

Edited transcript of the Senate Occasional Lecture—Parliamentary processes from an Indigenous perspective—the Hon. Ken Wyatt AM MP, Senator Patrick Dodson and Senator Malarndirri McCarthy

Richard Pye: We meet here today where people have met for thousands of years and I acknowledge the Ngunnawal and Ngambri peoples who are the traditional custodians of the Canberra area, and pay respect to the elders past and present and all Australia's Indigenous peoples.

I would like to welcome the Honourable Ken Wyatt AM MP, Senator Patrick Dodson and Senator Malarndirri McCarthy who form our panel today. I would also like to acknowledge the Aboriginal and Torres Strait Islander peoples present in our audience and thank you for being here. Today's presentations look at our parliamentary processes from an Indigenous perspective and provide the opportunity to reflect on the important work of Indigenous parliamentarians here in Parliament House and beyond.

Our first speaker is the Honourable Ken Wyatt AM MP. Since 2010 Mr Wyatt has been the Member for Hasluck, becoming the first Aboriginal member of the House of Representatives. In 2015 he was appointed Assistant Minister for Health, the first Indigenous member of parliament to hold a ministerial position. Mr Wyatt is a proud Noongar, Yamatji and Wongi man and is currently the Minister for Aged Care and Indigenous Health. I would like you to join me in welcoming Mr Wyatt.

Mr Wyatt: I want to commence by acknowledging the traditional owners, the Ngunnawal and Ngambri people, their elders past and present. The journey into politics is a hard one and it is not one Indigenous Australians necessarily consider. I look, for example, at Neville Bonner and his journey. I got to know Neville in his later life and I spoke with him about that journey, of travelling into the political arena as an Indigenous Australian, and coping with the expectations which are often at a lower level in terms of the engagement within that role. However, in the interactions you have with colleagues from both sides of the chamber it is important that you influence and that perspective you bring is shaped from your childhood.

When I first came into Parliament I was asked how I was finding the politics and I said the politics in our community is a great learning pathway. At times people in our community are much more combative on matters and more demanding of their leaders because of personality-based issues. I have seen some of our leaders who have done outstanding work still being criticised by individuals who disagreed with their viewpoint.

After I was elected I made two comments I want to reflect upon because they are important. One is I never thought as a 10 year-old skinny-ankled Noongar kid living in a place called Corrigin that I would ever stand in the Australian Parliament. It wasn't in my thinking. In the 1950s and 1960s Australia was a very different place and I never thought that I as an Indigenous Australian would ever be given the support of an electorate to hold a place in the House of Representatives. The second comment I made in my first speech. I looked around the chamber and I said I stand before you as an equal. I came in the same way as you and I occupy a seat.

However, there is an expectation that, on entering Parliament, people make themselves familiar with the systems inherently operating within this great place and understand the operations and engagement with people. I had an inkling of how those systems operate from working with Ernie Bridge, the first Aboriginal man elected into the West Australian Parliament. Working with Ernie when he was heading up the WA Aboriginal Lands Trust, I got a sense of the hours you had to put in. Ernie expected us to be there at the crack of dawn and to keep working until late at night. So I was aware that was standard in Parliament.

One of the biggest pressures for members of parliament is that we have multiple constituents. I have the constituency in my electorate who I need to work for and I have the constituency of the party I belong to. Then I have a third constituency which is Aboriginal and Torres Strait Islander people and their expectations because I was the first Indigenous member in the House of Representatives. When I was first elected I was dealing with multiple layers and would sometimes step on the toes of colleagues because I would undertake to do something on behalf of Aboriginal and Torres Strait Islander people, although the ministerial responsibility resided with somebody else. The challenge is that if we fail in the eyes of our people then we are seen to lose some integrity we gained fighting for issues in the 50s, 60s, 70s and 80s. In one sense it is like those who come into this place who are fired up about particular issues and are elected on those issues—there is an expectation that you will deliver the reforms you fought for outside of this place but you soon learn that there are structures here that you are required to adhere to. There are your own party processes but there are processes within the House of Representatives that require you to work with the wide range of Parliamentarians and parliamentary officers in this place in order to progress the work you want to achieve.

When Malcolm Turnbull was a backbencher he once asked me if I was to become a minister what portfolios I would want to hold. He thought it would be natural for me to take Aboriginal Affairs, but I said ‘no, because if you put me into Aboriginal Affairs I will only ever be seen by Australians as being capable of dealing with those matters that relate to Aboriginal and Torres Strait Islander people’. I told him ‘if I ever get the opportunity I want a portfolio that is challenging, that is mainstream and shows not only our people but fellow Australians that we have the capability and capacity to hold any position, to hold any role and to advocate on an issue outside of Indigenous Affairs. The beauty is today I am presenting with Patrick Dodson, a man I admire and respect. Patrick and I come from a similar era and in that journey we have fought on many issues to do exclusively with our people.

However, when you are given a portfolio it becomes the focus of your work and puts a constraint on you within the team. If the team makes a decision you may not personally like you have to accept it because you are part of the team and you have to support the message of your team. In being given the responsibility of a portfolio, ministers are given a great privilege. When Malcolm Turnbull contacted me to offer me a position in the ministry I was on a flight between Sydney and Los Angeles. I had said to the woman who was sitting beside me ‘if I snore just tap me on the shoulder and I’ll stop’. I said ‘my wife normally punches me but I want you just to tap me’. Halfway through the flight I was tapped on the shoulder several times. As I opened my eyes I was thinking ‘I’m not snoring, what are you tapping me for?’, but as I turned around I saw it was the purser and she said ‘I have a message from the Prime Minister that you need to read’. So I read the message and Mr Turnbull was offering me the position of Assistant Minister for Health. The purser said the Prime Minister needed an answer immediately and so I said ‘tell him emphatically yes’. She said ‘no, you have to write the words’. So I wrote the words and as I wrote them I had this sudden realisation that Mr Turnbull had given me, an Indigenous Australian, a responsibility in a broad area. He did not narrow the scope. Then because I demonstrated my capability and capacity, Mr Turnbull extended that and asked me to take the Aged Care and Indigenous Health portfolios—so I still got one of my favourite areas but also picked up senior Australians.

Now because I have always fought battles with fire in my belly and for issues in a way that challenged the system—you challenged ministers, you challenged government—I knew I would be challenged. The role had reversed and I would have to defend my decisions within the framework of government policy. Because I was part of a team, I would have to curtail the way in which I could express some of the views I might have on issues. In that journey you learn so much, you learn to grow, but that knowledge and learning is based on what your elders have taught you.

Everything that I do has been shaped by my parents in the context of my culture—Noongar culture as well as Yamatji heritage on my father’s side but also Wongi linkage. The elders taught me that you listen first and you listen well. You don’t listen just with your ears, you listen with your eyes because you watch body language and facial expressions and then you take into consideration that information and turn it into the wisdom that you need to give to the role that you have to play. You learn to be patient and you learn to be measured in the way in which you respond.

I love the system we have in this country. I love the fact that we have got a democratic system that allows us the freedom to fight for those things in a way that is public but also to influence. My time within the coalition has shifted the thinking of many members and their awareness of the needs of Indigenous Australians in their electorates because they come and talk to me. They will say ‘can I have a politically incorrect discussion with you?’ They have the courage to come to any one of the four Indigenous members of Parliament and have those discussions and that has been important in the way we have shaped the thinking of this Parliament on all sides of the chamber. While our colleagues might not agree with us, it still nevertheless allows us to use the systems that have been established.

I think one of the strengths of this place is the committee system. I have served on four committees here, including the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples. Serving on that committee and the Expert Panel on Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution gave me the opportunity to acquire a better understanding of a lot of the challenges that we still face, not in terms of the big issues but in terms of the nuanced issues at the local community level. We still have much work to do in this country for First Nations people on every front of portfolio activity so that the changes that are introduced are beneficial.

Since coming to Parliament, I have learnt to enjoy the interactions on many different issues and the camaraderie of people on both sides of the chamber and, where we philosophically agree on positions, how we can collectively engage in conversations. Those conversations in some instances might be guarded but equally in Aboriginal Health and Aged Care I want open dialogue so that we have a bipartisan approach to the issues I have to tackle.

So I have enjoyed the journey and I have enjoyed growing beyond the country kid who at the age of 10 started taking an interest in politics by listening to question time. I loved listening to Fred Daly and Jim Killen debate each other. My parents couldn’t understand why I would spend my time sitting in front of the radio—it was the old Bell radio—listening to Parliament. But I am glad I did because that shaped some of my thinking and the journey I have taken. So I thank you for the privilege of being here with you. It has been great and I look forward to some questions later on from all of you. So thank you very much.

Richard Pye: Our next speaker is Senator Patrick Dodson. Senator Dodson is a Labor Senator for Western Australia and Shadow Assistant Minister for Indigenous Affairs and Aboriginal and Torres Strait Islanders. A Yawuru man from Broome, he has been the director of the Central and Kimberley Land Councils and a Commissioner during the Royal Commission into Aboriginal Deaths in Custody. Senator Dodson served as inaugural chair of the Council for Aboriginal Reconciliation and as a co-chair of the Expert Panel on the constitutional recognition of Indigenous Australians. Please welcome Senator Dodson.

Senator Dodson: Let me firstly acknowledge the Ngunnawal and Ngambri people on whose lands we are all gathered and acknowledge the service that they provide constantly to this Parliament and to many other venues around Canberra through their welcome to country. I express my appreciation to Matilda House in particular, having known her over many years.

I want to acknowledge my fellow parliamentarians here today. I know that Linda Burney would have loved to have been here if it had been possible and acknowledge that she is the first Aboriginal woman to sit in the House of Representatives. That is a remarkable achievement amongst the many she has made. I acknowledge all the First Nations leaders who are not politicians but who have battled the system and society's entrenched values that are arraigned against the interests of First Nations. Over the years many of those leaders have fought long and hard to get recognition for land rights, for better justice systems and to redress the social inequities that have taken place. So I acknowledge all of those people. Where they may have deemed to have failed is where the nexus between my relationship and theirs comes to this place because the Parliament is where many of these things get decided, where policies of parties either endorse or become emphatic against the interests of First Nations peoples.

One of the first things I noticed when I came to this place was the use of language. Of course, I should mention the way Ken Wyatt came into the House of Representatives dressed in a possum skin and making it clear he was a First Nations person, an Indigenous man. Likewise Malarndirri McCarthy and Linda Burney made clear statements about their connection to and their pride in and admiration of First Nations people, irrespective of the parties we belong to.

My challenge when I made my first speech in the Senate was to use the simple language of the Yawuru. With the concordance of the President of the Senate I was able to engage with him in a limited way that at least got some of the Yawuru language recorded in Hansard. In this place it is a challenge to get Aboriginal languages—first languages—recorded when we are in committees or doing things in an official capacity so those first languages are given proper respect and recognition. Likewise, it is a challenge to ensure we use interpreters in those situations.

There are many things I could say but I will go back to the start. Like Ken, I never had any aspirations to be elected to Parliament. I have no illusions about how effective I can be in the Parliament but I am here particularly because of the women in front of me. The theme for NAIDOC week this year was 'Because of her, I can'¹ and I want to acknowledge my grandmothers and my mother and my sister and those who helped guide me along the way in my early years. I also want to acknowledge Louise Pratt who is a senator from Western Australia. The position I now hold as a senator for Western Australia became vacant when one of our Labor senators had difficulty accepting the party platform on a moral matter and resigned. Bill Shorten rang me and asked if I would be interested in filling the vacancy. I asked him to give me a couple of days to think about it, but the other person who could have easily protested and said that she should rightfully be considered was Louise Pratt and I want to thank her accommodating my ascent into this place.²

That is how it works here—amazing accommodations can take place, as Ken has mentioned, across the parties but inside the party there are many, many accommodations where we try to help each other out as best we can given the pressures most senators work under. Of course Ken is in the other place (House of Representatives) so we don't know what work they do down there! We know exactly what the senators are up against, which includes being on committees and very long hours. Some of my early experiences in the Senate were sitting almost until dawn on some particular bill

¹ In 2018 NAIDOC Week celebrated 'the invaluable contributions that Aboriginal and Torres Strait Islander women have made—and continue to make—to our communities, our families, our rich history and to our nation'. <https://www.naidoc.org.au/news/2018-national-naidoc-theme-announced>.

² Senator Dodson was chosen by the Parliament of Western Australia on 28 April 2016 under section 15 of the Constitution to fill a casual vacancy caused by the resignation of Joe Bullock. Senator Pratt was initially elected to the Senate in 2007 but was not re-elected at the 2014 election after Mr Bullock was given the number two position above her on the Australian Labor Party's WA Senate ticket. Senator Dodson and Senator Pratt were both elected to the Senate in July 2016.

that the government felt was absolutely imperative and needed to be passed. So sleep deprivation is a hazard in this joint!

But the other thing to note is the values. I spoke of three values basically the Yawuru people have. I spoke of *Mabu ngarungunil* which is a strong and good community where people matter and are valued. We all aspire for a good community but this means our capacity to live in a civil society honouring the diversity and differences of others is something that should be at the forefront of how we go about our politics. I also spoke of *Mabu buru* which is respect for the land and having a good country. That goes to the environment, the connectivity of human beings to the land and the sea, and how we exploit the resources of this nation to sustain the quality of life we have. But it is also about making sure the use of resources is balanced and that we don't overindulge in the privileges we accord ourselves in using those resources. So the connectivity between us as humans and the environment is a very, very important factor and with the Yawuru people any impact on that balance impacts on us as human beings as well. That brings us to point of what we call *Mabu liyan*, how we feel, not just whether I feel touchy feely but in my innermost being.

Now the Parliament does not operate on those sorts of values. Underneath it probably does in some general aspirational way. The Parliament tends to operate around how we deal with legislation and with amendments to legislation. Then we spend a fair bit of time trying to figure out when the government is going to get to a position of agreement with the cross-bench in the Senate in order to actually come in and do something serious rather than filibuster on matters that could have been decided in a very short space of time rather than dragged out.

Time is a critical management factor in the place and that also has an impact on your capacity to get good sleep because you are dealing not only with the way the Senate operates but also the amount of legislation that comes before the Senate. You have to try and keep abreast of the various pieces of legislation and, if you are on duty³ in the Senate, obviously the tactics used to progress matters.

I was shanghaied into here in 2016 in the period just before the double dissolution. In my first week I had to get used to the routine. I had to get used to the bells and I had to get used to the way the Parliament operated. There are no training courses to prepare you for that, particularly if you haven't been part of the machinery of a party. I hadn't ever belonged to a party until I joined the Labor Party prior to entering the Senate. I also found that as a senator trying to keep abreast of everything is challenging, particularly with only four staff to support you and if you are then appointed as I was to a shadow assistant minister's position—which is pretty unusual so soon after coming into Parliament—to assist the leader Mr Shorten on Indigenous affairs. So you are also dealing with those portfolio matters to support the leader of your party and you have to try and keep up the pace.

Unlike Ken in his position, to a fair degree my focus here has been on First Nations and primarily around constitutional recognition and outcomes from the Uluru statement. For me the challenge is how we achieve these reforms at the parliamentary level rather than at the consultation level, which I was a party to in the past. How do we get the Parliament to adopt these reforms in a way that is reflective of First Nations' aspirations? I find myself having to work in a different context to the one in which I worked previously, where you meet with your Indigenous co-travellers, have your arguments and disagreements, come to a consensus and then go off and do battle with whomever you have to. Here you have to deal with your own party and then you have to deal with the people on the other side—the government and the cross-bench—and you have to get people to first base on the issue. That is, why shouldn't we have constitutional recognition of First Nations people in the Constitution? What is so complicated about it?

³ Due to other work commitments, senators cannot be in the Senate at all times and so are rostered to do 'chamber duty'.

What is so complicated about it is that I now co-chair a cross party joint House and Senate committee (the Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples) that has been looking into this. Ken sat on the committee prior to me when Senator Peris was in the Senate and we both sat on the Expert Panel on the constitutional recognition of Aboriginal and Torres Strait Islander peoples when Julia Gillard was the Prime Minister. So our journey around this matter has been a long one. You find that not everyone has the same awareness of the issue or appreciation of its historical background. Senator McCarthy and I have just come from a committee hearing in one of the rooms down the hallway on changes to the Community Development Program (CDEP) and in my view the draconian penalty measures that are applied to people who have breached work for the dole agreements—four weeks without income in a remote place, you have to worry how the hell people survive. How do they pay the rent and feed their kids? So you are faced with ideological issues that are embedded in legislation and then of course you have people asking what the hell you doing about it? Well, I have just come from a committee hearing where we raised some questions. We are trying to work with the government or trying to move the government—in opposition that is very hard—to a position where they might introduce something that the community supports like the old CDEP type of welfare.

So you might be doing that today but tomorrow I could be on a select committee inquiring into a different issue altogether. When I first came in here I was put on a reference committee and these types of committees are usually chaired by the opposition, not chaired by the government. The government normally chairs the legislative committees which look at proposed laws. The reference committee I was first thrown on was dealing with a very, very complicated matter about the Western Australian Government repaying a loan to the Commonwealth and questions of who was involved and at what level and whether the then Attorney-General and other players had certain responsibilities.⁴ As a consequence you become focused in on a very political matter and course the government puts up walls in circumstances such as this. Still, you have to get up to speed on the historical background as well as the legal implications of the issues, which for me, not being a lawyer, is always challenging.

The question of delivery is always constantly at your doorstep, which is particularly galling when you are in opposition because unless you can collaborate with a minister or with the government on a particular issue it is very hard to move things. People put requests to you for language support programs, for cultural programs, for changes to work regimes, for improvement to conservation preservation—the government recently changed a whole lot of regulations related to the marine estate—and you get asked ‘so what you are doing about it?’ Well, we are trying our best. We have a shadow minister responsible for that and we are trying to move the debates and Question Time around topical issues. You also have the opportunity to speak in the chamber and there are different times in the daily horarium where you can say something. For example, you have senators’ statements, you can comment on an MPI (matter of public importance), you can ask questions, you can interject, and you can be part of a debate on a particular bill or you might have carriage of that particular bill. For instance, we hope the minister will one day bring in an amendment to the Northern Territory Land Rights Act⁵ which will actually give the land back to people so we can celebrate with the minister the giving back of land and I will get up in the Senate and say how wonderful he is for doing that. However that amendment has been sitting around for a number of years now because the business of the Parliament gets rearranged by those with responsibility.

I had better stop soon because I will cut into Malarndirri’s time but I want to make one last point.

⁴ The inquiry by the Standing Committee on Legal and Constitutional Affairs was into the ‘Nature and scope of any agreement reached by the Commonwealth and Western Australian governments in relation to the distribution of proceeds of the liquidation of, and litigation concerning, the Bell Group of companies (the proceeds)’

⁵ *Aboriginal Land Rights (Northern Territory) Act 1976*.

When you first come here it is an alien place, however as Ken acknowledged, you do make some friends across the benches. When I first came here people were preoccupied with whether I would wear my hat into the Senate and it hadn't ever occurred to me not to take it off. I asked the Clerk of the Senate for advice and discovered there are no rules in the Senate about wearing hats. In fact there are in the other place but in the Senate there are no rules, but because of the lunacy that you can get—we saw that recently with one particular individual in the Senate who wore a head covering as a stunt—I decided to avoid making a spectacle I would not wear my hat in the Senate because it would just distract from the positive things that need to be done and the constructive things I want to do. So I elect now to leave my hat outside the Senate. To their credit, the staff in this place got me a little hatstand for my hat. It took them 12 months because any alteration or additions in this place has got to be in sympathy with the design and so a humble little stand caused such an uproar! But I have it now and I express my appreciation to the staff that made that happen. I am happy to take questions and respond to other things but I will let Malarndirri speak. Thank you very much.

Richard Pye: Our final speaker today, Senator Malarndirri McCarthy, is a Labor senator for the Northern Territory. Senator McCarthy, a Yanyuwa Garrwa woman, is a former member of the Northern Territory Legislative Assembly and is no stranger to public life having worked as a journalist for the ABC, SBS and NITV. Senator McCarthy's focus is on bringing communities together and ensuring that the views of people in remote communities become a part of the national agenda. Could you please welcome Senator McCarthy.

Senator McCarthy: I would like to acknowledge the traditional owners of this country and pay my respects to their elders past and present and also to my fellow parliamentarians here today. It is awesome to have the opportunity to work beside Pat and Ken and also Linda Burney, people with such depth of experience not only in Aboriginal and Islander affairs in this country but in Australian life. We do work with each other because, as the previous speakers have said, we know that the issues facing First Nations people in this country require Parliament, both the House and the Senate, to take a deeper responsibility to effect change for the better, and not only for First Nations people but for our whole country so that our country can stand proud that we are making changes.

I am enormously proud to represent the people of the Northern Territory and Christmas and Cocos Islands. In terms of parliamentary representation, the Christmas and Cocos Islands are in the Northern Territory electorate and for me that means a plane ride to the country of those mobs, firstly to Perth and then across to the Indian Ocean, which is a fair bit of travelling. My story begins with the place called Borroloola, which is a thousand kilometres thereabouts south east of Darwin in the Gulf of Carpentaria. My people are the Yanyuwa and Garrwa peoples and we live alongside the Mara and Kudanji peoples and clan groups. We are known as *li-antha wirriyarra*, which means our spiritual origin comes from the sea country and everything we do, and certainly everything I do, comes back to that sense of self and identity and purpose.

I often get asked if I enjoy being a politician and at times I have reflected on that question a fair bit because as First Nations people and certainly as Yanyuwa people in the Gulf region I believe we are born political because our situation is one of such disadvantage. We know that in order to overcome that disadvantage we always have to be active about trying to change it. The Yanyuwa spent 40 years involved in the first Aboriginal land claim in the Northern Territory when the Aboriginal Land Rights Act was passed in 1976. My grandparents were the ones who lodged the claim for the Yanyuwa under the Act. That was after witnessing Vincent Lingiari at Wave Hill and that need felt by First Nations peoples, who came to Wave Hill from across Australia, to support the Gurindji. My family were a part of that and then when the Land Rights Act came in we submitted for recognition of our status. For generations as seafaring people we had been also trading with the Macassans from Sulawesi exchanging tools, ideas and family links. The international trading rights we have

historically in our region were recognised by the Federal Court only a couple of years ago.

All of this is about politics and so for me the next step of joining the ALP in 2005 to represent the people of Arnhem Land was a very natural one. I felt that we had struggled as a Yanyuwa people to get that recognition and it took four decades before all the lands and the islands were returned so we could set up our Li-Anthawirriyarra Sea Rangers. It is the sea rangers who look after our country—the dugongs and sea turtles and the rivers and waterways—and in those jobs there is a sense of strength of culture. To progress into the Northern Territory Legislative Assembly and represent other clan groups, other language groups of Arnhem Land was important for me for two reasons. Firstly I wanted to give back. I felt that I had experienced a tremendous amount in my life and I wanted to see what we could do in terms of housing, education, health and I also wanted to learn. I wanted to keep learning because we have so many First Nations groups in this country and for me it was important to respect the fact that I didn't know them in that region and so that was important for my learning and growth. I think Ken mentioned that life is always about being open to the journey and the learning. So representing the people of Arnhem Land and being elected to the Northern Territory Parliament was again interesting—particularly how the Parliament dealt with the increase of Indigenous representatives—and then to have the opportunity to come here to the Senate was enormously humbling. I certainly give praise to our first Aboriginal woman senator, Nova Peris, and the work she did in her term in the Senate.

What we are trying to do in terms of the federal Parliament is to look at the system and look at the internal mechanisms because if we want to see a Voice of First Nations people to the Parliament we also have to be very clear about what is the voice or voices that we have within our current system. So I looked at our party structure and thought if we want to convince the Australian people having a Voice to the Australian Parliament is the way to go then we also need to do this within our own teams, in our own organisations, in our own areas and state and territory jurisdictions. So in the Australian Labor Party we established the First Nations federal Labor caucus. Why did we do that? We did that because we knew there needed to be input from First Nations into legislation that impacts First Nations people in this country. So for two years—and that is how long I have been here—we have been working on that caucus and carefully looking at pieces of legislation and dissecting issues that impact upon First Nations people.

The caucus is not just made up of Linda and Pat and I, as First Nations people, but it is open to other federal Labor members who are either in seats with a large Indigenous community or who want to better understand First Nations people and the issues that affect us. I am very proud to say there is a consistent group of people who come to the caucus—around 15 to 20 people—to look at pieces of legislation and the issues impacting upon that legislation so that we can contribute to the debate in a very responsible and inclusive way. When I think about the theme of today, this initiative is something which is having an impact on parliamentary processes. It may seem like a small change but it is very important in the overall picture of what we are trying to do in Australia today. So thank you for the opportunity to be here and I'll sit down and see if we can have some questions to our panel. Thank you.

Question — My question is about the Voice and it is a natural follow on to our last speaker. I am a new Australian and I honestly do not understand why the government fears allowing your voice to be heard. I think the Labor caucus, to some degree, is a good way to implement that Voice but as a new Australian I am ignorant as to why there is this fear and what we ordinary, non-elected people can do to help get the Voice forward.

Senator McCarthy — Thank you for your question and I might refer to my colleagues in regard to this, especially Ken in terms of the government's position, but firstly I'll go to the heart of change. Change is about moving people out of their comfort zone. When I reflect on some of the changes I

have tried to influence, even at a Northern Territory parliamentary level as well as now at the federal level, change is about moving people out of their comfort zone. Trying to motivate, influence and encourage that change is where we are at now. It has certainly been essential to get the messaging right to make it clear that the request for a Voice to the federal Parliament was never about a third chamber of Parliament. I think that has been an unnecessary distraction in the debate and maybe helps reinforce the views of people who have not been open to this discussion. I am going to refer to Ken because I think it is probably more important that you hear from him on this. But I think people are aware of where the Australian Labor Party sits in terms of wanting to see that happen. We are very, very supportive and want to see that Voice implemented here in the Parliament.

Mr Wyatt — I think one of the greatest fears is the fear a referendum will fail. The Voice has always been an issue that we Indigenous Australians have talked about, whether it is in a portfolio area or in other major forums, and over the years our voices have become much stronger on a raft of matters. But support for and recognition of the Voice will fail in a referendum if it is not clearly defined. Based on the number of referendums that have failed over time, Australians have not always readily accepted constitutional change. As co-chairs of the Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples, Patrick and Julian Lesser have the unenviable task of coming back with some solutions for the Parliament to consider. Parliament is a reflection of Australian society and when you talk about Indigenous issues in some quarters of Australia there are some very strong opposing viewpoints, although less now than there were 30 years ago. However, the debate needed around this issue can also be generated by fellow Australians because when people take charge governments often respond. We saw that with the same-sex marriage debate that the movements around this nation resulted in a discussion in both chambers and then a plebiscite and then ultimately legislation that addressed the issue. So we still have to have conversations with fellow Australians to say that constitutional recognition is not a threat and it is not a third chamber. It is about looking for solutions that give Aboriginal and Torres Strait Islander people a say on many of the things that impact on them and for the historical legacies of the past to be set aside so we can look forward to a nation that is of two significant groups—that is fellow Australians and the First Nations people who have been here for 65,000 years.

Senator Dodson — Well, we could probably be here all day on this but I think many people in the broader public want the Parliament to get on and solve the problem. I think they are sick and tired of the discussion quite frankly and many First Nations people obviously want constitutional recognition to happen. As Ken said, you have to negotiate your way through the parliamentary labyrinth, particularly if you want to entrench a head of power in the Constitution. If you are new to Australia, it is a complicated system. We can only change the Constitution by a certain mechanism called a referendum which requires a majority of states and a majority of voters to actually agree to the proposition. That is a fairly high burden—only eight out of 44 referendum questions have carried.

On the other hand I think there is a lot of hope that we can achieve this. I was at a little place in South Australia recently called Elliston where people knew in their hearts the story of a massacre that had happened back in 1849. Folklore said the First Nations people knew about this. Some of the settler sons and daughters knew about this. No one was capable of getting it into the public space where it could be discussed and argued about and considered. But now they have come to terms with it and they have re-owned their space (although not everyone is on side) through the work done to restore a coastal trail. A simple thing and in the process they discovered Supreme Court rulings from 1849 that referred to this massacre. They said ‘what the hell are we going to do with this?’ Then gradually discussion began between the First Nations people from that area and the non-Indigenous leaders—coming to terms, having the arguments, having the debates—and there is

now a beautiful monument out there on that cliff edge where people got thrown into the sea. It shows that as a nation we are capable of moving forward. We are capable of being liberated by the truth being told.

The University of Newcastle has recently done a marvellous job of identifying a number of massacres around Australia. They haven't done anything in our state, Western Australia, but we know of massacres that have taken place there. So a lot of information is now available and I think part of the fear is about what is going to be teased out, but what are people frightened of? You can see in the early period of settlement they were frightened of losing their investments— their cattle, their sheep, the little paddocks and their independence because whether you had 10 acres or 50,000 acres you were lord of your manor and the natives posed a threat to that. So the threat and the fear go together. So today what do people fear and what is the threat? There is no threat and there is no fear because those people Elliston are still getting on. In fact the process of recognition was a transformative experience for the First Nations people. So it is not just about the white guys having to change. It can be a transformative experience for both sides when something is recognised, faced up to honestly and then commemorated in a way which involves the whole community.

The Constitution is a document that was based on racist views prevalent in 1901 and there are provisions in it that need to be removed the sake of all Australians, not just for First Nations people—section 25 and particularly section 51(xxvi). Everyone says section 51(xxvi) is a dormant clause but it is there in the Constitution and if you had a real fascist running a state government they could deny citizens of a certain race the capacity to vote. It is in there and it is an indictment on us as Australians—all of us. Section 51(xxvi) is a race power that comes out of 18th century thinking. I am not sure what race means these days. We are human beings. We have different cultures, we have different attitudes, we have different ways of doing things but we are all human beings— unless some alien has arrived by a rocket ship the other night! I don't know of another race apart from us as humans. The concept of race is really archaic and the debates that were conducted to establish the Constitution in 1901 reveal a fear of Asians, of people from the subcontinent and people of colour and the desire to preserve the British provenance of the nation. If there is to be recognition none of that is going to get lost. Our institutions are entrenched—in fact, as you probably realise, under section 44 of the Constitution you can't be a member of parliament if you are a dual citizen. Well isn't that funny that these people from Britain who drafted the Constitution put that provision in there and some of them were caught foul of it! And isn't that a great thing, the foresight of our founding fathers, because they were all men, there weren't any women in that mob who drew it up. If we could only see the humour as well as the legal stodginess and meanness of non-recognition, if we could see how we would be better off if people weren't discriminated against, weren't treated as deficits in our society and if we celebrated the greatness of the First Nations of this country and recognised how this would add to the quality of our citizenship in the region in which we live.

Political parties have their ups and downs but I think Ken's right. The Parliament was not going to move on same-sex marriage until there was a private senators' bill sponsored by Senator Dean Smith and Senator Penny Wong. The bill sat there for a while but once the plebiscite had been taken it was all over red rover and the government had to do something about it and likewise people might have to start to push on constitutional recognition.

On a last point there is an interim report on the work that we are doing in the Joint Select Committee. You can get it from the Parliament.⁶ Chapter seven of that report raises a number of questions which we are looking for answers or guidance on. We are consulting with constitutional

⁶ The report of the Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples can be downloaded from the committee's website: www.aph.gov.au/Parliamentary_Business/Committees/Joint/Constitutional_Recognition_2018/ConstRecognition/Interim_Report.

lawyers and all sorts of other people to try and decide the specific wording that may or may not go into a referendum question and looking at legislation that deals with the proposal for a Makarrata Commission to oversee truth-telling and agreement-making. We will table our final report in November. Nothing will be done in this Parliament I would think. So there will be food for thought for whoever takes up government following the election next year. As Malarndirri said, on our side of politics we are up for the debate, the discussion. We are prepared to sit down with First Nations and work out the road forward around constitutional entrenchment and around legislation and around truth-telling and agreement-making through the Makarrata.

Question — On the question of constitutional change, some Aboriginal communities or nations have their own land rights Acts and constitution. The majority of the push for constitutional change is coming from Aboriginal people who come from the missions, from the assimilation policies. So how can Aboriginal people push for the whole of Australia and all of the nations when they don't have a mandate? You want First Nations people who already have their own constitution and land rights to rip that up so they can migrate into the Commonwealth Constitution. How is that self-determination?

Senator Dodson — Well I will have a crack at answering some of that—I am not sure I will answer it all. The call for a Voice and recognition in the Constitution has come from a process that began back in 2012 with the Expert Panel, with a parliamentary inquiry, and with the Referendum Council and more recently it has come from 12 national dialogues around Australia—it might not have incorporated everyone—that culminated at Uluru and out of the Uluru statement came this question of a Voice. That is how people wanted to be recognised—having a Voice in the Constitution, being entrenched in the Constitution. It doesn't affect people's land rights, it doesn't affect Native Title rights and it doesn't affect your sovereign position. Being recognised in the Constitution would simply give you standing if you wanted to enter into a treaty for instance with the Commonwealth government. We know that many people in Victoria and New South Wales are talking about a treaty process as is the Northern Territory. So the desire of people to be in or out of the Constitution is really a matter for them.

Comment — My name is Tjimpurna and I am from Pitjantjatjara Yankunytjatjara people—we call ourselves Alyawarr people. My community is Mutitjulu and APY land. You were talking before about coming from good strong community, and the fear and the threat. So this thing with this Constitution talk is that for us—my family and immediate Uluru family and Pitjantjatjara Yankunytjatjara families—the threat is our fear because we have already got our standing. You mob know that, Senator Dodson and Senator McCarthy, and that is why I came here to say on behalf of my family that you should not use that name Uluru because it is a very high name. So if we can have a meeting at some point to make you really understand our status, Pitjantjatjara Yankunytjatjara Alyawarr status, because we have a high status and we are getting really frightened. We would like everybody in Australia to talk more about Constitution questions, but we would like people—and your help too—to remove our family name, Uluru. So if we can get that opportunity I am happy to sit a bit more and help you understand that we have big fear. That is the threat to us, we are losing our status. And the queen, she acknowledges Pitjantjatjara Yankunytjatjara people and we acknowledge her too. Everything in Australia always starts at Uluru, always start Pitjantjatjara Yankunytjatjara. So I just wanted to say that. Thank you.

Senator McCarthy — For people who aren't aware, what was just said now is really important because when the delegates went to Uluru, the statement—and that is what you are referring to—came out as the Uluru statement. That is an important point and if the families there don't want that to be used anymore then then we have got to work out a way within the parliamentary system, but also through those other voices who have been using it, to respectfully listen. Thank you.

Richard Pye — If you could all join me in thanking all of our presenters—Mr Wyatt, Senator McCarthy and Senator Dodson. Thank you so much.