# Tipfire A. Royal commission into responses to the pandemic?

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## Summary

This is the first in a series of articles about the 2022 election – which was a public policy tipfire. It concerns the idea of a royal commission into responses to the Covid-19 pandemic.

In the election campaign, Labor – then Opposition - Senator Gallagher proposed a royal commission into the Government’s responses to the pandemic. This echoed a Senate Committee report of March 2022. It argued for a royal commission because the Government did not explain to the Committee the reasons for its pandemic emergency responses.

The Committee’s complaint needs to be seen in a two-part context. First, in 2020 (during the pandemic) another Committee issued a scathing report about legislation prohibiting the Senate from disallowing – reviewing and revoking - Government decisions. Yet within nine days, the Senate unanimously passed – after desultory consideration - national emergency legislation with exactly that effect. It would surprise if any Government thought such a Senate was interested in serious emergency policy issues – as distinct from political point-scoring.

Second, consistent with the above, the Committee’s March report failed to recognise that most

pandemic responses adversely affecting Australians – and that continue to cause great public controversy - were made by States, rather than the Commonwealth. In particular issue are responses of Victoria, Queensland and Western Australia which included unexplained - even inexplicable - decisions adversely affecting not only their own States but citizens across Australia, as well as the Commonwealth and Australia’s reputation.

That means a national royal commission is necessary to start to repair the damage to, and loss of public faith in, Australia’s democratic institutions caused by pandemic responses.

A further purpose of such a royal commission is to ensure those exerting authority understand they will be held publicly and rigorously to account for their decisions. That further purpose is of critical significance given the growing predilection for claims of emergencies to justify extraordinary infringements on democratic and human rights without adequate parliamentary oversight.

It is widely believed some pandemic responses entailed reactions to media scaremongering such as exaggerations of danger posed by the pandemic or what appears to have been a campaign against a particular vaccine - Astra Zeneca - partly motivated by political considerations.

Whether or not social media - such as facebook - and the press and commercial television/radio coverage are topics for a royal commission, the actions of individuals in publicly funded organisations including institutes, universities and the ABC in spreading (mis)information need to be subject to its scrutiny. This is because ultimately their only accountability is to the public.

Only Governments can establish royal commissions. Senator Gallagher is now Attorney General and can make good her call. Unless she does so with a royal commission going beyond responses of the Commonwealth and into those of the States, her previous call will result in even more serious damage to trust in Australia’s democratic institutions. Worse, unless she does so, those exercising authority will be emboldened to claim ever more emergencies and to abuse their positions.

## A1. Introduction

At the start of the 2022 Federal election season, Deputy Opposition Leader Mr Marles (Labor) likened part of the (then) Coalition Government’s campaign as a ‘dumpster fire’.[[1]](#footnote-1)

That was too kind. And limited: the Opposition, other candidates and mass media soon lit their own bins. Creating an inferno in what has become a policy rubbish dump - a tip fire.

This is the first in a series of articles about that tip fire. It looks at Federal Labor’s sort-of-promise to hold a royal commission into the most significant public policy issue since the end of World War 2 – ‘emergency’ responses to the Covid-19 pandemic.

It is intended further articles will cover a few other offerings from the election campaign: economic policy; proposals for an integrity commission; Federalism.

## A2. Senate proposal

Ms Gallagher, a Labor Senator, proposed a royal commission into the Coalition Government’s response to the pandemic.

This echoed an April 2022 report from a Senate Committee, which she chaired, on the pandemic. It claimed the Government had avoided accountability mechanisms and showed:

*‘disdain for Parliamentary scrutiny and the rights of Australians to know the basis on which the decisions are taken that so profoundly impact their lives.’*[[2]](#footnote-2)

The report was framed as an indictment of the Government, especially for its lack of planning and transparency in ‘emergency’ decision making.

The Committee’s castigation of the Government over transparency of emergency decisions should be seen in the context of another Committee’s similar earlier castigation – in late 2020. That earlier Committee report – and media release – roundly condemned the practice of Government seeking legislation to preclude Senate disallowance of Ministerial decisions, including those relating to emergencies, made under delegated legislation.[[3]](#footnote-3)

The very next day a Bill was introduced to Parliament including exactly that practice for Government emergency declarations. Despite the report and media release, the Bill was unanimously passed by the Senate the day it was considered. With only perfunctory discussion.[[4]](#footnote-4)

Given the gulf between what that Senate Committee said and what the Senate immediately did, it would be surprising if any Government considered statements from the then Senate about the need for the Government to account to Parliament to be anything more than bluster.

## A3. States

Such an impression of the Senate would hardly be dispelled by the more recent Committee report failing to notice that disdain for parliamentary scrutiny and unexplained – inexplicable – pandemic responses affecting the lives of Australians were primarily at the State – not Commonwealth - level.

Indeed, Commonwealth action was needed to prevent some such State responses – restrictions on movement - causing a national disaster. To avert a near economic depression arising from them, the Commonwealth financed a bail-out of businesses and individuals – an average of $12,000 per person in the first year of the pandemic. The Commonwealth also provided vaccines – free of charge - that ‘allowed’ easing of restrictions imposed by States. An easing reluctantly, belatedly – even truculently - made in several States.[[5]](#footnote-5)

The merit of such Commonwealth spending - and even of picking-up the tab for such State decisions - is not a primary issue for a royal commission investigating responses to the pandemic.

Rather, the issue is: the reasons behind decisions, made in the name of ‘emergency’, that adversely affected Australians.

That means any royal commission must primarily be concerned with investigating and publicly disclosing the reasons for State pandemic decisions. That some such decisions lack transparency is evidenced by legal actions to force at least one State Government – Victoria’s - to reveal reasons for apparently irrational prohibitions on movement and work.[[6]](#footnote-6)

## A4. Why a royal commission?

### A4.1 Restoring faith, accountability

Legal experts have called for a royal commission to investigate pandemic responses – particularly those impinging on human rights - by State and Commonwealth Governments.

The explanation:

*‘Faith in Australia’s institutions has been seriously eroded by the lack of checks and balances on extraordinary powers used by health ministers during the Covid-19 pandemic and only a public inquiry such as a royal commission would effectively examine their actions’*[[7]](#footnote-7)

That is, a royal commission should be seen as a mechanism requiring those holding positions of public authority to account for their behaviour in the pandemic.

Accountability is important for two reasons. First, it is needed to give the public confidence that democratic institutions can work to constrain power. Second, it gives notice to those exercising authority their behaviour will be subject to public examination.

### A4.2 Normal accountability processes

Normally, such accountability is through challenges in the courts to the legality of decisions and through parliament and ultimately elections – democratic accountability - regarding their merit.

Court challenges are so expensive as to preclude resolution of all grievances. Courts also are reluctant to strike-down decisions made by ministers etc – especially those claimed to be made for emergency reasons.

Nonetheless in several cases about pandemic responses, while courts upheld particular State restrictions they expressed disquiet about the necessity, transparency and decision-making processes behind them. Courts, including the High Court, effectively issued warnings about the breadth of restrictions – not all of which were heeded.[[8]](#footnote-8)

Democratic accountability is through responsible and representative government. Responsible government requires Governments to account to Parliaments. Representative government involves the public electing members of Parliaments. Democratic accountability is limited by the extent that decisions and the real reasons for - and processes leading to - them are known by Parliaments and the public. [[9]](#footnote-9)

It is also limited to the extent people have an ultimate right of ‘redress’ via the ballot box against those exercising authority in ways that affect them.

### A4.3 Shortcomings in pandemic accountability processes

The fact of the Senate Committee complaining about failure of the Government to disclose relevant information indicates one practical shortcoming in accountability for pandemic responses. It must also undermine public confidence in the ability of Parliament to exercise control over Government. Of course, such problems are not limited to the Commonwealth.

The issue raised by the legal experts is similar to the Committee’s complaint: lack of confidence the real reasons for pandemic responses have been disclosed. Including, especially, at State level.

A royal commission can work to mitigate this deficiency in accountability via its powers to uncover evidence – by taking public submissions, examining witnesses and requiring documents.

In the case of pandemic responses there is a further weakness in accountability processes. Decisions made in one State affected people of other States – for example decisions to close State borders. There are credible claims that some States actively discriminated against Australians of other States.

The above implies there should be three elements of a minimum process to give the public confidence about the exercise of power during the pandemic, and to enable those who exercised authority to be held to account. A royal commission should:

1. be national, operate independently of every State and report to the Commonwealth;
2. disclose reasons for and processes of State-based and Commonwealth decisions;
3. be able to refer evidence of unlawful decision making to appropriate authorities.

### A4.4 Other reviews, royal commissions

That public confidence and accountability for pandemic responses is a pressing issue is evidenced by a review already established by some philanthropic organisations. However, such a review lacks formal authority and will not be able to provide requisite confidence to the public about the extraordinary responses to the pandemic.[[10]](#footnote-10)

Given the gravity of the issues involved, a royal commission into pandemic responses will need to improve on certain aspects of some recent Commonwealth royal commissions.

The commission into trade union governance and corruption was derided as inspired by partisanship – intended to damage Labor. There were questions about the appropriateness of choice of commissioner and his decision to not recuse himself when the public held perceptions of a conflict between his duty and private interests, the latter including support for Labor’s political opponents.[[11]](#footnote-11)

The more recent royal commission into natural disasters also had issues about the appropriateness of commissioners. While its principal public policy concerns were Commonwealth Government powers it did not address the central issues of Constitutional checks and balances, strayed into wider ‘emergency’ threats e.g., cyber security, and some key recommendations were open to challenge.[[12]](#footnote-12)

The totality of the report into natural disaster arrangements and ensuing legislation could be seen as seeking to partially bluff the public by ostensibly equipping the Government with arbitrary powers the full extent of which may not be (Constitutionally) valid. This is not consistent with the improvement in transparency and democratic processes a royal commission into pandemic responses should seek to achieve.[[13]](#footnote-13)

It is imperative that any inquiry into pandemic responses – including a royal commission – is and is seen to be free of political partisanship. The reason is suspicion that some behaviour during the pandemic – decision making and commentary – was motivated by party political considerations. One consequence is that commissioner(s) must be seen to be independent of any political party whose members were in Government.

Another consequence is that any royal commission must cover State responses, including Victoria, Queensland and Western Australia which had Labor administrations. Otherwise, the inquiry would be perceived as politically tainted. That would prove even more damaging than not having an inquiry at all.

## A5. Subject matter

### A5.1 Lawfulness

For the purposes of giving the public confidence about the exercise of power during the pandemic, and enabling the holding- to-account those who exercised authority, a royal commission into responses to the Covid-19 pandemic will need to review more than ‘the science’. The central issue is the lawfulness of responses – whether power was abused.

The lawfulness of responses that curtailed human rights and liberty of individuals - whether supposedly based on legislation or prerogative - rests on their reasonable necessity for protection of public health without harming democratic institutions.[[14]](#footnote-14)

There is considerable public scepticism about the reasonable necessity, and therefore legality, of some responses particularly by some States. These must be addressed.[[15]](#footnote-15)

### A5.2 Commonwealth Government duties

The Constitution sets out a duty for the Commonwealth Government – to uphold the Constitution and Commonwealth laws. A most fundamental question is whether the Government did so in its responses to the pandemic.[[16]](#footnote-16)

To answer that question, a royal commission would need to go beyond actions directly affecting the public. It would need to examine inter-governmental relations, in particular whether the Commonwealth Government adequately sought to uphold the division of responsibilities between Commonwealth and States. It would need to look into such issues in considerably more depth than the Senate Committee’s report.

Any observer could hardly fail to notice responses to the pandemic apparently reversed the Constitutional division of Commonwealth and State powers – the Commonwealth engaged in some general public health matters like vaccination, States dealing with quarantine. This was not examined in the Senate Committee’s report.

Indeed, contrary to the thrust of the report, the Commonwealth is not responsible for vaccines – yet it became the prime actor, and scapegoat, in the procurement of vaccines.

The Senate Committee report noted, but did not analyse the implications of, Commonwealth responsibility for quarantine.

The report ignored the Commonwealth Government’s apparent failure to assess many State restrictions on movement of individuals – which appear to be quarantine in nature - such as ‘lockdowns. The failure stands in contrast to the Government’s in-media objections to some such restrictions.[[17]](#footnote-17)

Further, the Committee report did not examine the Commonwealth Government’s: unwillingness to challenge - in the High Court - border closures ordered by State Governments or officials; provision of military resources to State Government ventures whose legality was not always assured; not questioning whether State Parliaments were by-passed by Governments.[[18]](#footnote-18)

National cabinet also merits examination. While many claim the issue with national cabinet was it becoming a forum for bickering and enabling Premiers to grandstand, more significant to public confidence in institutions was its appearance that the Government included Premiers – who, not being members of the Parliament, are ineligible to so act.

Meanwhile, eligible Parliamentarians who would be expected to be co-opted into Government in a bona-fide national emergency – the Opposition leader for example – were excluded from national cabinet.[[19]](#footnote-19)

That appearance – of Government including Premiers - also included attempts to suppress information about the workings of national cabinet on the false pretext it was protected by conventions about cabinet confidentiality.

As such, it could be argued national cabinet decreased Parliaments’ oversight of Governments and democratic accountability at State and Commonwealth levels.

### A5.3 Other responses – State inquiries

Beyond Government and Ministers, there are serious questions about whether other pandemic responses - involving use of public resources – weakened public confidence about the exercise of power and whether those who exercised authority have been held to account.

Four examples are: inquiries into pandemic management; possible sabotage of vaccination policy; potential illegalities; misuse of public media.

The adequacy of at least the Victorian Government’s board of inquiry into Melbourne’s hotel quarantine failure is in serious question. The report of that board claimed it had been unable to determine responsibility for decisions affecting the health and human rights of many. That claim appears to fly in the face of logic and admissions.[[20]](#footnote-20)

The report also ignored a (then) very recent Victorian Supreme Court judgement directly relevant to – citing evidence about - some matters under review.[[21]](#footnote-21)

### A5.4 Other responses - sabotage of vaccination efforts?

An apparently unique vaccine-phenomenon occurred in the pandemic – the public were effectively encouraged by some to, and did, go ‘vaccine shopping’.

There was extraordinary promotion of arguments against the Commonwealth’s preferred vaccine - Astra-Zeneca - including efforts to convince people to defer vaccination until ‘better’ vaccines became available. In totality, the arguments appeared to take on characteristics of a campaign – similar to promotion of some other public health options – aimed at changing Government policy.

It is not entirely clear that motivations were solely health related – there were at least undertones of opposing the Prime Minister.

While the Senate Committee report criticised the Government for ‘putting its eggs in one basket’ – by choosing Astra Zeneca – the incompleteness of its comments on vaccines is conspicuous and was noted in dissenting comments.

The report did not acknowledge the compelling logic of the choice of Astra Zeneca and did not comment on the apparent anti-Astra campaign. Its criticism of the Prime Minister for saying vaccination is ‘not a race’ was not balanced by the fact the same sentiments continued to be made by others long after the Prime Minister recanted.[[22]](#footnote-22)

Incorrect claims were made about Astra – including by authority figures - to dissuade people from following the Prime Minister’s ‘get vaccinated’ advice. Some were nationally broadcast by the ABC.

Some health officials, presented ‘experts’ and politicians made false arguments against Astra. There are scholarly articles about the spread of deceit about Astra in social media. Despite this, some of the Astra Zeneca vaccine made locally was good enough to give to neighbouring countries.[[23]](#footnote-23)

There were also widely reported comments that Sydney residents lining up for vaccines were ‘*guinea pigs’*. This was part of an argument saying that attempts to curb an epidemic by vaccination was experimental – a fallacious argument because it was a more common practice. At the time, community hesitancy about vaccination had become such a concern Sydney University publicly warned several days later: *‘do not wait for Pfizer if Astra Zeneca is available’*.[[24]](#footnote-24)

Among the likely indirect results of the apparent campaign were a loss of confidence on the part of a significant part of Australia’s population about: *all* vaccines; the utility of pandemic measures; the bona fides of Governments, parts of the media and health experts.

Given vaccination rates were used to determine when restrictions on populations would be relaxed, other results included severe adverse public health, social and economic consequences.

Whether there was an anti-Astra campaign, and the behaviour and motivations of critics of the vaccine, are therefore central issues for any royal commission seeking to restore faith in public institutions.

### A5.5 Other responses - illegalities in States?

There is potential that some State responses were not lawful – that they were not reasonably necessary for the purpose of protecting public health.

Possible illegalities included decisions made: for other than public health reasons; for reasons inconsistent with evidence presented to courts by the same parties; in apparent conflict with legislation.[[25]](#footnote-25)

There were notorious cases of rules made without public health purpose including State-based discrimination against residents of other States and lockdowns of capital cities without apparent reason.

Also notorious were inconsistent public health restrictions among States, and slanging matches between State Premiers.

There remains unanswered speculation some State Governments pressured officials into certain decisions supposed to be independently made– possibly a form of corruption and usurpation of parliaments by Governments. Such an issue arose in, but was not addressed by, the Victorian hotel quarantine inquiry.[[26]](#footnote-26)

### A5.6 Other responses – misuse of publicly funded media?

Any inquiry into pandemic responses should investigate whether publicly funded media was misused. Some of the matters giving rise to such a question include promulgation of: false impressions about accountability for decisions; badly mistaken forecasts, false analyses, distorted statistics; sensationalist/doomsday language. [[27]](#footnote-27)

Apart from what appeared to be campaigns to change Government policies, there were examples of the media misrepresenting accountability mechanisms and promoting State Premiers.

In at least four States – Victoria, Queensland, South Australia and Western Australia - Premiers and the media publicly and repeatedly misrepresented responsibility for pandemic measures. In those States, contrary to commentary, parliaments had given officials – not Ministers – powers to impose public health restrictions.[[28]](#footnote-28)

Overall, mass media has been described as engaging in fearmongering – a behavioural contagion. This gave rise to the appearance of pressuring some State politicians and officials into imposing restrictions of populations which - at least in hindsight – were unnecessary.[[29]](#footnote-29)

Among the most questionable practices was the pedalling of ‘elimination’ of Covid – Covid zero - as a viable objective. Despite its impossibility being known in early 2020, Covid zero continued to be promoted in some media until late 2021. The objective, which conflicted with that agreed by Governments at the outset of the pandemic, required strict lockdowns and other curtailments of human rights.

As noted previously:

*‘Presented beliefs - that any action to reduce Covid is right, that Governments were not doing enough to close down societies – got out of hand. So much so, in mid-January 2021 the Commonwealth Health Minister stepped in to say the real experts were working for Governments and some personalities promoted in the media were not renowned for accurate predictions etc*’.[[30]](#footnote-30)

The appearance of political alignments with elimination policies have been noted. Several Labor Premiers and the New Zealand Labor Government both promoted the policy and were praised for their strictness by some media ‘experts’. The same commentary on elimination criticised the Commonwealth and NSW Coalition Governments – the latter insisting on a contrary policy of transitioning to ‘living with Covid’.

The appearance of political alignments rather than scientific detachment must have had some adverse effect on public belief in the bona fides of ‘health advice’, and on public trust in institutions.[[31]](#footnote-31)

By the time of writing, impossibility of elimination is recognised virtually everywhere in the world, except in the Chinese government. [[32]](#footnote-32)

There is a case for a royal commission to review all media presentations relevant to pandemic responses. However, the case is particularly compelling for review of publicly funded media e.g., the ABC and SBS. This is because that media does not have business imperatives, nor any accountability to private shareholders or product buyers.

The publicly funded media holds- out to be authoritative sources of balanced information and its people are thus in a special position, with a special responsibility, vis the public. That special position leads to publicly funded media attracting criticism from private media interests and from politicians. The public may not be in a position to judge the fairness of criticisms such as *‘fearmongering’*.

Hence for the accountability of publicly-funded media to be settled, and to ensure the organisations know their actions relating to responses to the pandemic – and other serious emergencies - will be publicly and fairly examined, they should be subject to review by the royal commission.[[33]](#footnote-33)

## A6. Conclusion

At present, each day in Australia there are tens of thousands more Covid cases and many more Covid related deaths than what was widely represented as ‘tolerable’ in 2020 and 2021. That places grave doubts over the democratic acceptability of any elimination objective and consequent decisions pursued in the pandemic.

Responses to the pandemic, especially by the States and parts of the media, must have undermined confidence in democratic institutions. Similarly, there must be views that those exercising authority have not been held to account.

A royal commission is needed, not just for the reasons identified by the Senate Committee – to overcome the former Government’s surly attitude to the Committee - but to scrutinise whether the Government adequately sought to uphold democratic institutions from legally dubious pandemic responses and from media assaults funded from public sources. A royal commission is needed to prevent the Senate Committee’s deficient report exacerbating the damage.[[34]](#footnote-34)

The continuation of Covid cases, and deaths, mean the pandemic is not over. Emergency powers remain on foot in several States. The ABC recently broadcast one commentator’s opinion that 2022 will be the *‘worst year’* but *‘as long as authorities are willing to reimpose restrictions when needed we will be fine’.*  Another commentator derided this as fearmongering and relevance deprivation now that *‘we’ve all moved on’*.*[[35]](#footnote-35)*

Given the above doubts about responses to the pandemic, a royal commission should commence now – not least to assure the public that future responses are reasonably necessary, and to clearly signal to those in authority their actions will be publicly scrutinised.

Following the May 21 election, a new Commonwealth Government has been installed. Senator Gallagher has been sworn in as Attorney General.[[36]](#footnote-36)

In the former Government, the Attorney General had responsibility for royal commissions. If those arrangements continue in the new Government, Ms Gallagher now has the opportunity to make good the royal commission recommendation of the Senate Committee she recently chaired.

Failure to promptly do so, or failure of terms of reference to cover State responses and other matters such as mentioned above, would seriously damage public confidence in the integrity of Government, confirm the Senate to be a house of hot air, seriously impair democratic accountability and embolden those who abuse positions of public trust.

J Austen

26 May 2022

1. <https://thewest.com.au/news/deputy-opposition-leader-richard-marles-describes-liberal-party-as-bin-fire-as-election-campaign-begins-c-6398375> [↑](#footnote-ref-1)
2. In this article: Parliament (capital P) denotes Commonwealth Parliament; Government (capital G) denotes Executive Government either State or Commonwealth; government (lower case) denotes the system of government. Senate Committee report: <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/COVID-19/COVID19/Report/section?id=committees%2freportsen%2f024920%2f79403> [↑](#footnote-ref-2)
3. <https://www.thejadebeagle.com/tinpot-emergency.htm> [↑](#footnote-ref-3)
4. <https://www.thejadebeagle.com/emergency-achieved.html> [↑](#footnote-ref-4)
5. As at May 2021, the bail out was costed at $291bn: <https://treasury.gov.au/coronavirus#:~:text=The%20COVID%2D19%20pandemic%20continues,billion%20as%20of%20May%202021>.

   NSW was the first State to ease restrictions – announcing a plan of easing once vaccination rates were 70%, 80% - which applied from early November 2021. Western Australia was the last to ease restrictions – e.g., opening its border – due to a higher stated criterion (90% vaccinated), a slow take up of vaccines, and a later decision not to follow that criterion (delay of a month). <https://www.theguardian.com/australia-news/2022/mar/02/western-australia-border-reopening-tests-mcgowan-as-covid-peak-looms> [↑](#footnote-ref-5)
6. For example: <https://www.skynews.com.au/opinion/chris-kenny/breach-of-his-own-law-jims-mowing-founder-takes-lockdown-legal-battle-to-supreme-court/video/009a3be2ebd017d8a57bb58de0e452cd> [↑](#footnote-ref-6)
7. <https://www.theaustralian.com.au/business/legal-affairs/whatever-it-takes-not-good-enough-in-the-covid19-pandemic/news-story/fdf437bfc6424b549e1b5a48d361cde9>

   <https://lsj.com.au/articles/thought-leadership-impact-of-the-pandemic-on-human-rights-in-nsw/> [↑](#footnote-ref-7)
8. <https://www.thejadebeagle.com/not-so-fast.html> [↑](#footnote-ref-8)
9. *‘Electoral choice thereby constitutes the principal constraint on ……. the lawful exercise by Ministers and officers within their departments of the executive power of the Commonwealth’* and *‘The ever-present risk … is that communication of information which is either unfavourable or uninteresting to those currently in a position to exercise legislative or executive power will, through design or oversight, be impeded by legislative or executive action to an extent which impairs the making of an informed electoral choice and therefore undermines the constitutive and constraining effect of electoral choice’* Gagelar J, McCloy v NSW <https://eresources.hcourt.gov.au/downloadPdf/2015/HCA/34> [↑](#footnote-ref-9)
10. ‘*UNSW deputy vice-chancellor planning and assurance ­George Williams also dismissed the new, independently funded Shergold review as a “worthy but ineffective” means of getting to the bottom of decisions about extreme measures such as lockdowns, curfews and state and international border closures that included prohibiting citizens from returning.’* <https://www.theaustralian.com.au/business/legal-affairs/whatever-it-takes-not-good-enough-in-the-covid19-pandemic/news-story/fdf437bfc6424b549e1b5a48d361cde9>

    <https://www.canberratimes.com.au/story/7690649/a-privatised-review-of-the-covid-pandemic-is-not-the-answer/> [↑](#footnote-ref-10)
11. <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=CHAMBER;id=chamber%2Fhansards%2F812a4ed6-40e8-4fa9-be41-ad15fcb8e050%2F0170;query=Id%3A%22chamber%2Fhansards%2F812a4ed6-40e8-4fa9-be41-ad15fcb8e050%2F0148%22>

    <https://www.smh.com.au/politics/federal/trade-union-royal-commission-dyson-heydon-saves-his-own-skin-20150831-gjbv1t.html> [↑](#footnote-ref-11)
12. <https://www.thejadebeagle.com/tinpot-2020.html> [↑](#footnote-ref-12)
13. <https://www.thejadebeagle.com/tinpot-2020.html> [↑](#footnote-ref-13)
14. Legislation: <https://www.thejadebeagle.com/covid---may.html>

    Prerogative: <https://www.thejadebeagle.com/not-so-fast.html> [↑](#footnote-ref-14)
15. <https://www.theaustralian.com.au/inquirer/election-2022-whoever-wins-lets-hold-our-politicians-to-account/news-story/13e0f441a41c4a4b2a4c0a95bbd2c374> [↑](#footnote-ref-15)
16. Constitution s.61: ‘*The executive power of the Commonwealth ….. extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth’.* It is accepted the Commonwealth Government could/should intervene were Commonwealth or State democratic institutions under serious threat – such threat being the former (pre 9/11?) definition of a national emergency. This would include against parties that sought to overthrow State Parliament – with a State Government not being immune.

    [↑](#footnote-ref-16)
17. Constitution s.51(ix) enables the Commonwealth to make laws about quarantine. The Commonwealth has legislated a Quarantine Act in which quarantine is: *‘examining, detaining, isolating…… people…..in order to prevent or control the introduction or spread of diseases ……’* The explanatory notes for the relevant Bill states: *‘In the early part of the 20th century, uncertainty and disagreement over the appropriate role of Commonwealth and State governments resulted in problematic responses to outbreaks of communicable disease. An example of this was the influenza pandemic of 1918-1919, in response to which both the Commonwealth and the States implemented quarantine measures that were partly overlapping and inconsistent. Section 2) was inserted into the Quarantine Act in response to this situation and gives the Commonwealth power to override State legislation by proclamation in an emergency.’* That is, the Act allows the Government to override State quarantine actions.

    In-media objections for exampe: <https://www.9news.com.au/national/coronavirus-queensland-hard-border-closure-scott-morrison-criticism-annastacia-palaszczuk-deb-frecklington-support-state-election-covid19/279bcd5c-8a4c-456a-bc56-b7a5a75757ca> [↑](#footnote-ref-17)
18. For example:

    Failure to challenge: <https://www.smh.com.au/national/western-australia/commonwealth-s-withdrawal-from-palmer-challenge-an-egg-that-must-now-be-unscrambled-20200807-p55jjt.html>

    Military support: <https://www.abc.net.au/news/2021-08-25/qld-covid-border-restrictions-troops-crackdown-on-border-hoppers/100368916>; <https://www.abc.net.au/news/2021-07-30/adf-soldiers-to-arrive-in-sydney-covid19-lockdown/100336124>

    State Government encouragement (States exist only by virtue of the Constitution): <https://thewest.com.au/politics/hard-border-debate-mark-mcgowan-slams-commonwealth-government-for-its-crazy-bullying-ng-b881989317z>;

    <https://www.news.com.au/national/politics/scott-morrison-slams-annastacia-palaszczuk-over-queensland-border-extortion/news-story/d92449b687b92b4eb8b4046f7146aa5f> [↑](#footnote-ref-18)
19. Bickering: <https://www.smh.com.au/politics/federal/after-early-success-has-bickering-got-in-the-way-of-national-cabinet-20210902-p58o5x.html> Membership: <https://federation.gov.au/national-cabinet/members>. Qualification for membership of Commonwealth cabinet: Constitution s.64: *‘ ….no Minister of State shall hold office for a longer period than three months unless he is or becomes a senator or a member of the House of Representatives.’* Confidentiality: <https://www.sbs.com.au/news/article/legal-experts-criticise-national-cabinet-secrecy-bid-as-bizarre-and-disrespectful/4eewqdcsw> [↑](#footnote-ref-19)
20. <https://www.thejadebeagle.com/happy-new-fear.html> [↑](#footnote-ref-20)
21. <https://www.thejadebeagle.com/not-so-fast.html> [↑](#footnote-ref-21)
22. <https://thenewdaily.com.au/news/politics/2021/07/22/morrison-not-a-race-vaccine/> [↑](#footnote-ref-22)
23. Broadcast: <https://www.brisbanetimes.com.au/politics/queensland/queensland-premier-will-not-delete-incorrect-tweet-about-astrazeneca-20210705-p586zl.html>

    Astra Zeneca was the obvious, logical choice being: more readily available, more usable, able to be quickly manufactured in Australia, based on proven technology and far less costly than other vaccines from western countries. Later evidence also suggested it was the most effective of then available vaccines with negligible risks. The anti-Astra campaign included widespread publication of incorrect stories as fact e.g <https://johnmenadue.com/rethinking-australias-covid-vaccine-rollout-beware-a-two-tier-system-part-1/> Comparison of Astra and other vaccines is at <https://www.biospace.com/article/comparing-covid-19-vaccines-pfizer-biontech-moderna-astrazeneca-oxford-j-and-j-russia-s-sputnik-v/>. Cost per dose: Astra $2.15 to $5.25; Pfizer $19.50. Part of the saga is outlined in: <https://www.theaustralian.com.au/weekend-australian-magazine/how-vaccine-shopping-left-astrazeneca-on-the-shelf/news-story/bfde7448265cb2d63be3bb9b852843be>

    <https://thenewdaily.com.au/news/politics/2021/07/22/morrison-not-a-race-vaccine/>

    <https://johnmenadue.com/vaccine-rollout-herd-immunity-highly-unlikely-with-astrazeneca-in-the-frame-part-2/> <https://www.abc.net.au/news/2021-06-30/qld-cho-rejects-morrisons-astrazeneca-comments-covid-vaccine/100256022> [↑](#footnote-ref-23)
24. The term ‘guinea pig’ was particularly unfortunate as (ill-informed but popular) criticisms of the Covid-vaccines were that they had not been properly tested and some were experimental.<https://www.dailymail.co.uk/news/article-9896587/Nick-Coatsworth-blasts-ABC-pundit-Norman-Swans-reporting-Covid-19.html>; <https://www.sydney.edu.au/infectious-diseases-institute/news-and-events/news/2021/08/05/should-i-wait-for-pfizer-the-case-for-astra-zeneca-now.html>; <https://www.reuters.com/article/factcheck-covid-vaccines-idUSL1N2M70MW> [↑](#footnote-ref-24)
25. <https://www.thejadebeagle.com/acrpa.html>

    Officials making decisions for other than public health reasons and contrary to what the (High) Court had been told: <https://www.thejadebeagle.com/happy-new-fear.html>.

    The reason for likely illegality is: the powers to make restrictions were only capable of being exercised to address a public health emergency. [↑](#footnote-ref-25)
26. <https://www.thejadebeagle.com/acrpa.html> [↑](#footnote-ref-26)
27. For example: <https://www.news.com.au/world/coronavirus/australia/end-of-restrictions-exposes-senseless-covid-scaremongering/news-story/e84643e7f745d3745f08065791419dd3>

    [↑](#footnote-ref-27)
28. <https://www.thejadebeagle.com/covid---july-2020.html>; https://www.thejadebeagle.com/not-so-fast.html [↑](#footnote-ref-28)
29. <https://psychology.org.au/for-members/publications/inpsych/2020/june-july-issue-3/the-language-of-fear-australian-media-and-the-pand>

    <https://www.dailymail.co.uk/news/article-10674689/Dr-Nick-Coatsworth-SLAMS-politicians-health-bureaucrats-Covid-fearmongering.html> [↑](#footnote-ref-29)
30. <https://www.thejadebeagle.com/happy-new-fear.html> Some examples are in: <https://www.dailymail.co.uk/news/article-9140451/Greg-Hunt-slams-doctors-wrong-Covid-19.html> [↑](#footnote-ref-30)
31. For example: <https://www.theaustralian.com.au/inquirer/how-auntys-health-expert-norman-swan-got-it-so-wrong/news-story/614cf7eba62f75e9f059e91b38221edf> [↑](#footnote-ref-31)
32. <https://www.news.com.au/world/coronavirus/australia/end-of-restrictions-exposes-senseless-covid-scaremongering/news-story/e84643e7f745d3745f08065791419dd3>

    <https://www.abc.net.au/news/2022-04-30/why-china-persists-with-covid-zero/101024902> [↑](#footnote-ref-32)
33. Further, there have been cases where legal-case accountability of individuals has been diminished by the organisation funding settlements for defamation actions against reporters. <https://www.anao.gov.au/work/request/abc-defamation-case-payment>

    [↑](#footnote-ref-33)
34. 16 May 2022: 67,455 Covid cases, 64 Covid related deaths: <https://ourworldindata.org/explorers/coronavirus-data-explorer>

    In the first year of the pandemic there were 28,500 cases and 860 deaths <https://www.aihw.gov.au/reports/burden-of-disease/the-first-year-of-covid-19-in-australia/summary>.

    An overview is at: <https://www.bbc.com/news/world-australia-61418796> [↑](#footnote-ref-34)
35. <https://www.abc.net.au/news/2022-02-22/pandemic-not-over-according-to-norman-swan/13764632> [↑](#footnote-ref-35)
36. <https://www.lawyersweekly.com.au/politics/34418-katy-gallagher-sworn-in-as-attorney-general> [↑](#footnote-ref-36)