few points first. 
Firstly, it is simply not true, as I said in my summing-up speech last night, that a union could 
be deregistered merely for submitting paperwork late. That could not happen under the bill. 
Accidentally lodging paperwork late will not mean a union is deregistered. Under the bill, 
there is no conduct that will automatically result in deregistration. It is all at the discretion of 
the court, which cannot deregister a registered organisation if it would be unjust to do so. 
Lodging paperwork late will not even, in and of itself, give rise to a possible ground for 
cancellation. I would challenge those opposite to point to any provision in the deregistration 
schedule of the bill, any single provision, just one, that provides a ground for deregistration of 
an organisation for three trivial paperwork breaches—because that is the myth that you have 
been propagating around this legislation. So I challenge you to point to that provision in the 
deregistration schedule.

There's been a great deal made of the supposed disparity between the powers of the court to 
wind up a company and the grounds in this bill for deregistration of organisations—again, 
issues raised by both Senator Farrell and Senator Pratt. I've gone through in some detail, 
provision by provision in the corporations legislation, the extremely broad powers of the court 
to wind up a company, but let me just reiterate. Under section 461 of the Corporations Act, an 
application can be brought to the court to wind up a company for a range of reasons. They 
include if directors have acted in their own interests, rather than in the interests of the 
members, or in a manner that appears to be unfair or unjust to other members; where the 
affairs of the company are being conducted in a manner that is oppressive or unfairly 
prejudicial or discriminatory to members, or in a manner that is contrary to the interests of the 
members of the whole; or where the court is of the opinion that it is just and equitable that the 
company be wound up.
Let me remind the Senate of that provision: where the court is of the opinion that it is just and equitable that the company be wound up. This last ground provides the court with a very wide discretion to wind up a company. There is nothing comparable to that in this bill in relation to registered organisations. And we know, because they have been canvassed in this chamber and in the other place, that there are also multiple additional safeguards in this bill that are not available in the corporations context—but they have been completely ignored by those opposite. For instance, under the bill, the court cannot make a cancellation of registration or an alternative order unless it is satisfied that, having regard to the gravity of the conduct constituting the ground, the making of the order would not be unjust.

In relation to banking, specifically, and the matters that Senator Pratt raised, the government's new Banking Executive Accountability Regime, brought in last year, contains significant new penalties for relevant organisations that breach their obligations under that regime. For example, the Australian Prudential Regulation Authority can seek civil penalties of up to $210 million—a million penalty units—against organisations or disqualified persons for breaching their obligations. There are a number of other provisions that apply under the Banking Executive Accountability Regime. But in every single speech in this chamber in the last two days in this debate—34 speakers in 11 hours of debate—this has been wilfully and completely ignored, therefore and thereby presenting a completely misleading interpretation of the legislation to the Senate and to the Australian public. It's irresponsible not to acknowledge the points that I have made. It is irresponsible not to acknowledge that there is not automatic deregistration. Those opposite continue to assert it. It is not the case. There is an obligation on those in this chamber to deal fairly with the material that is before the chamber, and that is what the government seeks to do.

Senator AYRES (New South Wales) (12:25): There is such a gulf between the experience and attitudes of senators opposite and, if I might say so, the minister when setting out this legislation. There is a vast gulf between the workplaces of Australia, the industries of Australia, the workers of Australia, the people who on a day-to-day basis deal with the industrial relations system to try to advance the cause of workers—the people who are trying to lift productivity and skills in Australian workplaces—and members of the government here, who, I have to say, are illiterate in industrial relations terms.

I listened carefully to what the minister had to say. It was an artful outline of the belligerent approach that underlines the government's philosophy in industrial relations. I'll try to put this as a compliment. It was outlined in soporific, bureaucratese that reminded me of what a human relations director sounds like when they turn up at a regional bank to make people redundant or when they turn up to close a factory. In industrial relations terms, the only thing worse than that coming from a minister from the Commonwealth is having a Western Australian lawyer as the effective minister for industrial relations and workplace relations. This country has had too many overpaid Western Australian lawyers practising in industrial relations. The Western Australian disease of hypermilitancy, particularly from mining and building employers, influenced by the American approach, has had a profound negative effect on this country's industrial relations and on the way that the institutions respect each other. It has infected the HR Nicholls Society, the IPA and all these funny little groups and sloganeers on the conservative side. It has meant that all we're left with on the benches opposite is
shallow people with shallow talking points who don't understand the issues that confront Australian workplaces, Australian industrial relations and Australian workers.

Industrial relations is not like the traffic act. It should not be a system that is designed to deal with breaches of the law, like breaking the speed limit when entering a small country town. It is about managing conflict. It should be about facilitating collective bargaining and extending collective bargaining. It should be about encouraging cooperation and mutual respect in Australian workplaces. It should be about dealing with exploitation. It should be about dealing with the crisis of wage theft that this government is overseeing. It should be about lifting the wages and living standards of Australian workers. It should be about dealing with the big challenges—falling productivity; the future of work in terms of the big technological changes that are coming; gender inequality at work; and the skills crisis in Australian workplaces. The current industrial relations system is capable of dealing with none of these issues. All of them will be made worse by the constant denigration of the industrial relations institutions and by hyperlegalising and binding up in red tape the institutions that are there to look after Australian workers and Australian workplaces.

Australian unions in the 1904 arbitration act submitted themselves to obligations and to registration. They submitted themselves to some limits on the right to strike after the bitter industrial struggles of the 1890s. The right to strike has been described by at the very least Alan Bogg, who is a very senior British academic, as the canary in the coalmine for democracies. It has never been legal in Australian industrial relations terms or in Australian law for workers to strike, but it has been a regular occurrence, it has facilitated our democracy, it has emboldened people to fight for better wages and it has been critical to the development of this country in economic and civic terms.

There is a creeping legalism, a tendency towards authoritarianism, that is a feature of this act and a feature of the government's overall approach to industrial relations and workplace relations. Industrial relations is really about balancing efficiency, equity and voice. It is not the Traffic Act, and I am disturbed by how far from literacy in these principles those opposite are. It is extraordinary to rely upon the royal commission that this government under Tony Abbott commissioned all that time ago. It was hopelessly politicised, hopelessly compromised. It had a commissioner who himself was hopelessly compromised and hopelessly politicised. The two things he did that year were hand down a decision of the royal commission and run Liberal Party fundraisers. We need an evidence based approach, not a student politicians approach. We need the adults in charge in industrial relations.

The truth is, if you look at the evidence, strong unions and collective bargaining rights mean higher employment, lower unemployment, higher productivity and higher wages. It is not the Fabian Society putting that position. It is not the Labor Party putting that position. It is not one of the Labor Party's think tanks putting that position. It is the IMF and the OECD. They call for sector-wide collective bargaining and stronger union rights in order to lift wages in Western economies, to lift productivity, to deal with unemployment and to kickstart these economies back into some semblance of economic growth, some semblance of decent shape and some capacity to compete in the years after the global financial crisis.

The economy in Australia is stagnant, productivity is declining, real wages are falling—falling dramatically for many workers in the economy—and the wage share of national income continues to fall. We should be strengthening collective bargaining, strengthening
collective bargaining institutions and dealing with a system that actually manages conflict and leads unions and employer organisations, employers and workers to step up and deal with the challenges.

Even the BCA, normally more empathetic to your show over there, is out there calling for a more national approach and more institutional cooperation. As I said, this is a government that does not realise the challenges that are in front of us and is in a single-minded way, while the economy is falling down around its ears, obsessed with bashing unions and with getting stuck into their ideological opposition, rather than managing the economy for all Australians and doing things institutionally that are required to lift up Australians rather than push them down. It is lazy, it is complacent and it is shonky. It is a government that has no plan, is loose with the truth and has an incapacity to act in the national interest.

I want to know how the fit and proper test will apply to some of the significant developments in our economy and our society that have occurred over the last century. If this bill had applied, what would it have meant for those builders labourers who went on strike, who picketed and boycotted, who marched and rallied, who occupied buildings in the green bans in the 1970s in Sydney? What would it have meant for workers and for unions who defied Robert Menzies, the hero of those people opposite, in trying to send pig iron to Japan—unionists, steelworkers, waterfront workers in the Illawarra? What would it have meant for those workers and their capacity to take democratic industrial action? What about the pickets and strikes and protests that workers engaged in in the anti-apartheid struggles? What about the boycotts of Dutch companies on the waterfront in order to support the Indonesian Republican movement, which was critical in the foundation of the Republic of Indonesia? It would all be illegal industrial action, all absolutely within the parameters of what the minister's set out. What does that mean for the democratic rights of Australian workers into the future and whether we can again do those things that are necessary to protect our democracy and to advance the rights of people here and overseas?

I myself was engaged in boycott and strike and picket action around many of these issues. In particular, during the East Timor crisis, airline workers boycotted particular airlines in order to support the people of East Timor in the struggles that they were going through. It was deliberate. It was planned. We didn't hide it. I announced it at a press conference. It was absolutely contrary to the legislation at the time. I want to know whether Australian workers in the airline industry or on the waterfront would be able to do the same thing again.

What about those people who fought so hard during the James Hardie dispute? We just need to get a picture of the morality that drove the people who ran CSR and James Hardie. A personnel manager wrote a memo in the 1970s which said, 'Even if the workers die like flies, they will never be able to pin anything on CSR.' The predecessor of the minister opposite acted for James Hardie and CSR. She was famous for trying to delay the deathbed hearings of workers afflicted by asbestos and mesothelioma. She regularly made applications to defer hearings, demanding to know why the fact that a worker was sick meant that they could jump the queue. In contrast, the unions were engaged in legal action, political lobbying, but, yes, strikes and protests. I want to know whether those kinds of deliberate political strike actions, boycott actions, are going to put Australian workers in the firing line and make it less likely that people will participate in democratic action.
There is a big contrast here. Westpac bank: 23 million breaches—we're now told maybe 29 million, maybe 30 million—of Australian money-laundering legislation, some of it to facilitate child sex exploitation in the Philippines. Why is the government obsessed with taking action on union officials, members and delegates and not able to deal effectively with regulation in the banking sector? Why is there a double standard? Why are the directors of James Hardie still present and active in Australian corporate life, still regarded as leaders and directors of boards in Australian corporate life? The directors of Rockpool; the Calombaris empire's restaurants; 7-Eleven; Domino's; Michael Hill jewellers; all of the shonky building subcontractors; all of the people who run the shonky labour hire companies in the agriculture sector who have been pinged recently, who've been prosecuted effectively recently over wage theft—why are those people being treated differently to union officials and to union members?

Minister, is it not correct that this bill allows for union officers to be disqualified on application by the minister or any person with sufficient interest, such as employers or employer organisations, but that applications to disqualify company directors can only be brought on by the regulator? I have quite some experience in dealing with the regulators in administrations and corporate insolvency events where people rip off workers' money, and I've never seen a more pea-hearted, soft, ineffective capacity to recover workers' money. I'd have no confidence in their capacity to deal effectively with company directors. (Time expired)

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (12:40): Senator Ayres has raised a number of issues which I'd like to respond to. I want to start by going back to an issue which was discussed, if I recall correctly, in question time yesterday around the underpayment of wages—wage theft—which is a matter the senator raised. I reiterate that the government has absolutely no tolerance for any exploitation of workers, and that includes the underpayment of wages and entitlements by any employer. We have taken what amounts to unprecedented action to date to protect vulnerable workers. We've funded, in additional resources and more powers for the Fair Work Ombudsman, over $60 million and we have increased penalties against law-breaking employers up to 10-fold.

What it has meant for the Fair Work Ombudsman, in a very practical sense, is that they recovered 60 per cent more money for workers in 2018-19 compared to the amount recovered in the Labor Party's last year in office, which was 2012-13. The Fair Work Ombudsman have also secured more than double the number of court ordered penalties against employers. That effort of the Fair Work Ombudsman is securing outcomes. We also see that with the higher penalties we've introduced and the first decision taking into account our new protecting vulnerable workers legislation was handed down by the court in late August, awarding penalties of more than $125,000 against operators of two sushi outlets, I believe, in Queensland. They are important steps.

The Fair Work Ombudsman's firmer stance is also starting to deliver results. The latest data confirms that we have seen double the number of litigations filed, a 60 per cent increase in the amount of money recovered for workers by the FWO this calendar year to date, compared with the last, and almost 20 per cent more employees benefiting from FWO recovery action. Those steps are important. It is very important to send that message to employers who seek to underpay, mistreat or exploit their workers in that way.
There are a number of other initiatives, which, as I've said in the chamber before, we are also pursuing. We're drafting legislation for the first time to introduce criminal penalties for the worst forms of worker exploitation. That was one of the key recommendations of the Migrant Workers Taskforce. We have released a discussion paper which focuses on identifying further improvements to the protection of employees' wages and entitlements. That covers stronger civil penalties, greater deterrence for sham contracting, and closely examining the suitability of employers' liability where entities in their supply network are flouting employment laws. We've heard some pretty high-profile examples of underpayments in recent years. Whether it's Woolworths, the ABC, the MAde Establishment group of companies or Maurice Blackburn, which was invoked by Senator Pratt earlier, that is a reminder to all employers to conduct ongoing checks of workplace compliance and ensure that they are paying their employees what they are entitled to and what they are owed.

Senator Ayres also raised questions about the fit and proper criteria—the ground in the bill. This is a ground which was recommended by Commissioner Heydon. The criteria the court must consider when deciding if a person is fit and proper to hold office in an organisation are directly relevant to whether a person is suitable to be in such a position of trust and responsibility, and I would note that there is already a fit and proper person test in the Fair Work Act for a person to be granted a right of entry permit. I do think that we should all be able to agree that a person who has been found to be dishonest, violent or unfit to exercise rights of entry to workplaces is probably not a person who should be in charge of a registered organisation or trusted to act in the best interests of its members.

In relation to the equivalent in the corporations sphere and the corporations legislation, there are certain fitness and propriety tests that apply. A number of the states and territories have requirements under their labour hire schemes. In Queensland and in Victoria, for example, if you want to perform the functions of an auditor under the Corporations Act, you must be a fit and proper person. To gain an Australian Financial Services licence from ASIC a person must not be unfit, and, in determining this, ASIC must take into account the person's fame, character and integrity. For an entity that seeks admission on the Australian Stock Exchange, each director and proposed director must be of good fame and character, and that is a provision which exists there.

In this bill, the fit and proper person ground for disqualification lists several matters related to workplace laws, with some additional considerations—particularly around fraud and dishonesty, and particularly around the use of violence. That is very similar, as I said, to the fit and proper person test already found in the Fair Work Act when determining whether someone should be granted a right of entry permit. I would also reiterate that it is a matter which is still left to the court to adjudicate on.

Senator Ayres also raised some examples around whether the bill would have applied to, for example, those exercising or participating in union action in the 1970s in Sydney in relation to green bans. To be very clear: the bill doesn't prevent unions from organising or employees from attending social issue campaigns during hours they're not rostered to work. Attending these sorts of events outside of employees' working hours is not industrial action.

In addition, the bill doesn't apply to lawful protected industrial action. It means that unions that organise and employees that participate in protected work stoppages and then attend rallies during the work stoppages are not impacted by the bill. And, even in the case of
unlawful industrial action, the action must be obstructive, with a number of qualifiers attached to that as well, for it to be a ground for deregistration under the bill, and that was an issue that I discussed at some length earlier this morning with Senator Sheldon and Senator Farrell.

This requires that the action must have 'prevented, hindered or interfered with' the activities of an employer, or any relevant public service, or had a substantial adverse effect on the safety, health or welfare of the community. That is a significant threshold, and unlawful industrial action without these features doesn't and won't give rise to a ground for deregistration under the bill. I also wanted to reinforce and reiterate that this obstructive industrial action ground is an existing ground for deregistration under the current registered organisations act, an act that was legislated by those opposite in 2009. So, to the extent that Senator Ayres and others may have an issue or a concern with this ground, then they do, apparently, have an issue that they've not raised previously with their own legislation that has sat on the books for over a decade.

So, in terms of the issues that Senator Ayres has raised, and addressing those, as to 'fit and proper person' and the issue of wage theft and whether, to use one of his examples, in the green bans context, the bill would have applied, they are issues which the government would respond with.

Senator AYRES (New South Wales) (12:48): It appears to me that the minister or the government wilfully misunderstands the problem around wage theft. There are much bigger examples emerging of wage theft. It's not because the government and the regulator have become more effective at discovering them. It's because the government's approach on industrial relations has emboldened wage theft as a business model. It has deliberately weakened the capacity of unions to do that work. And that work has been, traditionally, the role of trade unions in the Australian economy. It's traditionally work that's occurred, in many cases, unseen and unmeasured.

It is true that over the course of the last two or three decades the role of the public sector in that area has become more significant. There is a real contrast, I reckon. This is the one area where the government wants to in-source the capability and kill the capability of the non-government sector to do that kind of social justice work because there's a deliberate political strategy of undermining the capacity of trade unions to do that work. That is in real contrast to what the Howard government did, which was about outsourcing public work dealing with employment services that was done expertly in the public sector to organisations who had no capacity or expertise to do that work. They effectively ruined the Australian employment services sector when they did it.

I don't want to spend much more time on the James Hardie dispute. I think the reason that the minister hasn't responded to that is that it's such a crippling example of hypocrisy in corporate Australia and hypocrisy from the government. The AMWU secretary Paul Bastian, who led that dispute, is an old friend of mine. He said:

If Scott Morrison's union busting bill is passed, the delegates, organisers and officials that campaigned for justice for sufferers of asbestos-diseases could be excluded from the leadership of our union and our union could be deregistered.

If these laws had existed at the time, there's a real chance James Hardie could have successfully used them to tie up our union and our officials in costly and time-consuming legal actions in an attempt to
defeat us. That would have affected not only our union, but the many Australians suffering from asbestos diseases.

Minister, when you characterised the provisions of the act that limit the basis upon which unlawful industrial action can be used as a ground for deregistration of a union or in dealing with an individual's capacity to serve as an officer in a union you talked about obstruction and about unlawful industrial action that prevents, hinders or interferes with the activity of an employer or affects the safety, health and welfare of the public. Consider the James Hardie dispute and consider the action of those brave builders and labourers who stood up to corporate interests and corrupt interests in the city of Sydney to defend public heritage and public housing. They absolutely prevented, hindered and interfered with the activity of an employer. That was the point. In the James Hardie dispute, workplaces stopped in work time. It prevented employer activity. It hindered the effectiveness of factories all over Western Sydney. I know; I was one of the people who organised it. It absolutely was unlawful action designed to do all of those things, to put pressure on corporate Australia, put pressure on the government and put pressure on one of the most miserable pea-hearted Prime Ministers this country has ever seen, the former Prime Minister Tony Abbott, who slandered Bernie Banton, who worked with us to lead that dispute. It was absolutely the point of that industrial action.

What your legislation does, doesn't it, is discourage that kind of democratic union action? Sure, it's unlawful. Sure, people face the consequences of making that democratic decision to take on their employer or to attend a protest in work time. We've got to work through the democratic consequences of that. But they make a democratic decision to do it and the country is finer for it. Our democracy is stronger for it. The Sydney skyline is better for it. And there are thousands and thousands of asbestos mesothelioma sufferers and their families who are profoundly better off for the kind of industrial action that your legislation, the legislation that you've come to this place to try and defend, is trying to discourage. That's what it's all about. Why is there a double standard here? Why is that kind of democratic action discouraged, and what will be the impact? What's the chilling effect of that going to be upon Australian democracy?

**Senator PAYNE** (New South Wales—Minister for Foreign Affairs and Minister for Women) (12:54): I don't actually accept the premise of the proposition that Senator Ayres has put. I did speak in response to his previous statement and question around the thresholds for the action to be regarded as obstructive—for that to be a ground for deregistration under the bill—and that goes to all of the cases on which he's advanced his argument, whether it's in relation to asbestos, whether it's in relation to public health. I indicated that the action must have done one of two things: either prevented, hindered or interfered with the activities of an employer or relevant public service; or had a substantial adverse effect on the safety, health or welfare of the community.

I also reminded the chamber—and Senator Ayres, conveniently, chose to ignore this—that the obstructive industrial action ground is an existing ground for deregistration under the current registered organisations act. This government didn't legislate the current registered organisations act; it was legislated by those opposite. So, as I said previously, to the extent that they have an issue with this ground for deregistration, they've got a problem with their own legislation, which has stood on the books for over a decade. I would note—now in the
absence of Senator Ayres—that there hasn't been a single application made under this ground which reflects the appropriately significant threshold required. That's despite the fact that both the minister and a person interested, such as an employer, have had the power to make an application for all of that time.

Whilst those opposite might like to assert otherwise, the fact is that with the additional safeguards being introduced in this bill, and with the amendments that we have moved and we are speaking to this afternoon, there will actually be a higher threshold before the court can make an order than is currently the case under the registered organisations act. To be clear, those additional safeguards include a requirement for the commissioner to satisfy the court that it would not be unjust to cancel the registration, taking into account:

(i) the nature of the matters …
(ii) the action … taken—

in relation to the matters—

(iii) the best interests of the members— and—

(iv) any other matters—

including the public health objectives of such action, to go specifically to those health issues that Senator Ayres raised. And the court is prohibited from making the order unless it is satisfied that, having regard to the gravity of the matters constituting the ground, disqualification would not be unjust.

I also remind the chamber that only the commissioner will have standing to bring an application. So in relation to these amendments, to be very clear, only the regulator can make applications to the court to disqualify or to deregister—not the minister, not the government, not an employer, not any other person. And only the court can make orders to disqualify or to deregister.

Senator Ayres also raised questions in relation to the rights and powers of registered organisations. I want to remind the chamber that, as the case has been made by the Attorney-General and Minister for Industrial Relations in the other place, the bill doesn't remove any powers that the unions currently have under the Fair Work Act or the Fair Work Act (Registered Organisations) Act, nor does it stop them from exercising their rights under the law. The bill does nothing to diminish the right to form a union or to join a union. It doesn't limit the legal rights of unions to organise, to bargain, to take protected industrial action, to represent their members, to investigate safety or underpayment issues or to exercise rights of entry. The performance of these functions by unions is, as acknowledged by the government—in fact, as acknowledged by me in my summing-up speech last night on behalf of the government and in remarks I have made today—a vital element of our industrial relations framework and that will remain the case. What the bill does ensure though, quite simply, is that unions, registered organisations and their officers abide by the law and act in the best interests of their members.

Claiming that this bill will stop unions from being able to do their jobs is absolutely misleading. It is a myth that those opposite have been trying to perpetuate in relation to the legislation, but the legislation is clear on the face of it: it does not diminish anyone's right to form a union or join a union to engage in all of those activities that I listed.
Senator GALLACHER (South Australia) (13:00): I have a couple of questions to go to the minister. In setting out those questions, I just want to go to a contribution I made yesterday which relates to wage theft. Basically, there was a worker who worked from 2 November to March 2017. His exact words were: 'I was so happy to get a job I just took an ABN number as being a condition of that job.' He didn't bring anything to work like a truck or a tool or a set of vehicles. He basically brought his driving skill and his uniform of the day.

Six years later, he got the sack. In getting the sack, he went to the appropriate person, the Fair Work Ombudsman. He got a decision from the Fair Work Ombudsman—not a nod or a wink or a cup of tea and a chat about 'Perhaps you've got no case,' but a decision—issued on 13 July 2018 against the people who had employed him who had incorrectly classified him as a contractor, not an employee, incorrectly paid him and failed to pay his superannuation. So he had a decision from the Fair Work Commission saying, 'Pay this man his due entitlements within seven days.'

The Australian Taxation Office looked at his nonpayment of super and said: 'You're owed super; there are no two ways about that.' The ATO's action is so slow that he has no idea where it's up to. So he's owed for the underpayment of wages and he's owed for the underpayment of super and he's proceeded, under the existing laws that your government has in place, to a decision under the Fair Work Act 2009—Melbourne, 13 July 2018, and a decision or a finding of contravention of the Fair Work Ombudsman, dated 19 October 2018. He got no money. He's got no job. He hasn't been paid.

What would happen, Minister, if a group of his fellow workers were to take a bit of umbrage at the fact that this person's been incorrectly classified, incorrectly paid, denied his superannuation and gone to the legal jurisdictions of the country—the Fair Work Ombudsman, the Fair Work Commission and the ATO—and the some sum total of those three organisations is a zero result for the worker, absolutely nothing years after he commenced this action. I dare say that if this were an organised yard (a) it probably wouldn't happen because we'd be on the ball a bit earlier than this poor worker and (b) if the employer refused to pay some action could ensue—and all of that action would be illegal. And were it to be spontaneous—that is, not organised by the union per se or its official—you could issue against the individual workers. You could fine them. If it's proven to have been organised by the officials or the union, you can fine them—and there's not a lot of discretion in that these days.

So you've got a situation where wage theft is rampant, someone follows all the protocol of the land, all the laws of the land, to get all the way down the path of paper decisions and no result financially. And your response is to make it tougher for unions to try and do their job. Your response is: 'We're going to ensure integrity.' I think we're going to have a little bit of an issue along the way. So I'd like the minister to say: why is it that the Fair Work Ombudsman will not pursue a director of a company who is proven by that organisation to have underpaid? Why is it that, when there's a decision of the Fair Work Commission ordering those people to pay, the Fair Work Ombudsman won't take them on, yet they will take on, on very spurious grounds, all sorts of other activities alleged to have happened or to have been conducted by trade unions and others?

The type of offence in the legislation is that, if you don't lodge the paperwork that says you donated $1,000 or more, it's a $21,000 fine. You can get fined $21,000 if you're a union and
you don't lodge all the paperwork which says who you donated $1,000 or more to. But, if you're a company and you underpay a worker $11,000 plus 9½ per cent super, the Fair Work Ombudsman doesn't even pursue you. It just issues a bit of paper and says, 'That's what they should pay.' If you don't pay, nothing happens. I think the minister needs to answer both those questions. What is the penalty for the Fair Work Ombudsman not doing its job in taking on directors, if there is a penalty in that respect? It seems to me quite remiss for that to be the way it is.

There have been two cases in Adelaide, two absolutely catastrophic cases, which lead us to this issue of safety and how this legislation works when there is an unsafe situation. The Supreme Court of South Australia has on its books a tale of woe which is incredible. The company truck was involved in a near miss, with an employee driver. The next day the company truck was involved in a fatality. The company truck had poor brakes—catastrophically faulty brakes. The driver ended up doing 160 kilometres an hour down a hill. He killed two people and lost his leg. There's a clear evidentiary trail that there was a failure of maintenance and there was a failure in that an employee driver had a near miss. What was the response? The response was to put a labour hire person in the place. The company truck was involved in a fatality. The driver ended up doing 160 kilometres an hour down a hill. He killed two people and lost his leg. There's a clear evidentiary trail that there was a failure of maintenance and there was a failure in that an employee driver had a near miss. What was the response? The response was to put a labour hire person in the truck, who had even less training, skill and experience than the employee driver.

I'll tell you what used to happen in that particular yard, because I know that organisation exceedingly well. It's a waste company in Adelaide that's operated for many years. I'll tell you what would happen if that truck was reported by an employee driver to have faulty brakes. The Transport Workers Union delegate in that yard would've said: 'It doesn't move. If it moves, no-one in this yard is moving.' Now, that's illegal. It might have saved a fatality or two, but it's illegal. What you have now, with the safety problems that are arising in transport, is people being sent out in unserviceable, unsafe vehicles, and there is no immediate remedy other than court action after a fatality.

We had an employer in Adelaide who was jailed for 12 years for persistently sending people out in vehicles with poor brakes or no brakes. His attitude was, 'Well, he shouldn't have driven it into the pole.' The driver took evasive action. Rather than running into the traffic in front of him or careering across into the oncoming traffic, he steered off the road, hit a pole and lost his life. The employer got 12 years jail, and the findings in that case are absolutely horrendous. But what actually happens in the transport yard at five or six o'clock in the morning, when there are 50 trucks going out and someone says, 'My truck is unsafe'? What used to happen is: 'Well, if it's unsafe, mate, park it up and get another one. If there isn't another one, wait till they get you one. Send it back to the workshop.' But now that is being construed as an lawful action. It's in the enterprise agreement. If you have a yard meeting and you hold things up for an hour or two, down comes the ROC. There's no leeway at all. You're deemed to have taken unlawful industrial action, and there doesn't appear to be any remedy to safely get this situation under control. Minister, how come your Fair Work Commission doesn't take on directors who have been found to be negligent and not paying wages and super, by the Fair Work Commission, the ATO and the Fair Work Ombudsman?

In respect of safety, what's the plan here? How do we keep the travelling public safe? How do we keep the place safe? Unions will always go on the side of conservatism in terms of safety. They will advise workers not to do something if it's unsafe. I would guarantee that, if any official were contacted in South Australia or the Northern Territory, or the whole of
Australia, in respect of an unsafe vehicle, their advice would be, 'Don't do it.' That then is construed as unlawful action. That official then can be cited and, after three goes, chucked out of his job. All he's trying to do is keep the world safe, keep the roads safe and keep people safe. I would be very pleased if the minister could answer that set of questions.

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (13:10): Thank you Senator Gallacher. I don't disagree about the seriousness of the issues that Senator Gallacher has raised. I know him to have a long history in this chamber, and in fact more broadly, on these issues over time. But, to be clear, the legislation that we are dealing with today is about ensuring the proper governance of registered organisations in this space. The questions that Senator Gallacher has asked in large part go to potential regulatory fixes in other regimes. The role of the Fair Work Ombudsman as it currently exists is around the recovery of wages, and I've discussed that with senators during the debate today. It is an investigative and regulatory body rather than having the role that Senator Gallacher has raised.

But I want to note for the record—and this was reported in the media earlier this month—that the Attorney-General has quite clearly said, in putting employers or corporate Australia, if you like, on notice, that, for example, directors of companies who fail to pay workers properly could be banned from sitting on boards. In specific response to Senator Gallacher, I note that the Attorney has declared that the coalition would consider empowering the Fair Work Ombudsman to pursue banning-order applications against the directors of underpaying companies. The Attorney's made the point, which is similar in some ways to the point that Senator Gallacher has made, that the impact of such action will be felt if there is something, as the Attorney said, on the line for employers in that context. The minister has also expressed support for an ACTU proposal to allow workers to go to the commission and have underpayment claims dealt with quickly and fairly. As I have also discussed in this chamber, he has referred to the second discussion paper on wage underpayment, which would canvass the specific options of banning orders and the small claims process inside the commission.

We obviously have very complex sets of awards, but the Attorney's view, and the government's view, is that the law should have the ability to provide deterrence against the sorts of behaviours that those in this chamber, including Senator Gallacher, have raised. He does not believe it is doing it effectively at the moment. In fact, I think it's worth quoting the Attorney in this regard. He observes in relation to large corporate organisations:

If their eye was on the ball, this wouldn't happen. These organisations have a massive amount of time, energy and resources devoted to ensuring they don't pay a cent more tax than they have to; they get involved in sporting teams and social issues. If they put commensurate resources into making sure they got their payrolls working in accordance with EAs, awards and the law, they wouldn't be having this problem.

Senator Ayres and Senator Farrell have raised these issues, as have you and Senator Sheldon, Senator Gallacher. So we are considering those in this process. I think that is responsive. I think that is the appropriate action of government.

But the bill we have in front of us today is about addressing the numerous examples of organisations and their officers who are repeatedly flouting the law, misappropriating funds, putting their own interests before members and generally failing to meet what are regarded as basic standards of accountability and governance. I don't think the provisions in the bill
should be conflated with the Corporations Act and its regulation of officers of corporations. It is a distinct compliance regime, and we have separately introduced strengthened measures against corporate noncompliance, to which I would also draw the Senate's attention.

The government has introduced higher penalties in the Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019 for corporate and financial misconduct. Those amendments increased various criminal penalties to imprisonment for up to 15 years or maximum fines up to $945,000, or three times the benefit derived from the contravention. For bodies corporate, those amendments included new penalties of up to $9.45 million, or three times the benefit derived from the contravention or 10 per cent of annual turnover. We have also increased civil penalties, and penalties against individuals are now available for up to the greater of $1.05 million or three times the benefit derived from the contravention. For bodies corporate, penalties were increased similarly. So our approach to workplace exploitation, to the sorts of employers that Senator Gallacher has raised, has been dealt with as well. And, in this legislation, we have to deal with the issues before the chamber, which I have already talked about, but we can do both, Senator Gallacher. We are able to address wage underpayment and the unlawful actions of employers in cases such as those that have been raised by those opposite as well as bring this legislation forward to the chamber, to the house.

Senator FARRELL (South Australia) (13:16): I've had trouble getting on the speakers list. There've been so many wonderful speakers who have spoken today. I spoke earlier today about the passion of a new senator, Senator Sheldon, and you just saw Senator Gallacher, again from that great trade union, the Transport Workers Union, talk with passion about the problems he's experienced over a lifetime of looking after working people. I think it's an indication of the passion on this side of the chamber and the heartlessness on the other side in terms of the problems that ordinary working people are facing.

I did get a chance to quickly listen to Senator Pratt's contribution and that of another new senator, Senator Ayres, from that other great trade union, the Amalgamated Metal Workers Union. They're a terrific organisation. In my own state they were led by a fellow called John Camillo, recently retired, who had to experience the horrible circumstances of this government closing down Holden and the rest of the car industry in this country and deal with the absolutely tragic consequences of a government completely uninterested in the issues that affect working people in this country.

I do have to compliment the minister, though—one compliment you'll get from me, Minister. Often ministers come into this chamber when they're dealing with legislation and either don't know anything about the legislation they're supporting or seeking to introduce or, worse still, don't care. But I have to compliment you, Minister: you've answered all of our questions, and that's a very worthy thing to do, because we're getting answers to the questions. That's the extent of my compliment, Minister, because the problem is that the answers you're giving are confirming our worst fears about this legislation. Everything you've said to us today is an indication as to why this legislation should be rejected.

I noticed just before I left the chamber earlier that you commented on my reflections of the equivalence argument, the way the government's been arguing the equivalence argument and the effect on the crossbenchers. I want to make it clear, Minister, that I don't think the crossbenchers are going to fall for that equivalence argument. And if it is thought that I was
suggesting that, then I want to make it very clear: I think the crossbenchers are smarter than the government thinks, because they're not going to buy the argument about equivalence and are quite capable of making up their own mind about this legislation. When they think about it and listen to your answers—which, in fairness to you, have been very honest answers—about the way this legislation is going to operate in practice, they will see that our position, which is that the bill should be totally rejected, is the correct position.

I notice that you were trying to put a little bit of dressing on the cake—there's a little smile from you, minister—by suggesting—

**Senator Payne:** I'm not sure where you're going, Senator Farrell!

**Senator FARRELL:** I'll get to the point. You're suggesting that the Attorney-General's got another piece of legislation in his pocket that he's waiting to introduce that is going to crack down on all of the abuses that we've seen over the last six months in particular—in practice, over seven years of this government—where managing directors have got away with things that you're now seeking to impose upon workers and their trade unions. You're giving us a little bit of a hint that maybe the Attorney-General is thinking about imposing some of those obligations that you're seeking to impose on union officials on those managing directors. I suppose the first observation about that might be: where's the equivalence argument? You're imposing all these obligations on trade union officials and their members. If there's an equivalence, why isn't that legislation there already? If you're seeking to treat managing directors, who make decisions like we saw in Westpac, in the same way as ordinary trade unionists, why isn't that legislation in place already? It's not. The reality is that there's no equivalence between the way this government treat employers and managing directors and the way they're seeking to treat the people who represent unions.

More importantly, if the government were fair dinkum and if the Attorney-General were fair dinkum about treating them the same, then why haven't we seen those amendments in the course of this debate? What's happened to those amendments? The government has managed to come up with dozens of amendments to its own legislation, but none of them do the things that you hinted at, Minister, which was to impose obligations on managing directors and directors that you're seeking to impose on trade union officials and their members. There is simply no evidence whatsoever that you're fair dinkum about doing that. If you were, you've had weeks. In fact, this bill—or variations of it—goes back to 2017. You've had all that time—the last two years—to crack down on the sorts of abuses that we've seen in Westpac only this week and all sorts of other circumstances that Senator Gallacher, Senator Sheldon, Senator Pratt and Senator Ayres have already mentioned. I won't go back over them again. With all of those circumstances, you've had an opportunity to do that, and you can do it right now. You could delay the bill. We've still got another week. We've still got all of next week to deal with this matter. There's no particular reason why this bill has to be debated today. You've got all of next week. You can go away and then come back with a bill that does treat union officials and their members in the same way that you're treating directors and owners of companies.

**Senator McCarthy interjecting—**

**Senator FARRELL:** It's been suggested by Senator McCarthy that you could even have Christmas to think about that. There's plenty of time. We're back here in February. There's plenty of time to go away, get the Attorney-General's Department to come up with all of the
amendments that would do what you're hinting might be done if this legislation passes, which is to try and create some equivalence. The reality, of course, is that you're not going to do that. You won't go away and write any amendments that treat managing directors in the same way you treat union officials, because you're not fair dinkum about it.

The point I made before was that this is Work Choices mark 2. Tony Abbott told us it was dead, buried and created.

Senator McCarthy: Cremated.

Senator FARRELL: What did I say?

Senator McCarthy: Created.

Senator Payne: Created.

Senator FARRELL: Cremated, I'm sorry! It's been a long day. But, zombie-like, Work Choices is back. But, this time you've got a bit smarter. I have to give him credit: Prime Minister Morrison is smarter than John Howard. He's much more cunning and much more deceptive. He's going to do this in two stages. First of all, he's going to destroy the ability of the unions to do the work that their members pay them to do: get them wage rises and improve their conditions. He's going to tie them up in red tape and tie them up in court action, with unions using union members' money to defend the organisations, and, once he's done that, back he comes with Work Choices mark 2. That's when he really hits the workers.

As I say, Prime Minister Morrison is much smarter than Prime Minister Howard. Prime Minister Howard just went straight for the jugular when he got a majority in 2004. In 2007, not only did he lose the election but he lost his seat. In fact, I suppose you could argue that we should let this legislation go through, because we will see what happens when workers finally realise what this government is all about and what its real objective is. It's to destroy the unions that defend working people in this country, and then it's to go after the wages and conditions.

You might remember this, Senator Lines: Australian workplace agreements. Do you remember those? Workers lost all of their entitlements, all of their penalty rates and all of their access to leave and were reduced to four single terms of conditions. They weren't theoretical ideas. They were real contracts of employment that were introduced and foisted upon Australian workers.

We're not going to let this legislation go through. We're going to block it. The Greens, of course, are very supportive of us, but we want the other crossbenchers to understand that this government is simply not serious about any equivalence between workers and the managers that supervise them and that it isn't serious about trying to create an equal workplace. We know from Work Choices that it's all about totally destroying the balance between workers and managers. The idea that a 15-year-old shop assistant signing an AWA under Work Choices mark 1 had any equivalence of bargaining power with an employer was just preposterous. That's what we're going to be leading to here. You destroy the unions; you destroy their abilities.

The thing about Work Choices was that Prime Minister Howard didn't come after the unions in that same way. The unions were there to protect the workers. They were there to argue against Australian workplace agreements and, of course, ultimately they were there to ensure that that legislation was repealed—as it was under Julia Gillard. Julia Gillard was the
industrial relations minister, and, of course, she was successful in removing that terrible legislation.

I've spoken about the equivalence argument, and I've still got some more questions on that, but there is another issue that needs to be addressed by the minister. It's on the issue of retrospectivity. It's custom and practice in legislation not to introduce retrospective legislation. That's always been the objective of any piece of legislation. If you introduce a new law that imposes new responsibilities and obligations on people, you don't go back and look at what they were doing before that legislation passed. You start afresh, and so if you are imposing penalties on past actions then it is not appropriate to have that sort of provision in legislation. You look forward rather than looking backwards. That is a pretty standard term in all legislation, be it federal legislation or state legislation. Parliaments by and large, of either persuasion, Liberal or Labor, have always been reluctant to look back and say, 'No, we are going to impose an obligation on something that we have previously done.' However, it would seem that there are retrospective aspects to the legislation.

Could you please explain, particularly to all the people and a few schoolkids who are sitting up there in the gallery listening very patiently—they could have gone over to watch the House of Representatives, but they have very sensibly come here to the Senate; we have far more interesting debates, I might add—why are the provisions of schedule 3 and 4, in particular, retrospective?

**Senator PAYNE** (New South Wales—Minister for Foreign Affairs and Minister for Women) (13:31): Senator Farrell has raised a number of questions, including issues that have been discussed in the chamber in his absence, but I am very happy to go over some of those in this contribution. I would note that we have had extensive discussions around the government's initiatives on wage theft and underpayment—in particular, the initiatives and legislation we have introduced around protecting vulnerable workers and the outcomes of that, including the efforts of the Fair Work Ombudsman, and the returns that has brought for employees in recent times. If I recall correctly—and I would have to go back to my previous comments—there has been a 60 per cent increase in repayments recouped for employees in this calendar year over the previous calendar year by the efforts of the Fair Work Ombudsman. The steps that we have taken on wage theft are very, very important ones and are acknowledged as so by this government because we have zero tolerance for the exploitation of workers.

The corporations and the adequacy of regulation in relation to actions in the areas that Senator Farrell has raised were also discussed this morning, and I have been through those almost section by section, in some detail. They are heavily regulated, and there is also an ability to disqualify. I think it is important to note the statements of the Attorney-General and Minister for Industrial Relations about the further work that we are intending to do. We have released discussion papers about it already. We would welcome a contribution to those discussion papers from those opposite, but I understand one has not yet been made.

Let me talk directly about the rationale for this bill. This government believes that unions, employer associations and registered organisations enjoy a privileged position in the Australian industrial relations system and, indeed, in the economy more broadly and that their members place a great deal of trust in them. We believe that there is no place in this system for those who breach this trust, for those who act in their own interests at the expense of...
members or for those who show nothing but contempt for the laws that apply equally to all Australians. I could go back to the Heydon royal commission and the numerous examples of flagrant disregard for the law that were uncovered by that royal commission, but I do not necessarily have to do that. Even in the time that this bill has been before the parliament, even since its introduction in the House of Representatives in July, a registered organisation in this country and seven of its officers have been penalised almost $400,000 by the courts for more than 30 contraventions of the law since this bill was introduced. This is a pattern of behaviour. It seems to be regarded as the cost of doing business. But the government doesn't accept that the cost of doing business in Australia is acceptable if it is about flouting the law, if it is about blatantly and wilfully disregarding the law that applies to all Australians.

The CFMMEU and seven of its officers have been penalised almost $400,000 by the courts for more than 30 contraventions of the law since this bill has been before the parliament, since July. Last week, we saw the ABCC again commence legal action against the same registered organisation for unlawful conduct. That unlawful conduct allegedly included workers being spat at, being called 'dogs' and 'scabs' and being photographed and filmed, with those images then being uploaded to the CFMMEU's Facebook page, where they were then further subjected to abuse and intimidation. The abuse and intimidation is not just occurring in the workplace; the abuse and intimidation is occurring online as well. That's why the government have reintroduced this bill. That's why we have brought this bill forward. It's because we don't accept that registered organisations should be allowed to flout the law. It is about restoring integrity to this system to provide that, where an organisation, a division, a branch or an officer is doing the wrong thing, something can be done to stop that misconduct and to assure members that their organisations are acting with integrity and in their interests.

I will also go to the points that the senator made in relation to employers and corporations. There are some aspects of that I would like to address. The intent of this bill is to address those numerous examples of organisations and their officers repeatedly flouting the laws, as I have said, and where they have failed to meet basically accepted general standards of accountability and governance. As special rights and privileges are attached to registered organisations and their officials in the federal industrial relations system, it's only appropriate that there are appropriate standards of conduct also applied to those officers who enjoy those privileges. The provisions in this bill apply only to registered organisations and their officers. This shouldn't be conflated with the Corporations Act and its regulation of officers of corporations. That is a very distinct and different compliance regime.

In relation to that, because the senator has asked questions about it, let me say that the government has separately introduced measures to strengthen addressing corporate noncompliance. For example, we introduced higher penalties for corporate and financial misconduct in the Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019. I've been through those provisions in some detail, and I suspect the chamber does not want me to do that again. But it is very clear that the government has acted in relation to a number of these matters. From the perspective of those who would seek for the government to go further, the Attorney-General has made it clear in the discussion papers, in public comments and elsewhere that there are a range of other issues that are under consideration.
I have also been asked about retrospectivity and the operation of the bill. The bill's disqualification and cancellation of registration provisions can only be triggered by conduct that occurs after the commencement of the bill. So, no matter what your views are on behaviour that occurred before the commencement of the bill, everyone will have a clean slate on its commencement. So far as these provisions about disqualification and cancellation of registration provisions are concerned, there will be a clean slate on commencement. However, if and when unlawful or otherwise improper conduct occurs after commencement, the court can take into account previous findings of lawless conduct to determine whether that disqualification or cancellation is justified. But it can only be triggered by further lawless conduct. So there's a clean slate as of the commencement of the bill.

In relation to the schedule 3 provisions, the administration provisions, they are remedial in conduct. They are targeted at what is presently occurring. But, what is more, the scheme is not punitive; it's actually about restoring effective administration to a dysfunctional organisation or part. If the organisation's previous state satisfied the grounds for making a declaration in section 323(3) but it is no longer dysfunctional, or the affairs are no longer being carried out against the interests of the organisation, then the court cannot make a declaration as such and cannot make an order appointing an administrator to resolve these circumstances. In relation to schedule 4—that is, the application of the public interest test to amalgamations—by its nature it must look at past conduct to determine whether an organisation or officer has a history of law-breaking. That is no different to seeking information about prior law-breaking before the granting of a permit such as a right-of-entry permit, a passport or a Working With Children Check application.

In relation to Senator Farrell's question, I also want to canvass whether the ground for disqualification for right-of-entry permits operates retrospectively. The 'fit and proper person' ground for disqualification can be activated by a decision made after the bill commences by the relevant authority to refuse, revoke or suspend an entry permit. The underlying conduct that leads to a person's permit being refused, revoked or suspended by the commission can occur prior to the commencement of the bill, and the government's view is that is entirely appropriate for a number of reasons, and I will go through those briefly.

Firstly, when considering whether to refuse, suspend or revoke an entry permit, what the Fair Work Commission will usually consider is a pattern of behaviour over a significant period of time. For refusals to grant a permit, that can be over three years. That's no different to when someone applies for a passport, in my current portfolio, or applies for a Working With Children Check, where information about prior law-breaking is examined before the granting of those permits. Secondly, when a decision is made to refuse, suspend or revoke an entry permit, the Fair Work Commission is actually making a point-in-time assessment that the person is not a fit and proper person to hold a permit, and I have been through the elements of a 'fit and proper person' today. It is appropriate to include that point in time after commencement, even where it considers other matters that previously happened. Thirdly, just establishing grounds for disqualification is not sufficient for disqualification to occur.

To be very clear, as I have said in relation to a number of other points raised by those opposite: the Federal Court still needs to be satisfied that it's not unjust to disqualify the individual, considering such things as the nature of the matters constituting the grounds. In addition, under the government's amendments the court cannot make an order unless it is
satisfied that, having regard to the gravity of the conduct constituting the ground, the making of the order would not be unjust. So, on the issues that Senator Farrell asked about in relation to the legislation, the government considers this to be a discrete piece of legislation, as I said in my earlier remarks—

Senator Farrell: It doesn't have to be!

Senator PAYNE: You're optimistic, Senator, but I'm afraid I'm going to disappoint you. It is a discrete piece of legislation that goes to dealing with the privileged position that registered organisations, both unions and employer organisations, have in the Australian industrial relations system and the economy more broadly, because we believe that those who hold office in those organisations and those organisations themselves should behave in a lawful and appropriate manner. They should act responsibly and they should respect the laws that apply to all Australians. But, self-evidently, as I said, even in the months that this bill has been before these chambers, that has not been the case. This bill is definitely a necessary intervention by the government in relation to the operation of registered organisations.

The only other thing I would say is that I was very interested to hear Senator Farrell use the term 'zombie-like', because the last time I heard somebody on that side of the chamber use the word 'zombie', it was used by our former colleague Senator Cameron in relation to the front bench of one of the Rudd-Gillard-Rudd governments, but I can't recall which one.

Senator GALLACHER (South Australia) (13:44): I concur with Senator Farrell. The minister has been fairly complete in her answers, but, listening carefully to her answers, someone listening to this debate could conclude that if you're a company director and you're found by the Fair Work Ombudsman to have not paid an employee correctly because you've misclassified them or the Fair Work Commission has ordered you to pay some money or the ATO has found that you haven't paid superannuation, the end result after five years is zero—zero return for the employee. Yet, if you are a union official out there trying to get some things fixed up, the end result is that you're fined, you're fined and you're fined, and this legislation would be attempting to stop you being a union official if you are fined three times or deregistered if you forget to put your paperwork in for $1,000, with a $21,000 fine and the like.

If you're a company director and you choose not to obey the Fair Work Commission, the Fair Work Ombudsman or the Australian Taxation Office, there is zero penalty. That's what I heard, Minister: there is zero penalty. The Attorney-General is looking at banning people from being company directors were they to do that or other such things, but at the moment there is zero. The priority is registered organisations actively trying to get those situations fixed on a daily and hourly basis.

But I want to return to the really important issue, which the minister didn't take up: if there is a bona fide safety issue on a worksite which involves an unsafe vehicle which is going to operate on a public road and jeopardise the safety of everyone travelling on that road, and if workers, heaven forbid, take action and say, 'Look, you're not going to send that truck out with one of our labour hire people or one of our casuals, because we know from yesterday's experience with an employee driver that it's unsafe,' or if they get together in a group and say, 'Hang on, we're not going to work until you fix that truck or give us another truck,' 'illegal action' is what it's called. If their organisation is involved, officials of that organisation are also involved in illegal action. Where are the bona fide safety issues in transport or, dare I say, on building sites? Where does the legislation give a carve-out for the appropriate and prudent
treatment of people who are acting in the best interests of the whole community, particularly in respect of transport? If a bus doesn't have brakes, it shouldn't have schoolchildren on it. If a truck doesn't have brakes, it shouldn't be coming down the Adelaide Hills. We have two court cases in recent memory in Adelaide where an employer has been found not to have been diligent in maintaining vehicles and to have been sending out ill-trained people or people with not enough competency in those vehicles. One of the employers got 12 years jail. The jury and the judge thought his attitude was so bad that it was worthy of 12 years jail. So in transport particularly, Minister, with bona fide safety issues, how do we do it under your regime?

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (13:47): I thank Senator Gallacher for his questions. In some ways this goes to the discussion I was having with Senator Sheldon earlier about imminent health and safety concerns and actions taken in relation to them. If that is the case—if that action is being taken by the workers and it is regarded as being unlawful industrial action—even in that case the action has to be obstructive for it to be a ground for deregistration under the bill, and that has two elements to it as well. It has to have prevented, hindered or interfered with the activities of an employer or any relevant public service, and it has to have had a substantial adverse effect on the safety, health or welfare of the community, and that is a significant threshold. The examples that you and Senator Sheldon have raised with me and the chamber are all serious examples. Yours, Senator Gallacher, go to transport safety and drivers in particular. Senator Sheldon's went to violence in a particular workplace, whether it was the Armaguard example or other examples which, unfortunately, you and I, Senator Sheldon, have been familiar with in New South Wales over the years. But the threshold that is established in the bill is a significant threshold, and unlawful industrial action without those features won't give rise to a ground for deregistration under the bill.

What I would also reinforce, as I said in the previous discussion with Senator Sheldon and others, is that this obstructive industrial action ground is an existing ground for deregistration under the current registered organisations act, which was legislated by the Labor government in 2009. So, if there is a continuing concern about that, it is a concern that should be held in relation to the existing act, and it has not been raised, as far as I am aware, in relation to your own legislation, which has now sat on the books for over a decade. I would also note, as I did, I think, in answer to Senator Ayres earlier, that there hasn't actually been a single application made under that ground, which reflects the appropriately significant threshold required. Despite the fact that, in this period of time since it was legislated in 2009, both the minister and a person interested, such as an employer, have had the power to make an application for all of that time.

So I accept your serious concerns—and I have acknowledged, Senator, your long experience in these matters—but the fact is that, with the additional safeguards that are being introduced in this bill, and with the amendments that we have moved, to which we are speaking here this afternoon, there will actually be a higher threshold before the court can make an order than is currently the case under the existing registered organisations act. Those additional safeguards that lead to that higher threshold include that the commissioner must satisfy the court that it would not be unjust to cancel the registration, taking into account the nature of the matter—so the very description that you have provided to the chamber; the
action taken into relation to those matters—the very description that you have provided to the chamber of the action that a driver might take; the best interests of the members—the very issue that you have raised about the protection of drivers who might be in a workplace of that nature; and any other matter—including, in this case, the public health objectives of such action. The court is prohibited from making the order unless it is satisfied that, having regard to the gravity of the matters having constituting the ground, disqualification would not be unjust—and only the commissioner will have standing to bring an application.

So, to be very clear, this is a provision, an existing ground, which is present in the current registered organisations act, which was legislated by your government. This bill in fact provides additional safeguards to constitute a higher threshold to address the issues that you and other senators have raised, Senator Gallagher.

Senator SHELDON (New South Wales) (13:51): I note also, that in answer to some other questions, the minister has raised the question of awards being complex. This is a myth that is being perpetrated by the Prime Minister—that somehow there's a complexity with awards, with what people should be paid. The complexity extends to Woolworths—the same company that can actually send you a text if you are within 50 metres of it about what you should be buying based on your purchasing history for the last three years—to Bunnings, another multi, multi-million dollar company, and to Domino's. So, apparently, wage theft occurs due to the complexity. No, it's because they are thieving. They don't put money into making sure that they pay people correctly, because they don't care; they aren't fearful of what this government will do.

As you keep demonising unions and as we are seeing it becoming more and more difficult to organise people in workplaces, we are seeing more and more wage theft. It's not a surprise that wage theft is happening. It's not a surprise that we've got a situation where there is substantial wage stagnation. Actually, the World Bank says, and the IMF has said it in reports, that it is because unionisation has declined. It has declined because legislative frames have been put in place by various governments, including this one that this government is planning on putting in. The points system that has been put forward will continue to drain unions of substantial resources.

The Registered Organisations Commission, the ROC, has been found to have improperly gone after the AWU over a matter that was 12 years old. Let's put this matter in context. We all read about that money that was being spent by the AWU 12 years ago, because it was in a press statement and in the paper. It was discussed at their National Committee of Management. It was discussed publicly about GetUp! and its operations. It wasn't like it was something that was hidden and kept quiet for 12 years. It was something that was on the public record.

Senator Ayres: They put out a press release.

Senator SHELDON: They put out several press releases and several interviews. But this government and the ROC, which is independently going to assess whether these matters are of public interest, are going to take these matters to court. That is disgusting, outrageous and crooked. We have a situation here now. Let's talk about corporate equivalence. Australia's oldest bank, Westpac, is the most epic corporate lawbreaker. It's like the creepy uncle of the big four banks. They facilitate paedophile rings. This is what we're facing, yet what points are they going to lose? Where is the disqualification of senior officers of their companies or their
business? They are serious questions to ask. That's equivalent. But what's equivalent for one is not right for the other.

Were the government's demerit scheme applied to banks, for owing their customers so much compensation, how many points do you think they would be up? After the banking royal commission the Commonwealth Bank had to pay out a whopping $2.17 billion in compensation to customers who were ripped off. If we were to take the demerit system that applies for unions and apply that to banks, that would be 10 million penalty units incurred. The Commonwealth Bank breached the threshold, in an application being brought forward, 11,000 times. Where's the corporate equivalence? Where is it? NAB has set aside some $1.18 billion in compensation for its theft. That's 5.6 million penalty units. That is 6,222 times they have gone over the threshold. Where's the corporate equivalence? Let's take out the 23 million and many more examples that exist from their recent extravaganza of operations; Westpac and ANZ are already paying out $1.1 billion each in compensation. That's roughly 5.2 million penalties units each. If we were debating an 'ensuring integrity of banks' bill and applying the same standards then over 5,500 applications could be made against the big banks. That's corporate equivalence. But it's not just the banks; Bunnings, Domino's 7-Eleven, Fedora and Woolworths have taken millions from workers.

Talking about corporate equivalence, let's go back to a very important point that Senator Ayres raised before about 'Pig Iron' Bob—your hero, Bob Menzies, the guy who sent all the pig iron over to make bombs and maim and kill innocent people in China. Let's use your hero. That was banned. Unions banned that, and action was taken against them. Then we turn to the example of environmental questions and talk about green bans—issues that people turn around and take on, which was the most important thing that was done to save The Rocks in Sydney. Those workers went on strike, went off the job and gave up their wages to save Sydney. That would be illegal under this bill. That would be illegal under this system. They would be deregistered.

I'll use the examples of actions against Fiji and Iraq that I've been involved. The Indian government, during one of the Iraqi wars, refused to fuel Australian planes, because they wanted to keep the fuel to get their own nationals out of the Middle East. The union I'm still a member and an official of put bans on Indian flights. Do you know what happened? The fuel got released for Australian people to get out of that country. Those are breaches of the Fair Work Act, and I'm proud to say that the union said that they would stand up for Australians who were stranded in the Middle East. Fiji—in actual fact I have dealt with Mahendra Chaudhry over a number of years, seeing the work he did in Fiji when the coups occurred and the response to those coups. His son worked side by side with me for a number of years as an officer of the TWU. When the coup occurred in that country, he tells the tale—in actual fact he's a little bit held back in saying it himself. One of his compatriots, whilst they were locked in— (Time expired)

Progress reported.

QUESTIONS WITHOUT NOTICE

Minister for Energy and Emissions Reduction

Senator AYRES (New South Wales) (14:00): My question is to the Minister representing the Prime Minister, Senator Cormann. The former commissioner of the New South Wales
Independent Commission Against Corruption, David Ipp, in relation to the Prime Minister's phone call to the New South Wales Commissioner of Police, said:

You can't see that it's information that relates to matters of state interest. It can only relate to matters of party interest. If it relates to matters of party interest then he's using his influence as prime minister to try to obtain the information so that he can make the politically correct decision – that is, whether to keep Taylor or to fire him.

Does the minister concede that the Prime Minister's phone call to the New South Wales police commissioner was inappropriate?

The PRESIDENT: Before I call Senator Cormann, I remind members to use appropriate terminology. Perhaps I misheard, but please use 'Mr Taylor' or 'the minister' rather than just his surname.

Senator CORMANN (Western Australia—Minister for Finance, Leader of the Government in Senate, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:01): The answer is: no, I do not concede that. What the Prime Minister did was entirely appropriate. He first learned about it in question time, as a result of a question from the Leader of the Opposition in relation to the matter that the senator is referencing. As it turns out, the police investigation was the result of a letter from serial letter-writer Mark Dreyfus, the shadow Attorney-General. In fact, he's not just a serial letter-writer; he's actually a serial pest. He's a serial, partisan, politically motivated pest.

Senator Wong: I have two points of order, Mr President. One is: I'd invite you to consider whether your request of me to rephrase my language yesterday—in one of the procedural debates on this, about a member in another place—is apposite here. The second is direct relevance: this is clearly not relevant to the response to the former ICAC head, Mr Ipp, and his comments about the Prime Minister.

The PRESIDENT: On the terminology, I'll check the history of that particular phrase, and if it is I'll come back to the chamber and ask. I'm just not sure whether that's been used in Hansard before. But I will ask all senators to keep in mind that it is helpful if they don't use terminology that requires me to check Hansard. On the point of direct relevance, the minister had answered part of the question. I'm listening carefully. I do consider him to be addressing other parts of the question at the moment, but I'll continue to listen carefully.

Senator CORMANN: Let me be more helpful. Again, I reject the proposition that there was anything inappropriate in what the Prime Minister did. It was entirely appropriate. I also disagree with the quote that the senator read out. It wasn't in relation to a party matter. The question that was asked in the House of Representatives was a question that related to government. It was a question that related to the operations of government, to ministerial standards. Indeed, the Prime Minister made an undertaking to the House of Representatives, which he fulfilled. And I say it again: we've got this serial letter-writer Mr Dreyfus, and you know what—he's also a serial loser, because, as far as I can see, every letter, every reference that he has made to police or other authorities asking for investigations, at least into those on our side—not one of them has actually been successful, not one of them.

Senator Wong: On a point of order. I leave the first issue to your previous ruling. The second point of order I raised is direct relevance. How is an attack on Mr Mark Dreyfus relevant to questions about the criticism of the Prime Minister by the Independent
Commission Against Corruption's former chair, David Ipp? Why don't you respond to his criticism?

The PRESIDENT: I remind ministers that, even if they consider themselves to have directly answered part of the question, the remainder of their answer must also be directly relevant to the question. I ask the minister to keep that in mind as he continues his answer.

Senator CORMANN: I will inform the Senate why it's relevant, and that is because this investigation by New South Wales police is the result of a letter from Mr Dreyfus—a political opponent, politically motivated, partisan. He is somebody who has form. This is part of an established pattern of political smear from the Labor Party.

Senator Wong interjecting—

Senator CORMANN: It is part of an established pattern of political smear, and I've already answered that question, Senator Wong.

The PRESIDENT: Senator Ayres, a supplementary question?

Senator AYRES (New South Wales) (14:05): This morning, former counsel assisting the New South Wales Independent Commission Against Corruption, Geoffrey Watson QC, said the Prime Minister's phone call to the New South Wales police commissioner 'should never have happened'.

Government senators interjecting—

The PRESIDENT: Order! I can't hear Senator Ayres's question, and there may well be a point of order raised, so can I ask for silence on my right while he continues his question.

Senator AYRES: He went on to say, 'It just looks like he's applying pressure. It can't be anything else. It must be a favour, because why else would he be calling?' How is that phone call possibly appropriate?

Senator CORMANN (Western Australia—Minister for Finance, Leader of the Government in Senate, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:05): In relation to what should never have happened, do you know what should never have happened? A partisan, politically motivated letter from the serial letter-writer with zero outcomes who is pursuing one political smear after the other, abusing his shadow ministerial office. That's what should never have happened. Let me tell you why it was appropriate, because the Prime Minister was asked a question in parliament by the Leader of the Opposition in relation to an investigation he had no knowledge of, and he undertook to find out. He undertook to get the information. He sought the information and he reported back to the House of Representatives. That was the Prime Minister fulfilling his public duties.

The PRESIDENT: Senator Ayres, a final supplementary question?

Senator AYRES (New South Wales) (14:06): This morning, former commissioner of the Independent Commission Against Corruption, David Ipp QC, said the Prime Minister's phone call to the New South Wales police commissioner was not appropriate, and he said, 'An ordinary citizen would not be able to get that information from the police.' So, what is it about the Prime Minister that entitles him to that information? How was that phone call possibly appropriate?
Senator CORMANN (Western Australia—Minister for Finance, Leader of the Government in Senate, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:06): Again, we have the Labor Party initiating a partisan, politically motivated smear by sending a letter to the New South Wales police. The New South Wales police commissioner, on the public record, has said that they are looking at it because of the position of the letter writer. I say it again: the shadow Attorney-General abuses his office. He's a serial offender.

Senator Wong: The same two points of order. The first is abuse of office that is alleged. I can tell you who is abusing their office, and I'm happy to debate that. The second point is: how is this relevant to a question which relates to criticism of the Prime Minister by the former commissioner of ICAC?

The PRESIDENT: On the first point, I didn't hear that phrase—I did hear the word 'abuser'—but I will check. There was a fair bit of noise as I was trying to call the chamber to order. I would counsel everyone to be careful of using phrases like 'abusing office' because I will consider that to be imputation against a member of another place. On the point of direct evidence, I believe the final phase of the question was, 'How was the phone call appropriate?' I believe that is quite open-ended, and the minister is allowed to address that in the way that he is and be directly relevant.

Senator CORMANN: As I've already indicated to the chamber several times now, the Prime Minister advised the House of Representatives on a number of occasions that, as a result of the question from the Leader of the Opposition, he would seek appropriate information in order to inform his judgement in the context of his responsibilities in the context of ministerial standards. That's precisely what he has done, and he reported back to the House of Representatives accordingly. If the Labor Party was so concerned about it, why didn't you raise this at the time when the Prime Minister first informed the House of Representatives that that was what he was going to do?

Small Business

Senator ANTIC (South Australia) (14:08): My question is to the Minister for Employment, Skills, Small and Family Business, Senator Cash. Can the minister please update the Senate on how the Morrison government is addressing real issues of importance for Australians, like creating jobs, and how the small business growth fund will support Australian small and medium businesses to invest, grow and employ more Australians?

Opposition senators interjecting—

The PRESIDENT: Order! I called those on my right to order during a question that was being asked on my left. I would ask that the courtesy be returned.

Senator CASH (Western Australia—Minister for Employment, Skills, Small and Family Business) (14:09): I acknowledge Senator Antic from South Australia's question, but I also acknowledge the former President of the Australian Senate, another great senator from South Australia, former senator Alan Ferguson, who is joining us here today. The coalition government on this side of the chamber are very proud to back small and family businesses and small and medium enterprises in Australia every step of the way, because we understand that they are the backbone of the Australian economy. There are approximately 3.4 million SMEs in Australia, and the contribution they make to employment and their importance to
Australians cannot be underestimated. Every day almost seven million Australians get up and go to work because of the 3.4 million SMEs in Australia. As the Treasurer himself recently said, small and medium-sized businesses are responsible for more than three-quarters of the output in agriculture and more than half the output of construction.

One of the issues that does affect small and family businesses and medium-sized enterprises in Australia is access to necessary capital. They often find it difficult to obtain finance other than on a secured basis, and typically what they need to do is put up the family home. Also, once they have actually pledged all of their real estate as collateral—and, as I said, it is the family home—they find it difficult to access additional funding. Because on this side of the chamber we are committed to putting in place the policies that will allow small and family businesses and medium-sized enterprises to prosper, grow and create more jobs for Australians, we have established the Australian Business Growth Fund. The government is committing $100 million in funding to the fund and is partnering with other financial institutions to provide equity funding to small and medium enterprises. We are looking forward to getting capital flowing to these businesses.

The PRESIDENT: Senator Antic, a supplementary question?

Senator ANTIC (South Australia) (14:11): Minister, how does this fund complement other measures the government is taking to support small businesses to innovate and grow?

Senator CASH (Western Australia—Minister for Employment, Skills, Small and Family Business) (14:11): The government is also using our role as a procurer of services to support small and family and medium businesses to prosper, thrive and grow, because when they do they create more jobs for Australians. We have clear targets for small and medium enterprises to receive 10 per cent of all government contracts and 35 per cent of contracts valued up to $20 million. The government has exceeded these targets, with over 41,000 contracts valued at $16.7 billion awarded to small and medium enterprises in 2018-19. In addition, as of 1 July this year, the government is committed to paying invoices under $1 million within 20 days and, as the finance minister and I recently announced, as of 1 January 2020, we will start paying e-invoices within five days. That is backing small, family and medium enterprises.

The PRESIDENT: Senator Antic, a final supplementary question?

Senator ANTIC (South Australia) (14:12): Minister, why is supporting small businesses essential to the government's strong and stable economic management?

Senator CASH (Western Australia—Minister for Employment, Skills, Small and Family Business) (14:12): It is because, as we know, when you back small and medium businesses and family businesses in Australia, they prosper, grow and create more jobs for Australians. Seven million Australians get up every day and go to work because they are offered employment by these 3.4 million SMEs. We understand, though, that you need to put in place the right economic framework so that businesses are able to lever off it and grow their business. That is why our economic plan is making it easier for small and family businesses and medium enterprises to grow their businesses. We have lowered their taxes. Why? It is because we understand that the more money they have the more they are able to invest back into their business. We are cutting red tape, because red tape is costly. If you get rid of it, it is a return back to the business. We are, of course, giving them the opportunity to participate in
our $100 billion infrastructure plan. We are committed to supporting SMEs across Australia. *(Time expired)*

**DISTINGUISHED VISITORS**

The PRESIDENT (14:13): While Senator Cash stole my thunder in welcoming former Senate President Alan Ferguson back to the chamber, I would like to welcome Alan Ferguson back to the chamber. He is leading the Australian Political Exchange Council's 13th delegation from New Zealand. On behalf of all senators, I welcome you to Australia and in particular to the Senate and to question time.

Honourable senators: Hear, hear!

**QUESTIONS WITHOUT NOTICE**

Minister for Energy and Emissions Reduction

Senator KENEALLY (New South Wales—Deputy Leader of the Opposition in the Senate) (14:14): My question is to the Minister representing the Prime Minister, Senator Cormann. I refer to the Minister for Energy and Emissions Reduction's use of doctored travel costs in official ministerial correspondence to the Sydney lord mayor, Clover Moore. Minister Taylor himself has admitted to using incorrect figures in official ministerial correspondence, forcing him to 'apologise unreservedly' to the Sydney lord mayor. Does the minister endorse Minister Taylor's use of doctored travel costs from a false document in official ministerial correspondence?

Senator CORMANN (Western Australia—Minister for Finance, Leader of the Government in Senate, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:14): Firstly, Minister Taylor does not endorse it. He was obviously not aware when he used that document. That is, of course, why he apologised once he did become aware. No-one should ever use doctored documents—of course not.

The PRESIDENT: Senator Keneally, a supplementary question?

Senator KENEALLY (New South Wales—Deputy Leader of the Opposition in the Senate) (14:15): Minister Taylor has told the parliament that the document containing incorrect figures 'was drawn directly from the City of Sydney's website. It was publicly available.' But the City of Sydney has provided metadata demonstrating that only the correct version of the document was ever made available on its website. Is the minister aware of any evidence supporting Minister Taylor's version of events?

Senator CORMANN (Western Australia—Minister for Finance, Leader of the Government in Senate, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:15): Let me just say again: nobody should ever—and Minister Taylor 100 per cent agrees with this—knowingly use documents that are not accurate. Nobody should knowingly use documents that are fabricated. In relation to the ins and outs of the matters that Senator Keneally just raised, I refer you to the statements made by Minister Taylor.

The PRESIDENT: Senator Keneally, a final supplementary question?

Senator KENEALLY (New South Wales—Deputy Leader of the Opposition in the Senate) (14:16): Has the Prime Minister sought from Minister Taylor any evidence that supports his version of events? And, if not, why not?
Senator CORMANN (Western Australia—Minister for Finance, Leader of the Government in Senate, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:16): Obviously, both the Prime Minister and Minister Taylor have made statements in relation to these matters, and I refer you to those. Furthermore, we now have this letter from the serial letter writer, Mr Dreyfus, which has gone to the New South Wales police. The New South Wales police, as a result of Labor's partisan, politically motivated actions, will now do their work, and that work should be allowed to take its course without interference from the Labor Party, whether here in the Senate or anywhere.

The PRESIDENT: Before I come to the next question, I'd just like to clarify my point earlier with regard to the term 'abuse of office', reflecting on the standing orders in front of me. It is my view that someone referring to a member in the other place as an 'abuser of office' would be a personal reflection on a member of the other place under standing order 193(3). The phrase 'abuse of office', however, is an action and not a personal reflection, and I think it would be very dependent upon the context in which it is used, like all language in this place. I thought I should clarify that, reflecting upon it at the time.

Minister for Energy and Emissions Reduction

Senator WATERS (Queensland) (14:17): My question is to the Minister representing the Prime Minister, Senator Cormann. After scandals surrounding Minister Taylor about water, about grasslands and about incorrect figures in correspondence, how long will the Prime Minister let the embattled Minister Taylor remain a minister of this government?

Senator CORMANN (Western Australia—Minister for Finance, Leader of the Government in Senate, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:17): I thank Senator Waters for that question. The reason why Labor and the Greens attack Minister Taylor so mercilessly is that he's such a good minister. He is so effective at bringing down the cost of electricity, he's so effective at bringing emissions down, and the Labor Party and the Greens don't like it. Minister Taylor has introduced the default market offer, the price caps; he's set up the $1 billion Grid Reliability Fund; he delivered a $370 million investment in hydrogen and announced the National Hydrogen Strategy; he put an end to dodgy discounts and late payment fees; he implemented the Retailer Reliability Obligation; he's been successful in getting the big-stick legislation passed through the parliament; he delivered the Business Energy Advice Program; he advanced our Gas Market Reform Package; he established the Liddell Taskforce; he invested in four hydrogen projects and one bio energy project; he agreed to underwrite the Queensland-New South Wales Interconnector; he invested in two electric vehicle development projects; he opened formal negotiations with the US around access to strategic petroleum reserves; and there is more. Minister Taylor is a hardworking, highly effective minister. The Labor Party and the Greens don't like him because of how effective he is. They're just pursuing one political smear after the other to try and bring down somebody who is making a fine contribution to our country.

The PRESIDENT: Senator Waters, a supplementary question?

Senator WATERS (Queensland) (14:19): The Prime Minister's ministerial standards expect 'the highest possible standards of probity', and yet the Prime Minister has not taken any action against Minister Taylor for any of those recent or previous scandals. Clearly those
standards are either too weak or not being enforced. How long until we get a federal anticorruption body which covers federal politicians?

The PRESIDENT: That's a very tenuous supplementary. It used the hook of the previous question to ask a substantively different question, so I will call the minister to answer.

Senator CORMANN (Western Australia—Minister for Finance, Leader of the Government in Senate, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:20): Firstly I reject the premise of the question. Minister Taylor is a very good minister. Let me tell you: everyone in the parties of government in this chamber should be very concerned about the proposition that a letter from your political opponents to police—in particular, from a serial, unsuccessful letter-writer like Mr Dreyfus—should be the basis for a minister to be stood aside. Everyone on both sides of this chamber who might have the opportunity in the future to serve as a minister should be very concerned about that proposition.

Senator Whish-Wilson: On a point of order: Senator Cormann referred to Mr Dreyfus as an 'unsuccessful letter-writer'. My understanding is that Mr Taylor wrote a letter to the mayor of Sydney, and that was—

The PRESIDENT: That was not even a reasonable attempt at misusing a point of order.

Senator CORMANN: In relation to the last part of the question, it is well known that the government is committed to bringing forward legislation to establish a Commonwealth integrity commission, and, of course, that will build on the very substantial framework and architecture that we already have in place to fight corruption here in Australia, which is highly effective.

The PRESIDENT: Senator Waters, a final supplementary question?

Senator WATERS (Queensland) (14:21): When will this government act in the public interest and not its own private interest or the vested interests of its corporate donors? When will you act to clean up the stench of corruption, end the influence of dirty corporate donations and clean up democracy?

The PRESIDENT: I counsel again that supplementary questions need to relate to the primary question. With respect, that is not related to the primary question, but I'll call the minister and give him the opportunity to answer as he sees fit.

Senator CORMANN (Western Australia—Minister for Finance, Leader of the Government in Senate, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:22): Firstly I completely reject the premise of the question. Governance in Australia is actually at one of the highest standards all around the world, so that proposition and smear that Senator Waters puts forward against Australia and governance in Australia is quite disgraceful. Then she talks about political donations. I seem to recall that one of the biggest ever political donations from a corporate donor was given to the Greens—$1.6 million in a single donation to the Australian Greens. Who was that from? I'm just trying to remember. The way you come into this chamber is so hypocritical.

Minister for Energy and Emissions Reduction

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:23): My question is to the minister representing the minister for emissions reduction, Senator
Birmingham. I refer to minister for emissions reduction's use of doctored travel costs in official ministerial correspondence to the Sydney Lord Mayor, Clover Moore. When Minister Birmingham was asked in question time whether he stood by his statement on the ABC on Tuesday that, 'The information was sourced from the City of Sydney website,' Mr Birmingham said, 'That is the advice of Minister Taylor.' Has the minister discussed this matter directly with Minister Taylor?

**Senator BIRMINGHAM** (South Australia—Minister for Trade, Tourism and Investment and Deputy Leader of the Government in the Senate) (14:23): As Senator Wong, if she can remember back to when she was a minister, would recall, ministers receive briefings from the ministers they represent and their offices in advance of estimates and in advance of question time. Those briefings are common practice, and we're going to go through letter, chapter and verse of every element of those briefings, where it has been very clear and consistent all along in terms of the statement that Mr Taylor gave to the House of Representatives, making clear, as he also issued publicly, that the document was sourced from the City of Sydney website. That is what he has made clear consistently and that is what I have informed this chamber consistently. The opposition can continue to ask the same question again and they're going to get the same answer again. That is what happens when you ask the same question: you get the same answer.

We on this side want to get on with talking about issues that impact on real Australians. But you seem to be happy to continue to spend all of your time desperately going down political witch-hunts, dirt-digging and smearing—undertaking those activities. We will make sure that we spend our time getting on with dealing with electricity prices, dealing with energy security and dealing with creating more job opportunities for Australians. These are the things that matter. That's what we are going to continue to focus on.

**The PRESIDENT:** Senator Wong, a supplementary question?

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (14:25): Has Minister Taylor told the minister who doctored the document?

**Senator BIRMINGHAM** (South Australia—Minister for Trade, Tourism and Investment and Deputy Leader of the Government in the Senate) (14:25): I completely reject the premise of the question, because the question seeks to rewrite the answer to the previous question. If Senator Wong had listened to my answer to the primary question, where I reinforced yet again Mr Taylor's statements, issued publicly and to the House of Representatives, she would have heard that the document was taken from the City of Sydney website. Mr Taylor has acknowledged that there was in the end an error in relation to the document that was used, and that's why he has apologised to the Lord Mayor of Sydney. That's why he issued the apology. But he has been consistent all along: the document came from the City of Sydney website.

**Senator Wong:** A point of order on direct relevance: I have given the minister very many seconds to answer this. We didn't ask about the history of the document. I asked one question only, and this minister confirmed that he has spoken to Mr Taylor about this issue. I asked if Mr Taylor had told this minister who doctored the document. That's the only question I asked.

**The PRESIDENT:** I've let you restate the question, Senator Wong. I am listening carefully, and I do consider the minister to be directly relevant if he is talking about the document. The minister, to my way of listening, has been talking about the document. I don't
believe he has to accept the premise of the question, but talking about the document is directly relevant.

Senator BIRMINGHAM: As I made clear right at the very outset, if Senator Wong had listened to the answer to the primary question, the answer was: Mr Taylor has made clear that the document was downloaded from the City of Sydney website. That means that your supplementary question is invalid, Senator Wong.

The PRESIDENT: Senator Wong, a final supplementary question?

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:27): My final supplementary is: who created the document now demonstrated to be false? Who created the document?

Senator BIRMINGHAM (South Australia—Minister for Trade, Tourism and Investment and Deputy Leader of the Government in the Senate) (14:27): Based on the statements that have been made, that the document was downloaded from the City of Sydney website, that is obviously a question that I am not in a position to answer.

The PRESIDENT: Order! Senator Birmingham, I have Senator Wong on a point of order.

Senator Wong: I’m asking about this minister’s knowledge about who created the document. If he doesn’t know, he should say that in the parliament.

The PRESIDENT: Senator Cormann, on the point of order?

Senator Cormann: If Senator Wong did not spend as much time interjecting, which is disorderly, and if she actually listened to the answer that the minister was giving, she would have heard that he was actually making the very explicit, directly relevant point that he could not possibly be able to answer that question, because, as has been stated in the past, it was a document that was downloaded from a website. So the minister was directly relevant and directly answering the question.

The PRESIDENT: On the point of order, Senator Wong? I will take another submission before I rule.

Senator Wong: Thank you, Mr President. The question goes to the minister’s knowledge. I’m asking the minister to respond to that question.

The PRESIDENT: The question was: who created the document? The minister is allowed to actually explain an alternate view of the source of the document, which is what I believe he is doing, so I think he is being directly relevant.

Senator BIRMINGHAM: Mr President, let me be very clear for Senator Wong’s understanding: the document, according to Mr Taylor, was downloaded from the City of Sydney website, and, Senator Wong, I do not know who runs the City of Sydney website, aside from the City of Sydney.

Defence Facilities: Chemical Contamination

Senator ROBERTS (Queensland) (14:29): My question is to the Minister for Agriculture. On Tuesday night this week, Channel 9 ran yet another story about PFAS contamination of livestock around defence bases. This time the contamination was near RAAF Base Richmond. Can the minister assure the Senate that livestock raised in PFAS contamination zones is safe to send to market?

CHAMBER
Senator McKENZIE (Victoria—Minister for Agriculture and Leader of the Nationals in the Senate) (14:29): Thank you very much, Senator Roberts, for your question. I will have to get back to you on that particular issue. I haven't seen that particular media report, but my advice on PFAS contamination on Defence—

Honourable senators interjecting—

Senator McKENZIE: Gee, it's coming in thick and fast here today! This doesn't specifically relate to livestock per se, but, as you know, the contamination of Defence Force sites with respect to PFAS has been an issue that the Senate committees and this chamber have investigated over a long period of time. Across the world, PFAS is used widely in a range of different industries and contamination by PFAS is a global issue. We're aware of it, and we're acting on community concerns regarding the exposure to PFAS. Our priority is to support affected communities and to reduce their exposure to PFAS.

My advice is that the Department of Defence is working closely with the PFAS Taskforce in the Department of the Environment and Energy, which has the whole-of-government lead in responding to this issue. Angus Taylor's area and Minister Ley's area have the whole-of-government lead. Government action and investment to date has been extensive, including measures to support local communities affected by PFAS contamination. Our government has committed substantial resources to the investigation, remediation and monitoring of sites and will continue to invest as required. Each site is different, so there's no one-size-fits-all solution, and, while the full cost of PFAS investigation, remediation and monitoring measures is not known, it will be significant. Defence will hold four community information sessions during December 2019 to present the findings of our detailed—(Time expired)

The PRESIDENT: Senator Roberts, a supplementary question?

Senator ROBERTS (Queensland) (14:31): Minister, you cannot assure the Senate that livestock raised in PFAS contamination zones is safe to send to market? Based on that, can you please explain why Defence has advised farmers in contamination zones to not eat their livestock meat, vegetables or eggs, yet you say it is safe to send produce to market?

Senator McKENZIE (Victoria—Minister for Agriculture and Leader of the Nationals in the Senate) (14:32): I said no such thing. I actually outlined a whole-of-government approach to dealing with the PFAS contamination issue on Defence sites. As I was just getting to in my previous answer, there will be four community information sessions during December to present the findings of the detailed site investigations, the human health risk assessment reports and the interim ecological risk assessment reports at the various four sites. Based on the knowledge and evidence available at this time, our government is not considering a land purchase program as a result of the PFAS contamination issue.

With respect to the health impacts of PFAS, my advice is that questions relating to health advice or guidance should be directed to the Department of Health, and our government works with Commonwealth, state and territory health authorities to ensure that human health advice and guidance on PFAS—(Time expired)

The PRESIDENT: Senator Roberts, a final supplementary question?

Senator ROBERTS (Queensland) (14:33): I wasn't asking about land purchases. I was asking a simple question of the Minister for Agriculture: is it safe for agricultural produce from PFAS contaminated zones to be sent to market? That's all I want to know.
Senator McKENZIE (Victoria—Minister for Agriculture and Leader of the Nationals in the Senate) (14:33): There is no reason not to send livestock to market from these areas. As I was trying to outline to the senator, the Commonwealth, state and territory health authorities work together to ensure that human health advice and guidance on PFAS is incorporated into PFAS environmental investigations and is known and understood by affected communities. There is ongoing consultation and communication with affected communities, and there is no reason to assume that there is any reason not to consume produce that is grown on these sites.

Rural and Regional Australia

Senator DAVEY (New South Wales—The Nationals Whip in the Senate) (14:34): My question is also to the Minister for Agriculture, Senator McKenzie. Can the minister please outline how the government is addressing the real issues of importance for Australians living in rural and regional communities?

Senator McKENZIE (Victoria—Minister for Agriculture and Leader of the Nationals in the Senate) (14:34): Thank you very much, Senator Davey. More than seven million Australians live outside our capital cities, and the Liberal-National government backs their aspirations for a strong and prosperous future. Recently, I was able to visit the Jolliffes' farm in the Riverina. They're real dairy farmers. Their son is finishing the HSC and they have employed a young farm-worker, and both of those young people want to stay on farm and work in agriculture in their local communities, despite the drought, and they're planning for their future.

The No. 1 issue that we hear about as we travel through rural and regional Australia is local job provision. That is why our side of government supports and backs our mining industry. That's why we support and back our agriculture industry, now and for the next generation. Regional Australians want to ensure that their kids can access a high-quality education—that geography should not be a determinant for opportunity in this country—and we are working very, very clearly towards that end. They want high-quality health care, and they want connectivity of the 21st century—not just roads and rail but digital connectivity to help them connect with the markets of the globe.

That's why we've been able to deliver a half-a-billion-dollar stronger rural health workforce package, where we're going to have 3,000 GPs and 3,000 nurses, additional, out into rural and regional Australia. It's why we've also got record funding going to schools in this country and a $152 million regional student access to education program. We've got half a billion dollars in additional new funding to improve regional higher education opportunities, through income support and scholarships. We've increased funding for mobile black spot programs and for Sky Muster and a $60 million Regional Connectivity Program to sustain and improve access to essential services for our rural and regional economies and also backing the industries that underpin them.

The PRESIDENT: Senator Davey, a supplementary question?

Senator DAVEY (New South Wales—The Nationals Whip in the Senate) (14:36): Can the minister also update the Senate on what the Liberals, with the Nationals, in government, are doing to deliver for rural and regional Australians?

Senator McKENZIE (Victoria—Minister for Agriculture and Leader of the Nationals in the Senate) (14:37): Your state of New South Wales has been dealing with drought for years
and is now faced with the ongoing threat of bushfires, Senator Davey. These difficulties are being felt right across our country, as the drought continues to spread and the disasters follow. These are real issues affecting real people in regional Australia, and it is our government that is offering real and tangible support in real time. For those affected by bushfires, we've got the disaster recovery payment: $1,000 for eligible adults; $400 for eligible students. That is actual support going into communities right now. We've stepped up our response to the drought recently, recognising that it doesn't just stop at the farm gate. We've got support for communities, small business loan packages, farm household allowance expansion and simplification, rural financial counselling services and more mental health and wellbeing services, in addition to a $200 million drought-specific BBRF round. (Time expired)

The PRESIDENT: Senator Davey, a final supplementary question?

Senator DAVEY (New South Wales—The Nationals Whip in the Senate) (14:38): Finally, how are the Liberals, with the Nationals, in government, ensuring that rural and regional Australia remains strong and prosperous? And, importantly, is the minister aware of any alternative proposals?

Senator McKENZIE (Victoria—Minister for Agriculture and Leader of the Nationals in the Senate) (14:38): Well, our government is delivering real improvements in jobs, connectivity, health and education. These are the real issues that people out in the regions want our government to address, because we actually believe that regional Australia has a strong and prosperous future. We've been negotiating free trade agreements for better market access so our farmers and our miners can grow our exports and employ more people locally. We've got regional migration initiatives to ensure that our population grows and prospers and a suite of agricultural workforce solutions to make sure that we get the right people in the right place at the right time to get the crop off.

But what about those opposite? They equivocate on free trade agreements, when agriculture exports two-thirds of what we produce. They're promising a floor price for dairy that the dairy industry doesn't want. They want to shut down the live sheep and cattle trade. They want to shut down our mines. They don't want to build a dam. They've pursued—(Time expired)

Forestry

Senator RICE (Victoria) (14:39): My question is to Senator Birmingham representing the Minister for the Environment. In the face of a worsening climate crisis, protecting our forests, the lungs of our planet, is essential to avoid climate and environmental catastrophe. They have tremendous cultural value for our First Australians. They store carbon and produce fresh water for farms and for drinking. The world has watched the Amazon being logged and burned this year at unprecedented rates, but here in Australia, in our own backyard, we continue to log and burn our forests. We are the only nation in the developed world to be marked as a global deforestation hotspot, and this logging and burning is signed off by this government through last century's regional forest agreements. Will the Morrison government commit to protecting our native forests, or will you condemn future generations to a catastrophic climate future?

Senator BIRMINGHAM (South Australia—Minister for Trade, Tourism and Investment and Deputy Leader of the Government in the Senate) (14:40): I thank Senator Rice for her
question. Our government stands by our approach in terms of the modernisation of regional forest agreements, regional forest agreements which provide for an approach to forest management through greater transparency, through outcomes based reporting, and through long-term sustainability of a renewable resource in terms of our forestry sector. RFAs protect threatened species through establishing and subsequently growing a conservation and reserve system and requiring states to implement sustainable forest-management practices outside of the reserve system. RFAs provide certainty to the forest industry and support the thousands of jobs associated with that industry. Our government knows that we need to create and continue to provide certainty in those sectors to make sure that those jobs are secure and sustainable, as we want and expect those resources to be as well.

Since RFAs were first signed 20 years ago, conservation reserves in RFA areas have doubled from over five million hectares to more than 10 million hectares in that time. This means that 50 per cent of native forests found within RFA areas are now protected with the comprehensive and adequate representative reserve system. Of the remaining native forest in RFA areas, less than 0.5 per cent of that is harvested annually. States, of course, are responsible for the day-to-day forestry operations in line with state forest management frameworks under RFAs. Indeed, RFA responsibility—

The PRESIDENT: Senator Rice, on a point of order.

Senator Rice: On relevance: my question specifically went to forests and climate, and the impact of logging our forests on climate, and the minister has not mentioned climate once.

The PRESIDENT: Senator Rice, with respect, it would be hard for the minister to talk about forests and not be relevant to the very lengthy preamble to that question. I've been listening carefully—Senator Whish-Wilson, I'm ruling on the point of order made by the person sitting next to you. If senators' questions have lengthy preambles of that nature, then it is much easier for a minister to be wide-ranging and directly relevant. With respect, Senator Rice, that was a long preamble and the minister is being directly relevant.

Senator BIRMINGHAM: Just very briefly then, if Senator Rice wishes, in relation to climate: I would highlight to her my answer given yesterday which points out what matters in relation to climate is what we do to meet our targets overall; not picking out sector by sector, but— (Time expired)

The PRESIDENT: Senator Rice, a supplementary question?

Senator RICE (Victoria) (14:43): In contrast to Senator Birmingham's response, the government will be aware that in my home state of Victoria the state government has recently come to its senses and acknowledged that native forest logging is unsustainable and uneconomic and doesn't have the support of the community. Thousands of people are today rallying at the Victorian state parliament in support of protecting our forests. Will the Morrison government also admit that native forest logging belongs in the last century, like sealing and whaling?

Senator BIRMINGHAM (South Australia—Minister for Trade, Tourism and Investment and Deputy Leader of the Government in the Senate) (14:43): The Dan Andrews government in Victoria would probably—given their leanings—quite like to hear Senator Rice's description that they've come to their senses. Those on this side find there are very few occasions where we think the Andrews government ever has any sense whatsoever. Mr
President, if I may, I suggest that you may concur with that. The Australian government was not consulted about the Victorian government's decision to end native-forest harvesting in state government. I do note that forestry matters are handled by my good friend and colleague Senator Duniam on a routine basis, and that his department will continue to work with the Victorian government to determine what that means for the Victorian regional forestry agreements, and the process for extending those RFAs, moving forward.

The PRESIDENT: Order, Senator Birmingham. Senator Rice, a final supplementary question?

Senator RICE (Victoria) (14:44): Today marks half a century of exporting woodchip from the native forests in south-eastern New South Wales, through Eden—50 years of devastating impacts on those forests. The global market for native forest woodchip exports is at rock bottom, yet we continue to log native forests instead of meeting demand through sustainably grown plantation timber. What is this government doing to complete the transition to a 100 per cent plantation based timber product industry?

Senator BIRMINGHAM (South Australia—Minister for Trade, Tourism and Investment and Deputy Leader of the Government in the Senate) (14:45): What's important in this space is operating to the sustainability practices that deliver sustainability for the forest themselves, sustainability of employment outcomes for those who rely on the forestry industry and sustainability of the resource for the long term. These are the practices that we deploy and operate through the regional forestry agreements, working in concert and conjunction with the states and territories. When it comes to managing climate impacts, we're working to that according to the detailed plan that I outlined to the Senate yesterday in terms of achieving our abatement, our emissions reduction, targets that we've committed to against the very prescriptive policy measures that we took to the last election. We're delivering on those and making sure that we have an integrated approach, not one that simply says we must wipe out one industry over here to meet an objective over there but one that respects the fact that we want to continue to have— (Time expired)

Member for Chisholm

Senator KITCHING (Victoria) (14:46): My question is to Senator Cormann, the Minister representing the Prime Minister. The government's ensuring integrity bill proposes to introduce a fit and proper person test to apply to trade union officials. The Prime Minister and ministers have refused to provide an assurance to the parliament and to the Australian people that the member for Chisholm is a fit and proper person to sit as a member of the House of Representatives. Why is there one standard for the Prime Minister's mates and another for working Australians and the unions that represent them?

Senator CORMANN (Western Australia—Minister for Finance, Leader of the Government in Senate, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:47): Here we go again! Here we go again, with the Labor Party coming into the Senate and running this smear that, because the member for Chisholm is of Chinese origin—

The PRESIDENT: Senator Wong, on a point of order?
Senator Wong: I would ask that that be withdrawn. This is not an issue of ethnicity, and asserting that it is is a smear on us. The issue is transparency and your refusal to say she is a fit and proper person—the test you set for trade union officials.

The PRESIDENT: On this particular point, I refer every senator to standing order 193, Rules of debate—which also apply to questions—which includes ‘imputations of improper motives and all personal reflections’. I will ask the minister to withdraw that for the comity of the chamber on this, because I do consider that to be such, given there was no mention of a nation or any such matter in the question. If, however, I heard an interjection along those lines, ministers are allowed to respond to that. So I would urge all senators to be particularly careful.

Senator CORMANN: I withdraw.

The PRESIDENT: Thank you.

Senator CORMANN: Let me just make this point. The member for Chisholm is a member of the House of Representatives because she was duly elected, consistent with our Constitution and our electoral laws, and because the people of Chisholm put their confidence in her to represent them here in this parliament. She absolutely is a duly and validly elected member of parliament.

Just by way of context, there has been an ongoing pursuit of this particular member for some time by the Labor Party. Let's not kid ourselves. The effective allegation that the Labor Party has been pursuing in an implied and dog-whistling way, without actually saying it explicitly, is that, because she is an Australian of Chinese origin, she's a spy—

The PRESIDENT: Order, Senator Cormann. Senator Wong, on a point of order?

Senator Wong: Mr President, I refer you to your previous ruling. ‘Dog whistling’ and the allegation that was made—they are not allegations that are being made on this side. This is about transparency.

The PRESIDENT: I am happy to rule. My previous request, which was not a ruling and which the minister kindly complied with, was in the context that I thought that could have quite easily been a reflection. This, however, and the terminology he is using now is, in my view, a matter for debate. It is not a reflection on an individual member. I think this is a matter that can be debated after question time or debated at another time in the chamber. The minister's not breaching a standing order with the language he's using now, and I'm listening very carefully. Senator Cormann, are you finished answering?

Senator CORMANN: Yes.

The PRESIDENT: Senator Kitching, a supplementary question?

Senator KITCHING (Victoria) (14:50): There have been a number of questions raised about the member for Chisholm in the media and the number of discrepancies in her public statements. Will the minister now assure the Senate that the member for Chisholm is a fit and proper person to sit as a member of the House of Representatives?

Senator CORMANN (Western Australia—Minister for Finance, Leader of the Government in Senate, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:50): The member for Chisholm was pursued over membership of various organisations which her Labor opponent in the same election was a
member of as well. Let me say it again very clearly: the member for Chisholm is a duly elected member in the House of Representatives, representing the people of Chisholm, because the majority of the people of Chisholm voted for her, consistent with the requirements under our Constitution and under our electoral laws. What the Labor Party is doing here is nothing but a smear.

The PRESIDENT: Senator Kitching, a final supplementary question?

Senator KITCHING (Victoria) (14:51): The Prime Minister has refused to require the member for Chisholm to make a statement to the parliament, and this morning he refused to attend the chamber to correct the record and apologise for misleading the House yesterday. Why does this Prime Minister think it's okay to have one rule for him, his ministers and his mates but another rule for working Australians and his political opponents?

Senator CORMANN (Western Australia—Minister for Finance, Leader of the Government in Senate, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:51): Firstly I reject the premise of the question. The Prime Minister did misspeak yesterday, as has happened to people on the other side who have had to come into the chamber to correct the record. The Prime Minister, of course, did that at the earliest opportunity. I table the letter that the Prime Minister sent to the House of Representatives correcting the record for the information of senators. What is happening? Clearly, under Mr Albanese as Leader of the Opposition, we now see the Labor Party going ever and ever deeper into the dirt bucket. They have no policies, which is why they are going after one unsubstantiated political smear after another. If you have any evidence of wrongdoing in relation to any of the allegations that you are making, bring it forward.

Resources Industry

Senator O'SULLIVAN (Western Australia) (14:52): My question is for the Minister for Resources and Northern Australia, Senator Canavan. Can the minister update the Senate on how the Liberal-National government is addressing real issues of importance for Australia's ongoing economic opportunities and security, including the recent progress to support further development of Australia's critical minerals industry?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia and Deputy Leader of the Nationals in the Senate) (14:53): The Australian government has a plan to continue to grow and develop our fantastic resources industry in this country. I recognise Senator O'Sullivan's strong support for that industry, especially in his home state of Western Australia. The demand for our minerals continues to grow enormously, thanks to modern products. There are so many different minerals that make up a smartphone, renewable energy et cetera.

I also want to recognise the work that Senator Reynolds has done in this space over many years to highlight the opportunities in her home state of Western Australia. Her work, along with that of many others, culminated earlier this year with the release of the government's Critical Minerals Strategy. I launched that with Minister Birmingham. That is focusing on the three Is to grow jobs in this sector in Australia. We are focused on innovation. We are putting aside $25 million to invest in a new CRC for the future battery industry to grow and develop that sector of our economy. We are focused on infrastructure, building new roads, especially in northern Australia, to connect up opportunities for critical minerals and to back projects...
like the Sheffield Resources mineral sands project, which is being backed by the Northern Australia Infrastructure Facility. We are also focused on growing our investment links throughout the world to attract investment that will create jobs here in Australia through this process. That has taken a further step in the last few weeks with progress on the joint dialogue on critical minerals between Australia and the US.

Last week I travelled to the US to participate in the first of those dialogue meetings. The United States has developed a list of 35 critical minerals—critical to its economy. We can produce 14 of those very easily. We are in extensive discussions with the US about what we can do to help meet their needs but also attract investment to Australia. While I was there, Geoscience Australia and the United States Geological Survey signed a project agreement to work together mapping the demand and filling the supply. We've committed to have further discussions next February between our two governments on how we can both meet our needs to support the economy. (Time expired)

The PRESIDENT: Senator O'Sullivan, a supplementary question?

Senator O'SULLIVAN (Western Australia) (14:55): Thank you, Minister. Further to that, can you please explain the potential that exists for the development of critical minerals in Australia, particularly in my home state of Western Australia?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia and Deputy Leader of the Nationals in the Senate) (14:55): The real opportunity in Western Australia, in particular, is rare earths. We are the second-largest producer of rare earths in the world, and all of that production at this stage is located in Western Australia, in Senator O'Sullivan's home state.

The thing with rare earths is: they are not that rare. Many of them are actually quite abundant in our earth's crust—like caesium, which is the 25th most abundant mineral in our earth's crust. But what is rare, of course, is finding them in concentrations that can be developed commercially—and Western Australia has those opportunities.

There are about 10 to 20 grams of rare earths in every mobile phone. If you have your mobile phone with you today, when it vibrates that's because of neodymium and dysprosium. We produce those minerals. Companies like Lynas have exciting plans to expand their production, including by developing a separation facility in the United States, which we discussed last week when we were there. Northern Minerals, further north in Western Australia, have also got exciting plans to expand their pilot plant—which we fully back as the Australian government.

The PRESIDENT: Senator O'Sullivan, a final supplementary question?

Senator O'SULLIVAN (Western Australia) (14:56): How is the Liberal and National government continuing to support the critical minerals sector and the thousands of jobs this industry will create?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia and Deputy Leader of the Nationals in the Senate) (14:56): Before I left for the United States, I announced with Senator Birmingham further developments in our critical minerals strategy. We have committed to establish a critical minerals facilitation office. That will be up and running by 1 January next year. It will help facilitate and attract investment from around the world. We put forward some extra funding for further research, particularly on identifying the
availability of rare earths or other minerals that we might not have looked at before, including in things like tailings dams. There are a lot of minerals in tailings dams that we haven’t processed before. Products like cobalt, which is a by-product often of nickel production, are in great demand now for electric vehicles. So we are going to look again at what exists and what can be processed.

We also announced that we are opening Export Finance Australia for investment in critical minerals, including through partnerships and joint funding with the Northern Australia Infrastructure Facility. That is to back those opportunities in Western Australia and around the country that Senator O’Sullivan asked about earlier today. Those investments will create jobs as well as help secure the minerals sector for the modern economy. *(Time expired)*

**Minister for Energy and Emissions Reduction**

Senator WATT (Queensland—Deputy Opposition Whip in the Senate) (14:57): My question is to the Minister representing the Minister for Energy and Emissions Reduction, Senator Birmingham. The minister continues to rely on Minister Taylor's statement that false travel costs used in official ministerial correspondence to the Sydney lord mayor were obtained from a document—and I quote—‘drawn directly from the City of Sydney's website’. This is despite the City of Sydney having provided metadata demonstrating that only the correct version of the document was ever made available on its website. When did the minister first become aware that Minister Taylor had used doctored travel costs in official ministerial correspondence?

Senator BIRMINGHAM (South Australia—Minister for Trade, Tourism and Investment and Deputy Leader of the Government in the Senate) (14:58): I do reject the premise of at least aspects of the question in terms of the use of the word ‘doctored’. They were clearly incorrect, as Minister Taylor has acknowledged in his apology to the Lord Mayor of Sydney. They were clearly incorrect, and he has acknowledged that.

In terms of awareness of the incidence, I will have to check but I'm pretty sure that I became aware of it when it became a news story, Senator Watt. That would be when my awareness was enlivened. I would have been briefed before appearing either here or at estimates in relation to the handling of the matter, but those briefings would have occurred subsequent to Mr Taylor's public statements on the matter.

The PRESIDENT: Senator Watt, a supplementary question?

Senator WATT (Queensland—Deputy Opposition Whip in the Senate) (14:59): Is the minister aware of any evidence supporting Minister Taylor's version of events?

Senator BIRMINGHAM (South Australia—Minister for Trade, Tourism and Investment and Deputy Leader of the Government in the Senate) (14:59): Mr Taylor has made a clear statement in relation to the matter. He has made it publicly. He has made it in the House. I have no reason to doubt his statement in these matters. As you are aware from the extensive questioning we have had in this place, these matters will now no doubt be investigated. What I would note is you now seem to be deciding that you will come in here to try to do the job that you have asked the New South Wales police to do. That is what you are trying to do now, Senator Watt. You are seeking—
Senator Wong: Point of order on direct relevance: this is not about Senator Watt's motivation. It is about this minister becoming aware of any evidence supporting Minister Taylor's version of events.

The President: On the point of order, it is not directly relevant to talk about the person asking the question, but the minister immediately prior to that was being directly relevant, because he was talking about an alternative version of events—I think that is the fairest way to describe it—without using any of the pejorative terms, or trying to avoid the pejorative terms, of those asking those questions. He is allowed to outline a different version of events than that assumed by the questioner and still be directly relevant.

Senator Birmingham: As I said, Mr Taylor has made his statement. That is the statement that I have highlighted to this chamber time and time again, and that is the advice and the information I have as the representing minister to provide to this chamber. But I do note that those opposite called for a police investigation, and yet now they are trying to do it themselves. (Time expired)

The President: Senator Watt, a final supplementary question?

Senator Watt (Queensland—Deputy Opposition Whip in the Senate) (15:01): Given the minister has confirmed that he has discussed this matter directly with Minister Taylor, has the minister asked Minister Taylor to provide any evidence to support his version of events?

Senator Birmingham (South Australia—Minister for Trade, Tourism and Investment and Deputy Leader of the Government in the Senate) (15:01): I suggest that Senator Watt might wish to go and have a close look at the Hansard of my earlier answers. I said that I had been briefed in relation to these matters, and I have so that I can provide the information to the Senate, which, as I have pointed out again and again, is based on the statements Mr Taylor has made and based on, obviously, his discussions in his office, in terms of the background of these matters.

The Labor Party have spent pretty much all of this question time engaged in a smear exercise. Can anybody in this place remember a single policy question they have asked during this question time? No! Can anybody in this chamber think of a single question they have asked that relates to issues affecting the lives of everyday Australians? No, not one! Have they asked a single question relating to the creation of another job for an Australian? Not one at all! It is because they have no care in anything but political muckraking. (Time expired)

Senator Cormann: I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Australian Capital Territory: Imprisonment of 'Alan Johns'

Senator Payne (New South Wales—Minister for Foreign Affairs and Minister for Women) (15:03): I have information from the Attorney-General to provide to the Senate in relation to a question I was asked by Senator McKim on Tuesday this week. The Attorney-General advises in relation to Senator McKim's question that there are court orders in place restricting the disclosure of the information in this matter. Those orders were made with the consent of the parties. The Attorney-General's Department is assisting in the management of the information that is subject to the court orders. I note more generally that, in any legal proceedings, the Attorney-General, another Commonwealth representative or any other party
to those proceedings can seek orders to protect sensitive information. It is always at the discretion of the court, including where parties consent, as to whether to make such orders. In considering whether to do so, the court balances competing public interests, including the principle of open justice.

Senator McKIM (Tasmania) (15:03): I seek leave to make a short statement of no more than one minute in response to Minister Payne's information.

The PRESIDENT: Leave is granted for one minute.

Senator McKIM: What we know now is that, in the 21st century, there is a person who has been secretly charged, secretly sentenced and secretly imprisoned in Australia. When asked in the Senate to provide further information, the Attorney-General's representative in the Senate has either refused or been unable to provide any further meaningful information. This is a shocking example of secrecy and abuse of state power and our descent into a police state. It is yet another argument for a charter of rights in Australia. Open justice is critical to the rule of law, which in turn is critical to our democracy. There is no reasonable conclusion to be drawn from this matter other than that we are living in an authoritarian state. I have to ask: what has and is our country coming to?

BILLS

Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019

In Committee

Consideration resumed.

The CHAIR (15:05): The committee is considering the amendments on sheet RC114.

Senator WATT (Queensland—Deputy Opposition Whip in the Senate) (15:05): I'd like to use this time to make a contribution on one aspect of this bill that I don't think has had a huge amount of attention in this debate so far, but I think it is extremely important that it does, and that is the proposal in this bill to increase the powers of the Registered Organisations Commission in relation to the activities of trade unions. The Registered Organisations Commission, which we know was an organisation set up by Minister Cash when she held the Industrial Relations portfolio, before she was demoted after her disgrace over the AWU raid, was established with the express purpose of going after unions. And that is indeed what it has done since it was created by Minister Cash.

I'll come to what the Registered Organisations Commission has done since its inception shortly, but just so that people are clear: in essence, what this bill proposes to do is to increase the powers of the Registered Organisations Commission by granting it the power to bring applications which could result in the disqualification of union officials or the deregistration of unions on the basis that a particular union official, in the view of the Registered Organisations Commission, is not a fit-and-proper person to hold that role. That is obviously an important power to bestow on any public authority—the ability to make a decision to bring an application to disqualify an elected office-bearer of a union, or of any other organisation, from office. And it does bestow a lot of power on the Registered Organisations Commission to make that determination as to who, in its view, is a fit-and-proper person. Of course, these matters would have to go to the relevant tribunal and be tested, but it's the Registered
Organisations Commission that will initially make that decision about whether it considers a particular union official to be a fit-and-proper person and therefore whether that person should be disqualified from holding office.

If such an important and broad power is to be granted to a particular organisation, you really want to have some confidence that that organisation is an impartial entity—a high-calibre entity with high-calibre staff who can be trusted to use that power properly and to not use those powers for political objectives of the government of the day. We, of course, opposed the creation of the Registered Organisations Commission because we could see through what the government was doing. They were seeking to establish yet another enforcement agency to take out trade unions, to back up the ABCC, their other attack dog that they created to go after trade unions, and the Registered Organisations Commission was set up for the same purpose, if broader, because it had the power to cover all unions rather than just unions in the construction industry. So from its very beginning the Registered Organisations Commission had no credibility whatsoever as to its claims to be an independent organisation, and the way it has conducted itself ever since has only confirmed that.

Only this week we have seen the Registered Organisations Commission's independence again called into question. I said in my contribution in the second reading debate that this government really has a knack when it comes to choosing the timing of debating legislation, because in the very week that we're debating a bill that they say is about ensuring integrity in the trade union movement, we've of course seen Minister Taylor caught up in the latest scandal involving ministers of this government, which has led to the Prime Minister making personal phone calls to the police commissioner whose police force is investigating one of his own ministers—no integrity there. And there have been a series of other things that the government have done this week which have demonstrated their complete lack of integrity, while they insist on setting a ridiculous bar for trade unions.

But this is another example of the poor timing that the government have in choosing to debate this legislation this week. In the very week that the government bring in legislation to grant more powers to the Registered Organisations Commission to go after trade unions, by giving them the power to determine who is a fit and proper person and who should be disqualified from holding office as a union official, we see the Registered Organisations Commission's investigation into the Australian Workers Union, the infamous investigation which led to a police raid, going down in what newspapers have referred to as a 'humiliating defeat'. It's a humiliating defeat, on only Tuesday this week, for the Registered Organisations Commission, as the Federal Court quashes its investigation into the Australian Workers Union.

For those who haven't followed it, this is the investigation that the Registered Organisations Commission conducted into trumped up claims that former Labor leader Bill Shorten had engaged in some kind of misconduct when he was in his role as the Australian Workers Union national secretary over 10 years ago, 12 years ago. That investigation was deemed so worthy of being pursued—12-year-old trumped up claims designed to denigrate and go after the then leader of the Labor Party—that it has now resulted in a humiliating defeat, being totally quashed by the Federal Court and found to be invalid. We've now got a fight on in the court about whether the documents that were seized by the Registered
Organisations Commission and the Australian Federal Police should be returned to the union, who owned those documents in the first place.

The question really is: why would this government expect anyone in the public to have any confidence that its latest unions attack dog, the Registered Organisations Commission, could conduct itself in an appropriate, impartial, independent and fair manner, when just this week we've seen the Federal Court strike down its most celebrated investigation into a union, on the basis that they did not have reasonable grounds for pursuing that investigation in the first place. Not only do those opposite want to retain the Registered Organisations Commission, despite the fact it has been completely delegitimised and exposed as another police enforcer for the political ends of this government; with this bill they want to give it more power to go after unions. Again, this is another sign of the fact that this bill is really just designed as the latest piece of armoury for the government to take on the trade union movement and, ultimately, to come after working people.

I think it's also worth mentioning some of the comments of the Federal Court judge who heard this case, because he goes into some detail about the behaviour of one of the senior officers, essentially the second-in-command at the Registered Organisations Commission, Mr Chris Enright. There are a number of comments that were made by the judge in his earlier judgement in this case, in October, which can only demonstrate again to anyone who's approaching this debate with any degree of objectivity—and I'm particularly talking here about the crossbench—why the Registered Organisations Commission is a completely inappropriate body to be given even more powers.

Here are some of the comments from the Federal Court judge in his judgement in October on this matter. At paragraph 339 he refers to the fact that he had concerns about the reliability of evidence given by Mr Enright. He says that the evidence given 'involved inconsistency and was not plausible'. This is the guy who the government has empowered—and wants to now give more powers to—to come after unions. This is a guy who gives evidence in court that is not plausible and is inconsistent. The judge found that Mr Enright's evidence about one aspect of these proceedings involved him reconstructing events in a number of ways. The judge talks about the fact and considers that it was 'unwise' for the person about to embark upon an independent investigation, that being Mr Enright, in which he recognised that Minister Cash—and we'll come to her in a moment—and had a political interest, to have had direct contact with the minister's office. So, he's conducting an independent investigation into the AWU, but feels that it's appropriate to talk to the minister's office. And the judge then goes on to describe, in extremely kind terms, aspects of Mr Enright's conduct which can be characterised as 'overly enthusiastic or exuberant'. I think that's what you'd call a euphemism.

So, we have a government that establishes another attack dog to go after unions. They've got the ABCC. That's not good enough for this government, so they set up the Registered Organisations Commission as the next attack dog to go after unions. They stack it with people who they know are going to carry out their political objectives. That organisation, just this week, goes down in a blaze of glory in the Federal Court, in a 'humiliating defeat', as newspapers have described it, and has its most high profile investigation quashed by the Federal Court because it didn't have reasonable grounds for pursuing it. And, rather than doing what they should do, which is to abolish the Registered Organisations Commission for
its obvious partisanship and incompetence, they now want to give it more power to go after unions. So, again, I say to the crossbench: if you need any further proof that this bill is not about cleaning up workplaces, or all the other things that the government comes up with, but is actually just the next step in this government's ongoing war against trade unions and working people in this country, then just have a look at what's happened this week. I've got the press-clippings here if you want to have a look at them: "Humiliating defeat" for ROC as court quashes AWU case.

Of course, as you will recall, this investigation all stemmed from the infamous conduct of Minister Cash and her office, where Minister Cash initiated this investigation by the Registered Organisations Commission by referring trumped-up claims about the former Labor leader, Mr Shorten, to the Registered Organisations Commission, knowing full well that they would do her bidding, because that's what they were set up to do in the first place. They launched an investigation into these trumped-up charges, and of course her office then went on to leak the fact that the police were going to be raiding union offices to the media, so that the media could be there to film it. As we all remember, Minister Cash, on many, many occasions, denied that her office had leaked this information. And of course the truth all came tumbling out, which is why she had to be demoted to a more junior portfolio and stripped of the IR role that she used to have to prosecute unions herself.

We had the Registered Organisations Commission in at estimates recently, and it just so happened that it was shortly after the October decision of the Federal Court in this matter, where the judge made all those scathing comments about the behaviour and conduct of Mr Enright. I put a lot of that to Mr Enright at Senate estimates, and I've got to tell you: I was gobsmacked by his nonchalance and his inability to understand what damning comments had been made about him and his organisation by a Federal Court judge.

I actually offered Mr Enright the opportunity to apologise to the people of Australia for the way that he and his organisation had carried out this investigation—found by a Federal Court judge to have no reasonable grounds, resulting in a humiliating defeat for the Registered Organisations Commission, and with all sorts of scathing comments made by the judge about Mr Enright's own behaviour. I gave Mr Enright the opportunity to give an apology to the Australian people. And you know what he did? Not only did he not apologise but he actually demanded an apology from me and other Labor senators for pursuing this. I remember Senator Sheldon was in the room, and there were a number of other senators there as well. I don't know if I've ever been more shocked by evidence given at an estimates hearing by a public servant than I was that night. These people are deluded about their objectivity. They are completely set up for the partisan purpose of going after unions—and this government, rather than abolishing them, actually wants to give them more power. I'd just ask the crossbench to reflect on that before this debate is over.

In concluding, I want to ask the minister some questions. Why should the public have any confidence in the Registered Organisations Commission, given just this week they've suffered a humiliating defeat where they were found to not have reasonable grounds for their most high-profile investigation? What assurances has the minister given to the crossbench about the Registered Organisations Commission's conduct in the future? And what changes will the government make to the Registered Organisations Commission to ensure this won't be repeated again? (Time expired)
Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (15:20): Let me start by clarifying for the Senate—because one could be forgiven for not realising this from Senator Watt’s contribution—that investigations by the ROC focus on both employer organisations and unions. It’s wrong to say that it is a body only responsible for unions. In fact, most recently, an employer body against whom the ROC took court action was the Queensland branch of the Australian Hotels Association, and the penalty was paid by that organisation.

Let me go to some of the other questions that Senator Watt has raised. It is very important, I think, to clarify for the record that the ROC is an independent statutory regulator. It brings cases in accordance with its compliance policy—

Senator Pratt: That’s not what the courts found—not very independent!

Senator PAYNE: I will come to that, Senator Pratt; thank you. The policy states that the ROC will have regard to matters such as the nature and the circumstances of the alleged contraventions; the number of contraventions; and the actual or potential consequences of the alleged contraventions, including harm to the organisation and its members. In fact, as the ROC testified during evidence to Senate committee hearings inquiring into this bill in particular, what they actually see in the course of their work is hundreds and hundreds of contraventions. But in the vast majority of cases they address them through other means, such as helping the organisations involved to rectify the issues and educating them on future compliance. Since its establishment on 1 May 2017—so over 2½ years now—the ROC have concluded five civil litigations and a further two remain before the court. Only three of those matters were commenced by the ROC; the others were commenced by the Fair Work Commission and transferred to the ROC.

So they see hundreds and hundreds of contraventions in the course of their business, but very few pieces of litigation. But the misconduct alleged in those cases included some very interesting facts. There was a failure by an organisation over more than a decade to lodge the prescribed information to enable the conduct of elections for officers, which—as I’ve been advised by senators in the chamber today—is a very important part of the work of registered organisations. There were failures to keep accurate lists of officers and a failure to notify changes to the list of officers. There was the artificial inflation of membership numbers over a five-year period by one organisation. There were contraventions of duties by officers, including through agreeing to accept payments for the organisation in exchange for failing to seek better terms and conditions for certain members, and through using organisation funds to pay for personal luxury vehicles. There was a failure by an organisation to lodge financial returns over a number of years. There was withholding the financial position of the organisation from members. There was a failure to keep proper financial records and the artificial inflation of membership numbers over a period of 12 years. These are exactly the sorts of issues that have brought this bill to this chamber, and it is exactly the sort of behaviour—in terms of basic accountability and transparency and in terms of the administration of an organisation, which belongs, rightly, to its members—that the government thinks should be addressed by this bill.

In relation to the observations that Senator Watt has made on the AWU v ROC matter, I think it is important to record that his statements are not an accurate representation of the circumstances. He is misleading the parliament about Senator Cash. The investigation was not
initiated by Senator Cash, and the court did not make that finding. Let me talk about the role of the ROC and why it is appropriate for them to have standing to apply to the court, because Senator Watt has questioned that. It is the regulator of registered organisations. It is entirely appropriate for the Registered Organisations Commissioner to have standing to apply to the court for certain orders that concern the conduct of these organisations and their officials. To go back to the comparison that some in the opposition are trying to make around whether we are advancing the application of corporations law to equate with registered organisations or not—and I am still very confused by what those opposite really think on that matter—this is comparable to the standing that ASIC has in winding up a company or the disqualification of directors.

In this bill, however—let me be absolutely clear—the Registered Organisations Commissioner will have standing to apply for certain orders only when it believes that a relevant ground for disqualification, cancellation or alternative orders applies. It is only the Federal Court who can make a relevant order. That is actually distinct from Corporations Law, where ASIC itself can in some circumstances disqualify directors of a company or wind up a corporation without a requirement for any court action. With regard to the recent AWU v ROC matter—and I was at the most recent estimates, to which Senator Watt refers—I do want to correct some wilful falsehoods that have been advanced by those opposite. In the debate in this chamber this week some statements have been made which in my view are absolutely outrageous, particularly when they are made with the protection of parliamentary privilege. They are not supported by the facts of the matter or the judgement of the Federal Court.

The court found—and this is the finding—that the ROC's investigation was not commenced for an improper political purpose. It further found that there were entirely reasonable grounds for the Registered Organisations Commission to commence its investigation into whether the financial reporting obligations for loans and grants and donations had been contravened. In fact, to quote from the judgement, as Senator Watt did in his own remarks, Justice Bromberg stated at paragraph 127:

There is little doubt therefore, and the AWU did not contend to the contrary, that it was open for Mr Enright to come to the view … that there was a reasonable basis for suspecting contraventions of s 237(1) and that therefore, there were reasonable grounds for conducting an investigation as to whether s 237(1) was contravened by the AWU in the financial years ending 30 June 2006 and 30 June 2008.

Further, in recognising the potential for an appeal of the decision, which I note that the ROC has indicated that it intends to pursue, there is no operative order for the return of documents to the AWU, notwithstanding the fact that those opposite continue to insist that there is. Indeed, that order has been stayed, pending a hearing and determination of any appeal.

Let me add, in relation to this matter, that the court's finding was in fact that only part of the Registered Organisations Commission investigation was invalid, and that was on a technical ground concerning a provision that deems conduct that was against an organisation's rules to be in accordance with the rules if the conduct occurred more than four years ago. It is the effluxion of time that rendered that finding, one delivered by the court. While Justice Bromberg's order of 26 November this week declared the decision to investigate to be invalid, His Honour's substantive decision of 11 October 2019 found there were entirely reasonable grounds for the Registered Organisations Commission to commence its investigation into whether the financial reporting obligations for loans, grants and donations had been
contravened. I am acutely aware that the ROC has publicly stated its intention to appeal this matter, and I do think further extensive comment would be inappropriate at this time. I remind the chamber that, no matter who the minister is—Minister Cash at the time or any other minister—they had no power to direct the ROC in their actions.

Senator WALSH (Victoria) (15:29): The comments and questions that I have for the minister relate particularly to the application of the Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019 to some groups that we seem to be being led to believe are not affected by the bill—in particular, women workers, migrant workers and low-paid workers. I ask these questions because I spent 17 years in the union movement representing many of those groups—representing many of Australia's women workers, migrant workers and low-paid workers. So far today, there's nothing that the minister has said that convinces me that these workers won't be targeted by this bill and by the government. So I seek clarity on some issues in relation to these groups, because I'm extremely concerned about the future that those workers will have under this government. I'm particularly concerned because, for these groups, unions are needed more than ever before. We have a persistent gender pay gap between women and men, we have rampant exploitation of migrant workers on farms, in cafes and in retail franchises, and today we have the lowest growth on record. Of course, that's hitting some of our lowest-paid workers hard. I'll give you, Minister, some examples that I'm concerned about and then some questions for your response.

On the issue of industrial action and unions receiving demerit points, I'm thinking of the early childhood educators that I've represented in my working life. The minister has said specifically that this bill won't affect childcare workers and described claims that the bill may affect childcare workers as 'outlandish'. These, of course, are workers who are dedicated and professional. Ninety-five per cent of early childhood educators are women, and they are some of the lowest-paid workers in the country. But it seems to me, from listening today, that this bill will impact anyone who decides that they can't win the respect and recognition that they deserve within the constraints of the Fair Work Act, and it will impact anyone who then decides to try to win that respect and recognition by taking direct protest action or unprotected industrial action.

Unprotected industrial action, as we've heard from other senators today, can occur in a variety of situations. It occurs when the Fair Work rules don't work for workers to have a say and make their case. Take those early childhood educators who have walked off the job six times over the last couple of years in a fight for equal pay. They did that because the Fair Work rules just don't help them. They really can't bargain workplace by workplace across the tens of thousands of individual workplaces that they're operating in: council centres, non-profit centres, for-profit centres and standalones. Because they don't have access to enterprise bargaining, they therefore don't have access to the protected industrial action system in order to make their wage claims effective, and they really have no mechanism to win a wage rise of the scale that they need other than engaging in direct protest action—and that's what they've resorted to. Walking off the job six times in the last two years, they've taken that direct protest action.

It could perhaps be argued that walking off the job might constitute unprotected industrial action in that sector, it could perhaps be argued that these employers are operating in the federal system and it could perhaps be argued that walking off the job in childcare centres
could have a significant community impact. So, if that action had been deemed unprotected and obstructive, my understanding is that those union members could have had their union referred for disqualification of officials, to be put into administration or to be deregistered. Of course, that would hurt tens of thousands of educators, who are already so undervalued and underpaid. The union is their voice, and my concern is that this bill is trying to take their voice away. My concern is that early childhood educators could be affected by this bill, contrary to the minister's statements last night. I'll come to my question about that in a moment.

I'm also thinking today about the idea that this bill delivers equivalence between the corporate sector and unions on what we are calling paperwork breaches. I'm particularly thinking about that in relation to the wage theft that I've seen firsthand in the hospitality industry. We've already covered today that wage theft is rampant and out of control. We're still waiting for action from this government from the Migrant Workers Taskforce.

The Fair Work Ombudsman investigated hospitality last year and found something like 70 per cent of businesses to be non-compliant with the award. That noncompliance included breaches like not providing pay slips to workers, which was an example that the minister cited this morning. It's my understanding that there's no suggestion that those 70 per cent of businesses in hospitality who were found to be non-compliant with the award be deregistered or wound up. It's my understanding that there's no provision in this ensuring integrity bill to allow unions to apply to deregister companies that underpay workers or steal their wages. But it is my understanding that the very union that fights against wage theft now has to deal with this bill.

If a union racks up three paperwork breaches then it is in the firing line. Those breaches could be as minor as how the union keeps the credit card details of its members up to date or how the union submits paperwork in order to visit sites when investigating the wage theft that we're talking about. It's my understanding that, to make matters worse, it could be the very employers that the hospitality union is investigating who apply to the court for orders disqualifying a union official from office. It seems that there is no equivalence for unions in this. The union can't apply to have the directors of companies that steal wages disqualified, and there's no suggestion that the bill could be used in any way by unions to have companies that underpay their workers wound up.

The third area of concern I have in relation to the bill and the experience of some of Australia's lowest-paid workers relates to the recent merger of two of the largest unions in Australia—United Voice and the National Union of Workers, which merged to form the United Workers Union. I have concerns about what might have happened with that merger had this law been in place at the time. The merger was democratically decided. Thousands of union members voted in support of it. In fact, 45,000 union members chose to take the time to vote—in their own time they voluntarily voted in that union election. Over 90 per cent voted yes. That, of course, is exactly as it should be—union members deciding the future of their own union. They talked about it, debated it, thought about their future and voted.

Under this bill, employers can apply to block union mergers through the proposed public interest test if one of the unions meets a threshold of contraventions. It's an internationally accepted human right that union members get to freely decide what happens with their union, who it joins with and who leads it. We know from that United Workers Union case that union
members are extremely engaged in their unions and have significant ownership of their unions. This bill denies those union members the ability to decide the future of their union. It allows them to be stood aside while employers and the courts decide the future of the union instead.

Again on the issue of corporate equivalence: I don't recall any union being asked whether they approve of the merger of two corporations. The government may claim that this bill is to bring the regulation of trade unions in line with that of corporations, but it seems like that is not true. Unions can't seek to have a company director disqualified when that company has been endangering people at work or stealing their wages, unions can't apply to have a corporation deregistered or wound up and unions can't apply to stop companies from merging. So, having listened to the debate today, it seems to me that this remains an extraordinary effort on the part of the government to hand over power to employers to shut down unions, and that includes unions of women, migrant workers and low-paid workers, who the government have been claiming will not be affected by this legislation.

My questions to the minister relate to those examples I just gave. The first question is in relation to early childhood educators. If those early childhood educators walking off the job six times, outside of any application for protected industrial action, was deemed unprotected action or obstructive industrial action, can you confirm that the union for early childhood educators could face deregistration proceedings under this bill?

The second question is about the example of wage theft in hospitality and the provisions of the bill in relation to that. Could you confirm whether it is the case that an employer being prosecuted by a union could apply to disqualify the official conducting that prosecution? Further to that, is there anything in this bill that would allow unions to apply to have companies that have been found to underpay workers wound up? If not, is the government proposing such legislation?

Finally, in the case of the merger of two unions that represent a lot of our lowest paid workers, migrant workers and women in this country, could the merger of United Voice and the NUW have been reversed, after being approved through a ballot of members, by application of the public interest test—on the application of a disaffected employer—if one of the unions had met the threshold of contraventions? So my question is: could the merger have been stopped after being approved by the democratic ballot of members? Also, Minister, in relation to the merger provisions, I am seeking clarification as to whether contraventions that occurred prior to the law being in place would be counted towards the threshold for any future mergers. I thank you for your answers.

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (15:43): I think I have most of the issues that Senator Walsh has raised there. Let me start by noting for the record that, in relation to migrant workers, it was this government that established the Migrant Workers' Taskforce, chaired by Allan Fels, in 2016 as part of our then election commitment to protect vulnerable workers. In March of this year, we accepted, in principle, all of the 22 recommendations of the taskforce, including the criminalisation of serious wage exploitation and the establishment of a national labour hire scheme. So that is an important step that has been taken by the government. But I will come back to that and other matters.
Senator Walsh asked about action by early childhood educators and what would be deemed obstructive behaviour. The answer that I will give to you is very similar to the answer that I gave to Senator Sheldon and to other senators. The ground in section 28G of the bill only captures industrial action that has 'prevented, hindered or interfered with the activities of a federal system employer or the provision of any public service' by a government authority; or 'had, or is having or is likely to have, a substantial adverse effect on the safety, health or welfare of the community or a part of the community'.

It's not a new ground, Senator Walsh. I would remind the chamber it's not a new ground. It is an existing ground in the legislation. It was included by your government in the Fair Work (Registered Organisations) Act 2009, and I'd point you to sections 28(1)(b) and (c). What I would assure the chamber, as I have in other responses to senators today, is that, although you may wish to assert otherwise, the fact is that, with the safeguards, which are additional safeguards, that are being introduced in this bill and with the amendments that we've moved here today, there will actually be a higher threshold for the court to make an order than is currently the case under the existing registered organisations act. And I think it is a very important note to make, Senator Walsh, and one which you and others have not acknowledged in your questions today.

If I could come to the question of underpayment of vulnerable workers and protecting vulnerable workers, and I have said this in the chamber before this week, this government has zero tolerance for the exploitation of workers by employers. That includes underpayment of wages or any other exploitation. In fact, what we have done—particularly in relation to the support for the Fair Work Ombudsman, as well as increasing penalties against employers who do break the law by up to tenfold—are very important steps.

In the last financial year, 2018-19, the Fair Work Ombudsman, with better resourcing, recovered 64 per cent more money for workers compared with the previous Labor government's last full year in office, 2012-13. We also secured more than double the amount of court-ordered penalties against employers. We see that those higher penalties that I referred to just a moment ago are also having an impact. We've seen the first decision taking into account our new protecting vulnerable workers legislation, handed down by the court in late August, and explicitly, clearly, awarding penalties of over $125,000 against the operators of two sushi outlets in Queensland.

Importantly, the Fair Work Ombudsman's strong stance is also delivering results. The latest data that we have confirms that we have seen double the amount of litigations filed. So they are on task. They are working very hard and getting results in terms of holding employers who would do the wrong thing to account. We have also seen a 60 per cent increase in this calendar year to date, compared with the last, in the amount of money actually recovered for workers by the Fair Work Ombudsman, and that has equated to 20 per cent more employees benefiting from Fair Work Ombudsman recovery action. So, notwithstanding the fact that those opposite say that nothing has been done, the facts—absolutely incontrovertible in this case—indicate otherwise.

We are also, as I have said in relation to the Migrant Workers Taskforce, drafting legislation to introduce criminal penalties for the first time for the worst forms of worker exploitation. I've referred before in the chamber, in question time and in other discussions and in the debate today, to the Attorney-General and Minister for Industrial Relations' discussion.
papers focused on identifying further improvements to the protection of employees' wages and entitlements, including stronger civil penalties, greater deterrence for sham contracting and closely examining the suitability of employers' liability where entities in their supply network also flout employment laws. We're going to release a further discussion paper, seeking feedback on the compliance and the enforcement framework, and that will include canvassing faster, more efficient remedies for workers to be able to recover unpaid wages, and empowering the Fair Work Ombudsman to pursue the banning and disqualification order applications against directors of underpaying companies. I have in previous discussions today directly quoted the Attorney-General on those matters, where he has agreed with the concerns that have been raised about these issues and indicated that they are matters also of concern to him and he wishes to see the law responsive to those matters.

Senator Walsh also said that there were specific workers—the categories of which she outlined—targeted by this bill and targeted by the government. There is nothing in this bill which targets specific workers, and I want to be very clear about that. There was also, I think, a statement—I was going to say an implication, but I think it was probably more express than that—in relation to the powers and rights of unions. I want to again clarify to the chamber that the bill doesn't remove any powers that the unions have under the Fair Work Act or the Registered Organisations Act, nor does it stop them from exercising their rights under the law. It does nothing to diminish the right to form a union or join a union. It doesn't limit the legal rights of unions to organise, to bargain, to take protected industrial action, to represent their members, to investigate safety or underpayment issues, or to exercise rights of entry. We continue to regard the performance of those functions by unions as a vital element of our industrial relations framework—and that will remain the case.

That leads me again to the question of obstructive industrial action, because that was the context in which Senator Walsh cast that point—and I want to go back to that. There have been a number of examples raised today, and Senator Walsh has added to those this afternoon. We've had raised the 1970s green bans; campaigns against asbestos companies; action by armoured car workers and transport workers; and now, in this case, action by early childhood educators. But those opposite have not been able to point to any relevant court orders or any designated findings which would actually engage, enliven, the provisions of this bill. It is not even clear to me that all of those examples constitute the sort of industrial action that the bill envisages. What that means, ultimately, is that the thresholds in the bill relating to disqualification on the obstructive industrial action ground would not actually apply. Even in the case that one of these hypothetical examples, or examples, could amount to unlawful industrial action, the bill then contains additional safeguards to ensure that important civic duty or public health campaigns would not be subject to a disqualification order.

I go back to the basic requirements of what the action would have to look like to be subject to a disqualification order and for it to be a ground for deregistration under the bill. That requires that it must have prevented, hindered or interfered with the activities of an employer or any relevant public service, or had a substantial adverse effect on the safety, health or welfare of the community. That is a significant threshold. Unlawful industrial action without these features will not give rise to a ground for deregistration under the bill. Under the bill and the amendments that we are talking about this afternoon there will be a higher threshold
before the court can make an order than is currently the case under the existing Registered Organisations Act.

And, again, I remind those opposite that the threshold that is in the existing Registered Organisations Act is your threshold—your threshold, which has been in place for 10 years. This bill will provide a higher threshold, and those additional safeguards in that higher threshold include that the Registered Organisations Commissioner must satisfy the court that it would not be unjust to cancel the registration, taking into account the nature of the matters, the action taken in relation to those matters, the best interests of the members and any other matter, including the public health objectives of such actions. The court is prohibited from making the order unless it's satisfied that, having regard to the gravity of the matters constituting the ground, disqualification would not be unjust—and only the Registered Organisations Commissioner will have standing to bring that application.

Senator Walsh also raised matters in relation to paperwork, and I am happy to go back to that because a number of senators have done so. Let me again be very clear: it is simply not true that a union could be deregistered for merely submitting paperwork late. Accidentally lodging paperwork late will not mean a union is deregistered. There is no conduct that will automatically result in deregistration under the bill. It is all at the discretion of the court, which cannot deregister a union if it would be unjust to do so. In fact—and I know that facts are not what those opposite are dealing with—lodging paperwork late will not even in and of itself give rise to a possible ground for cancellation. I challenge those opposite to point to any provision in the deregistration schedule of the bill that provides for a specific ground for deregistration of an organisation for three minor paperwork breaches. I challenge them. They can't do it. They haven't done it all day and they are not able to do it now.

Briefly on mergers, we see in the government amendments a limitation of the circumstances in which a proposed amalgamation of registered organisations will be subject to a public interest test, as Senator Walsh asked about. Only some amalgamations will be subject to this test. Frankly, there will be mergers of organisations with a long history of breaking Australia's industrial relations law and the potential to spread law-breaking cultures to other organisations that should be subject to a public interest test. The amendments provide that a full bench of the Fair Work Commission will only apply the public interest test in circumstances where at least one of the organisations wishing to amalgamate has 20 or more compliance record events that have occurred in the last decade. That is only organisations that have a significant number of compliance record events during this time period. Only they will be subject to the additional oversight of the Fair Work Commission by way of the public interest test provided for in the bill.

As it stands, I'm advised there are only three organisations that clearly exceeded the requisite number of compliance record events in the preceding decade—one we spoke about earlier today, the CFMMEU, and the other two are the TWU and the Musicians Union of Australia. That means that approximately 96 per cent of registered organisations would not be subject to the public interest test as it stands, and even those four organisations that would currently be subject to it will eventually not be if they cease breaking the law, if they cease unlawful actions. Those points, I think, are important to place on the record.

The senator also asked me about the application of the public interest test in relation to corporate matters. We know that section 50 of the Competition and Consumer Act provides
that in certain circumstances a merger can't go ahead if it would substantially lessen competition in any market unless the ACCC authorises it. The ACCC can only authorise a merger if it would not substantially lessen competition or the merger would benefit the public and this benefit would outweigh any detriment to the public. So there are public interest tests on both sides of this coin. I am happy to provide further information to the chamber.

Senator FARUQI (New South Wales) (15:58): The Greens have made it very clear that we oppose this bill. We don't like this bill at all. That's because this bill is a clear attack on workers and on unions and their members. This bill is a political and ideological attack on unions and their members and also the ability for unions and their members to work for the good of working people and for a fair and just society for everyone. This bill is anti-democratic, and that's why the Greens strongly oppose this bill.

We also don't think that it can be amended in a way for us to support it. We agree with Labor on that point. That goes for the government amendments that we are discussing today. However, we have circulated amendments of our own which are very measured and will make the bill just a little bit fairer and more reasonable. It is hard to make this bill really fair and reasonable; it needs to just be put in the bin to do that. These amendments won't fundamentally change the bill in a way that we would like, and that's why I want to be upfront with senators and say that, even with minor tweaks, we'll still be opposing the bill. But we do hope our amendments are considered on merit.

I want to talk a little bit about the timing and the atmosphere in which this bill has been brought into parliament. We've now come to expect headlines of possible corruption by ministers and of interference in our democracy by lobbyists almost every single week. This has really eroded trust in our democracy to a historic low. We are in a time when trust in democracy, in politicians and in government is at an all-time low. The level of democratic satisfaction has plummeted steadily and pretty drastically, from 86 per cent in 2007 to just 41 per cent in 2018. That's less than half of the community that trust our democracy, and here we are putting a bill forward which is supposed to ensure integrity of unions and their members but does nothing to ensure the integrity of the politicians sitting in here. If we go according to the way trust in democracy has been plummeting, by 2025 fewer than 10 per cent of Australians will trust our politicians and political institutions. In effect, that sort of stuff makes a government illegitimate, and it really has a very negative effect on our social and economic wellbeing. So I think this should really be a wake-up call for this government, and parliament should not be able to force workers and unions to abide by these new so-called integrity standards while letting politicians continue to escape scrutiny all the time.

I have a couple of questions for the minister. One of those is on mergers. Minister, at the moment the process by which unions merge in Australia is a democratic vote of members overseen by the Australian Electoral Commission. The entire process is overseen by the Fair Work Commission, and there are already conditions that need to be met. So, from my perspective, this new test that has been put up, the public interest test, is undemocratic and open to corporate interference. I just want to see what justification you have for government to intervene and block unions from merging. From my perspective, the only people who should be able to make that decision are the members and the unions, because otherwise, with government and ministerial interference, it just becomes a political football.
My other question is around the review of this act. We have heard so many concerns about this bill. We've spent three days in this chamber sitting here, literally hearing one concern after another about how damaging this bill will be for unions, for members, for workers and for society at large if we undermine the great work that the unions in Australia have historically done and continue to do to protect workers and their interests, rights and wages. So why, given that there are so many concerns—concerns that organisations like the Parliamentary Joint Committee on Human Rights have raised and concerns that we heard during the committee inquiry on this bill itself—don't we have a period after which this act will be reviewed and considered with an eye to whether the commission, the ROC, is acting properly on this new legislation?

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (16:03): Let me go to the question of mergers. The government has considered, based on experience, that the amendments we propose today will limit the circumstances in which a proposed amalgamation of registered organisations will be subject to a public interest test, so that only some amalgamations will be subject to this test. Mergers of organisations, as I said in part to Senator Walsh, with a long history of breaking Australia's industrial relations law and the potential to spread those cultures to other organisations should, in the view of the government, be subject to a special interest test.

So what the amendments provide for is that a full bench of the Fair Work Commission will apply the public interest test only in circumstances where at least one of the organisations wishing to amalgamate has 20 or more compliance record events that have occurred in the last 10 years. Only organisations that have a significant number of compliance record events during this time period will be subject to the additional oversight of the Fair Work Commission by way of the public interest test provided for in this bill. What the Fair Work Commission is to have regard to, in determining whether the amalgamation is in the public interest, is any compliance record events that have occurred for each of the existing organisations. That serves to significantly narrow the potential amalgamations to which the public interest test will apply to only those with a sufficiently serious record of noncompliance. Even then, it's actually a threshold decision about whether the test applies, not the test itself. The amendments also require that decisions of the Fair Work Commission relating to the public interest test must be in writing, must include reasons and must be published on the commission's website. The amendments also require the Fair Work Commission to consider the gravity of compliance record events if applying the public interest test proper.

I would also add, specifically in relation to the question Senator Faruqi raised in terms of members, that it is our view that mergers of organisations with a long history of breaking industrial relations laws can not only affect the members of those organisations; it also has an impact, an effect, on other workers, employers and the economy more broadly. The changes in the bill will give others, including employees and employers, the opportunity to have a say and make a contribution. In any case the current law as it stands does not even allow all members to vote on a merger in some circumstances.

I'll give you an example. Under the current laws there are mergers which don't go to a ballot of members. Those that do require only 25 per cent of members on the organisation's roll of voters to actually vote in order for the ballot to be valid. Only 50 per cent plus one of
those voting need to vote yes in order for the amalgamation to go ahead. Mathematically that means a merger can go ahead if just 12.5 per cent of the members vote for it. We saw this in the case of the merger of the then CFMEU, the MUA and the Textile, Clothing and Footwear Union. The CFMEU, in this case, successfully applied for an exemption from a vote of its members on the merger. What it meant in that case is that the members of the largest union involved had no say in whether it went ahead. Less than six per cent of the total members of the CFMMEU, as it was formed, voted to approve that merger. That was 6,456 members out of over 110,000 members. That's despite the fact that we know certain senior officers of the CFMEU expressed opposition to the merger.

Senator Walsh in her questions raised the merger of the National Union of Workers in the United Voice merger. Only 29 per cent of the members of those unions actually voted in support of the amalgamation. In that case it was 42,860 members out of 148,434 members. In terms of whether public interest considerations apply, they're applied by the Fair Work Commission in 16 different contexts under the existing Fair Work Act. For example, the commission also has to consider the public interest before approving an enterprise agreement that would not pass the better off overall test. Additionally, until 2009, with the old Australian Industrial Relations Commission—familiar to those of us who have been canvassing these issues for some time—public interest test considerations were required to be taken into account by the commission in determining whether it exercises its powers under the registered organisations provisions. This is not an unusual step. The last iteration of the requirement was subsection 103(2) of the now repealed Workplace Relations Act 1996. That, relevantly at the time, required the AIRC to take account of the public interest when performing its functions under the registered organisations provisions. We also see public interest tests in state industrial legislation, including in Queensland, in New South Wales, in South Australia and in Western Australia.

I want to also make clear that, in terms of the public interest, the nature of the submissions or the nature of the bodies and persons by whom submissions can be made on that, the existing organisations themselves, along with other organisations representing employers or employees in the relevant industries that might be affected by a merger, will be able to make submissions on the public interest. A body is able to make submissions if it represents employers or employees in the relevant industries. Any person with a sufficient interest, as determined by the commission, will also be able to make submissions along with the Registered Organisations Commissioner and relevant ministers. The government believes that this is appropriate given the public interest nature of the test. It's similar to interested parties' ability to make submissions when the ACCC considers whether a merger would be in the public interest. Of course, it's also the case that the Fair Work Commission already has general discretion to hear from any person, and section 590 of the Fair Work Act covers that.

In the context of mergers, the Registered Organisations Act also provides specifically that the Fair Work Commission can inform any person who's likely to be interested in the matter and can receive submissions from them on certain matters, and that applies to section 54. There are also, as I pointed out to Senator Walsh, comparisons in relation to the public interest test for mergers of corporations. I won't go into those in relation to Senator Faruqui's questions, because they did not go to that. But that does give some background and outline of
why we believe we do need a public interest test for mergers of registered organisations but, under the amendments that the government has moved today, in a very limited context.

Senator WATERS (Queensland) (16:11): I rise to speak on the amendments and the Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019. The bill doesn't really ensure integrity, though, does it? So there's a bit of a misnomer in the title. I think we all know that the government doesn't really want to ensure integrity in any sphere, because, if it did, surely it would bring on a bill to set up an integrity commission—one that might cover the activities of politicians, public servants or business leaders that seek to influence decision-makers, much like the bill that this chamber actually passed a few months ago and that's now sitting on the House books and probably won't get a look-in, because this government doesn't really want to ensure integrity, does it? It just wants to kick its political opponents.

This whole bill is about demonising the bodies that represent workers, that stand up for all of our rights, that, in fact, delivered us a 30-hour work week and that gave us weekends. I'm a proud union member. I have been for a very long time. The Australian Services Union are the union to which I belong, and I'm grateful for the work that they've done to stick up for workers in that sector and I'm grateful for the fact that we have weekends and 38-hour work weeks. I know most of us in here often don't get to experience those things, but unions have worked for those outcomes.

What we've seen today and, in fact, what we've seen all week is the government messing with the Senate timetable to ram this bill through when what it actually, in my view, should be concerning itself with is not only restoring integrity and establishing an anticorruption body that actually stops corruption and genuinely restores integrity but also looking at workplace health and safety. I'm from Queensland, and we saw media reports in the last couple of days that found that not one, not two, but seven workers have been killed on mine sites or quarry sites in the last 18 months. We all know that workplace health and safety conditions aren't strong enough and we know they're not strongly enforced. That's exactly why we need strong unions: to protect workers' working conditions.

I am embarrassed that this government, rather than dealing with, say, national industrial manslaughter laws, is instead wanting to attack unions that are simply trying to protect workers and make sure they can go home safe at night. I had a motion to move today that noted those tragic, avoidable deaths and noting that this government, rather than demonising and attacking unions, maybe should turn its mind to national industrial manslaughter laws, but we didn't even get to motions today because this government is ramming through this particular bill. In fact, we haven't got to a lot of other business this week, again, because this government wants to ram through this bill and it just wants to attack it political opponents. I'm embarrassed and I think the people that are working on those sites and ordinary working people will be outraged.

This is a flagrant attack. If you really want to restore integrity then why are you attacking one particular sector—and a sector that represents workers, to boot? If you really want to ensure integrity, stop taking corporate donations from big business: $100 million since 2012. Policies for sale, access for sale and cushy jobs when you leave this parliament—that's the lack of integrity that this chamber should be addressing. That is exactly why we have managed to cobble together enough support not from this government but from the other people in the chamber to pass a bill to set up a national integrity commission, an
anticorruption body, a federal ICAC or whatever you want to call it. We passed that bill a few months ago. As I said before, it hasn't seen the light of day in the House of Representatives, because this government does not want to ensure integrity. It actually just wants to demonise workers and crack down on unions. This is the government that brought us Work Choices. This is a government that has cut penalty rates. This is a government that turns a blind eye to underpayment of wages by its big business donors. This is not a level playing field, folks.

If you, the government, want to ensure integrity, why don't you start actually addressing those flagrant breaches of the law and why don't you crack down on that dodgy behaviour? I know those people give you money. It shouldn't actually determine your policy decisions. That's corruption. That's policy for sale. That's why we need an integrity commission—to regulate the activities of who can buy what in this place. We don't think that any of us should be for sale. We don't think that money should be having an influence on the decisions that get taken in this chamber or any other place. We think that the public interest—the interests of the community and the planet—should be what's driving the decisions that we all take collectively in these chambers.

But, no, money talks in this joint, and so we see massive corporate tax cuts and massive corporate donations. We see stagnant wages and we see wage theft. We see penalty rates cut. And we see an attack on unions in that context, where big employers and big corporates are getting to write their own rules, and this government is dancing to their tune. It's embarrassing, and it is actually making workplaces less safe.

There were seven people in Queensland on mine sites and quarries who did not deserve to not be able to return to their families one evening. This government is doing absolutely nothing about that. It is making workplaces less safe by attacking the very bodies that stand up for the rights of workers to be able to be treated fairly in workplaces, to be not discriminated against and to go home without losing a limb or losing their life. Just when you think this mob can't find a new low, they manage to find one. It is breaking the nation's collective heart.

So we will sit here late tonight. They have been doing their little deals with the crossbench to try to get this through. They have passed an hours motion so that in about 12 minutes time we will just go bam, bam, bam on the votes and we won't be able to debate this anymore. The rest of the nation is actually scratching its head, thinking, 'Why do we pay them to behave like this?'

**Senator Scarr:** No, they're not!

**Senator WATERS:** I will take that interjection from, I think, the newest senator in the room. I have been here for 10 years, mate, and I am afraid it's not getting any better. I just hope—

**Senator Scarr:** They're not scratching their heads.

**Senator WATERS:** You are not scratching your head, perhaps, but the level of confidence in the community in the decisions taken in this place is at an all-time low. Not even you could deny that. It is actually factual. Instead we have a tax on working people and on the rights of ordinary Australians to go about their business, to be fairly paid, to be not ripped off at work and to go home safe. This government thinks that it is a real legend for cracking down on unions. Sorry, but you are really letting the country down.
We will be moving a series of amendments to this bill. My colleague Senator Faruqi will be doing that when the time comes. The time will be very soon, because we are being guillotined on this. One of the amendments we will be moving is to make sure that this bill does not go ahead until we have the level playing field of a national anticorruption body. You want integrity? Then don't be selective. Don't in fact just bully one sector. Why don't you actually bring in integrity across the board? Why don't you actually bring in integrity across the board with a national integrity commission brought in. I will leave that to my colleague to introduce.

When we have the chance to be making decent policies that improve people's lives, protect workers and—hey!—even address climate change, address financial inequality and actually fix the real problems that are out there, we have a government just kicking unions because they think it is politically popular, they think it is a nice favour for their corporate donors and, frankly, they have nothing better to do.

Well, wake up. This is why the Australian public is so disenchanted with politics. It's why the vote for big parties is the lowest it has been in history, and it does not help social cohesion, let alone economic outcomes for communities or environmental outcomes for the planet, to be descending to this sort of debate.

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (16:20): There are a number of issues which Senator Waters raised to which I want to respond. It would be lax of me not to respond to Senator Waters's assertions about a lack of debate on these matters. We know that there have been 34 speakers on the second reading debate. We know that was a debate over 11 hours. I haven't done the quick maths, but it seems to me that we have been discussing for more than five hours today the amendments before the chamber. And the only amendments that have been moved, I might say, are those moved by the government.

But Senator Waters has raised a number of other issues. She has raised concerns around workplace deaths, which are a concern for all of us. Ensuring the health and safety of workers is a priority for the government, and nothing in this bill—nothing—hinders or prevents registered organisations from being able to advocate for the health, safety and welfare of their members and of employees more generally. Recognising that any workplace death is a tragedy, I do want to note that workplace fatalities have been reducing. In fact they've fallen by almost 50 per cent, from a very, very unhappy peak in 2007, and 2019 has seen the lowest rate ever recorded. But one is too many. We know that, and so we work with the ABCC. Since its re-establishment in 2016, we've seen a continued reduction in workplace fatalities in the construction industry, and, as I said, we have seen further falls in other numbers.

The senator has also raised issues around the bill itself and why it is actually necessary. What I don't understand in this debate is why the Australian Greens are prepared to tolerate the unlawfulness and the extraordinary behaviour of some registered organisations in this country and their leadership and why they apparently consider that it doesn't require addressing. It requires addressing because it involves the intimidation of young people, of
apprentices, on worksites around this country. It requires addressing because it involves the vile abuse of women in workplaces in this country, which the Greens apparently think doesn't require addressing.

I don't know how those at that end of the chamber, who preach constantly about these issues, can think that about an organisation that, in the time that this bill has been before the parliament, since July, has been fined by the Federal Court. The CFMMEU and seven of its officers have been penalised almost $400,000 by the courts for more than 30 contraventions of the law since this bill came before the parliament. If you are so supportive of appropriate treatment of women and young people, if you are so supportive of the rule of law in this country, which you advocate for—as one would expect a senator to do—why do you support unlawfulness on a grand scale that sees 30 contraventions of the law since July of this year? Why do you support the ABCC needing to commence legal action against the same organisation for unlawful conduct? This allegedly included workers being spat at, being called dogs and scabs and being photographed and filmed, with images of them uploaded to the CFMMEU Facebook and then used to troll, harass, bully and intimidate people online. Why do you support that? I don't understand that. I've been sitting in this chamber listening to the Greens for a very long time. You have a mortgage on moral outrage, but not on these issues, because you don't care. You don't care about that sort of bullying and intimidation. Well, this government does.

You have also raised issues around wage theft, and I want to be really clear that registered organisations and their officers will not be prevented from continuing to advocate for wage increases as long as they're doing it in compliance with the law. In fact, we encourage them to do so. The bill does nothing, as I have said multiple times in the chamber today, to diminish the right to form a union or to join a union, nor does it limit the rights of unions to organise, to bargain, to take protected industrial action, to represent their members or to exercise rights of entry, including to investigate suspected underpayment issues, and this government has taken steps to address issues impacting vulnerable workers with our legislation in 2019.

We have taken steps to appropriately support the Fair Work Ombudsman in the work that they do, which has seen a step change in the amount of litigation and fines being applied to employers who are doing the wrong things. But, more importantly in fact, in some cases it has seen a step change in the amount of wages being returned to those vulnerable workers, over 60 per cent more in this calendar year than in the previous year. Those amendments to the Fair Work Amendment (Protecting Vulnerable Workers) Act have increased penalties up to tenfold. We have seen—for example in your own state of Queensland, Senator Waters—sushi operators in this case fined $125,000 for their exploitation of workers and those workers appropriately recompensed for that.

The senator has also referred to a federal anticorruption body. This is another stunt by the Greens—clearly unsurprising, but another stunt. It's a delaying tactic. It's not much more than that, because this bill is very, very, very focused. It's addressing a specific issue through appropriate and focused provisions to implement recommendations of the Royal Commission into Trade Union Governance and Corruption, for example, and I do think that the introduction of the issues that Senator Waters made in relation to a federal anticorruption body shows that they are completely bereft on this matter, because apparently they don't care.
about blatant lawlessness in a registered organisation. They don't care about that. They don't support this bill, and they won't be supporting this bill.

The government knows that registered organisations in this country enjoy a very privileged position in the Australian industrial relations system and in the economy more broadly. And, quite frankly, there's no place in this system for those who breach the trust that is placed in them by the privilege that they hold as a registered organisation. Those who act in their own interests at the expense of their members, or those who show nothing but contempt for the law that otherwise applies equally to all Australians, won't be protected by this government. But the Greens appear to want to protect that sort of lawless behaviour. We know that the royal commission itself uncovered numerous examples of flagrant disregard for the law. We know that this is not a new culture of lawlessness. We know it's been exposed over the years. We know that, for some organisations, fines are just a cost of doing business, and we think that is absolutely unacceptable.

Where courts have penalised registered organisations for doing the wrong things, whether it is endangering workers' safety, harassing and intimidating public servants, including female police officers, throwing apprentices off job sites or trying to pocket workers' hard-earned wages in union dues, we know that that behaviour is continuing, and we know that nothing that has been done so far has curtailed that sort of behaviour. Well, it's not something that we're prepared to put up with. That's why we've reintroduced this bill. It's to ensure—and in some cases restore—integrity and to provide that, where an organisation, a division, a branch or an officer is doing the wrong thing, something can be done to stop that misconduct, to assure members that their organisations are acting with integrity and in their interests.

We have had a long discussion today across a whole range of issues, including the myths that have been perpetrated, particularly by those opposite, about this bill—the myths around paperwork, the myths around what constitutes obstructive action, the myths around why individuals should not be a fit-and-proper person and the myths around whether the corporate requirements meet the registered organisation requirements and others. But, most importantly, what this bill does is to address the numerous examples of organisations and their officers who repeatedly flout the law, misappropriate funds, put their own interests before those of their members and generally fail to meet basic standards of accountability and governance.

Senator Pratt: Shame on your for guillotining this legislation!

Senator PAYNE: I might take Senator Pratt's interjection, because we were all here on 23 June 2013—

The TEMPORARY CHAIR (Senator Sterle): The time allotted for consideration of this bill has expired. I will now put the questions required to conclude consideration of the bill. I will deal first with the government amendments on sheet RC114 and the amendments to those amendments circulated by the Australian Greens, which can be found on sheet 8837 revised.

The CHAIR: The question is that the amendments to government amendments (9) and (11), circulated by the Australian Greens on sheet 8837 (revised), be agreed to.

Australian Greens' circulated amendments—

(1) Amendment (9), item 11, paragraph 223(1)(a), omit "a designated finding within the meaning of paragraph 9C(1)(a) (criminal) is made", substitute "2 or more designated findings within the meaning of paragraph 9C(1)(a) (criminal) are made".
(2) Amendment (9), item 11, omit subparagraph 223(1)(b)(i), substitute:
(i) 2 or more designated findings within the meaning of paragraph 9C(1)(b) (civil) have been made against any organisation within the last 7 years in relation to conduct engaged in while the person is an officer of the organisation; and

(3) Amendment (9), item 11, subparagraph 223(1)(b)(ii), omit "least 180 penalty units", substitute "least 210 penalty units".

(4) Amendment (11), item 11, omit paragraph 223(3A)(a), substitute:
(a) 2 or more designated findings within the meaning of paragraph 9C(1)(b) (civil) have been made against any organisation within the last 7 years in relation to conduct engaged in while the person is an officer of the organisation; and

(5) Amendment (11), item 11, paragraph 223(3A)(b), omit "least 900 penalty units", substitute "least 1,100 penalty units".

(6) Amendment (11), item 11, after subsection 223(3A), insert:
(3B) For the purposes of paragraph (3)(c) or (3A)(c), in determining whether a person failed to take reasonable steps to prevent the conduct mentioned in paragraph (3)(a) or (3A)(a), regard must be had to the office held by the person in the organisation when the conduct occurred.

The committee divided. [16:34]
(The Chair—Senator Lines)

Ayes ..................32
Noes ..................36
Majority ..............4

AYES

Ayres, T
Brown, CL
Chisholm, A
Di Natale, R
Farrell, D
Gallacher, AM
Green, N
Lambie, J
McCarthy, M
O'Neill, D
Pratt, LC
Sheldon, A
Smith, M
Sterle, G
Waters, LJ
Whish-Wilson, PS

NOES

Abetz, E
Askew, W
Bragg, A J
Canavan, MJ
Chandler, C
Cormann, M
Duniam, J

Antic, A
Bernardi, C
Brockman, S
Cash, MC
Colbeck, R
Davey, P
Fawcett, DJ

CHAMBER
Question negatived.
Original question agreed to.

The CHAIR (16:38): I will now deal with the other amendments circulated by the Australian Greens.

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (16:38): In relation to those amendments, the government would seek to have the Australian Greens amendment on sheet 8844 voted on separately.

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:39): We indicate that we would like our amendment on sheet 8805 voted on separately as well.

The CHAIR: The question is that item 6 of schedule 3 stand as printed.

The Australian Greens opposed item 6 of schedule 3 in the following terms—
(14) Schedule 3, item 6, page 33 (lines 25 to 27), to be opposed.

The committee divided. [16:41]

The Chair—Senator Lines

<table>
<thead>
<tr>
<th>Ayes</th>
<th>36</th>
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<tr>
<td>Noes</td>
<td>32</td>
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<tr>
<td>Majority</td>
<td>4</td>
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AYES

Abetz, E
Askew, W
Bragg, A J
Canavan, MJ
Chandler, C
Cormann, M
Duniam, J
Fierravanti-Wells, C
Hanson, P
Hughes, H
McDonald, S
McMahon, S
O'Sullivan, MA
Patrick, RL
Rennick, G
Ruston, A

NOES

Griff, S
Hanson, P
Hughes, H
McDonald, S
McMahon, S
O'Sullivan, MA
Patrick, RL
Rennick, G
Ruston, A
Scarr, P
Stoker, AJ

Smith, DA (teller)
Van, D

Roberts, M
Ryan, SM
Payne, MA
Paterson, J
Molan, AJ
McGrath, J
Hume, J
Henderson, SM
Thursday, 28 November 2019

AYES

Scarr, P
Stoker, AJ

NOES

Ayres, T
Brown, CL
Chisholm, A
Di Natale, R
Farrell, D
Gallacher, AM
Green, N
Lambie, J
McCarthy, M
O'Neill, D
Pratt, LC
Sheldon, A
Smith, M
Sterle, G
Waters, LJ
Whish-Wilson, PS

Bilyk, CL
Carr, KJ
Ciccone, R (teller)
Dodson, P
Faruqi, M
Gallagher, KR
Hanson-Young, SC
Lines, S
McKim, NJ
Polley, H
Rice, J
Siewert, R
Steele-John, J
Walsh, J
Watt, M
Wong, P

PAIRS

Birmingham, SJ
McKenzie, B
Reynolds, L
Seselja, Z

Kitching, K
Urquhart, AE
McAllister, J
Keneally, KK

Question agreed to.

The CHAIR (16:44): The question now is that the amendments on sheet 8842 revised, circulated by the Australian Greens, be agreed to.

Australian Greens' circulated amendments—

(1) Schedule 1, item 1, page 3 (after line 9), insert:

1A Section 6 (definition of serious contravention)

Repeal the definition, substitute:

serious contravention, in relation to a contravention of a civil penalty provision by an organisation, a branch of an organisation or a person who is, or was, an officer or employee of an organisation or branch of an organisation, means a contravention that:

(a) is serious or materially prejudices:

(i) the interests of the organisation or branch, or members of the organisation or branch; or

(ii) the ability of the organisation or branch to pay its creditors; and

(b) is committed knowingly by the organisation, branch or person; and

(c) is constituted by conduct that was part of a systematic pattern of conduct relating to one or more persons.

(2) Schedule 1, item 2, page 3 (lines 13 to 27), omit subsection 9C(1), substitute:

Designated findings
(1) A designated finding, in relation to a person, is:
   (a) any conviction against the person for an offence against a designated law where a term of
       imprisonment is imposed on the person for the offence; or
   (b) any order for the person to pay a pecuniary penalty for the serious contravention of a civil penalty
       provision if the pecuniary penalty ordered is 80% or more of the maximum penalty for that
       contravention.

(3) Schedule 1, item 11, page 8 (line 10) to page 9 (line 5), omit subsections 223(5) and (6).

(4) Schedule 1, item 17, page 12 (line 21), omit "after commencement," substitute "after commencement."

(5) Schedule 1, item 17, page 12 (lines 22 to 26), omit paragraph (2) (d).

(6) Schedule 1, item 17, page 12 (lines 27 to 29), substitute:

(3) For the purposes of paragraph 222(2) (b) of the Act as amended by this Schedule, in considering
    whether it would be unjust to disqualify a person from holding office in an organisation, the Court may:
    
    (a) if matters relate to convictions, injunctions, orders, or findings against the person in a criminal or
        civil proceeding—only have regard to matters occurring after commencement; or
    
    (b) otherwise—have regard to matters occurring before or after commencement.

(7) Schedule 2, item 4, page 17 (line 1), after "having a record", insert "within the last 3 years".

(8) Schedule 2, item 4, page 17 (lines 25 to 27), omit paragraph 28D(a), substitute:

   (a) the organisation is convicted within the last 3 years of an offence against a law of the
       Commonwealth or a State or Territory; and

(9) Schedule 2, item 4, page 18 (lines 3 and 4), omit "designated findings have been made", substitute
    "3 designated findings or more have been made, in separate proceedings within the last 3 years.",

(10) Schedule 2, item 11, page 25 (lines 20 to 22), omit subitem (2), substitute:

(2) For the purposes of subparagraph 28J(1) (b) (iv) and 28L(2) (b) (ii), and paragraph 28L(3) (b), of the
    Act, the Court may:

    (a) if matters relate to:

    (i) convictions, injunctions, orders that relate to the organisation; or

    (ii) findings against the organisation in a criminal or civil proceeding; only have regard to such
        matters occurring after commencement; or

    (b) otherwise—have regard to matters occurring before or after commencement.

(11) Schedule 3, item 4, page 27 (lines 17 to 26), omit subsection 323(1), substitute:

(1) The organisation, or a member of the organisation, may apply to the Federal Court for any one or
    more of the declarations set out in subsection (3), if the organisation or the member considers that
    circumstances mentioned in a paragraph of that subsection exist in relation to an organisation.

(12) Schedule 3, item 4, page 28 (lines 14 to 20), omit paragraph 323(3)(d), substitute:

    (d) that affairs of an organisation or a part of an organisation are being conducted in a manner that is
        contrary to the interests of the members of the organisation or part as a whole;

(13) Schedule 3, item 4, page 28 (lines 25 to 33), omit subsection 323(4).

(15) Schedule 3, page 33 (after line 27), at the end of the Schedule, add:

7 Application of amendments

(1) In making a declaration under section 323 of the Fair Work (Registered Organisations) Act 2009
    (the Act) as amended by this Schedule, the Federal Court may only have regard to circumstances that
    existed after commencement.
(2) Sections 323 of the Act, as in force immediately before commencement, continues in effect, after commencement and despite the amendments made by this Schedule, in relation to circumstances that existed before commencement.

(3) For the purposes of the operation of sections 323 of the Act as continued in effect by subitem (2), the amendments made by this Schedule are taken not to have been made.

(4) In this item:

\[\text{commencement}\] means the start of the day this item commences.

(16) Schedule 4, item 7, page 36 (line 24), after paragraph 72C(1)(a), insert:

\[\text{aa)}\] a member of the existing organisations.

(17) Schedule 4, item 7, page 36 (lines 33 to 36), omit paragraphs 72C(1)(e) and (f).

(18) Schedule 4, item 7, page 38 (lines 1 to 28), omit section 72E, substitute:

72E Compliance record events

A compliance record event occurs for an organisation if:

(a) a designated finding within the meaning of paragraph 9C(1)(a) (criminal) is made against the organisation; or

(b) the organisation is found to be in contempt of court in relation to an order or injunction made under a designated law; or

(c) a person is found to be in contempt of court in relation to an order or injunction made under any law of the Commonwealth or a State or Territory, if the person:

(i) was an officer of the organisation at the time of the conduct to which the finding relates; and

(ii) engaged in the conduct in the course of (or purportedly in the course of) performing functions in relation to the organisation.

(19) Schedule 4, item 13, page 40 (lines 13 to 15), omit subitem (3), substitute:

(3) To avoid doubt, a compliance record event (within the meaning of the \[\text{Fair Work (Registered Organisations) Act 2009}\]) is an event that occurred after this item commences.

Question negatived.

The CHAIR: The next question is that the amendment on sheet 8844, circulated by the Australian Greens, be agreed to.

Australian Greens' circulated amendment—

(1) Page 2 (after line 12), after clause 3, insert:

4 Review of this Act

(1) The Minister must cause an independent review to be conducted of the operation of the amendments made by this Act to the \[\text{Fair Work (Registered Organisations) Act 2009}\] (the \[\text{Registered Organisations Act}\]).

(2) The review must be commenced as soon as practicable after the end of 2 years after this Act commences.

(3) Without limiting the matters the review may examine, the review must examine the following:

(a) the effectiveness of the amendments to the Registered Organisations Act made by this Act;

(b) whether there is a need for further amendments to the Registered Organisations Act relating to the administration of dysfunctional organisations and a public interest test for amalgamations of organisations;
(c) whether the Commissioner has acted as a model litigant in proceedings involving the Commissioner;

(d) whether the Commissioner has, in carrying out the Commissioner’s functions, focused on matters that relate to systematic patterns of conduct engaged in by organisations or officers of organisations.

(4) The Minister must ensure that the persons who conduct the review have the ability to seek independent legal advice in relation to the review.

(5) The persons who conduct the review must give the Minister a written report of the review.

(6) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.

(7) An expression used in this section that is also used in the Registered Organisations Act has the same meaning as in that Act.

Question agreed to.

The CHAIR: The question now is that the amendment on sheet 8805, circulated by the Australian Greens, be agreed to.

Australian Greens’ circulated amendment—

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

1. The whole of this Act

   A single day to be fixed by Proclamation.

   A Proclamation must not specify a day that occurs before the day a resolution of the Senate is made that affirms that an Act has commenced which has the effect of establishing a National Integrity Commission.

The committee divided. [16:46]

(The Chair—Senator Lines)

Ayes ..................... 32
Noes ........................ 36
Majority ............... 4

AYES

Ayres, T
Brown, CL
Chisholm, A
Di Natale, R
Farrell, D
Gallacher, AM
Green, N
Lambie, J
 McCarthy, M
 O’Neill, D
 Pratt, LC
 Sheldon, A
 Smith, M
 Sterle, G
 Waters, LJ
Whish-Wilson, PS

Bilyk, CL
Carr, KI
Ciccone, R (teller)
Dodson, P
Faruqi, M
Gallagher, KR
Hanson-Young, SC
Lines, S
McKim, NJ
Polley, H
Rice, J
Siewert, R
Steele-John, J
Walsh, J
Watt, M
Wong, P

CHAMBER
The CHAIR (16:49): I will now deal with the amendments circulated by Pauline Hanson's One Nation. The question is that the amendments on sheet 8975 revised (2), circulated by Pauline Hanson's One Nation, be agreed to.

Pauline Hanson's One Nation's circulated amendments—

(1) Schedule 1, item 2, page 3 (lines 13 to 27), omit subsection 9C(1), substitute:

Designated findings

(1) A designated finding, in relation to a person, is:
(a) any conviction against the person for an offence against a designated law; or
(b) any order for the person to pay a pecuniary penalty for the contravention of:
(i) a civil penalty provision of this Act; or
(ii) a civil remedy provision of the Fair Work Act; or
(iii) a civil remedy provision of the Building and Construction Industry (Improving Productivity) Act 2016; or
(iv) a WHS civil penalty provision of the Work Health and Safety Act 2011; or
(v) a provision of a State or Territory OHS law (within the meaning of the Fair Work Act), other than an offence.

(2) Schedule 1, item 11, page 8 (line 26) to page 9 (line 5), omit paragraphs 223(6) (d) and (e), substitute:
(d) any conviction against the person for an offence against a law of the Commonwealth or a State or Territory:
(i) involving the intentional use of violence towards another person, the intentional causing of death or injury to another person or the intentional damaging or destruction of property; or

(ii) involving fraud, dishonesty, misrepresentation, concealment of material facts or a breach of duty; or

(iii) that is punishable by imprisonment for 2 years or more;

(e) in any civil proceeding against the person, an order is made that relates to conduct by the person that involved fraud, dishonesty, misrepresentation, concealment of material facts or a breach of duty.

(3) Schedule 1, item 11, page 10 (lines 32 to 35), omit subsection 226(4).

(4) Schedule 1, item 17, page 12 (lines 5 and 6), omit "a finding", substitute "a conviction, order or finding".

(5) Schedule 1, item 17, page 12 (line 11), omit "a finding", substitute "a conviction, order or finding".

(6) Schedule 1, item 17, page 12 (lines 24 to 26), omit subparagraph (2) (d) (ii), substitute:

(ii) for an event mentioned in paragraph 223(6) (d) or (e)—a conviction or order made in relation to conduct engaged in after commencement.

(7) Schedule 2, item 4, page 17 (lines 3 to 7), omit subsection 28C(2), substitute:

(2) In working out whether there is a record for the purposes of paragraph (1) (c), the Court must only have regard to the following:

(a) any designated findings made against the organisation or part or officers or members of the organisation or part;

(b) any findings that the organisation or part, or officers or members of the organisation or part, are in contempt of court in relation to an order or injunction made under a designated law.

(8) Schedule 2, item 11, page 25 (line 13), omit "findings", substitute "convictions or orders".

(9) Schedule 3, item 4, page 31 (line 22), omit "of strict liability".

(10) Schedule 3, item 4, page 32 (lines 18 to 20), omit subsection 323H(5), substitute:

(5) A person commits an offence if:

(a) the person is given a notice under subsection (3); and

(b) the person does not comply with the notice.

Penalty: 120 penalty units.

(11) Schedule 4, item 7, page 38 (line 18), omit "finding", substitute "designated finding".

Question agreed to.

The CHAIR: I will now deal with the amendments circulated by the Jacqui Lambie Network. The question is that item 9 of schedule 2, and schedules 3 and 4, as amended, be agreed to.

The Jacqui Lambie Network opposed item 9 of schedule 2, and schedules 3 and 4, in the following terms—

(27) Schedule 2, item 9, page 24 (lines 20 to 27), to be opposed.

(31) Schedule 3, page 26 (line 1) to page 33 (line 27), to be opposed.

(32) Schedule 4, page 34 (line 1) to page 40 (line 15), to be opposed.

The committee divided. [16:53]

(The Chair—Senator Lines)

Ayes .......................36

CHAMBER
The CHAIR (16:56): The question is that the remaining amendments on sheet 8803, circulated by the Jacqui Lambie Network, be agreed to.

Jacqui Lambie Network’s circulated amendments—

Question agreed to.
(1) Page 2 (after line 12), after clause 3 insert:

4 Review of this Act

(1) The Minister must cause an independent review to be conducted of the operation of the amendments made by this Act.

(2) The review must be commenced as soon as practicable after the end of 12 months after this Act commences.

(3) The review must examine:

(a) the effectiveness of the amendments made by this Act; and

(b) whether there is a need for further amendments to the *Fair Work (Registered Organisations) Act 2009* relating to the administration of dysfunctional organisations and a public interest test for amalgamations of organisations.

(4) The persons who conduct the review must give the Minister a written report of the review.

(5) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.

(2) Schedule 1, item 1, page 3 (after line 9), after the item, insert:

1A Section 6 (definition of serious contravention)

Repeal the definition, substitute:

serious contravention, in relation to a contravention of a civil penalty provision by an organisation, a branch of an organisation or a person who is, or was, an officer or employee of an organisation or a branch of an organisation, means a contravention that:

(a) either or both:

(i) materially prejudices the interests of the organisation or branch, or the members of the organisation or branch; or

(ii) materially prejudices the ability of the organisation or branch to pay its creditors; and

(b) is:

(i) engaged in knowingly; and

(ii) a part of a systematic pattern of conduct relating to one or more persons.

(3) Schedule 1, item 2, page 3 (lines 13 to 27), omit subsection 9C(1), substitute:

Designated findings

(1) A designated finding, in relation to a person, is:

(a) any conviction against the person for an offence against a designated law where a term of imprisonment is imposed on the person for the offence; or

(b) any order for the person to pay a pecuniary penalty for the serious contravention of a covered provision; or

(c) any order for the person to pay a pecuniary penalty for the contravention of a covered provision if the pecuniary penalty ordered is 60% or more of the maximum penalty for that contravention.

(1A) A covered provision is any of the following:

(a) a civil penalty provision of this Act;

(b) a civil remedy provision of the *Fair Work Act*;

(c) a civil remedy provision of the *Building and Construction Industry (Improving Productivity) Act 2016*;

(d) a WHS civil penalty provision of the *Work Health and Safety Act 2011*;
(e) a provision of a State or Territory OHS law (within the meaning of the Fair Work Act), other than an offence.

(1AA) However, designated finding does not include an order to pay a pecuniary penalty for a contravention of a civil penalty provision of the Fair Work Act if the conduct that constitutes the contravention consists solely of:

(a) a failure or refusal by the person to attend for work; or

(b) if the person attends work—a failure or refusal to perform any work at all while attending for work.

(4) Schedule 1, item 11, page 6 (lines 15 to 20), omit subsection 222(1), substitute:

(1) The Commissioner may apply to the Federal Court for an order under this section if the Commissioner considers that any of the grounds for disqualification set out in section 223 apply in relation to a person.

(5) Schedule 1, item 11, page 7 (after line 3), after subsection 222(3), insert:

(3A) If, after an application is made for an order under subsection (2), the applicant and the person to whom the application relates to reach an agreement, the Court:

(a) must consider the agreement in making the order; and

(b) may make any other order the Court considers appropriate for the purposes of giving effect to the agreement.

(3B) In determining an appropriate period for a person to be disqualified from holding office in an organisation, if the person holds such an office and the term of that office has not expired at the time of the order, the Court must consider whether it is appropriate to disqualify the person for a period that exceeds the remainder of the person’s term in the office.

(6) Schedule 1, item 11, page 7 (line 8), omit paragraph 223(1) (a), substitute:

(a) 3 or more designated findings have been made against the person within the last 3 years; or

(7) Schedule 1, item 11, page 7 (lines 22 to 28), omit paragraph 223(3) (a), substitute:

(a) 3 or more designated findings have been made against any organisation within the last 3 years in relation to conduct engaged in while the person is an officer of the organisation; and

(8) Schedule 1, item 11, page 7 (line 29), after "the person", insert ", having the authority to do so.",.

(9) Schedule 1, item 11, page 8 (before line 1), before subsection 223(4), insert:

(3B) For the purposes of paragraph (3) (b), in determining whether a person failed to take reasonable steps to prevent the conduct mentioned in paragraph (3) (a), regard must be had to the following:

(a) the office held by the person in the organisation when the conduct occurred;

(b) whether the conduct related to the branch of the organisation the person was a member of.

(10) Schedule 1, item 11, page 8 (line 10) to page 9 (line 5), omit subsections 223(5) and (6), substitute:

Covered conduct and bringing organisation into disrepute

(5) A ground for disqualification applies in relation to a person who holds an office in an organisation if:

(a) the person engaged in covered conduct; and

(b) the person's covered conduct was part of a pattern of conduct by the person; and

(c) the person continuing to hold the office brings the organisation into disrepute.

(6) A person engaged in covered conduct if, in any criminal proceeding against the person:
(a) the person was found during the last 10 years to have committed an offence against a law (a relevant law) of the Commonwealth or a State or Territory that is punishable by a term of imprisonment of 4 years or more; or
(b) both of the following apply:
   (i) the person was found during the last 10 years to have committed 2 or more offences against one or more relevant laws and each offence was punishable by a term of imprisonment of less than 4 years;
   (ii) the sum of the terms of punishment is 4 years or more.
(7) A person engaged in covered conduct if, in any civil proceeding against the person:
(a) the person was found during the last 10 years to have contravened a law (a relevant law) of the Commonwealth or a State or Territory with a maximum pecuniary penalty of 600 penalty units or more; or
(b) both of the following apply:
   (i) the person was found during the last 10 years to have committed 2 or more contraventions of one or more relevant laws and the maximum pecuniary penalties for each contravention is less than 600 penalty units;
   (ii) the sum of the penalties is 600 penalty units or more.
(8) For the purpose of paragraph (5) (b), a pattern of conduct by a person may begin before the person became an officer of the organisation.
(9) To avoid doubt, a person continuing to hold an office in an organisation may bring the organisation into disrepute for reasons that do not relate to the person engaging in covered conduct.
(11) Schedule 1, item 14, page 11 (lines 11 and 12), omit "Minister, or a person with a sufficient interest".
(12) Schedule 1, item 17, page 12 (lines 22 to 26), omit paragraph (2) (d), add:
   (d) for the ground mentioned in subsection 223(5)—conduct engaged in, for paragraphs 223(5) (a) and (b), after commencement.
(13) Schedule 1, item 17, page 12 (lines 27 to 29), omit subitem (3), substitute:
(3) For the purposes of paragraph 222(2) (b) of the Act as amended by this Schedule, in considering whether it would be unjust to disqualify a person from holding office in an organisation, the Court may:
   (a) if matters relate to convictions, injunctions, orders, or findings against the person in a criminal or civil proceeding—only have regard to matters occurring after commencement; or
   (b) otherwise—have regard to matters occurring before or after commencement.
(14) Schedule 2, item 4, page 15 (lines 7 to 13), omit the paragraph beginning "An applicant can apply" in section 27A, substitute:
The Commissioner can apply to the Court for cancellation. If the Commissioner applies for cancellation and the Court finds that the ground for the application is established, the Court may consider making alternative orders instead of cancellation only if the organisation satisfies the Court that cancellation would be unjust.
(15) Schedule 2, item 4, page 15 (line 23) to page 16 (line 14), omit sections 28 to 28B, substitute:

28 Application for cancellation of registration

The Commissioner may apply to the Federal Court for an order cancelling the registration of an organisation, if the Commissioner considers that any one or more of the grounds in Division 3 exist in relation to the organisation.
(16) Schedule 2, item 4, page 16 (line 18), omit "or 28A".
(17) Schedule 2, item 4, page 17 (after line 7), after subsection 28C(2), insert:

(2A) In working out whether there is a record for the purposes of paragraph (1) (c), the Court must not have regard to conduct that would constitute not complying with designated laws by officers or members of the organisation or part of the organisation if the conduct consisted solely of:

(a) a failure or refusal by the officers or members to attend for work; or

(b) if the officers or members attended work—a failure or refusal to perform any work at all while attending for work.

(18) Schedule 2, item 4, page 17 (line 22) to page 18 (line 7), omit sections 28D and 28E, substitute:

28D Ground—serious offence committed by organisation

For the purposes of an application under section 28, a ground exists in relation to an organisation if:

(a) both:

(i) the organisation is found, in criminal proceedings against the organisation in the last 3 years, to have committed an offence against a law of the Commonwealth or a State or Territory;

(ii) the offence is punishable on conviction by a penalty for a body corporate of (or equivalent to) at least 1,500 penalty units; or

(b) 3 or more designated findings have been made in the last 3 years against a substantial number of the members of the organisation or of a section or class of members of the organisation.

(19) Schedule 2, item 4, page 18 (line 9), omit "or 28A".

(20) Schedule 2, item 4, page 18 (line 23), omit "or 28A".

(21) Schedule 2, item 4, page 19 (after line 10), after subsection 28G(2), insert:

(2A) However, subsection (2) does not cover industrial action if the action organised or engaged in by the organisation, or the members mentioned in paragraph (1) (b), consisted solely of a failure or refusal by employees to attend for work or a failure or refusal to perform any work at all by employees who attend for work.

(22) Schedule 2, item 4, page 20 (lines 7 and 8), omit paragraph 28J(1) (a), substitute:

(a) the Court finds:

(i) that a ground set out in the application is established; and

(ii) the conduct establishing the ground is part of serious and systemic pattern of conduct; and

(23) Schedule 2, item 4, page 20 (lines 20 and 21), omit "The Court may do this whether or not an application for any of those orders has been made under section 28A."

(24) Schedule 2, item 4, page 21 (lines 5 to 12), omit subsection 28L(1), substitute:

(1) The Federal Court may make orders under this Division if:

(a) the Court finds that a ground set out in an application under section 28 in relation to an organisation is established; and

(b) the organisation satisfies the Court that it would be unjust to cancel the registration of the organisation.

(25) Schedule 2, item 4, page 23 (line 30), omit "or 28A (or both)".

(26) Schedule 2, item 4, page 24 (line 3), omit "or 28A".

(28) Schedule 2, item 10, page 25 (line 3), omit "or 28A".

(29) Schedule 2, item 11, page 25 (line 6), omit "or 28A".

(30) Schedule 2, item 11, page 25 (lines 13 and 14), omit paragraph (1) (c).

The committee divided. [16:56]
(The Chair—Senator Lines)

Ayes .................33
Noes .................35
Majority .............2

AYES
Ayres, T
Brown, CL
Chisholm, A
Di Natale, R
Farrell, D
Gallacher, AM
Green, N
Hanson-Young, SC
Lines, S
McKim, NJ
Polley, H
Rice, J
Siewert, R
Steele-John, J
Walsh, J
Watt, M
Wong, P

Bilyk, CL
Carr, KJ
Ciccone, R (teller)
Dodson, P
Faruqi, M
Gallagher, KR
Hanson, P
Lambie, J
McCarthy, M
ONeill, D
Pratt, LC
Sheldon, A
Smith, M
Sterle, G
Waters, LJ
Whish-Wilson, PS

NOES
Abetz, E
Askew, W
Bragg, A J
Canavan, MJ
Chandler, C
Cormann, M
Duniam, J
Fierravanti-Wells, C
Henderson, SM
Hume, J
McGrath, J
Molan, AJ
Paterson, J
Payne, MA
Roberts, M
Ryan, SM
Smith, DA (teller)
Van, D

Antic, A
Bernardi, C
Brockman, S
Cash, MC
Colbeck, R
Davey, P
Fawcett, DJ
Griff, S
Hughes, H
McDonald, S
McMahon, S
O'Sullivan, MA
Patrick, RL
Rennick, G
Ruston, A
Scarr, P
Stoker, AJ

PAIRS
Keneally, KK
Kitching, K
McAllister, J
Urquhart, AE

Seselja, Z
Birmingham, SJ
Reynolds, L
McKenzie, B

Question negatived.
The **CHAIR** (17:01): The question now is that the bill, as amended, be agreed to.
The committee divided. [17:01]
(The Chair—Senator Lines)

<table>
<thead>
<tr>
<th>Ayes .................34</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noes .................34</td>
</tr>
<tr>
<td>Majority .............0</td>
</tr>
</tbody>
</table>

**AYES**
- Abetz, E
- Askew, W
- Bragg, A J
- Canavan, MJ
- Chandler, C
- Cormann, M
- Duniam, J
- Fierravanti-Wells, C
- Henderson, SM
- Hume, J
- McGrath, J
- Molan, AJ
- Paterson, J
- Payne, MA
- Ruston, A
- Scarr, P
- Stoker, AJ
- Antic, A
- Bernardi, C
- Brockman, S
- Cash, MC
- Colbeck, R
- Davey, P
- Fawcett, DJ
- Griff, S
- Hughes, H
- McDonald, S
- McMahon, S
- O'Sullivan, MA
- Patrick, RL
- Rennick, G
- Ryan, SM
- Smith, DA (teller)
- Van, D

**NOES**
- Ayres, T
- Brown, CL
- Ciccone, R (teller)
- Dodson, P
- Faruqi, M
- Gallagher, KR
- Hanson, P
- Lambie, J
- McAllister, J
- McKim, NJ
- Polley, H
- Rice, J
- Sheldon, A
- Smith, M
- Sterle, G
- Waters, LJ
- Whish-Wilson, PS
- Bilyk, CL
- Chisholm, A
- Di Natale, R
- Farrell, D
- Gallagher, AM
- Green, N
- Hanson-Young, SC
- Lines, S
- McCarthy-Young, SC
- O'Neill, D
- Pratt, LC
- Roberts, M
- Siewert, R
- Steele-John, J
- Walsh, J
- Watt, M
- Wong, P

Question negatived.

The **PRESIDENT**: The bill lacked majority support in the committee, so there are no further steps to take.

Report adopted.
COMMITTEES
Privileges Committee
Report

Senator O’NEILL (New South Wales) (17:06): I present the report of the Standing Committee of Privileges entitled Foreign influence transparency—a scheme for parliament, together with the Hansard record of proceedings and documents presented to the committee. I move:

That the Senate take note of the report.

The Committee of Privileges reports on its inquiry into the development of a parliamentary foreign interference transparency scheme.

As background to the committee's current inquiry, it drew on the work the committee had undertaken in the previous parliament, including discussions with its House counterpart and a briefing from the officers of the Attorney-General's Department. The committee's work was undertaken as part of an inquiry that the Senate had referred in tandem with a reference in similar terms to the committee's House of Representatives counterpart. Neither committee reported prior to the May election.

In this parliament, the matter was referred on the motion of Senator Patrick and was not mirrored with a similar reference from the House to the Committee of Privileges and Members' Interests. As a consequence the Senate committee has not undertaken any further joint work on the matter with the House committee.

The committee sought a submission from Senator Patrick, as he proposed the reference in this parliament.

The executive scheme commenced in December 2018 and is set out in the Foreign Influence Transparency Scheme Act 2018. It operates with a budget of approximately $8 million for this and the next three years. It requires people who undertake certain activities on behalf of a foreign principal to register both the nature of the activity and the foreign principal for which the activity is undertaken. The scheme also provides the Secretary of the Attorney-General's Department with information gathering powers to support compliance. It's early days for the scheme and it has limited registrations, with much of the work of the departmental officers in outreach. As of 11 November, the most up-to-date figures I was able to discern for reporting to the Senate, there were 50 people and organisations registered and 194 activities.

In accordance with practice, the bill establishing the executive scheme was referred to the Parliamentary Joint Committee on Intelligence and Security. That committee made a number of recommendations, including the removal of parliamentarians from the executive scheme, noting the 'uncertainty in the interpretation of "parliamentary proceedings"'—and to avoid members of parliament being potentially required to register under two separate schemes'. The committee further recommended that the parliament develop its own transparency scheme which would require all members of the parliament to 'report on any registrable activities, or arrangements entered into, on behalf of a foreign principal'.

CHAMBER
The recommendation to develop its own transparency scheme was picked up by the committee's inquiry in the 45th Parliament. The new terms of reference asked the committee to consider the legislative scheme in the PJCIS report when exploring the matter.

In its consideration of the legislated scheme the committee noted the number of registrants and registered activities. It considered the response made by the Director-General of ASIO, Mr Mike Burgess, at estimates on 21 October 2019. When queried about the numbers he indicated that his view was that the numbers were meaningless as the scheme 'is one of many components'. The committee also noted the media coverage of how the information gathering powers were exercised.

The committee appreciates that members of parliament are not immune to foreign interference, particularly given media reports over recent days. The executive scheme has been developed to ensure there is transparency in the activities taken on behalf of foreign principals. However, the committee considers that there is a threshold question of whether a member of parliament, acting on behalf of a foreign principal, can also meet the constitutional requirements for eligibility to sit as a senator or a member of the House of Representatives under the Constitution.

While section 44(i) of the Constitution was, during the 45th Parliament, the subject of intense focus because of dual citizenship issues, the subsection also serves to disqualify a person who is 'under any acknowledgement of allegiance, obedience, or adherence to a foreign power'. Thus, if a senator is undertaking a registrable activity on behalf of a foreign power, there is certainly a question as to whether that activity would put the senator in breach of section 44(i) of the Constitution.

The parliament has established a register relating to section 44 of the Constitution, as well as a register of interests. These registers support the parliament's transparency and act as reminders to all members of parliament of their obligations. The committee is of the view that these registers are a ready vehicle to implement any foreign transparency scheme. However, there are substantial difficulties in developing a scheme that sits by an executive scheme which not only is experiencing teething problems but excludes not only members and senators but also their staff and state and territory members of parliament. Therefore, the Committee of Privileges will continue to monitor the executive scheme with a view to developing an appropriate one for senators and for members of the House of Representatives. I commend the report to the Senate.

Question agreed to.

Rural and Regional Affairs and Transport Legislation Committee Report

Senator DEAN SMITH (Western Australia—Government Whip in the Senate) (17:14): On behalf of the Rural and Regional Affairs and Transport Legislation Committee, I present the report of the committee on the provisions of the Agricultural and Veterinary Chemicals Legislation Amendment (Australian Pesticides and Veterinary Medicines Authority Board and Other Improvements) Bill 2019 and documents presented to the committee.
Northern Australia

Senator WATT (Queensland—Deputy Opposition Whip in the Senate) (17:14): I move:

That the Senate—

(a) notes that:

(i) the Federal Government's Northern Australia White Paper was released more than four years ago,

(ii) there have been three Prime Ministers and two Ministers for Northern Australia in that time period,

(iii) the Northern Australia Infrastructure Facility (NAIF), announced in the 2015-16 Budget, as part of the White Paper, was described by the then Treasurer, Mr Hockey, as the 'first major step in our plan for our great North',

(iv) over four years, the NAIF has only released $44 million – less than 1% of its $5 billion budget,

(v) the NAIF has been the subject of four reviews, including another one just announced by the Minister for Resources and Northern Australia (the Minister),

(vi) the NAIF has recently announced the collapse of one loan awarded to a project in the Pilbara,

(vii) the NAIF has also been forced to delay its largest loan to date, a $610 million loan to the Genex Kidston hydro pumped power station in North Queensland,

(viii) the Minister will not reveal how jobs have been created in Northern Australia as a result of projects that have received loans from the NAIF, and

(ix) more than $400,000 in bonuses have been paid to senior executives at the NAIF, in the last year alone; and

(b) calls on the Minister for Resources and Northern Australia to fix the failures of his Northern Australia agenda, and start delivering real jobs in the North.

This matter was listed for debate yesterday, essentially to provide an opportunity for senators to make a contribution on their thoughts on the government's performance in relation to northern Australia. The reason we did so was that this week the minister has tabled his statement on the northern Australia progress report, and I note that he didn't think it was worthy of actually speaking to. He simply tabled it instead. But we did have a fairly lengthy debate and discussion about that yesterday, so I won't prolong things unduly today.

All I really want to do is note that even after yesterday's tabling of the northern Australia statement—when I had quite a lot to say about how ineffective the NAIF is and the level of frustration with the northern Australia agenda in general—there was an opinion piece that was run in the NT News today, which I want to put on the record. It was written by Mr Dave Malone, who's the head of Master Builders Northern Territory. I don't think anyone would argue that Master Builders are a Labor stooge organisation or the kind of organisation that, in the government's opinion, might be worthy of deregistration; they are an employer organisation. But I noted that Mr Malone, speaking on behalf of Master Builders, was also very critical of the northern Australia agenda. In his opinion piece today, he referred to the fact that he and other business groups gave evidence at our recent Darwin hearing of the northern Australia inquiry. Basically, what Mr Malone had to say on the Morrison government's attitude to northern Australia was:

____________________

CHAMBER
The North is more out of sight and out of mind every day. He goes on to note that there's been inadequate investment in Kakadu and that, despite all the government's talk about making northern Australia and Darwin in particular a defence hub: … the number of military personnel in our neck of the woods is the lowest in a decade.

So the government is actually withdrawing military personnel from Darwin, despite saying that it's a priority. He talks about the Closing the Gap measures and the fact they're a priority for COAG to close the gap on a whole range of measures between First Nations people in our country and the general population, but he then goes on to note in his op-ed:

… no-one can recall when the number of federal public servants was lower in the NT. In fact, key Australian agencies have almost no-one here.

So I suppose the point I want to make is that it's not just the opposition who are raising serious concerns about the progress with the Northern Australia agenda. We've actually got business groups out there, who—let's face it—tend to support the government, but even they are disappointed with this. I referred yesterday to submissions to our inquiry from Central Queensland University, the Darwin Major Business Group and many others that also expressed disappointment.

It's no real surprise when you think about the fact the Prime Minister has not even deigned to visit the Northern Territory once since the election this year. I'll be interested to see what Senator McMahon has to say, because recently she was quoted in the NT News as basically saying that she didn't think there was any need for the Prime Minister to visit the Northern Territory. She's actually a senator for the Northern Territory, and she says that no-one has given her a reason why it's necessary for the Prime Minister to go up there. If you haven't got decent representatives arguing the toss for your state or territory, how on earth can you expect your state or territory to get a fair share? It's that kind of poor representation that means that the Northern Territory and northern Australia in general are missing out. It's about time the government took this northern Australia agenda seriously. It's about time Minister Canavan took it seriously. Fix the NAIF, get this agenda moving and start delivering on the potential of northern Australia. The opposition wants to see it work, business groups want to see it work, First Nations people want to see it work and the general community wants to see it work. It's time to get it working.

Senator McMahon (Northern Territory) (17:20): The Northern Territory is a wonderful gem that Territorians know is one of the best kept secrets in Australia. We have vast quantities of natural resources, stunning scenery, world-class fishing, a very unique lifestyle and much more. While we have successfully developed many aspects of the Territory, such as the cattle industry, tourism, agriculture and mining, industries are limited by our small population. That limits our capacity to fully realise our potential. Further inhibiting our capacity for growth was the arrival of a man-made disaster of epic proportions. In August 2016, an unseasonal dark cloud loomed upon the horizon in the Northern Territory. That menacing, sinister cloud grew and grew until even those who had invoked the cloud could no longer deny the rotting, all-pervading odour of another failing Labor government.

Responsible fiscal management is a concept that Chief Minister Michael Gunner and his Treasurer, Nicole Manison, have consistently failed to demonstrate. Indeed, by their actions, the Gunner government have a proven desire to not adhere to basic principles such as living within your means. This is a familiar story of Labor governments in Australia. Not even the
unprecedented magnitude of wanton waste has come as a surprise on this occasion. What is different about this most disastrous of Labor governments is the catastrophic effect on the economy of the Northern Territory. There are plummeting levels of investor confidence, business confidence and consumer confidence. The tremendously high number of small and medium businesses that have been forced to close in the past two years is another record the Gunner government can hang it shabby hat on. How proud they must be of their workers' party in the face of rising unemployment, a contracting population and out-of-control debt that they have created. Oh, how they must lament the fact that hypocrisy is not a currency they can spend.

I am, in equal measure, both relieved and pleased to report there is a small sliver of blue sky appearing on the economic horizon in the Northern Territory. That glimmer of hope is the Northern Australia Infrastructure Facility. While the inept duo of Chief Minister Michael Gunner and Treasurer Manison grope for solutions they are incapable of grasping, NAIF lowers the hand of optimism to the NT well of economic despair. Let me assure you, the presence of NAIF in the Northern Territory has the undivided attention of all major businesses.

What does NAIF mean to us in the north? To date, there have been $345 million in approved loans in the Northern Territory. To date, NAIF has delivered to the NT economy $27.5 million for the Voyages Indigenous Tourism Australia group. This project provided an airport runway, upgrades to the taxiway and apron and the installation of runway lighting to help generate $370 million of benefits to the wider community over 20 years. Eighty construction workers were employed in this project and there are 320 ongoing jobs directly related to this NAIF project. Let me put that in some perspective for you. Three hundred and twenty jobs is approximately equivalent to 0.15 per cent of our population. If this project were in Queensland, it would equal 650,000 jobs. That's the significance of this project to the Northern Territory.

Humpty Doo Barramundi is another NAIF success story. The $7.18 million project saw the construction of a solar farm and fish nursery and the purchase of processing equipment that has allowed this business to grow, with thirteen construction jobs and seven ongoing jobs. This successful NAIF project is precisely the kind of project that reignites confidence in the business community. Again let me put that into perspective: that would equate to 14,000 jobs in Queensland.

There is more to come, with the recent announcement of NAIF funding for a Country Liberal Party project at the Darwin airport. An expansion project for NT Airports will see $150 million invested into augmentation of existing onsite power generation and construction of a coolroom facility that will permit better care and handling of our high-quality agricultural produce. Estimated to support 1,000 construction jobs, 500 indirect jobs and 140 ongoing jobs, this project will be a game-changer. Once again, all eyes from the business community in the NT are watching.

Another Country Liberal Party project is the proposed ship-lift facility in Darwin. The calamitous duo of Chief Minister Gunner and Treasurer Manison are hanging all their hopes for political survival on NAIF to deliver this project through a $300 million loan. At a time when the business community holds record-low confidence in the Northern Territory economy, the boost that such a project could provide is considerable. Chief Minister Michael
Gunner knows this and is busy extolling the benefits of the project. That's right, even the worst government in Australia—as noted by Prime Minister Morrison—loves NAIF. Indeed, this is what the Northern Territory government says about NAIF:

The Territory has experienced a constructive relationship with NAIF to date, and has found it to be generally flexible and responsive in the handling of Territory related applications.

That is endorsement from the Northern Territory Labor government, not condemnation. The worst government in Australia gave NAIF a glowing report. Even an inept Labor government acknowledges the benefits of NAIF.

There are many more projects for the NT submitted to NAIF, and there are more applications to come in as business and governments understand the benefits and potential. There's $345 million already approved for the NT alone—not the $44 million our colleagues across the room would have you believe—with much more to come. We in the north know NAIF is working and delivering, and it will continue to provide vital funding for essential projects.

For the record, Senator Watt, I did not discourage or say there was no point in the Prime Minister visiting the Northern Territory. I questioned what specifically the detractors in the NT News would like him to come and see, and they could not tell me. We do not need the Prime Minister to physically set foot in the Northern Territory every five minutes for him to know what is going on and what is needed. With the funding through Infrastructure—$184 million announced this week—and NAIF projects, he knows what's needed and he's delivering it. He does not need to physically pop in every five minutes for a cup of tea.

Senator DODSON (Western Australia) (17:29): I'll be brief. I sit on two committees in relation to northern Australia. You'd be hard-pressed to find anyone who clearly understands this government's agenda for northern Australia. Others have noted, rightly, that Australians are struggling with an economy that's growing at its slowest pace in decades, and this government is not doing anything about it to help.

I want to talk briefly about the NAIF and the northern development from a First Nations perspective. First Nations peoples are a substantial percentage of the population of the north. They have huge territorial ownership and interest in the north, both in land and in sea, but they're amongst the poorest in the country. Their social needs are extreme. They want to be part of the development of the north, but they feel excluded. Development is not just big infrastructure. There has to be social development and capacity-building to get First Nations peoples to contribute to the economy. You don't build capacity by making First Nations peoples sign up to the cashless debit card. How does that contribute to capacity-building?

It has been four years, three prime ministers, two ministers, four reviews and one per cent of the funds released. There's no clear framework for those that, as I have said, have a majority interest in the land and the sea, the First Nations peoples, and this is despite a reference group, made up of First Nations peoples, that advises the minister and the Northern Australia Ministerial Forum. That Indigenous group has made 16 recommendations. There's no indication that any of those recommendations are being responded to in a constructive way, so First Nations have no confidence that they will be part of being beneficiaries of the potential of the north, whenever it is developed.
Senator McGrath (Queensland—Deputy Government Whip in the Senate) (17:32): I'd like to start off by commending the government and commending Senator Canavan for the work that he has been doing in progressing, pushing and advocating for the agenda for northern Australia. I acknowledge the comments that have just been made by my colleague Senator McMahon in terms of the work that has been happening in the Northern Territory, and I commend and second her comments.

I'll focus a bit more on Queensland. I acknowledge that this week we had FNQROC down, which is an organisation of Far North Queensland mayors. It was very important, because not only are the elected councillors and elected mayors from Far North Queensland, North Queensland and Central Queensland regular visitors down here to Canberra; so too are the senators from the LNP regular visitors to all regions of Queensland. We've got Senator Scarr in the chamber here, who's a strong advocate for regional Queensland, a new senator and someone who has embarked on that magical mystery tour that is being an LNP senator in terms of spending more nights away from home because you're out there listening to the people of Queensland. When you think about Queensland, all of Queensland is probably northern Australia compared to some of the southern states. But in particular, Senator Scarr—

Senator Scarr: Except West End!

Senator McGrath: Yes, except West End. The work that Senator Scarr has done has already been acknowledged, and I thank him for that. We've got Senator McDonald, also a new senator, who comes from the north-west of this state and now lives in Townsville. We've got Senator Canavan, who not only is the minister for northern Australia but is someone who lives in Yeppoon. We've got people who are on the ground, listening and working with all Queenslanders to progress the agenda for the development of the north. That's what this debate is about, when you look into it, and that's what this government's agenda is about: it is about the development of the north.

It is disappointing that, when the southerners talk about Queensland, about North Queensland and about Far North Queensland, it's almost like we're some form of oddity that could be held in a Victorian-era museum: 'We've discovered these Queenslanders, and they live in this pristine environment. We're going to lock them away, and they can't have anything that we've had.' It is almost this post-colonial attitude towards development of northern Australia.

I will talk about what the government has done—and I should acknowledge former senator Ian Macdonald for the work that he did over many decades in pushing the agenda for the development of the north. When the Abbott government was elected in 2013, we started to put into place a white paper on northern Australia, and there were nine priorities, which I'll touch upon shortly.

There is this unfortunate negative campaign that the Labor Party—surprise, surprise, ladies and gentlemen—are pushing about the government's agenda for the north. What we've got to remember about the Labor Party is that, when they were in power, they did very little for the north. In fact, they did nothing for the north. It is only the Liberal-National government, elected in 2013, that has started to push a serious agenda for the north. Part of that agenda is the Northern Australia Infrastructure Facility. Senator Canavan has made comments about how that facility has been proceeding. Yesterday, in responding to questions from opposition senators, he particularly commented on how they've been able to essentially change its terms.
to make it easier for money to flow out the door. Almost $2 billion of the $5 billion has been effectively invested in projects, locked into the financing of projects.

The Labor Party will go around and attack the government for not throwing more money around. That is an unfair accusation, but it also goes to the heart of what the Labor Party are about, because they think money solves all the problems in the world. This money is not the government's money; this money is the taxpayers' money—the money of all Australians, not just Queenslanders—that has been invested to help develop the north. We, as the government, as the guardians for the appropriate spending of taxpayers' money, wish to make sure that this money is being put into projects that will help develop the north but also achieve value for the Australian taxpayer. And that is something that we are actually very proud of. We're not going to throw money around like confetti at a wedding. We're going to make sure that the money from Australian taxpayers is invested appropriately. The Labor Party might sniff at that $2 billion, but that is $2 billion of Australian taxpayers' money that is going into projects. That is a lot of money. What is important is that it's not just about money going into projects; it's about understanding the north. It's about understanding northern Australia and Far North Queensland.

I was there only last week, Mr Acting Deputy President Brockman—and I also acknowledge your strong interest in the development of northern Australia, with your home state being Western Australia. Last week, I was fortunate to meet up with Senator McDonald and inspect the Charleston Dam. If you are interested in dams—which I am—this new dam is being built by the Etheridge Shire Council, which is based in Georgetown, and the federal government invested just under $10 million into helping the local council build this dam. It's very exciting. Go onto my Facebook page if you're excited about dams, and you'll be able to see the base of this dam. Hopefully, Mayor Warren Devlin and the council will be able to get the dam finished by March next year. What this means is that two communities—Georgetown and Forsayth—will be able to have reliable water. Previously, it was just a spike in the river. That is so important for that community. The federal government is working in partnership with the local councils up there on projects like that.

While we were there, we also went to the opening of the upgrade to the Mareeba airport. The federal government, state government and council—and I commend all three levels of government—worked together and were able to put a considerable amount of money into the redevelopment upgrade of the Mareeba airport. This is an airport, for those who do not know, that came into life during the Second World War, when it was a major air base for Allied operations in the Pacific. It is essentially a second airport. If Cairns is knocked out for whatever reason, now there is a reliable second airport in Far North Queensland. Mareeba is about an hour or so away from Cairns.

It is the federal government putting money into projects like the Mareeba airport and the Charleston Dam in Etheridge Shire which shows that, yes, there are glamorous, big, shiny projects, but it is actually the small projects that show that this government is progressing and developing our agenda for the north. It is through these small and big projects, because there is an agenda for the north. There is a strategy for the north that came about because of the white paper on northern Australia and those nine infrastructure measures that were first outlined in that white paper.
Rather than continue—I realise everybody has had a long few days—I intend to talk further in an adjournment speech at a later time about the incredible work that this government has been doing on behalf of the taxpayers of Australia in terms of building the infrastructure in northern Australia, in particular in the Far North, North and Central Queensland. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**DOCUMENTS**

**Department of Employment, Skills, Small and Family Business**

*Consideration*

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (17:42): I move:

That the Senate take note of the document.

The Department of Employment, Skills, Small and Family Business’ report for 2018-19 does the usual thing of extolling the virtues of how fantastic things are in that department, which is at great odds with what is actually happening out there on the ground, particularly when it comes to the way that jobseekers are supported and supported to meet their mutual obligations.

This week, the Australian Unemployed Workers' Union released a new report that demonstrates that Australia's mutual obligation system is broken and is hurting people. Their survey had just over a thousand respondents to date, and I think they are still gathering information. But they have reported that those who participated in the survey included people using jobactive, people using disability support services, people on Work for the Dole and ParentsNext participants. The survey actually contains more data from jobseekers than the government's own expert panel report on these services. The results of the survey show how current mutual obligation requirements are punitive and that the majority of jobseekers are not getting benefit from the current employment services. Respondents indicated a high level of dissatisfaction at the kinds of activities that were put in the job plans. The results show that respondents do not feel their provider appointments are useful for getting a job and how the majority of people do not have a good relationship with their provider. The majority of respondents do not believe that their provider was funding items that would have been useful for them to achieve their employment goals. The majority of respondents said that the employment services do not help with job searches and that job search requirements are unreasonable for the majority of jobseekers. Further, jobseekers reported that they believe they are receiving payment suspensions in error and that the targeted compliance framework is not flexible or fair. The survey highlighted the consequences for jobseekers whose payments are cancelled. Seventy-five respondents indicated that payment cancellations had led to the most extreme consequence—that is, homelessness.

The Australian Workers Union are calling on the government to undertake an urgent review of the mutual obligation requirements. The survey shows that the jobactive system is very clearly broken and that it's not fit for purpose. The government is currently evaluating the jobactive model to assess the extent to which the stated objectives are being met, and I seriously hope that the government's process includes the voices of those who have lived experience. Every day of every week that they are on income support and using jobactive's system, they feel like the system is failing them.
Today I met with the most amazing group of campaigners and people with lived experience, from the Raise the Rate campaign. They presented findings from another survey that has been undertaken by National Union of Students young campaigners and the Australian Council of Social Services. This highlights young people's experiences living on allowances, particularly youth allowance and Newstart. That survey shows overwhelmingly how the low rates of youth allowance and Newstart are putting young people behind and jeopardising educational opportunities. That survey included a total of 862 participants within the age range of 16 to 30 who are receiving some sort of income support payment. The outcomes are quite shocking: 62 per cent had less than $100 per week left after paying rent. Just over half of the participants have had to couch surf or use other forms of unstable accommodation, 89.9 per cent of participants said they had to skip at least one meal a week and 92 per cent of participants said the low rate of payments made them feel isolated.

As we can see, the system of mutual obligations is failing and the payments are too low. We need to change the system, and we need to raise the rate. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**DOCUMENTS**

**Consideration**

The following documents were considered:

- Clean Energy Regulator—2018 Annual Statement to the Parliament on the progress towards the 2020 Large-scale Renewable Energy Target. Motion of Senator Urquhart to take note of document agreed to.
- Grandparent carers—Resolution of 18 September 2019—Letter to the President of the Senate from the Victorian Minister for Disability, Ageing and Carers (Mr Donnellan). Motion of Senator Siewert to take note of document called on. Debate adjourned till Thursday at general business.
- Status of government responses in the Senate to parliamentary committee reports as at 30 September 2019. Motion of Senator Urquhart to take note of document called on. Debate adjourned till Thursday at general business.
- Australian Nuclear Science and Technology Organisation (ANSTO)—Report for 2018-
19. Motion of Senator Ciccone to take note of document agreed to.


COMMITTEES

Consideration

The following committee report was considered:

Auditor-General—Audit report no. 12 of 2019-20—Performance audit—Award of funding under the Regional Jobs and Investment Packages: Department of Infrastructure, Transport, Cities and Regional Development; Department of Industry, Innovation and Science.

Membership

The ACTING DEPUTY PRESIDENT (Senator Brockman) (17:49): Order! The President has received letters nominating senators to be members of committees.

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (17:49): by leave—I move:

That:

(a) Senator Molan be appointed as a participating member of all legislation and references committees; and

(b) senators be appointed to committees as follows:

Autism—Select Committee—

Appointed—Senators Hughes and Molan


Foreign Affairs, Defence and Trade—Joint Standing Committee—

Appointed—Senator Molan.

Rural and Regional Affairs References Committee—

Appointed—Substitute member: Senator Green to replace Senator Watt for the committee's inquiry into the identification of leading practices in ensuring evidence-based regulation of farm practices that impact water quality outcomes in the Great Barrier Reef.

Question agreed to.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Brockman) (17:49): Order! I propose the question:

That the Senate do now adjourn.

Loaves and Fishes Tasmania

Senator CAROL BROWN (Tasmania) (17:50): I rise to speak about what is an unacceptable situation facing families, adults and children in dire need of emergency food relief in Tasmania. After a year of inaction and neglect by the Morrison Liberal government,
Loaves and Fishes, an essential emergency food provider in Tasmania, has been forced to make cuts to its services. This severely impacts on vulnerable Tasmanians in need.

Loaves and Fishes are based in the north-west of Tasmania, in Devonport, in the electorate of Braddon. Their operations service the entire state. Across Tasmania, Loaves and Fishes service over 220 community food programs and they service 38 school breakfast clubs. As an example of their extraordinary community engagement, last year they worked with both the Tasmanian School Canteen Association and Hansen Orchards to deliver free apples to every school throughout Tasmania—every single school. Over one million apples were distributed through that collaboration. Resources and funding permitting, Loaves and Fishes could run that program every year. Since July 2018, they have distributed over 1.4 million kilograms of healthy, nutritious food; and they have produced over 225,000 serves of healthy, nutritious ready-to-eat meals—all that without federal support. But now they are at breaking point. Without federal funding, they will have to close their Hobart operation.

Loaves and Fishes support 134 community food programs in the Hobart region. Since July 2018, in the Hobart region alone, Loaves and Fishes have distributed over 323,000 kilograms of fresh produce. They have produced over 55,000 serves of ready-to-eat meals. You have to remember, with those extraordinary statistics of over 225,000 serves of ready-to-eat meals, that the population of Tasmania is just over 500,000. It's an extraordinary call on their services and it's an extraordinary testament to the services that Loaves and Fishes provide, but it also indicates the need for emergency food relief that is here in the community in Tasmania. But areas around Greater Hobart will lose out if Loaves and Fishes have to cut services—suburbs likes Sorell, Huonville, Geeveston, Bridgewater, Gagebrook, Rokeby, Clarendon Vale, Copping, to name just some of the affected areas.

Everything that I have described—thousands of kilograms of fresh produce and hundreds of thousands of ready-to-eat meals—is achievable for $150,000 a year, just $150,000 per annum. That is a tiny amount of money, in federal budget terms, for a service that is essential to the lives and health of people in genuine need.

So how did the current situation come about? Why is this vital organisation cutting services? Let me outline what can only be described as a debacle. The Morrison government changed the wording of the emergency food relief guidelines, and now they only allow for service providers that provide on a national scale. That means that Loaves and Fishes, which only provide services in Tasmania, have now become ineligible to apply for funding. Loaves and Fishes did apply to the federal government's $4.5 million emergency food relief fund. They were left out because they're not a national organisation, despite, in fact, being connected to SecondBite, which is a national organisation. They were left out because the Morrison government changed the rules.

On 2 July this year, I wrote to the Minister Ruston asking for her to step in and review this case. I asked simply, as a stopgap, for a year's funding to prevent the cuts to services while the overall situation was reviewed. I received the minister's letter of reply, which claimed—quite wrongly—that Loaves and Fishes did not apply for funding. This is, as I understand it—and I have been advised by Loaves and Fishes—not correct. Their funding application is available for all to read. What the minister's office have done, it appears, is confuse two of the programs they are responsible for running. They have looked at who applied for another program, not the emergency food relief funding program, which is the funding in question. Of course,
Loaves and Fishes wouldn't apply to the wrong program. I beg to ask how the office of the minister could confuse the program they administer. They've done so more than once. I'll explain to the Senate.

Months have passed. I and other senators in this chamber have been trying to make sense of this situation. Mr Andrew Hillier is the CEO of Devonport Chaplaincy as well as Loaves and Fishes Tasmania. Out of sheer desperation, on 6 November he sent this email to the minister: 'Further to our ongoing discussions on the federal funding of emergency food relief in Tasmania, after many conversations it seems we have got nowhere. No funding is forthcoming, no contact from the federal minister, as was promised. Yet the need across Tasmania is growing every day. What is going on? Why is this current government not interested? How can the government justify its lack of action in this space? National funding for emergency food relief was released in January. Loaves and Fishes Tasmania, LFT, contacted the government in November 2018 to get this issue resolved. It is now a year on—November 2019—and there has been no resolution. LFT is recognised by the Tasmanian state government—a Liberal state government—as one of the two key EFR providers and is currently providing around 70 per cent of emergency food relief for the whole state of Tasmania with absolutely no assistance from the federal government. Despite the $5 million investment made by the federal government into EFR, next to none of it is making it to Tasmania, despite our huge need. This is a huge concern. LFT is unable to continue in its current capacity without federal government support. As a result, we are now in the process of implementing cutbacks of our services, which will result in many people being impacted. I look forward to hearing from someone shortly. We need some prompt action now.' That was Mr Andrew Hillier, the CEO, and the email went to the minister. That information was available to the local media in Tasmania that has been following this case. Under increasing pressure from the media, when asked directly by the Hobart Mercury, Minister Ruston's office did it again. On Saturday 23 November, this was printed in the Mercury. As a spokesperson for social services, Minister Anne Ruston said:

'This is a huge concern. LFT is unable to continue in its current capacity without federal government support. As a result, we are now in the process of implementing cutbacks of our services, which will result in many people being impacted. I look forward to hearing from someone shortly. We need some prompt action now.' That was Mr Andrew Hillier, the CEO, and the email went to the minister. That information was available to the local media in Tasmania that has been following this case. Under increasing pressure from the media, when asked directly by the Hobart Mercury, Minister Ruston's office did it again. On Saturday 23 November, this was printed in the Mercury. As a spokesperson for social services, Minister Anne Ruston said:

There is no requirement for the organisation to have a national presence to be eligible for emergency relief funding.

'Emergency relief funding'—a completely different unrelated funding program that is not connected to the emergency food relief funding. So what is going on?

I say to the minister: there is a huge need in Tasmania for emergency food relief. Loaves and Fishes have demonstrated that they are one of the main providers, if not the main provider, of that relief. It's high time we had a special arrangement for Tasmania. We need the federal government to step in and provide this funding, because there will be so many people impacted by the fact that— (Time expired)

Indigenous Australians

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:00): I rise tonight to speak on issues currently impacting First Nations children and young people in Australia. Like all children, First Nations children have the right to live in safety, free from abuse and neglect, and in stable and supportive family environments. Sadly, two reports have been released recently that demonstrate how we as a nation are failing First Nations children. Today I would like to table The family matters report 2019. I've tabled this particular report
each year for a while now, and I'm aware that the whips have agreed to its tabling. I seek leave to table the report.

Leave granted.

Senator SIEWERT: This report highlights the urgent and escalating crisis for First Nations children in Australia's child protection system. First Nations children are now 10.2 times more likely than other children to be removed from their families. First Nations children now make up 37 per cent of the out-of-home-care population. If we don't do anything to address this, the number of First Nations children in care will double in the next 10 years, which is highlighted in this report.

I find it deeply concerning that between 2017 and 2018 there was a significant drop in the rate of First Nations children in out-of-home care being placed with First Nations carers. This means thousands of First Nations children are at risk of not having their cultural needs met. First Nations children are significantly more likely than other children to be on long-term permanent care orders. This is problematic, as permanent care orders risk breaking cultural connections. In many jurisdictions, there are no legal mechanisms to ensure ongoing connection to family, community and culture, especially for children placed with non-Indigenous carers. Current practices are failing to include First Nations peoples in decision-making, which means that many decisions are being made without addressing the cultural needs of the child or identifying safe care options. Connection to culture is a human right and it has proven to be crucial to the safety and wellbeing of First Nations children across the world, yet we are seeing statutory agencies failing to comply with the Aboriginal and Torres Strait Islander Child Placement Principle. The rate of First Nations children being placed with family and kin has continued to drop over the past decade, and there are problems with cultural support plans being completed.

The trauma that is associated with child removal has a ripple effect across generations. Children who are living in a household with members of the stolen generations are more likely to experience the impacts of intergenerational trauma, through higher rates of poor health and poverty. Family support programs are essential for strengthening families and helping them to provide the best possible environment for children. In 2017-18 the vast bulk of funding was invested in child protection services and out-of-home care, with only 17 per cent of funding going towards family support services. Until we get serious about providing adequate early intervention and prevention programs, we are going to continue to face problems with the child protection system. It is important to note that supporting families to care for their children also goes beyond child protection policies and programs. It depends on income support, wages, tax policy, health, housing, justice, education and other social programs. Both the government and the community agree that there is a problem. Now it's time to actually look at and implement the solutions that have been so clearly articulated by many.

So let's look at The family matters report 2019, which shows that we need substantial and coordinated action to eliminate the overrepresentation of First Nations children in out-of-home care by 2040. Some of the key solutions put forward to achieve this goal are to: increase investment in universal and targeted early intervention and prevention services; prioritise investment in service delivery by community controlled organisations; end legal orders for
permanent care and adoption for First Nations children; and establish state based and national First Nations children's commissioners.

I strongly support the implementation of a national commissioner for First Nations children and young people to advocate for the needs, rights and views of First Nations children. Too often First Nations children are falling through the gaps and don't get the attention of our federal system. A national commissioner would provide oversight and accountability for systems and services to improve the protection of First Nations children and young people. They would also facilitate effective collaboration and coordination between and with governments. The appointment of a national commissioner should form part of the Australian Human Rights Commission and be established in conformity with the United Nations benchmark guidelines for national human rights institutions.

One of the clear recommendations of the report is to end legal orders for permanent care and adoption for First Nations children. First Nations organisations have been clear that adoption will never be appropriate for First Nations children in out-of-home care. In recent years, a number of states and territories have undergone policy changes to increase the numbers of and to shorten time frames for long-term permanency orders. These changes are having a disproportionate impact on and causing a disproportionate risk to First Nations children's sense of identity and cultural connection. Instead, First Nations peoples must be provided with opportunities to design alternative policies to support stability for children in connection with kin, culture and community.

The family matters report 2019 also highlights the critical importance of First Nations led service delivery in improving outcomes for children. Community controlled organisations are important for effective service delivery and building local governance, leadership and social capital. It is essential that services are strengthened and supported so that First Nations people can lead the service design, delivery and decision-making for their children. In order to achieve these outcomes, organisations must have adequate roles, resources and funding.

The end of the National framework for protecting Australia's children 2009-2020 presents an ideal and important opportunity to identify and implement new approaches to improving the safety and wellbeing of our First Nations children. We as a nation must work harder to ensure that First Nations children grow up in safe and loving environments. We need to offer First Nations children safety and stability without repeating the mistakes of the past or, in fact, continuing the mistakes of the past. Together we can co-create a future where First Nations children can thrive.

I urge all governments to commit to a national strategy and generational target to eliminate the overrepresentation of First Nations children in out-of-home care and to address the causes of First Nations child removal. The Commonwealth has an important role to play here in leadership and ensuring that the national framework for the protection of Australia's children as it goes into the future after next year is fit for purpose, that it has the recommendations from this vital report at its heart. We cannot let this opportunity go by. We need to take action. We need to ensure that we invest upfront in early intervention and prevention and in very good-quality family services and ensure that they are designed, developed and delivered by First Nations communities. I urge senators to read this very important report. Look at its startling facts and take on board the solutions that it is recommending.
Palaszczuk Government: Paradise Dam

Senator SCARR (Queensland) (18:09): I rise in this chamber this evening to speak about what I will refer to as the Paradise Dam fiasco in my home state of Queensland. I previously brought the chamber's attention to the fact that Annastacia Palaszczuk is the only premier or prime minister in Australia's history to ever be found in contempt of their home parliament. This fiasco, the Paradise Dam fiasco, is just emblematic of the contempt with which she treats the people of Queensland.

What was the situation? In September, the good people of Queensland were advised that there was a safety issue with the Paradise Dam. They weren't told what that issue was; they were simply told that there was a safety issue. Then, the next step from our contemptuous state government in Queensland, the Palaszczuk-Trad government, was an announcement from the minister for natural resources, Minister Lynham, who said: 'We're doing great things for the drought-stricken farmers of Queensland by providing 110,000 megalitres of water for free. It's a great thing for the people of Queensland—a great thing for farmers.' It's all spin, no substance.

The next thing that happened was that thousands of megalitres of water went from the dam into the sea—precious water at a time of drought flowing from the dam straight into the sea; unutilised, unused, precious water straight out to the sea. And whilst it was flowing down the rivers, there was still no answer from the Queensland Palaszczuk-Trad government as to what the safety issue was—no answer at all.

What was the next announcement? The state government announced a permanent five-metre decrease in the height of the dam wall which would take the capacity of the dam from 300,000 megalitres to 215,000 megalitres. It would take it to 42 per cent of its previous capacity. So there was no answer with respect to the safety issue; there was 105,000 to 110,000 megalitres of unused water flowing down the rivers into the sea; and then there was the announcement that they were going to decrease the dam wall by five metres so that the capacity of the dam would fall from 300,000 megalitres to 215,000 megalitres.

As I stand in this chamber today, the people of that region still have no answer with respect to the safety issue that this course of action was meant to address. It has an impact on their water security, it has an impact on their property values, it has an impact on their feeling of personal safety and it has an impact on investment decisions. This region of Queensland produces all sorts of agricultural produce—macadamia nuts, avocados, sweet potatoes. All sorts of produce is produced in this area utilising this water from this dam, and all that is now being put in peril by the contemptuous actions of the Palaszczuk-Trad government. There are still no answers with respect to the safety issue with respect to the dam.

I would like to commend in this place the advocacy of the local federal and state members who have kept this issue at the top of everyone's mind. In particular, I'd like to congratulate Mr Keith Pitt MP, member for Hinkler; Mr Ken O'Dowd MP, member for Flynn; Mr Colin Boyce, member for Callide; Mr Stephen Bennett, member for Burnett; Mr David Batt, member for the state seat of Bundaberg; and Mr Ted Sorenson, state member for Hervey Bay. I want to read to you from a letter they wrote to the state Minister for Natural Resources, Mines and Energy, the Hon. Dr Anthony Lynham MP. This letter is dated 29 October 2019:

Dear Minister Lynham
We, the undersigned, are devastated to see 400 megalitres of precious water flowing from Paradise Dam over the Ben Anderson Barrage and out to sea each day, when we are experiencing one of the most serious droughts in decades.

The State Government's decision to permanently reduce Paradise Dam to 42% capacity was initially touted by you as good news for our region, with free water for all. However, as you would be aware, the announcement has inflicted much anxiety, confusion and honest fury within our community. The permanent 5 metre reduction in the dam's spillway has the potential to change our region in its entirety.

We appreciate your advice that the Paradise Dam spillway needs to be lowered in order to allow for rectifying works to commence mid next year and we understand that these reporting processes take time. However, we, and the people of this district cannot understand why this detrimental decision was made prior to the completion of expert reporting and without any community consultation.

Our communities deserve to know the full details and the full extent of the safety concerns, how the issue will be fixed, whether the dam will ever be returned to full capacity or what other options you have to ensure our region's water security and most importantly, whether you will commit to delaying any permanent action to reduce Paradise Dam's capacity until after the experts' findings and advice are received and published early next year.

This is arguably one of the biggest issues affecting our future. Our region deserves answers and we call on you to provide a fully transparent and public declaration of the circumstances and rightly commit to delaying any permanent work until the outcome of the investigations are known.

This is a shameful episode in a continuum of shameful episodes in the history of the Palaszczuk-Trad government. It is inexplicable as to why the state government will not be honest with the people of that region and explain to them what the actual reasons are. What are the safety issues which need to be addressed? What are the alternatives? Why won't they be honest with the people of that key agricultural region, who deserve better?

I want to conclude with the words of the chair of the Bundaberg Fruit & Vegetable Growers, Allan Mahoney. These are his words, not my words, and I think he perfectly sums up the feeling of the people in that region:

Our community deserves better than this, we deserve better than this, our industry deserves better than this.

I add my voice to Mr Mahoney's. The people of Queensland certainly deserve better than the ineptitude of the Palaszczuk-Trad government.

Queensland: Dams

Senator McGrath (Queensland—Deputy Government Whip in the Senate) (18:17): I commend Senator Scarr for that speech on the Paradise Dam, the dam which is Australia's worst infrastructure fail, and for bringing further attention to that particular dam and the shameful actions of the Palaszczuk government. I'm also going to talk about dams this evening, Mr President, which may surprise you. I would also like to commend Senator Scarr for, along with other LNP senators yesterday, moving a motion calling on the Queensland government to release the safety and engineering reports that led to the release of 105,000 megalitres of water and calling for a parliamentary inquiry at a state level into the design and construction of the dam. That motion passed this chamber yesterday, and the only party, shamefully, that voted against that transparency was the Labor Party.

Not only is the state Labor government sending precious water out to sea but also, in terms of other dams, they've butchered the plans and federal funding commitment for the Rookwood
Weir, where their own financial mismanagement has led to state Labor's decision to reduce the proposed capacity from 76,000 down to 54,000 megalitres. If you travel further north, you will find the Nullinga dam in the Atherton Tablelands—or should I say the Nullinga dam site in the Atherton Tablelands? The state Labor government has shelved the plans, along with the concerns and prospects of farmers and local businesses. Advance Cairns, the organisation who push for economic development in the far north, have said that they know how much they are not worth to the state Labor government because of that failure to put money into the progression of that dam.

In Queensland we have a Labor government that is not only not building dams but is releasing water from other dams, reducing the capacity of others and abandoning other projects altogether. The message is pretty simple: Queensland needs dams. We want dams. Let's build them now. Not only should we ensure we have sufficient water security for our regional communities, with the additional stresses of population growth and drought; we need to push an agenda to build infrastructure to support industry across Australia. A perfect example of this type of dam is the Urannah Dam. I want to commend the Deputy Prime Minister in announcing $10 million to make the Urannah Dam shovel-ready through progressing the business case. This joins the dedication of the federal member George Christensen, who has been pushing this dam for some time, along with Michelle Landry. Senator Scarr, I know, has also been pushing it, and so has the state MP for Burdekin, Dale Last.

I also want to particularly commend the efforts of the members of the Bowen Collinsville Enterprise, particularly the current chairman, Paul McLaughlin, and former chairman David Evans, who have been fighting for this project not just for years but for decades. I want to make sure that their fighting spirit continues into the future to make sure that this dam is built.

I'm very lucky that, when I was up in Townsville in November last year, I was given a survey peg by representatives of Bowen Collinsville Enterprise. It's now hanging in my office—for people who are aware of the interior decoration of Senator McGrath's office, it's where the cane knives were formerly hanging. They've been taken down. There is a survey peg there now from when this dam site was first pegged out decades ago. This shows the issue we're facing in Queensland in particular—we've had a state Labor government for 25 out of the last 30 years, and they have not been pushing development.

The Urannah Dam is a big dam plan, and Queensland is ready to build it. For those who don't know where it is, the dam is located in the upper Broken River Valley, north-west of Mackay. It will go a long way to drought-proofing the Mackay-Whitsunday region. As it stands, the Urannah catchment in its current form only traps four per cent of available water flows. Once this project is completed, this figure will rise to 18 per cent.

The dam is part of the broader Urannah Water Scheme. It will deliver water security, cheap electricity and 1,200 jobs, which will boost the regional economies of North Queensland. Not only will Urannah Dam provide guaranteed water security for coastal communities such as Proserpine and Bowen; it will also deliver to Collinsville, downstream of the dam, and to Southern communities like Moranbah. Once constructed, the dam will be a fully integrated ware and infrastructure asset. It will contain 1.5 million megalitres of water, irrigate 22½ thousand hectares of agricultural land and generate over 1,000 megawatts through pumped hydroelectric power, including pipelines to local communities.
The Urannah Dam will provide water for agricultural development in the Burdekin Basin and industrial and agricultural development of the Bowen region via a channel from the Clare Weir and a mining development in the Northern Bowen Basin and the Galilee Basin. Additionally, the Urannah Dam is expected to deliver water for over 15 active mines and 21 new projects, along with $588 million in economic benefits. This project ensures we are ensuring water security for industry and agriculture. The building of dams and securing water security in this country, particularly in Queensland, should be our first priority. Water is our most precious resource, and dams are our greatest asset.

Senate adjourned at 18:24