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SITTING DAYS—2020

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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. Kristina Keneally
Leader of the Australian Greens in the Senate—Senator Larissa Waters
Deputy Leader of the Australian Greens in the Senate— Senator Nicholas McKim
Chief Government Whip—Senator Dean Anthony Smith
Deputy Government Whips— Senators James McGrath and Slade Brockman
The Nationals Whip—Senator Perin Davey
Chief Opposition Whip—Senator Anne Elizabeth Urquhart
Deputy Opposition Whips— Senators Raff Ciccone and Malarndirri McCarthy
Australian Greens Whip— Senator Rachel Siewert

Printed by authority of the Senate
### Members of the Senate

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<th>Senator</th>
<th>State or Territory</th>
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<th>Party</th>
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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.

<table>
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[2] Chosen by the Parliament of South Australia to fill a casual vacancy (vice N Xenophon), pursuant to section 15 of the Constitution.
[3] Chosen by the Parliament of New South Wales to fill a casual vacancy (vice S Dastyari), pursuant to section 15 of the Constitution.
[7] Chosen by the Parliament of Tasmania to fill a casual vacancy (vice D Bushby), pursuant to section 15 of the Constitution.
[8] Chosen by the Parliament of Victoria to fill a casual vacancy (vice M Fifield), pursuant to section 15 of the Constitution.
[9] Chosen by the Parliament of New South Wales to fill a casual vacancy (vice M Fifield), pursuant to section 15 of the Constitution.
[10] Chosen by the Parliament of Victoria to fill a casual vacancy (vice S Dastyari), 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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<tr>
<td>Minister for the Public Service</td>
<td>The Hon Scott Morrison MP</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>
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<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 Agriculture, Drought and Emergency Management</td>
<td>The Hon David Littleproud MP</td>
</tr>
<tr>
<td>Minister for Communications, Cyber Safety and the Arts</td>
<td>The Hon Paul Fletcher MP</td>
</tr>
<tr>
<td>Minister for Population, Cities and Urban Infrastructure</td>
<td>The Hon Alan Tudge MP</td>
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<tr>
<td>Minister for Regional Health, Regional Communications and Local Government</td>
<td>The Hon Mark Coulton MP</td>
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<tr>
<td>Minister for Decentralisation and Regional Education</td>
<td>The Hon Andrew Gee MP</td>
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<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>Kevin Hogan 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>
<td>The Hon Michael Sukkar MP</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</td>
<td>Senator the Hon Mathias Cann</td>
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<td>(Vice-President of the Executive Council)</td>
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<td>(Leader of the Government in the Senate)</td>
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<tr>
<td>Assistant Minister for Finance, Charities and Electoral Matters</td>
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<td>The Hon Sussan Ley MP</td>
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<td>Minister for Resources, Water and Northern Australia</td>
<td>The Hon Keith Pitt MP</td>
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<td>Assistant Minister for Waste Reduction and Environmental Management</td>
<td>The Hon Trevor Evans MP</td>
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<td>Minister for Foreign Affairs</td>
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<td>Minister for Trade, Tourism and Investment</td>
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<td>Minister for Health</td>
<td>The Hon Greg Hunt MP</td>
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<td>The Hon David Coleman MP</td>
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<tr>
<td>Assistant Minister for Customs, Community Safety and Multicultural Affairs</td>
<td><strong>The Hon Jason Wood MP</strong></td>
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<tr>
<td><strong>Minister for Education</strong></td>
<td>The Hon Dan Tehan MP</td>
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<tr>
<td><strong>Minister for Employment, Skills, Small and Family Business</strong></td>
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Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. The title of a department does not necessarily reflect the title of a minister in all cases. Ministers are sworn to administer the portfolio in which they are listed under the ‘Minister’ column and may also be sworn to administer other portfolios in which they are not listed. Assistant Ministers in italics are designated as Parliamentary Secretaries under the Ministers of State Act 1952.
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Monday, 10 February 2020

The PRESIDENT (Senator the Hon. Scott Ryan) took the chair at 10:00, 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

Meeting

The Clerk: Committees have lodged proposals to meet as shown at item 4 of today's Order of Business, and an additional proposal has been lodged by the Administration of Sports Grants Select Committee for a private meeting today from 4 pm, as follows:

Administration of Sports Grants—Select Committee—private meeting otherwise than in accordance with standing order 33(1) today, from 4 pm.

Finance and Public Administration References Committee—private meeting otherwise than in accordance with standing order 33(1) today, from 10.30 am.

Foreign Affairs, Defence and Trade—Joint Standing Committee—

private meetings otherwise than in accordance with standing order 33(1), today, from 4 pm and Tuesday, 11 February 2020, from 4.30 pm.

private meetings otherwise than in accordance with standing order 33(1), followed by public meetings on Wednesday, 12 February 2020, from 12.30 pm and Thursday, 13 February 2020, from 9.45 am.

Migration—Joint Standing Committee—

private meetings otherwise than in accordance with standing order 33(1), followed by public meetings on Wednesday, 12 and 26 February and 25 March 2020, from 10 am.

private meeting otherwise than in accordance with standing order 33(1) on Thursday, 13 February 2020, from 1 pm.

Treaties—Joint Standing Committee—

private meetings otherwise than in accordance with standing order 33(1) on Monday, 24 February and 23 March 2020, from 10 am.

The PRESIDENT (10:01): I remind senators that the question may be put on any proposal at the request of any senator.

BILLS

Marine Safety (Domestic Commercial Vessel) National Law Amendment (Improving Safety) Bill 2019

Second Reading

Consideration resumed of the motion:

That this bill be now read a second time.

Senator STERLE (Western Australia) (10:01): I rise today to speak to my motion for the second reading of my private senator's bill, the Marine Safety (Domestic Commercial Vessel)
National Law Amendment (Improving Safety) Bill 2019. It shouldn't have been me introducing this bill, but, unfortunately, due to the inaction of the inept minister responsible for the portfolio, the member for Riverina, Michael McCormack, I had to take action. I have pleaded with Minister McCormack's office on multiple occasions during public hearings of the ongoing inquiry into the management of the Australian Maritime Safety Authority to take the lead and introduce appropriate legislation to minimise the chance of the tragedy that I will speak about from ever happening again. Sadly, the minister did not act.

The Australian Maritime Safety Authority's performance throughout this whole process has been nothing short of appalling. The complete disrespect to Damien Mills's family was astounding. Officials did not return calls, information was withheld, and they only really started engaging with the family once I initiated the inquiry in this chamber into AMSA's management—and I couldn't think of a worse word than 'management', because there was none. There is a lot more to be said of AMSA and the officials who have been in charge of this sorry saga, but we will get to that once the current inquiry has concluded. The Mills family in Western Australia deserve far better than this.

Damien Mills was born on 29 August 1979 and raised in Queens Park. He was 35 years old at the time of his death. Damien was married to Nicole, and they had three children together, Alanna, Jack and Alexis, all of whom were under nine years old at the time of Damien's death. Damien was described as a kind person and a dedicated family man. As a mark of his love for his children, he had a tattoo of his three children's names within a tree of life on his right shoulder. Tragically, on 31 October 2014, Damien fell overboard from a commercial vessel between Fremantle and Rottnest. On 1 November 2014, Damien was found deceased, about three nautical miles off Leighton Beach, around midday.

On 30 October 2017, the inquest into the death of Damien Mills was handed down. The coroner urged AMSA to ensure that safety systems be implemented and duly carried out by operators with care and diligence. Nothing was actioned by AMSA. I repeat: nothing. The coroner's report says:

If police had been notified that the deceased was missing at the time the vessel returned to the Fremantle Fishing Boat Harbour, at approximately 4.00 pm, Sergeant Wear indicated that the Water Police would have tasked helicopters to run the route taken by the charter boat from Fremantle Harbour back to Parakeet Bay as an immediate starting point.

That is the evidence from the Water Police. The report goes on:

They would also have got vessels to run that route, breaking up the route into sections for them to search, with the knowledge that he couldn't have drifted far from the track line in that space of time. The timing of the notification is important in that regard, as the closer in time the search and rescue can begin, the more confined the area that is required to be searched.

In that regard, as well as getting assets immediately on to the scene, police officers would have attended the charter boat to interview the crew and other passengers to try and ascertain the last time the deceased had been seen and any unusual events that had occurred, in order to narrow the search area and increase the probability of finding the deceased. Police officers would also have spoken to the deceased's family to try to find out information about the deceased, such as his swimming ability, general health and medications, and even any known demeanour in a fight or flight situation to ascertain a timeframe of survival. Experts such as Dr Luckin would also assist in that regard.

Based upon his own experience, Sergeant Wear expressed the opinion that notification at 4.00 pm, or even 4.30 pm—
because it was narrowed down that Damien fell overboard somewhere near the windmills, just off Rottnest, between 3.30 and 3.45 that afternoon—

would still have given the Water Police a fairly high chance that they would have found the deceased, and found him alive. Expressed another way, Sergeant Wear stated that it was "highly likely" a Search and Rescue team would have found the deceased if they had been notified when the charter boat returned to the harbour.

The whole sorry saga is why I am calling for compulsory headcounts—and not just one, as AMSA have suggested. AMSA have suggested just one—not at the beginning, not at the end, not in the middle; just any time there is a journey. If that skipper had implemented the headcount that was in his own safety management system, the alarm would have gone off that one person was missing. There's a lot more to be said about the skipper, because he couldn't even get the headcount right in the logbook when he first took off from Sardine Wharf. I have said many times, with my colleagues on the rural and regional affairs and transport committee, pleading with the minister: 'You can fix this, Minister. You can get a pen and a piece of paper and draft up some legislation to make sure that this never happens again, or, if someone does go overboard, a simple headcount will notify the appropriate authorities.'

I'll have a lot more to say, as I said. I can't say too much more because the inquiry into AMSA's performance is still going on. But there are a couple of thank yous I'd like to make. I'd like to acknowledge Nicole and Richard. Nicole is Damien's widow and Richard is Damien's father. Your strength has given me strength. I will never know what pain you are suffering, but I hope Damien's law can go some way to making sure it doesn't happen again. I'd also like to thank my colleagues on the Senate committee for helping me out in the inquiry. I'd also like to pay special thanks to Hannah Dibley, Senior Research Officer in the Procedure Office in the Department of the Senate, and of course Jackie Morris, whom we all know, the Clerk Assistant, Procedure, in the Procedure Office in the Department of the Senate, for your outstanding work in helping me craft this. I commend Damien's law to the chamber.

Senator BROCKMAN (Western Australia—Deputy Government Whip in the Senate) (10:09): I too rise to speak on the Marine Safety (Domestic Commercial Vessel) National Law Amendment (Improving Safety) Bill 2019. I wish to start by acknowledging Senator Sterle's deep interest in and commitment to this topic and to the Mills family. What happened to Mr Mills was an absolute tragedy. Obviously the flow-on impacts on his family have been extraordinary. They will go on for the rest of that family's lives. It has left a deep, deep scar on that family. In this place, I thank Senator Sterle for bringing this matter to the attention of the Senate Rural and Regional Affairs and Transport Legislation Committee and continuing to try to address this matter in a positive way. I also wish to acknowledge the initiating role that my colleague from Western Australia Minister Linda Reynolds had in bringing this matter to the attention of this place.

The Mills story, which Senator Sterle has gone through in detail, so I won't repeat it, is a tragic set of circumstances. One thing that became very clear in the self-referred inquiry on this issue to the rural and regional committee was the failure for anyone, but particularly the Maritime Safety Authority, to explain the use of a single headcount. A single headcount in a marine environment, whether it be a count on or a count off, tells you very little. It tells you how many people are or were on a boat at a particular point in time. It doesn't tell you anything else.
The marine order that's involved in this area is also drafted quite strangely. It talks about the officer in charge knowing how many people are on board the vessel at all times. I'm always wary when I see a law drafted in such a way that's almost impossible to comply with. How can a master of a vessel know how many people are on board at all times? That's impossible. What Senator Sterle described was the two headcount process, which is used widely in Australia. It's used on the Great Barrier Reef following some incidents there where divers were left behind. It at least tells you how many people got off and how many people got on, so I do have some significant sympathy with Senator Sterle's argument.

That said, the government will not be supporting this bill, and I'll go through the reasons why not. I want to make it very clear that I think it is important that the Senate inquiry from the rural and regional committee—of which I was an active member in the last parliament; unfortunately duties have dragged me away a little bit from that committee, which I do love—is taken to conclusion. I would certainly encourage the current voting members of that committee to make sure that inquiry does finalise and report.

I think that is an important part of the process here, and I think it's also important that AMSA takes the time, and the process with a variety of stakeholders, to get this right. We need to make sure that what we put in place is going to have the outcome that we all desire here, which is making sure those vessels that are taking passengers on board and going out with the aim of having a good time get everyone home safely. If they don't then the search and rescue that we do have—the quite remarkable search-and-rescue capability right around Australia—needs to be given the chance to act in the most timely way possible. That is the great tragedy of the Mills circumstance. There was a chance—and the Mills family have to live with the fact that that chance was there—to find Mr Mills alive, but it could never be acted upon because of the procedures that were undertaken.

As I say, the government doesn't support the bill in its current form due to some particular issues within the bill and due to some of the specifications it puts in place, but it absolutely does support the principle of getting these regulations right and improving passenger safety. Amending the existing marine order is the preferred option. AMSA is going through a response to recent industry consultation on passenger safety matters and looking to change marine orders, informed by that industry view. My message to AMSA is that they need to make sure they do get this right. The argument that one headcount does anything doesn't wash with me—it is a number at a point in time; it tells you nothing. So, when we see the example of commercial vehicles on the Great Barrier Reef being able to institute, seemingly successfully, a headcount on and a headcount off, I think there would need to be very good evidence provided if you were not going to go down the path that Senator Sterle proposes in this bill. However, I do think the process is important and consultation with industry is important. We need to make sure that, in this very important part of our tourism industry, marine tourism—and, obviously, passenger transportation could also potentially impact fishing and aquaculture arrangements, some of which have a dual tourist-commercial aspect to them—those concerns are examined and taken into account. We have a duty to ensure the regulatory framework supports the safe operations of all vessels so seafarers and passengers return home safely.

As I said, the Senate Rural and Regional Affairs and Transport Legislation Committee's current AMSA investigation is still on. I would certainly hope to see that conclude in some
fashion and make some significant recommendations. The work that that committee has already done has been very valuable both in terms of highlighting the issue and in causing AMSA to have a good, hard look at itself. I think there were clearly some terrible failures, particularly in terms of communication with the Mills family after the event, and in the AMSA investigation of what actually happened. They need to also have a look at their internal processes to make sure that those sorts of failures do not happen again.

We as a government do support the kinds of safety improvements that the bill seeks to achieve. But they must suit the operational circumstances of a diverse range of vessels, and that is one area where this bill is a little lacking. There's very clear feedback from industry and experts that the bill's proposed amendments would require vessels to conduct headcounts even if they do not carry passengers and would provide a blanket exemption to others, such as public transport vehicles. We would not want this legislation to lead to unforeseen circumstances where vessels seek to have themselves considered as public transportation when they're not, in order to, for example, gain an exemption. It removes the flexibility given to AMSA, and I understand, Senator Sterle, that you are keen to remove flexibility. However, flexibility is actually still an important aspect of any regulation in practice. The authorities that oversee these regulations do need to be flexible enough to deal with a range of different circumstances.

I think that we need to see what AMSA develops in terms of more robust safety requirements in future. I believe that technology will actually drive us forward on this, and that we don't want to put in place regulations that would enshrine methods that don't have the best safety outcomes, when technology could potentially deal with a lot of these issues in a more effective way.

As I say, I am extraordinarily sympathetic to the Mills family. I'm extraordinarily sympathetic to the arguments Senator Sterle has put forward. I do not believe that there has ever been an adequate explanation presented to the Rural and Regional Affairs and Transport Committee as to why a single headcount achieves anything. I do not see the point of continuing in that environment; however, I do think we need to allow the process to continue and the changes to come forward, and then we will examine them. I would also encourage the Rural and Regional Affairs and Transport Committee to finalise its inquiry. I think that would be a positive step. I think inquiries are not there just to elucidate issues; they're also there to make some recommendations, and I would like to see that inquiry finalised.

In conclusion, once again, my absolute sympathy goes out to the Mills family. I want to acknowledge the work done by Senator Sterle. I want to acknowledge the work done in the origins of this debate by my colleague Senator Reynolds and the current chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator McDonald. Whilst we will not be supporting this bill, I do commend Senator Sterle for his efforts.

Senator RICE (Victoria—Deputy Australian Greens Whip) (10:21): I want to start by acknowledging the enormous pain and suffering of the family of Damien Mills. His father-in-law said Damien was 'a great dad, good husband and mate, son-in-law and son'. To lose a loved one is incredibly hard, and my heart really just goes out to Nicole, Damien's widow, and Richard, his father. I empathise with the loss that they are feeling. Having lost my wife only five months ago, I know that the grief you feel when you lose a loved one is overwhelming. It's now five years since Damien died, but I know—people have told me—that
you never get over it. Damien will be in their lives forever, and that gulf, that sense of loss, will be with them forever.

I also want to thank Senator Sterle for bringing this bill to us today. Sometimes, in this place, you really wonder whether what you're doing is actually making a difference. But there are times when you see that here is something simple and straightforward that would make a difference. It's obviously not going to bring Damien Mills back, but it will make a difference going forward by reducing the risk of similar circumstances happening again. So thank you, Senator Sterle, for your work in bringing this to us today.

In the midst of their pain, Damien Mills's family have fought to make sure that what they went through doesn't happen to anyone else. His father-in-law said, 'We'd feel shattered if we went through all of this and then the same thing happened again.' I'd like to quote from Nicole Mills's powerful evidence to our Rural and Regional Affairs and Transport Committee. She said:

I would like to get the answers as to why my husband never returned home after spending the day on charter vessel Ten Sixty Six and what the Australian Maritime Safety Authority did in investigating the circumstances surrounding Damien's death.

We're here today because, clearly, we, as a committee, and Ms Mills haven't received satisfactory answers—not from AMSA and not from the coalition government. We have the tragic loss of Damien Mills's life; there are potentially other lives at stake that could be saved because of the simple actions that are being proposed in this legislation today.

It's worth noting that Damien's father had praise for the Western Australian Police Force and the Western Australian Water Police. He said they were 'diligent and thorough in their investigation'. And we do know that, as Senator Brockman just said, AMSA have actually been given a bit of a shake-up over this and that AMSA have now belatedly responded to this issue. We, of course, welcome the positive steps that they have taken, but more is needed, and it is needed now, not who knows how long down the track, when technology, maybe, will do something so that these sorts of accidents won't happen in the future. The time to be taking this simple step is now.

The change this bill makes is a simple one. As specified in the explanatory memorandum, it requires that, in certain situations, masters of domestic commercial vessels conduct, at a minimum, two headcounts of their passengers. That's not a big thing to do. It's not hard to do. They already have to do one. Doing one at the beginning and one at the end is not a great burden to put upon the masters of these vessels.

The rational for this is very clear. In the evidence to our RRAT committee hearing, the Western Australia Water Police said that, had they known that Mr Mills was not on the vessel when it returned to shore, they would very likely have been able to find him and save his life. That's the simple reality of why we are here today with this legislation: if they had known that Mr Mills wasn't on board, they would have been able to immediately mount a search to find him and the likelihood is that he would have been alive.

I want to go to the AMSA response. As I said, they have taken a number of positive steps. They have had a bit of a shake-up to think about what needs to happen in these sorts of circumstances. AMSA accepted that introducing a requirement for two headcounts would improve things. They argued for flexibility and technology rather than requiring two headcounts. Senator Brockman just said that technology was going to save the day. With
regard to flexibility, I think that this is a time when flexibility is not required. This is a simple step. You don't need flexibility; you need to know how many passengers get on board your vessel and you need to know how many passengers get off, to make sure that they are all there. It's not a case where you need flexibility. Flexibility was what ended up happening. Flexibility meant that there wasn't a second headcount taken. Flexibility meant that, very sadly, someone went overboard and was not missed and ended up losing his life.

With regard to technology, the prospect of technology making it easy to identify who is on and who is off and whether they stay on the vessel for the whole time has great promise, but, in the meantime, while we are still developing that technology, I think the legislation that requires two headcounts is a very important step. Maybe it will only be stop-gap legislation. Maybe in a year or two we can come back with an amendment to this legislation to say we don't need two headcounts anymore because we've got this fabulous new technology that will do the same thing as the two headcounts. I would look forward to that and I'd be very happy to support that amendment to this legislation when and if that occurs, but, in the meantime, this is a really simple and important measure to make sure that people are safe. Fundamentally, that's one of the basic things that we are here to do as parliamentarians, and which the government is here to do as well: keep people safe. When you've got legislation like this being proposed, which wouldn't impose a massive burden and would be simple, I think it's incumbent upon us to support the legislation. It's a really sensible change and it's an important change.

Once again, I want to commend Senator Sterle for all of his work on this issue, bringing this to us today and introducing what will become Damien's law. As you will understand, the Greens support this wholeheartedly. Despite the contribution from Senator Brockman just then, we call upon the government to see that they should support it too. I would really find it bewildering if they did not. Thank you.

Senator CAROL BROWN (Tasmania) (10:28): I would like to make a brief contribution to what is an extremely important piece of legislation. The Marine Safety (Domestic Commercial Vessel) National Law Amendment (Improving Safety) Bill 2019 is an example of parliament at its best. Damien Mills tragically lost his life when he fell overboard while on a charter vessel between Rottnest Island and Fremantle in Western Australia on 31 October 2014. Mr Mills worked in Perth as a mortgage broker and was on a daytime cruise with 36 other people, most of whom he did not know. The cruise was organised by Hobart loans provider Pepper Group. It was a social affair with many guests drinking and the boat was quite crowded. When they were back in Fremantle, guests quickly got off the boat because the seas were rough and there had been very large waves hitting the boat and knocking people off their feet.

Damien's death was devastating for his wife, family and friends. It was also preventable. When inquiring into the circumstances surrounding Mr Mills's death, the Western Australian state coroner noted that, if a proper headcount of passengers when they were embarking and disembarking the vessel had been in place, Mr Mills would still be with us today. When he appeared in the Coroner's Court, the cruise-company owner and boat skipper, Daniel Lippiatt, insisted that he had done a headcount and Mr Mills had disembarked. His claims were rejected by the coroner, Sarah Linton. Ms Linton was critical of the two-person crew for not doing more to make sure that passengers who had been drinking alcohol were safe and aware
of the rough conditions and that they stayed seated. When handing down her report, Ms Linton said:
This was a particularly tragic case, involving the death of a hardworking father of a young family who went out for a simple day of socialising and networking as part of his business and never returned home.
She also said she preferred headcounts be mandatory rather than recommended and that a proper supervision of passengers should occur. To quote Ms Linton again:
If that had been done in this case, the deceased might still be alive today

Following the coroner’s report on Damien’s death, Mr Mills’s wife and father decided to take action. They want the coroner’s recommendation of two compulsory headcounts enacted. As a part of their advocacy for change, Nicole and Richard met with Senator Sterle. As legislators, we have the unique capacity to effect long-lasting change. We have processes that help us gather the information we need to inform that change and expert advice that helps us convert the policy change we are seeking to legislate. Senator Sterle has done all that for the Mills family and for the safety of future passengers. As outlined in the explanatory memorandum, the purpose of this bill is to guarantee the safety of passengers on domestic commercial vessels. The bill will require masters of those vessels to conduct a minimum of two headcounts of their passengers. The two headcounts must be conducted at the beginning and the end of each voyage. At present, only one headcount is required, which can be carried out at any time. The bill does not seek to impose this requirement on class 4 vessels, vessels used for public transport or vessels that are more than 24 metres long.

By bringing the bill forward, Senator Sterle is demonstrating to the Mills family and many others like them that our parliament can work for them. The coroner’s report was delivered on 30 October 2017, and in her report the coroner noted that there was evidence that Mr Mills’s death may have been preventable if his disappearance had been identified sooner. The coroner concluded that the evidence underscored the need for simple processes, such as performing careful and orderly headcounts and supervising passengers properly while on board, which should have been undertaken by the crew of the charter boat to ensure the safety of their passengers.

The coroner also noted that the court had been informed by AMSA that they understand the safety issues raised by the death of Mr Mills, and that it is AMSA’s intention that steps will be taken to promote headcounts as a safety measure. In her report, the coroner urged AMSA to ensure that safety systems are implemented and duly carried out by operators with care and diligence. It is now February 2020, more than two years after the release of the coroner’s report, and we are yet to see any real action from AMSA. Not only have AMSA failed to act; the government has not intervened to ensure AMSA meets the undertakings they gave the Coroner’s Court of Western Australia. It is quite disappointing to hear from Senator Brockman that the government will not be supporting a bill that will make a real difference—a bill that seeks to legislate a very simple but very important measure to ensure the safety of passengers.

Senator Brockman also talked about AMSA needing to take the time to get it right. Well, frankly, that time has come and gone. It’s been two years since the coroner’s report, and there has been no real action. Senator Brockman talked about doing things in a timely manner. It’s no wonder Mr Mills’s family has had enough of waiting. This is a bill that seeks to ensure
people do get home safely. There's no impact, as Senator Sterle has indicated, on the fishing and agricultural industry—no impact. Those opposite talked about flexibility. Flexibility must not come at the expense of passenger safety.

This is a good bill. I urge the government to change its position and support this bill, which will give some comfort to the Mills family and, importantly, ensure that people do get home safely. As Senator Sterle said in his second reading speech, this is Damien's law. I hope that today we'll see the passing of this law as the first stage of this important legislation being enacted.

Senator McDonald (Queensland) (10:36): I rise today to talk about the Marine Safety (Domestic Commercial Vessel) National Law Amendment (Improving Safety) Bill 2019, an important piece of legislation that is designed to save lives and ensure Australian tour and charter operators continue to uphold the high standards expected of them. I acknowledge the Western Australian senators Senator Sterle and Senator Brockman for their interest in and attention to this matter.

At points in time we have had problems with our transport—people being left behind after the dinner break on the Brisbane to Mount Isa bus route, or something similar. But these have not been serious matters in the way that being left at sea is. The tragic death of Damien Mills off Fremantle in 2014 was the subject of a coroner's inquiry, which heard from a crew member on that fateful journey who said, 'The more head counts, the better.' The coroner agreed with this belief but found that the Australian Maritime Safety Authority had already decided to promote head counts. The coroner also decided to leave the implementation of such measures to AMSA.

Senator Sterle and, indeed, the entire Senate Standing Committee on Rural and Regional Affairs and Transport are united in the belief that anything government can do to protect life is worthy of support; however, creating a new law seems hasty when the Rural and Regional Affairs and Transport Legislation Committee is yet to make its findings and recommendations on this matter. The government believes it would be preferable to amend the existing marine orders. Additionally, feedback from industry and associated experts is that they support AMSA's attempts to improve passenger safety and that any federal law should include a more diverse range of vessels than what is currently being proposed. In my home state of Queensland, where in the diving industry we've had the issue of passengers being left on the reef, there was the adoption of a code of conduct, which has worked well.

This bill removes the flexibility that was given to AMSA, the independent national safety regulator, which was charged by the parliament to use marine orders to specify the technical safety requirements that are the most effective in a given situation. The change could prevent or delay AMSA implementing more robust safety requirements in the future—for example, if better safety technology were to make headcounts redundant. While the bill is aimed at improving passenger safety, it does not contemplate the safety requirements that are actually needed for the vessels it regulates or excludes; therefore, the government cannot support the bill in its current form. However, we are very keen to work with Senator Sterle to reach a conclusion that addresses his and my concerns, and those of many people associated with the maritime industry. I would add that I and the RRAT committee look forward to AMSA doing something in this space urgently. Every day that goes by is another day of risk that someone else could endure the unimaginable horror of being left behind in the ocean. The truth is that
marine operators are already keenly aware of their obligations and they are willing to work with AMSA on implementing robust safety systems and improving systems the operators have already got in place. I know that there are significant operators—again, in my home state of Queensland—that do count people on and off their crafts, sometimes up to as many as 200 people.

I would like to draw the Senate's attention to a case that is similar to Mr Mills's that happened in Queensland in 1998, when American tourists Thomas and Eileen Lonergan were left in the Coral Sea off Port Douglas after a diving trip and were never seen again. The whole state's diving industry quickly responded, realising that this tragedy could never be repeated. Key reforms were introduced a year after the Lonergans' deaths requiring tour operators to carry out mandatory counts of all people on board their vessels and to have a lookout aboard to supervise before, during and after dives.

Dive Queensland has had a strong code of practice in place since 1998 that is regularly probed and updated. As at 25 January 2018, the Cairns Post reported that Queensland was 'the only Australian jurisdiction to have specific legislation and codes of practice for recreational diving and snorkelling'. Other recent changes to the code include mandating automatic external defibrillators on all vessels or dive sites and requiring at-risk snorkelers to sign a medical declaration, easily identify at-risk snorkelers and requiring them to use a floatation device. Despite millions of people visiting the reef since 1998, there has only been one other person left behind after snorkelling—in 2011—but he swam to another boat and raised the alarm.

At present, AMSA is consulting on the improvements it will make to marine order 504 to enhance safety management on passenger vessels, and its draft marine order is currently out for public consultation. After this consultation, AMSA expects to make amendments to MO504 and release further industry guidance in April this year with requirements to come into effect from 1 July. AMSA has also submitted a brief of evidence to the Commonwealth Director of Public Prosecutions in relation to this most recent fatality and advised the RRAT committee of that in September 2019.

Again, I say that protecting the lives of all people who work and play in our waters is of paramount importance, but this bill should not be rushed in at a time when so much good work is starting to take place and before the Senate committee has completed its task. I express my sincerest condolences to the Mills family, and I wish to assure them of our continued attention in this matter.

Senator PATRICK (South Australia) (10:42): I rise to indicate Centre Alliance's strong support for the Marine Safety (Domestic Commercial Vessel) National Law Amendment (Improving Safety) Bill 2019. The story of Damien Mills is one of tragedy, and it's actually one of unnecessary tragedy. I won't repeat the details that Senator Sterle gave to the chamber, but I will say that Senator Sterle has taken leadership on this, he's been passionate about this and he's worked hard on this. Good on him for doing that. What he's trying to do is take a tragic situation and at least get some good to come from it. I can see that there will be obstruction from the other side of the chamber in his goal today.

The story of Damien reminds me of a tragic incident that took place on 3 August 1987, where two submariners were left outside the pressure hole when HMAS Otama dived, which, unfortunately, resulted in the loss of life of both Able Seaman Hugh Marcrow and Seaman
Damien Humphreys. It was a shock to the Navy. It was a shock to all submariners and all sailors right throughout the Navy. But what I will say from that is that the Navy, as an authority, acted immediately. I recall them going to sea very shortly thereafter with significant changes that dealt with making sure you counted people going out and you counted people coming back, and they were logged. They were very sensible measures and very similar to what Senator Sterle is proposing here. The Navy acted very, very quickly on that.

AMSA has not acted quickly. As Senator Brown has indicated, it's been two years since this tragic incident. It doesn't require a complex resolution. Indeed, if what Senator Brockman and Senator McDonald said is true—this does need to be looked at—that doesn't stop an interim order being made, something that errs on the side of caution, to deal with this issue and to place a legal requirement on people to be responsible. In listening to the story, as part of the committee, I simply couldn't believe that any sensible mariner would not be doing what Senator Sterle has suggested in his bill.

This bill is only necessary because of the perfunctory response of AMSA. And, it appears now, in circumstances where AMSA hasn't acted, the minister is not acting either—so this goes unchecked by government. And now the Senate has stepped up, and Senator Sterle, in particular, has put a bill before the Senate that allows us to deal with that. While I note that Senators Brockman and McDonald understand the tragedy, I'm very saddened that there was lots of Sir Humphrey Appleby in amongst all of their rhetoric about why this bill should not go ahead. AMSA has not performed here. The minister overseeing AMSA has not performed here. The Senate is acting, and yet we have Sir Humphrey Appleby on the other side of the chamber. I urge the Senate to pass this bill.

**Senator DEAN SMITH** (Western Australia—Government Whip in the Senate) (10:46): I also rise this morning to make a contribution to the debate on this bill, the Marine Safety (Domestic Commercial Vessel) National Law Amendment (Improving Safety) Bill 2019. I think it's important to be very clear about a number of matters. Senator Brown's contribution reflected on how she believed something good was going to come out of the tragic circumstances of this loss of life. I'd argue that something good is already coming out of these tragic circumstances, and I add my applause and acknowledgment of the important work that Senator Sterle, from Western Australia, has done on this very, very important issue. Senator Rice was also correct: in her contribution, she said that this bill will keep people safe.

What is at dispute here is not whether or not the sentiment behind what Senator Sterle is trying to do is correct—because it is absolutely correct. I would challenge anyone in the Senate chamber to suggest that the sentiment in Senator Sterle's proposal here is incorrect; it's completely correct and is supported by everyone in this chamber. The point of difference is about what the best way is, what the more perfect way is, to deal with this particular set of very, very tragic circumstances. The government's view is that this is not a perfect bill. Senator Brown, in her contribution, said that this was a good bill. I don't dispute that. It is a good bill. But it is not a perfect bill. And so, when we're thinking about the safety of people at and on the sea, the legislative response from this chamber should be as perfect as it can be.

In the reading that I've done with regard to this debate, it's very clear that the Senate Rural and Regional Affairs and Transport Legislation Committee has done some very good work in exposing something Senator Patrick has talked about: that is, the recalcitrance—my word; I don't think anyone else has used that word—of the regulatory body that is responsible for
overseeing marine safety in our country. It does appear to me that their response was too slow. Their reactions were too slow. But it's a testimony to the Senate committee process and to this chamber that AMSA has improved its response and its industry consultations around this particular issue. I think we're absolutely in agreement in this chamber; we disagree only on what is the right response.

The coroner's report has been mentioned a number of times in contributions from others, so I think it's important that we go back to it. I would like to share for the Senate chamber the detail of the coroner's report—what it actually said—rather than the paraphrasing that some Senate colleagues have used, in good faith, in their contributions. I will quote from the summary of the inquiry by the Coroner's Court of Western Australia into the death of Damien Mark Mills, delivered on 30 October 2017. At the very end, the summary states:

The Coroner noted that there was evidence that the deceased's death may have been preventable if his disappearance had been identified sooner.

That is exactly the point that Senator Sterle is making. Further:

The Coroner concluded the evidence underscored the need for simple processes, such as performing careful and orderly headcounts and supervising passengers properly while on board, which should be undertaken by the crew of a charter boat to ensure the safety of their passengers.

The Coroner found the deceased died on or about 31 October 2014 in the Indian Ocean approximately three nautical miles off Leighton Beach in circumstances consistent with immersion and found death was by way of accident.

The final paragraph states:

The Coroner did not make any recommendations but made the observation the Court had been informed by AMSA that they have understood the safety issues raised by the death of the deceased and it was AMSA's intention that steps will be taken to promote headcounts as a safety measure. The Coroner urged AMSA to ensure that safety systems be implemented and are duly carried out by operators with care and diligence.

I think this goes to Senator Patrick's point, which again I think is a fair one—and that goes to the issue of responsiveness. How responsive are our regulators, are our departments of government, in responding to what are very, very tragic circumstances? For the sake of completeness, let me go to the conclusion of the full report of the coroner. Paragraph 228, on page 47, states:

This was a particularly tragic case, involving the death of a hardworking father of a young family who went out for a simple day of socialising and networking as part of his business and never returned home. While his death was an accident, there was evidence that it may have been preventable if his disappearance had been identified sooner. The evidence underscored the need for simple processes, such as performing careful and orderly headcounts and supervising passengers properly while on board, to be undertaken by the crew of charter boats to ensure the safety of their passengers. If that had been done in this case, the deceased might still be alive today.

Paragraph 229, the final paragraph, is very important when we're considering the matter before us. That is: what is the appropriate response? There is no debate, no question, about whether there should be a response. What we are debating here is: what should be the nature, the precise form, of that response? Paragraph 229 states:

With the transition to a new national regulatory body, it is difficult to make any meaningful recommendations. However, I am informed by AMSA, who participated actively in the inquest, that they have understood the safety issues raise by the death of the deceased and it is AMSA's intention that
steps will be taken, within the National Law framework, to promote headcounts as a safety measure. It is also important that AMSA do its best to ensure that safety systems implemented are duly carried out by operators with care and diligence. The knowledge gained from the tragic outcome of this case must form part of the safety message for the future, with the aim of ensuring that similar deaths are prevented.

So the government, in coming to a decision that this bill shouldn't be supported, is not arguing that the intent of what Senator Sterle is trying to achieve should not be supported—it should absolutely be supported. It's the responsibility of government, and I'm sure it would be the responsibility of an alternative government, to make sure that any legislative measure is as precise as it can be, and unfortunately this bill is not precise. It is heading in the right direction. The government has made it known that it's willing to engage with Senator Sterle on this particular matter. That's what I'm advised; if that's different, Senator Sterle, I'm happy to take that up for you. But I'm advised that the government is willing to continue to engage with Senator Sterle to make sure that a legislative response is necessary as opposed to changes to the marine order, which Senator McDonald alluded to.

But let's be clear: as drafted, the bill's proposed amendments require vessels to conduct headcounts of passengers even if they do not carry passengers and provide blanket exemptions for others such as public transport vehicles. The bill removes flexibility given to the Australian Maritime Safety Authority, the independent national safety regulator charged by this parliament to use marine orders to specify the technical safety requirements that are most effective in a given situation. This legislation could prevent or delay AMSA from implementing more robust safety requirements in future—for example, if better safety technology were to make headcounts redundant. This is a very, very important point. Some in this chamber believe this bill might remedy the situation that was characterised by Damien Mills's tragic death. The government is saying that this bill could actually prevent or delay AMSA from implementing more robust safety requirements—and I'm paraphrasing now—meaning it could imperil the safety of other people at sea in the future. It's a very heavy burden for people to carry to agree to the passage of this bill today only to find—heaven forbid that this is the case!—their actions today actually imperilled the safety of people in the future. That's a heavy burden for senators to carry.

No-one doubts the importance and significance of this particular piece of legislation. What the government is saying is that it is not as good as it needs to be. The government is saying that there is actually an alternative way to achieve the sentiment—the very, very, correct sentiment—that Senator Sterle is demonstrating through this legislation. That's a very, very heavy matter that I think Senate colleagues should be thinking about. The sentiment is not in dispute, but is this the right remedy?

Senator Patrick, if you don't mind me making these remarks, you are a senator whose contributions in this place are always very precise, whose contributions often go to what is the right way to correct or remedy an issue. I don't think this meets that high standard that you often apply in other particular areas with great care and with great precision. Unfortunately, this is not the right bill to deal with the matters that Damien Mills's tragic loss brought to the attention of the Senate. So I would caution senators greatly about whether or not it's right to mix sentiment with the precision that's necessary. They're two separate issues. The contributions from everyone—Senator Brockman, Senator Sterle, Senator Brown, Senator Rice and you, Senator Patrick—are clear. We want situations like this not to have to happen
again and families not to have to deal with the tragic loss of someone that they love and care for. I don't think 'Damien's law' is the right way to do that.

The consultation process has been ongoing. The Senate committee has quite rightly put pressure on AMSA and made it accountable. The government is open to discussing these issues further so that the sentiment can be the best it can possibly be and any legislative response, if that is the right action, can be the best it can be, the most perfect it can be. At the moment, this is not a perfect bill. The safety of people, whether on land, in the air or on the sea, deserves precise bills. It deserves precise legislative responses.

So the government can't support this bill. I think the government's position might be a little bit clearer now than it might have been a few moments ago. The coroner's report is a sad but compelling record. The coroner could have been more prescriptive about what the suitable response would be, but it chose not to. It chose not to. So I think they are points that need to weigh very, very heavily on the shoulders of senators when they consider their contributions.

The ACTING DEPUTY PRESIDENT (Senator Faruqi): Pursuant to order, the Senate is suspended to allow senators to attend an address in the House of Representatives by His Excellency Mr Joko Widodo, President of the Republic of Indonesia.

Sitting suspended from 11:00 to 14:30

PARLIAMENTARY REPRESENTATION

South Australia

The PRESIDENT (14:30): Senators, I have received through the Governor-General, from the Governor of South Australia, the certificate of the choice by the South Australian parliament that Andrew Lockhart McLachlan CSC fill the vacancy caused by the resignation of Senator Cory Bernardi, and I table the document.

Senators Sworn

Senator McLachlan made and subscribed the oath of allegiance.

MINISTERIAL ARRANGEMENTS

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) (14:34): I table, for the information of the Senate, a revised ministry list. I seek leave to have the document incorporated into Hansard and to make a short statement.

Leave granted.

The document read as follows—

<table>
<thead>
<tr>
<th>TITLE</th>
<th>MINISTER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prime Minister</td>
<td>The Hon Scott Morrison MP</td>
</tr>
<tr>
<td>Minister for the Public Service</td>
<td>The Hon Scott Morrison MP</td>
</tr>
<tr>
<td>Minister for Women</td>
<td>Senator the Hon Marise Payne</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for the Public</td>
<td>The Hon Greg Hunt MP</td>
</tr>
<tr>
<td>Service and Cabinet</td>
<td></td>
</tr>
<tr>
<td>Minister for Indigenous Australians</td>
<td>The Hon Ken Wyatt AM MP</td>
</tr>
<tr>
<td>Role</td>
<td>Minister</td>
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<tr>
<td>----------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</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,</td>
<td>The Hon Michael McCormack MP</td>
</tr>
<tr>
<td>Transport and Regional Development</td>
<td></td>
</tr>
<tr>
<td>Minister for Agriculture, Drought and Emergency Management</td>
<td>The Hon David Littleproud MP</td>
</tr>
<tr>
<td>Minister for Communications, Cyber Safety and the Arts</td>
<td>The Hon Paul Fletcher MP</td>
</tr>
<tr>
<td>Minister for Population, Cities and Urban Infrastructure</td>
<td>The Hon Alan Tudge MP</td>
</tr>
<tr>
<td>Minister for Regional Health, Regional Communications and Local</td>
<td>The Hon Mark Coulton MP</td>
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<tr>
<td>Government</td>
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<tr>
<td>Minister for Decentralisation and Regional Education</td>
<td>The Hon Andrew Gee 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>Kevin Hogan MP</td>
</tr>
<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>
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<tr>
<td>Minister for Population, Cities and Urban Infrastructure</td>
<td>The Hon Josh Frydenberg MP</td>
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<tr>
<td>Assistant Treasurer</td>
<td>The Hon Alan Tudge MP</td>
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<tr>
<td>Minister for Housing</td>
<td>The Hon Michael Sukkar MP</td>
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<tr>
<td>Assistant Minister for Superannuation, Financial Services and</td>
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<tr>
<td>Financial Technology</td>
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<tr>
<td>Minister for Finance</td>
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<tr>
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<td>The Hon Sussan Ley MP</td>
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<td>Assistant Minister for Waste Reduction and Environmental Management</td>
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<td>(Deputy Leader of the Government in the Senate)</td>
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<tr>
<td>Minister for International Development and the Pacific</td>
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<td>Minister Assisting the Minister for Trade and Investment</td>
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<tr>
<td>Assistant Minister for Regional Tourism</td>
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<tr>
<td>Attorney-General</td>
<td>The Hon Christian Porter MP</td>
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<td>(Leader of the House)</td>
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<tr>
<td>Minister for Industrial Relations</td>
<td>The Hon Christian Porter MP</td>
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<td>Minister for Health</td>
<td>The Hon Greg Hunt MP</td>
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<td>Minister/Assistant Minister</td>
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<tr>
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<tr>
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<tr>
<td>Training and Apprenticeships</td>
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<tr>
<td>Minister for Industry, Science and Technology</td>
<td>The Hon Karen Andrews MP</td>
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<tr>
<td>Minister for Energy and Emissions Reduction</td>
<td>The Hon Angus Taylor MP</td>
</tr>
<tr>
<td>Minister for Resources, Water and Northern</td>
<td>The Hon Keith Pitt MP</td>
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<tr>
<td>Australia</td>
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<tr>
<td>Assistant Minister for Northern Australia</td>
<td>The Hon Michelle Landry MP</td>
</tr>
<tr>
<td>Minister for Defence</td>
<td>Senator the Hon Linda Reynolds CSC</td>
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<tr>
<td>Minister for Veterans’ Affairs</td>
<td>The Hon Darren Chester MP</td>
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<tr>
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<tr>
<td>Minister for Defence Industry</td>
<td>The Hon Melissa Price MP</td>
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<td>Minister for Families and Social Services</td>
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<tr>
<td>(Manager of Government Business in the Senate)</td>
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<tr>
<td>Minister for the National Disability</td>
<td>The Hon Stuart Robert MP</td>
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<td>Insurance Scheme</td>
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<td>Minister for Government Services</td>
<td>The Hon Stuart Robert MP</td>
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<tr>
<td>Assistant Minister for Children and Families</td>
<td>The Hon Michelle Landry MP</td>
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<tr>
<td>Assistant Minister for Community Housing,</td>
<td>The Hon Luke Howarth MP</td>
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<td>Homelessness and Community Services</td>
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</tr>
</tbody>
</table>

**Senator CORMANN:** I advise the Senate that the updated ministry list reflects the updated ministry announced by the Prime Minister on 6 February 2020. Updated representing arrangements are outlined in the ministry list.

**SHADOW MINISTERIAL ARRANGEMENTS**

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:34): by leave—I advise that the opposition has made adjustments to arrangements for representation in the Senate of shadow ministers who are members of the House of Representatives. I seek leave to table the revised shadow ministry list and to have it incorporated in Hansard.
Leave granted.

*The document read as follows—*

**FEDERAL SHADOW MINISTRY 10 February 2020**

<table>
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<tr>
<th>TITLE</th>
<th>SHADOW MINISTER</th>
<th>OTHER CHAMBER</th>
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</thead>
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<tr>
<td><strong>Leader of the Opposition</strong></td>
<td>Hon Anthony Albanese MP</td>
<td>Senator the Hon Penny Wong</td>
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<tr>
<td><strong>Shadow Cabinet Secretary</strong></td>
<td>Senator Jenny McAllister</td>
<td></td>
</tr>
<tr>
<td><strong>Deputy Leader of the Opposition</strong></td>
<td>Hon Richard Marles MP</td>
<td></td>
</tr>
<tr>
<td><strong>Shadow Minister for Defence</strong></td>
<td>Hon Richard Marles MP</td>
<td>Senator the Hon Penny Wong</td>
</tr>
<tr>
<td>Shadow Minister for Veterans’ Affairs and</td>
<td>Hon Shayne Neumann MP</td>
<td>Senator Kimberley Kitching</td>
</tr>
<tr>
<td>Defence Personnel</td>
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<tr>
<td>Shadow Minister Assisting for Defence</td>
<td>Pat Conroy MP</td>
<td>Senator Kimberley Kitching</td>
</tr>
<tr>
<td>Shadow Minister for Defence Industry</td>
<td>Matt Keogh MP</td>
<td>Senator Kimberley Kitching</td>
</tr>
<tr>
<td><strong>Shadow Assistant Minister for Defence</strong></td>
<td>Hon Dr Mike Kelly AM MP</td>
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<tr>
<td><strong>Leader of the Opposition in the Senate</strong></td>
<td>Senator the Hon Penny Wong</td>
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<tr>
<td><strong>Shadow Minister for Foreign Affairs</strong></td>
<td>Senator the Hon Penny Wong</td>
<td>Senator the Hon Penny Wong</td>
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<tr>
<td>Shadow Minister for International Development and the Pacific</td>
<td>Pat Conroy MP</td>
<td>Senator the Hon Penny Wong</td>
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<tr>
<td><strong>Shadow Assistant Minister to the Leader of the Opposition in the Senate</strong></td>
<td>Senator Jenny McAllister</td>
<td></td>
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<tr>
<td><strong>Deputy Leader of the Opposition in the Senate</strong></td>
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<tr>
<td><strong>Shadow Minister for Home Affairs</strong></td>
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<td>Hon Richard Marles MP</td>
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<tr>
<td>Shadow Minister for Multicultural Affairs</td>
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<tr>
<td>Shadow Minister for Disaster and Emergency Management</td>
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<tr>
<td><strong>Shadow Minister for Industrial Relations</strong></td>
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<td>Senator the Hon Don Farrell</td>
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<tr>
<td><strong>Shadow Minister for the Arts</strong></td>
<td>Hon Tony Burke MP</td>
<td>Senator the Hon Don Farrell</td>
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<tr>
<td><strong>Manager of Opposition Business in the House of Representatives</strong></td>
<td>Hon Tony Burke MP</td>
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<tr>
<td><strong>Shadow Minister for the National Disability Insurance Scheme</strong></td>
<td>Hon Bill Shorten MP</td>
<td>Senator Carol Brown</td>
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<td><strong>Shadow Minister for Government Services</strong></td>
<td>Hon Bill Shorten MP</td>
<td>Senator Carol Brown</td>
</tr>
<tr>
<td><strong>Shadow Assistant Minister for Carers</strong></td>
<td>Emma McBride MP</td>
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<td><strong>Shadow Minister for Education and Training</strong></td>
<td>Hon Tanya Plibersek MP</td>
<td>Senator the Hon Kristina Keneally</td>
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<tr>
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<td>Graham Perrett MP</td>
<td>Senator Katy Gallagher</td>
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<td>Ged Kearney MP</td>
<td>Senator Jenny McAllister</td>
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<tr>
<td><strong>Shadow Treasurer</strong></td>
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<tr>
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<td>Stephen Jones MP</td>
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<td>Hon Dr Andrew Leigh MP</td>
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<tr>
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<td><strong>Shadow Minister for Climate Change and Energy</strong></td>
<td>Hon Mark Butler MP</td>
<td>Senator Jenny McAllister</td>
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<td>Senator Jenny McAllister</td>
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<tr>
<td><strong>Shadow Minister for Health</strong></td>
<td>Hon Chris Bowen MP</td>
<td>Senator Murray Watt</td>
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<tr>
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<td>Emma McBride MP</td>
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<tr>
<td><strong>Shadow Minister for Infrastructure, Transport and Regional Development</strong></td>
<td>Hon Catherine King MP</td>
<td>Senator Murray Watt</td>
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<td>Senator Murray Watt</td>
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<td>Hon Warren Snowdon MP</td>
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<tr>
<td>Shadow Assistant Minister for Road Safety</td>
<td>Senator Glenn Sterle</td>
<td></td>
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<tr>
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<td>Hon Joel Fitzgibbon MP</td>
<td>Senator Glenn Sterle</td>
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<tr>
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<td>Matt Keogh MP</td>
<td>Senator Glenn Sterle</td>
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<tr>
<td><strong>Shadow Special Minister of State</strong></td>
<td>Senator the Hon Don Farrell</td>
<td>Hon Mark Dreyfus QC MP</td>
</tr>
<tr>
<td><strong>Shadow Minister for Sport</strong></td>
<td>Senator the Hon Don Farrell</td>
<td>Pat Conroy MP</td>
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<tr>
<td><strong>Shadow Minister for Tourism</strong></td>
<td>Senator the Hon Don Farrell</td>
<td>Hon Amanda Rishworth MP</td>
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<td><strong>Shadow Minister Assisting the Leader of the Opposition</strong></td>
<td>Senator the Hon Don Farrell</td>
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<tr>
<td><strong>Shadow Attorney-General</strong></td>
<td>Hon Mark Dreyfus QC MP</td>
<td>Senator Murray Watt</td>
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<td><strong>Shadow Minister for Constitutional Reform</strong></td>
<td>Hon Mark Dreyfus QC MP</td>
<td>Senator Patrick Dodson</td>
</tr>
<tr>
<td>Position</td>
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<td>Officer</td>
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<tr>
<td>Shadow Assistant Minister for the Republic</td>
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<tr>
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<td></td>
<td>Hon Jason Clare MP</td>
</tr>
</tbody>
</table>
Senator WONG: Like Senator Cormann, I advise the Senate that there are no National Party members on our list!

QUESTIONS WITHOUT NOTICE

Climate Change

Senator McALLISTER (New South Wales) (14:35): My question is to the Minister representing the Prime Minister, Senator Cormann. In September the Minister for Natural Disaster and Emergency Management, now the Deputy Leader of the National Party, David Littleproud, said:

I don't know if climate change is man made.

Does the Deputy Leader of the National Party's statement reflect the government's position?

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) (14:35): The government's position is well known and well understood. We are committed to effective action on climate change and we are committed to a policy agenda which is environmentally effective and economically responsible. That is, of course, what we have been pursuing very successfully over the last 6½ years in government. Indeed, our commitment to an internationally agreed emissions reduction target has been consistent all the way through—through the Abbott government, the Turnbull government and now the Morrison government. Indeed, if you look at our—

The PRESIDENT: Order, Senator Cormann! Senator McAllister, on a point of order?

Senator McAllister: It goes to relevance. The question is whether or not the government accepts that climate change is man made.

The PRESIDENT: That was part of the question, Senator McAllister. I think, with respect, Senator Cormann is being directly relevant to the question asked.

Senator CORMANN: Just to again confirm the government's position: we are committed to effective action on climate change. If you consider our performance against the 2020 emissions reduction target agreed to in Kyoto, we are beating that target. We are one of only a handful of countries that are beating their Kyoto emissions reduction target. Indeed, we are on track to meet our 2030—
The PRESIDENT: Order! Senator Wong, on a point of order?

Senator Wong: It's on direct relevance, Mr President. I listened to your ruling earlier. The opposition would like some clarification on what the other aspects are of the question to which you believe the minister is being relevant. There was a reference to the deputy leader, then there was a quote and then there was a question about whether that statement reflects the government's position. I would ask you, Mr President, to indicate what are the other aspects of—

An honourable senator interjecting—

Senator Wong: I'm entitled to do this, thank you. I would ask you, Mr President, to advise the chamber as to what are the other aspects of the question to which you believe the minister is being relevant.

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

Senator CORMANN: On the point of order: I was asked a question about the position of the government in relation to climate change. I'm answering it in a manner that is directly relevant.

The PRESIDENT: On the point of order: you're quite right, Senator Wong. You had a quote there from the minister at the time and then a question that related to the quote. With respect, I think the minister is being directly relevant to the quote and the question in the subject matter he is dealing with. I can't instruct him how to answer a question. I think what he's saying is directly relevant to the quote and the question. I'm happy to review the Hansard. If I'm wrong, I will say so and I will be happy to take submissions on it. People are seeking me to direct the minister on how to answer a question, which is outside my capacity.

Senator CORMANN: As is well understood, the government absolutely accepts that climate change is a global problem that needs to be addressed in a globally coordinated fashion. Indeed, Australia, as part of the global community, is doing its bit to help reduce greenhouse gas emissions and is doing so in a way that is environmentally effective and economically responsible. Indeed, if you look at our commitment to 2030 on a per capita basis it means a reduction in emissions by 50 per cent. On the basis of our emissions per unit of GDP we are committed to a reduction of two-thirds, which is more ambitious than the European Union, Canada, New Zealand and many other countries. What matters here is the policy position of the government. The policy position is very clear. We are committed to effective action on climate change, and we will leave the theological arguments to the Labor Party and the Greens.

The PRESIDENT: Senator McAllister, a supplementary question?

Senator MCALLISTER (New South Wales) (14:39): Thanks, Mr President. When asked about the cause of climate change on the ABC's Q+A last Monday, Senator Molan said:

As to whether it is human-induced climate change, my mind is open.

Does Senator Molan's statement reflect the government's position?

Senator CORMANN (Western Australia—Minister for Finance and Vice-President of the Executive Council) (14:39): I'm asked about Senator Molan. Let me say what a fine senator he is for the great state of New South Wales. What an outstanding job he did working up and down the coast of New South Wales supporting bushfire affected communities. He is a fine
senator, indeed. Senator Molan, like any individual senator in this place, is of course entitled to his opinions. But, as far as the government is concerned, the government's position is very clear. We are committed to effective action on climate change, as part of a globally coordinated effort. Our targets—

The PRESIDENT: Senator McAllister on a point of order.

Senator McAllister: My point of order again goes to relevance. Senator Cormann has been asked to provide advice as to whether Senator Molan's position reflects the government's position. Senator Molan's position specifically goes to whether climate change is human induced. I am asking Senator Cormann to answer that question.

The PRESIDENT: I appreciate that very-well-put point of order, but I think it goes to me instructing a minister how to answer a question. People are entitled to judge ministers' answers to questions. As long as they are directly relevant, they are within standing orders. I do believe that the material the minister is addressing is directly relevant to the question, and I call him to continue.

Senator CORMANN: Thank you very much, Mr President. Let me say again very slowly: our government is committed to effective action on climate change. We are doing so in a way that is environmentally effective and economically responsible, and we are doing it as part of the global community.

Honourable senators interjecting—

The PRESIDENT: Order on my left! Senator Cormann, please resume your seat. If I can't hear Senator Cormann's quite loud voice then there is way too much noise in the chamber. Senator Cormann to continue.

Senator CORMANN: Thank you very much, Mr President. We are part of the global community of nations, which is committed to effective action on climate change. (Time expired)

The PRESIDENT: Senator McAllister, a final supplementary question?

Senator McALLISTER (New South Wales) (14:42): Thank you, Mr President. Once more: does the Morrison government accept that climate change is human induced?

Senator CORMANN (Western Australia—Minister for Finance and Vice-President of the Executive Council) (14:42): Yes.

Opposition senators interjecting—

The PRESIDENT: It is put to me often that question time is a forum for the opposition. Time is being wasted by virtue of the interjections. I need silence before I call Senator Smith. Senator Smith.

Indonesia

Senator DEAN SMITH (Western Australia—Government Whip in the Senate) (14:42): Thank you very much, Mr President. My question is to the Minister for Foreign Affairs, Senator Payne. With the visit today of President Joko Widodo, can the minister update the Senate on the importance of Australia's relationship with Indonesia?

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (14:43): It's been a great pleasure and a delight to welcome back President Widodo
to a guest-of-government visit to Australia, his fourth since 2014. It was also a privilege to have him address both houses of the parliament this morning. I am also very pleased to welcome my good friend Foreign Minister Retno Marsudi and many cabinet colleagues to Canberra today.

Indonesia is a nation of absolutely first-order importance to Australia. It is a dynamic, democratic, diverse nation—a G20 member and the world's largest Muslim nation. It is already a trillion-dollar economy and is predicted to become one of the world's largest economies in coming decades. Australia and Indonesia are both strong regional democracies with a shared vision for a prosperous and open Indo-Pacific underpinned by democratic institutions, rule of law and norms. Most importantly, Indonesia is our neighbour and our friend. In fact, as President Widodo reinforced in his remarks this morning, we are neighbours by destiny but we are friends by choice. More recently, we have become comprehensive strategic partners. We also stand beside each other in adversity, as both the Prime Minister and the President observed in their remarks in the House of Representatives today.

I would also like to acknowledge the 40 members from the Indonesian national armed forces, who are helping with Australia's bushfire recovery—most particularly, in the Blue Mountains in my area of Western Sydney. We also look forward to the ratification and entry into force of the Indonesia-Australia Comprehensive Economic Partnership Agreement. The IA-CEPA will improve trade, tourism, investment and the movement of people. It will facilitate bilateral cooperation in areas including education, agriculture, health and digital commerce. It paves the way for the strongest possible development of the Australia-Indonesia relationship.

The PRESIDENT: Senator Smith, a supplementary question.

Senator DEAN SMITH (Western Australia—Government Whip in the Senate) (14:44): Can the minister update the Senate on what the government is doing to further build on Australia's close relationship with its neighbour and friend, Indonesia?

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (14:45): I thank Senator Smith for his supplementary question.

I was delighted also this morning to join with foreign minister Retno Marsudi to sign the plan of action for our comprehensive strategic partnership with Indonesia in the presence of President Widodo and Prime Minister Morrison. The plan sets out our shared commitments across trade and investment; defence; counterterrorism and people smuggling; maritime security; education; and partnering in regional and international fora. It provides practical and measurable steps to build on our existing cooperation.

The plan outlines well over a hundred initiatives our governments are pursuing together in this new chapter in our relationship, including new measures on aviation security, on peacekeeping operations, on cyber, on disaster response management, on health security threats and tackling marine plastics. It is these and other initiatives under the CSP which will ensure that our relationship with Indonesia remains healthy, vital and most definitely growing.

The PRESIDENT: Senator Smith, a final supplementary question.

Senator DEAN SMITH (Western Australia—Government Whip in the Senate) (14:46): Can the minister advise what steps the government is taking to build understanding and cooperation with Indonesia?
Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (14:46): Again, thank you to Senator Smith for his question.

We are working very hard between us to grow the understanding between our people and our communities. More than 1.3 million Australians visit Indonesia every year, a record number, and a growing number of Indonesian tourists are coming to Australia. But our education links are particularly strong. Australia hosts around 20,000 Indonesian students annually, and we are very pleased to provide Australia Award scholarships to talented young Indonesians to study in Australia.

Australia remains the top destination for Indonesian students studying abroad, and Indonesia, in turn, is also by far the most popular overseas destination for our New Colombo Plan Program. In fact, since 2014 over 9,500 young Australians have studied, lived and experienced life in Indonesia. They are most certainly voting with their feet. This is perfectly demonstrated by Monash University's announcement today that it will open a new campus in Indonesia in the coming year.

**Community Sport Infrastructure Grant Program**

Senator FARRELL (South Australia) (14:47): My question is to the Minister for Youth and Sport, Senator Colbeck. I refer to a media release by the Prime Minister dated 30 March 2019, which announced both the final round of funding for the government's corrupt sports rorts scheme together with an additional $150 million to support female facilities. The Prime Minister's media release states:

Further details on the change room and swimming facilities fund will be released later in 2019.

Minister, when were these further details released and to whom?

Senator COLBECK (Tasmania—Minister for Aged Care and Senior Australians and Minister for Youth and Sport) (14:47): Again, as many of us have done here in the chamber over the last week, I completely reject the characterisation by the Labor Party of the CSIG program. It was a very, very good and, quite frankly, very, very popular program. In fact, the program was so popular that Labor Party members of parliament wrote letters of endorsement for projects in their electorates, seeking for their projects to be funded. So this was a very popular program. I completely and utterly reject the characterisation that's being made by the Labor Party.

It was so popular that not one member of the opposition has offered to send the money back for the projects that were announced in their electorates where the intervention of Senator McKenzie and her decision-making processes increased the proportion of grants in Labor electorates from 26 per cent to 34 per cent, which much more closely aligned them with the number of Labor seats in the parliament. So I reject completely the characterisation of this program that is consistently put by the Labor Party.

The PRESIDENT: Senator Colbeck, please resume your seat. Senator Wong on a point of order.

Senator Wong: My point of order is on direct relevance, Mr President. I am conscious of previous rulings and the minister has now had over a minute. There was one question related to the release of guidelines as per the Prime Minister's commitment and I'd ask him to return to the question.
The PRESIDENT: On the point of order, Senator Wong, I allowed you to restate that question at the end. I realise that, and you are entitled to do that. The minister has been speaking for over a minute. He is addressing part of the question. As we found out in the last question, very specific questions can get very specific answers. But the minister is entitled to challenge assertions made in a preamble to a question. You've emphasised that part of the question. Senator Colbeck to continue.

Senator COLBECK: Thank you for your ruling, Mr President. As I've said, and I will repeat, the CSiG program was a very, very popular program, supported by members of parliament across both sides of the parliament. In fact, it was advocated for by members on both sides.

The PRESIDENT: On a point of order, Senator Farrell?

Senator Farrell: The minister is simply addressing the preamble. There was a specific question, and it said: when were the details of these projects released and to whom? Could you please—

The PRESIDENT: I cannot direct a minister to answer part of a question. A minister is entitled to address a contestable assertion made in the preamble. It is up to others to judge the merits of answers and questions; it's not up to the chair. The minister is entitled to continue by addressing all or part of the question. Senator Colbeck.

Senator COLBECK: I will continue to assert that this very good and popular program. It was supported by members across all sides of the parliament and advocated for by members on the other side who sought funding under the program. As I've said and as the parliament—

Senator Wong: Mr Morrison gave a commitment. Why don't you tell us—

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

Senator Cormann: Under standing orders, interjections are disorderly. The Leader of the Opposition in the Senate constantly interjects even when her entire side is silent. I think you should call the Leader of the Opposition in the Senate to order.

The PRESIDENT: All interjections are disorderly at all times. I remind senators of that. Senator Wong interjecting—

Senator Cormann: Now the Leader of the Opposition in the Senate is even interjecting while you are addressing the chamber.

The PRESIDENT: More latitude is granted to leaders, but I would ask all senators to remain silent. I call Senator Colbeck to continue.

Senator COLBECK: This popular program, supported by all members of the parliament— (Time expired)

The PRESIDENT: Senator Farrell, a supplementary question?

Senator FARRELL (South Australia) (14:52): Yes, I do have one. Has the minister received any advice from either Sport Australia or the Department of Health expressing concerns that no guidelines or further details were ever distributed despite the Prime Minister stating they would be?

Senator COLBECK (Tasmania—Minister for Aged Care and Senior Australians and Minister for Youth and Sport) (14:52): Thanks for the question, Senator Farrell. Sport
Australia has no engagement in the FFWSS program, so there's no need for any involvement at all. The Department of Health is utilising the guidelines for the implementation and delivery of the grants that are being made through the FFWSS program, using the CDG guidelines, as is our responsibility—the responsibility that I have under this program now, which is to deliver the grants that were the subject of election promises, just like the Labor Party made, I think, $250 million worth of election promises during the election. We are using, as part of the delivery mechanism for this program, the CDG guidelines, which relate very closely to guidelines that are used for the delivery of other election commitments.

The PRESIDENT: Senator Farrell, a final supplementary question?

Senator FARRELL (South Australia) (14:53): I do have a further question. In light of the minister's answer, can the minister explain why $150 million of taxpayers' money is being allocated without any guidelines?

Senator COLBECK (Tasmania—Minister for Aged Care and Senior Australians and Minister for Youth and Sport) (14:53): I thank Senator Farrell for the question. Quite simply, just as the Labor Party did when they made $250 million worth of election commitments for sporting projects, the government made a number of election commitments and are delivering those election commitments through this program. It's quite simple.

The PRESIDENT: Order, Senator Colbeck. I'll take the point of order from Senator Wong.

Senator Wong: Direct relevance: this relates to an announcement prior to the election. The only question that is being asked is: why is $150 million of taxpayers' money being allocated without any guidelines? I'd ask the minister to return to the question.

The PRESIDENT: I was listening very carefully. I'm quite happy to be corrected if I misheard. I thought the minister was turning to that very point at that time. I will ask him to continue. I am listening because it was a specific question—listening carefully.

Senator COLBECK: Thank you for your ruling, Mr President. As I said, the government made a number of election commitments in the lead-up to the election in the same way that the Labor Party made a number of election commitments. In fact, the Labor Party made more election commitments than we did. The Labor Party made $250 million worth of election promises for sporting facilities and women's change rooms. We made a smaller amount, and this program is being utilised to deliver on those election commitments. Just like we are, the Labor Party would have had to devise a program to deliver on their election commitments. Both sides of politics make election commitments— (Time expired)

Trade

Senator PATTERSON (Victoria) (14:55): My question is to the Minister for Trade, Tourism and Investment, Senator Birmingham. Can the minister outline the mutual benefits for farmers, businesses, investors and workers when the trade agreement with Indonesia comes into force?

Senator BIRMINGHAM (South Australia—Minister for Trade, Tourism and Investment and Deputy Leader of the Government in the Senate) (14:55): I thank Senator Paterson for his question and his passionate advocacy for increasing trade access for Australian businesses and liberalising trade across the globe. A central pillar of Australia's deepening relationship with Indonesia is the Indonesia-Australia Comprehensive Economic Partnership Agreement.
We were thrilled that, late last week, just prior to President Widodo's visit to Australia, the Indonesian parliament did what the Australian parliament did late last year and provided support for that agreement which will enable its ratification and entry into force over the coming months.

This is an outstanding opportunity to finally and fully realise the potential of the economic relationship between Australia and Indonesia. As the Australia Indonesia Business Council president, Phil Turtlet, said recently, IA-CEPA has been designed to deliver balanced outcomes for both countries and puts emphasis on cooperative initiatives. We want to work with Indonesia to build its economy and its skill base by supporting investment in genuine partnerships across sectors like education, meat, grains and elsewhere because, as Senator Payne has indicated already, a successful and stable Indonesia is central to and good for Australia and our region, as well as for Indonesia, of course.

There are multiple benefits from IA-CEPA across a range of sectors including the services industries; mining services; health, hospital and aged care; education I've already mentioned; architecture; and engineering. There are enhanced opportunities into the Australian market for areas of ambition for Indonesia, such as the electric vehicle market, as well as opportunities in terms of enhanced work rights around working holiday makers, who make such a valuable contribution to our economy. Our agricultural, steel making and other sectors all gain significantly, whether it is access for 575,000 cattle, 500,000 tonnes of grain, around 455 semi loads of oranges—

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

Senator PATERSON (Victoria) (14:58): Can the Minister advise the Senate what else the government is doing to build a more resilient economy and create opportunities in new markets for our exporters, tourism operators and international education providers to sustain jobs?

Senator BIRMINGHAM (South Australia—Minister for Trade, Tourism and Investment and Deputy Leader of the Government in the Senate) (14:58): Our government has always recognised that the more Australian farmers and businesses are able to access choice and diversity across the globe, the better it is for them to build their resilience, particularly in some of the challenging times that we face at present. That's why, as a government, we aggressively pursued trade opportunities with Japan, Korea, China and the implementation of the Trans-Pacific Partnership. In line with the passage of the Indonesia agreement through this parliament, we welcomed the passage of the Hong Kong free trade agreement, which entered into force last month, on 17 January, which was acknowledged as being important for the insurance, banking and fintech sectors. I'm pleased to inform the Senate that the Peru agreement will come into force tomorrow, 11 February, and that has been recognised as opening up a level playing field for Australian mining, engineering and technological services companies and providing excellent opportunities across other services industries as well as in goods, wines, sheepmeat, kangaroo meat and other sectors which will all benefit from that diversification.

The PRESIDENT: Senator Paterson, a final supplementary question?
Senator PATERSON (Victoria) (14:59): Can the minister inform the Senate of other recent good news on the trade front?

Senator BIRMINGHAM (South Australia—Minister for Trade, Tourism and Investment and Deputy Leader of the Government in the Senate) (14:59): Six years of creating new market access opportunities is delivering for Australia. ABS data last week showed Australia posted our largest-ever calendar year trade surplus in 2019. It was a trade surplus of $67.6 billion, fuelled by a record-breaking run of 24 consecutive monthly trade surpluses from Australia. You have to go back to 1972-73 to find the previous record. Indeed it is fuelled in part by exports of goods surging 13.4 per cent in 2019 over 2018 levels—resources up, manufacturing exports up, rural exports also up, notwithstanding drought conditions. Yearly services exports are also growing by 8.9 per cent, recognising the diversification of our economy and crossing the $100 billion mark for our services exports for the first time ever as we helped to charge all aspects of the Australian economy.

Commonwealth Integrity Commission

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (15:00): My question is to the minister representing the Prime Minister, Senator Cormann. After 10 years of the Greens campaigning for a federal corruption watchdog, the major parties finally agreed in 2018 that one was needed. Twelve months ago the government said it was imminent. Since then we've had a constant stream of scandals, but still no bill. Has the government delayed because the Prime Minister knew that many of his ministers were involved in integrity scandals and there were more to come?

Senator CORMANN (Western Australia—Minister for Finance and Vice-President of the Executive Council) (15:01): No.

The PRESIDENT: Senator Waters, a supplementary question.

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (15:01): Well, at least we got an answer that time, thank you. Legal experts have said that, even if it had been introduced, the weak design principles that your government proposed would mean that the body would not have been able to investigate any of those scandals that have embroiled your government's ministers. Why would you deliberately design a watchdog that was toothless? What are you scared it will find?

Senator CORMANN (Western Australia—Minister for Finance and Vice-President of the Executive Council) (15:01): I completely reject the premise of the question. There is nothing in this question that I agree with. Of course, the parliament, including the Senate, will have the opportunity of conducting a debate about the bill to establish a Commonwealth Integrity Commission in due course.

The PRESIDENT: Senator Waters, a final supplementary question.

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (15:02): The Senate in fact already did that. The Greens bill to establish an independent corruption watchdog passed the Senate five months ago and it would've applied to all of the ministerial scandals that are further eroding public trust. If you had any commitment to cleaning up politics, you would bring on that bill for a vote in the House and we could have a federal corruption watchdog by Easter. Will you do so?
Senator CORMANN (Western Australia—Minister for Finance and Vice-President of the Executive Council) (15:02): No.

**Australian Bushfires**

Senator KENEALLY (New South Wales—Deputy Leader of the Opposition in the Senate) (15:02): My question is to the minister representing the Minister for Government Services, Senator Ruston. Ms Rae Harvey lost her home in the bushfires and has been living on her property with no running water, electricity or internet. She has applied for the disaster relief payment twice and has been rejected twice because she couldn't provide the bank account details for a government payment from 25 years ago. Why is the government burdening bushfire victims with bureaucracy?

Senator RUSTON (South Australia—Minister for Families and Social Services and Manager of Government Business in the Senate) (15:03): I thank Senator Keneally for her question. Obviously, we have been through a particularly devastating time over recent months with the bushfires and the impact that it's had on the communities that have been absolutely devastated. Part of the response from the federal government—an unprecedented response, I might add—for the kind of natural disaster that we have seen over recent months has been to make sure that we are quickly able to respond to people who are in need. Obviously, as the senator would be well aware, I'm not in a position to comment on individual cases but, as I have always said in this place, if there is ever a particular situation or an individual case where they would like the matter taken up, I'm more than happy to take that matter up and I'm also more than happy to make sure that the minister responsible for government services is also made aware of it. However, this is not the forum in which we should be debating individual cases. But I would say that the response that we have seen to the devastating impacts of the bushfires by Services Australia, through the Australian government disaster recovery fund, has been unprecedented. We have seen hundreds of millions of dollars made available to people who are in need. In my own portfolio area, as an example, we made $50 million available for emergency relief so that we could get money immediately to people who may have needed some—may have needed accommodation, may have needed to get clothing, to get food.

Subsequent to this response, the time of the response, the ability for the payments to be able to be made quickly has been something that has been acknowledged by the broader bushfire community. Of course, there will always be situations where sometimes things are not as perfect as we would like and that is why we always come into this place and say, 'If you have a particular situation you would like us to deal with, we're more than happy to do so.' But hundreds of thousands of Australians who have been impacted by the bushfires have received a timely response from this government.

The PRESIDENT: Senator Keneally, a supplementary question.

Senator KENEALLY (New South Wales—Deputy Leader of the Opposition in the Senate) (15:05): Mayor of Bega, Kristy McBain, raised concerns that it was difficult for bushfire victims to get help, saying:

Some people just want to get on and help themselves and that becomes difficult when there's always a form to fill out, a process to go through, a number to ring, a meeting to attend—so I think that definitely adds to the frustration.
Does the minister agree with the mayor's assessment?

Senator RUSTON (South Australia—Minister for Families and Social Services and Manager of Government Business in the Senate) (15:05): I thank the senator for her follow-up question. As the senator would understand, there is always a process that needs to go through before taxpayers' funds are made available to people. One of the things we did as a government after these unprecedented bushfires was to make sure we made that as easy as possible. But to come into this place and suggest that you don't have to go through any process at all; you can turn up and ask for money is—

Opposition senators interjecting—

Senator RUSTON: However, I would say—

Senator Wong: Sports rorts is easy; bushfire help isn't—

The PRESIDENT: Order on my left.

Senator RUSTON: one of the things that we have received a great amount of commendation for is the fact that people who rang the number, the 18002266 number, were having their calls answered on average in under one minute, and people were not being made to wait. Sometimes people got off their phone and looked at their bank accounts and the money had already been paid into their accounts. I would say the system is obviously working when the majority of people are receiving their money the same day.

Senator Keneally interjecting—

The PRESIDENT: Order. Senator Keneally, a final supplementary question.

Senator KENEALLY (New South Wales—Deputy Leader of the Opposition in the Senate) (15:06): When questioned about the difficulty of accessing payments, Minister Stuart Robert claimed, 'The speed at which we're operating now is unseen in a disaster in this country.' Is boasting about the government's speedy response the best that Minister Robert can offer people like Ms Harvey and Mayor McBain?

Senator RUSTON (South Australia—Minister for Families and Social Services and Manager of Government Business in the Senate) (15:07): I think I would probably refer to my answer in the previous question. The fact is the responses have been very quick. People who have been ringing the number that I just gave have been getting immediate responses and they are having the money paid into their bank accounts almost immediately. In fact, in most instances, within a matter of hours, someone who has applied for the Australian government disaster recovery payment has received it. We also note that we made the decision to increase the amount of money that was made available to children in the lead-up to going back to school. So instead of it being $1,000 for adults and $400 for children, an additional $400 was made available so that children returning to school at the end of January would have the assistance to buy the things they needed. So I'm quite happy to take the individual cases you refer to and see if there has been a problem. But in general, I think you will find that the majority of Australians impacted by these bushfires have been very happy and grateful for the response by this government.

Trade

Senator ROBERTS (Queensland) (15:08): My question is to for the Minister for Trade, Tourism and Investment, Senator Birmingham. Australia's table grape production will reach a
record 240,000 tonnes this season, up 14 per cent from 2018-19, when grape exports increased 43 per cent to $580 million. The cause of increased production is Chinese demand outstripping supply, yet China is now cancelling orders owing to port closures due to the coronavirus. Our grape growers are harvesting this record crop right now. The Indonesia-Australia Comprehensive Economic Partnership Agreement could have given our producers an opportunity to export some of this extra production to Indonesia. This is not happening, though. Indonesia remains a challenging and unpredictable destination. In the main, this is because of Indonesian bureaucracy and intransigence. Will your office immediately advocate with Indonesia to implement the Indonesia-Australia Comprehensive Economic Partnership to open Indonesia to Australian table grapes?

Senator BIRMINGHAM (South Australia—Minister for Trade, Tourism and Investment and Deputy Leader of the Government in the Senate) (15:09): I thank Senator Roberts. I will deal with a couple of the matters the senator raised. He's correct. As market opportunities, business opportunities for Australian farmers and other businesses have opened up as a result of trade agreements struck by Australia, farmers and businesses have adapted their businesses to take advantage of those opportunities. They have planted more of certain varieties, they have grown more of certain commodities and that, of course, is as you would expect. That is one of the reasons why Australia has just recorded a record trade surplus, because our businesses have responded to the new opportunities available to them.

Now, with all business engagements come certain degrees of risk and certain degrees of unpredictable circumstances. Obviously the coronavirus, at present, has impacted upon many different business sectors and will continue to do so for an unknown period of time. We have been working to try to help those businesses access new market opportunities in a range of different ways. As I indicated to Senator Hanson last week: in terms of the seafood sector, we have provided a dedicated Austrade contact reference point for that sector to give them access not just to one different market but to also advise on other different markets that we have trade representation in and the ability to be able to service in those markets.

In terms of the Indonesia-Australia Comprehensive Economic Partnership Agreement, it doesn't just contain agreements across a range of categories to lower tariffs or increase quotas or, indeed, eliminate in some cases tariffs or quotas; it also does contain guarantees around the issuing of import permits to make bureaucratic procedures easier. I cannot, Senator Roberts, off the top of my head recall the place of table grapes in relation to that. If I have particular information in relation to table grapes that can be of assistance, I'll make sure that is provided to you and to the chamber.

The PRESIDENT: Senator Roberts, a supplementary question.

Senator ROBERTS (Queensland) (15:11): Let me be more specific, then. In their submission to the inquiry into the Indonesia-Australia Comprehensive Economic Partnership Agreement, the department of agriculture, of your government, stated: 'Trade with Indonesia is unpredictable, suffering unexpected changes to import regulations and policies. The government needs to establish and nurture government-to-government links that support access for Australian exports.' Why is the government ignoring the advice of its own agriculture department?

Senator BIRMINGHAM (South Australia—Minister for Trade, Tourism and Investment and Deputy Leader of the Government in the Senate) (15:11): I'd invite Senator Roberts to
read the rest of the submission, which was actually arguing for the type of agreement that we have secured with Indonesia so as to overcome the types of problems that you have quoted, Senator Roberts.

So, yes, the department of agriculture absolutely identified that there have been market access barriers, and those access barriers are not just tariffs and quotas, but are regulatory factors as well. The type of agreement we have sought to strike with Indonesia is one that addresses those regulatory barriers. Not only do we have the automatic issuance of import permit guarantees in a range of categories that I referenced before, but also, as a first for our trade agreements, we have, with Indonesia, established under IA-CEPA an arrangement for ongoing dialogue in relation to non-tariff barriers. So those types of administrative and bureaucratic licensing approval type processes are now firmly entrenched in an ongoing process. If there is something in relation to table grapes, as I said, we'll certainly be taking it up with them using those procedures.


Senator ROBERTS (Queensland) (15:12): The department's submission to the Indonesia-Australia Comprehensive Economic Partnership Agreement inquiry was in 2017. Growers have contacted my office this week to say that nothing has changed. They still cannot get Indonesian licences to export. What has this government done since 2017 to implement the recommendation of your own agriculture department?

Senator BIRMINGHAM (South Australia—Minister for Trade, Tourism and Investment and Deputy Leader of the Government in the Senate) (15:13): Negotiated, concluded and legislated for a free trade agreement with Indonesia, Senator Roberts. That is precisely what we've done since 2017. In doing so, we have, as I've just outlined, put in place processes around getting import permits and processes around dealing with licensing and approvals.

I can inform the Senate that table grapes enter Indonesia duty free as a result of trade agreements negotiated between Australia and Indonesia, and that Indonesia has consistently been a top two destination for many years, except 2014, in relation to table grapes, so there are access points into Indonesia for table grapes. But, certainly, if some growers are facing difficulty in getting those licence approvals for duty-free access of their table grapes into Indonesia, then, please, put them in touch with our office and we will do our best, through our DFAT and Austrade officers, to help them to get the permits and approvals that they need.

Coronavirus

Senator STOKER (Queensland) (15:14): My question is to the Minister representing the Minister for Health, Senator Cash. Can the minister update the Senate on the novel coronavirus, and what the Australian government is doing to protect Australians?

Senator CASH (Western Australia—Minister for Employment, Skills, Small and Family Business) (15:14): I thank Senator Stoker for the question. Globally, we know that the coronavirus continues to expand. As at 10 February 2020 there are approximately 40,546 confirmed cases, and 910 deaths have been reported. The majority of cases have been reported from mainland China, with 375 cases reported from 27 countries and regions outside mainland China. Of the 910 confirmed deaths, 908 were from mainland China and one each was from the Philippines and Hong Kong. Of the confirmed cases confirmed globally, the
case fatality rate is approximately two per cent. In Australia, we are in a position where, as at 10 February 2020, there are 15 confirmed cases of coronavirus: two in South Australia, five in Queensland, four in Victoria and four in New South Wales. Of the reported cases, five of the earlier cases have recovered, with the remaining cases understood to be in a stable condition.

The second Qantas flight to assist the departure of Australians from Wuhan has arrived home. The Qantas flight arrived in Darwin at approximately 11.51 local time, and passengers are now at the temporary quarantine facility at Howard Springs. The activation of this facility is part of our dedicated contingency planning to support overflow from the primary quarantine facility on Christmas Island. There are 266 passengers now at the facility, including six Australian government personnel and eight Pacific island country nationals. All passengers have undertaken five health screenings.

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

**Senator STOKER** (Queensland) (15:16): Can the minister update the Senate on the safety of the quarantine facilities at Howard Springs?

**Senator CASH** (Western Australia—Minister for Employment, Skills, Small and Family Business) (15:16): With the primary quarantine facility on Christmas Island now at capacity from a public health and quarantine perspective, the government has selected the Howard Springs accommodation facility because it is well equipped for public health and quarantine purposes. I am advised the Chief Medical Officer and the Minister for Health visited the temporary quarantine facility at Howard Springs on Friday and report that there is no threat to the community from people being housed at the Howard Springs facility. The government Chief Medical Officer, Professor Brendan Murphy, said:

... people staying at the Howard Springs Accommodation Facility were unlikely to become infectious and their health would be closely monitored.

He stated:

It is important people living in and around Howard Springs know the novel coronavirus can only be transmitted by close contact with an infectious person and cannot be spread through the air.

The Chief Medical Officer has also said:

... I am confident the security and public health measures put in place will prevent any risk to the community’s health.

**The PRESIDENT:** Senator Stoker, a final supplementary question?

**Senator STOKER** (Queensland) (15:17): Minister, what further steps has the Australian government taken to keep Australians safe in the face of the novel coronavirus?

**Senator CASH** (Western Australia—Minister for Employment, Skills, Small and Family Business) (15:18): The Australian government has assisted over 530 Australians to safely return to Australia on two Qantas flights and the New Zealand flight. All repatriated Australians and their families are being well looked after, either on the primary facility at Christmas Island or at the temporary facility at Howard Springs. They are being provided all necessary health care throughout their stay by a highly skilled and well-equipped Australian medical assistance team. There have been no confirmed cases of coronavirus amongst these people. The Australian people should be reassured that we are taking all necessary measures to contain this virus and protect Australians. We are continuing to enact enhanced border measures, and the Australian Health Protection Principal Committee is continuing to meet...
daily to provide expert medical advice to government. We are prepared, we are acting and we will continue to follow the expert medical advice.

**Australian Bushfires: National Aerial Firefighting Centre**

**Senator WATT** (Queensland) (15:19): My question is to be Minister for Defence, Senator Reynolds. Last week Senator Reynolds told the Senate that, according to experts, the government had done all it could to provide the aerial firefighting capability required to protect Australians. Does the minister stand by that claim?

**Senator REYNOLDS** (Western Australia—Minister for Defence) (15:19): Yes, I do.

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

**Senator WATT** (Queensland) (15:19): In December 2017 the National Aerial Firefighting Centre provided a business case to the federal government requesting a permanent increase in funding of $11 million to its annual budget. On 4 January this year the New South Wales Rural Fire Service commissioner, Shane Fitzsimmons, said:

> We haven't seen a positive response to that business case.

Is failing to provide a positive response to the business case for two years an example of the government doing 'all it could'?

**Senator REYNOLDS** (Western Australia—Minister for Defence) (15:20): I absolutely stand by my comments in the Senate last week. We have worked incredibly closely with NAFC and with the states and territories. We have provided significant support to NAFC. In fact, the states recently asked for one additional large aerial tanker and we provided four. We have taken the advice of the experts and we have provided all possible assistance.

**The PRESIDENT:** Senator Watt, a final supplementary question?

**Senator WATT** (Queensland) (15:20): More than 3,000 Australian families have lost their homes during the bushfire crisis. Can the minister explain to these families why the government failed to heed the advice of fire commissioners and NAFC to provide a permanent boost to Australia's aerial firefighting capability?

**Senator REYNOLDS** (Western Australia—Minister for Defence) (15:20): Senator Watt, that question is beneath you. It is utterly disgraceful that you are linking the lives of people to the support that this federal government, Defence and EMA have provided.

**The PRESIDENT:** Order, Senator Reynolds! Senator Wong, on a point of order?

**Senator Wong:** Point of order on direct relevance: what this minister should be ashamed of is telling the Senate one thing which is clearly not true. NAFC's advice was not received. Why don't you answer the question, instead of this feigned outrage?

**The PRESIDENT:** Senator Wong, that's not a point of order. Senator Cormann, on the point of order?

**Senator Cormann:** Senator Wong should withdraw that imputation on the senator.

**The PRESIDENT:** I didn't hear one. There were interjections going on. I will check the *Hansard*. I did not hear any comment. I will take Senator Wong.

**Senator Wong:** No, if you're not asking for—

**The PRESIDENT:** I didn't hear what could be withdrawn. I will check the *Hansard*. On the issue of the point of order—
Senator Wong: You didn't take the advice and now you're embarrassed!

The PRESIDENT: On the issue of the point of order—Senator Cormann?

Senator Cormann: Interjections are disorderly, and Senator Wong is interjecting while you are addressing the chamber. That is highly disorderly.

The PRESIDENT: I have made the observation before that it is regularly put to me that question time is primarily a forum for the opposition. We are wasting that time, if there continue to be interjections. There is time for debating answers, and the content and the merits of them, after question time. It is not by interjection during question time. Senator Reynolds, in my view, is being directly relevant to the question. Senator Reynolds, to continue.

Senator REYNOLDS: I will reiterate my complete rejection of every single word Senator Watt said then. It is a complete and utter disgrace that he is linking the work that Australian officials, EMA and this government have done, working very closely—

Opposition senators interjecting—

The PRESIDENT: Order on my left!

Senator REYNOLDS: and providing the support that the experts have recommended—

Opposition senators interjecting—

The PRESIDENT: Senator Reynolds, please resume your seat. Can people at least count to 10 after I call for silence, so we get a little bit of it. The minister had barely commenced speaking before the interjections started again. It's a poor reflection on the Senate. Senator Reynolds, to continue.

Senator REYNOLDS: Senator Watt, these are the facts you so conveniently ignore. In 2019-20 the government funded NAFC to the tune of $45 million. We provided nearly $15 million under a longstanding funding agreement—

Senator Watt: You got a business case in 2017 and you did nothing!

The PRESIDENT: Order! Senator Watt, count to 10.

Senator REYNOLDS: and $20 million, again, for additional firefighting aircraft. Again, I say to you, Senator Watt: shame on you. Shame on you all for politicising it. It is a disgrace.

Senator Wong: Shame on you for not doing your job!

The PRESIDENT: Order! I don't think it is—

Opposition senators interjecting—

The PRESIDENT: Order! The clock will run down until I call the next senator for a question. Senator Bragg.

Coronavirus

Senator BRAGG (New South Wales) (15:24): My question is to the Minister for Foreign Affairs. Can the—

Senator Watt: You're almost a National, sitting over there!

The PRESIDENT: Order, Senator Watt!

Senator BRAGG: minister update the Senate on how Australia is providing assistance—

Opposition senators interjecting—
The PRESIDENT: Order! Senator Bragg, please resume your seat. I can't hear the question. I just want to be able to hear the question.

Senator Wong: He's sitting so far away!

Senator Watt: Yes, he is a long way away!

The PRESIDENT: I really don't think we want to get into seating arrangements during question time. Senator Bragg, please commence your question again, because I couldn't hear it.

Senator BRAGG: I can't hear you. I'm too far away.

The PRESIDENT: Commence the question again, Senator Bragg.

Senator BRAGG: My question is for the Minister for Foreign Affairs, Senator Payne. Can the minister update the Senate on how Australia is providing assistance to the Australians affected by the coronavirus outbreak?

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (15:25): I thank Senator Bragg for his question. Yesterday, of course, the 266 passengers who took the second assisted departure flight from Wuhan arrived in Australia. Those passengers continue to show no signs of being infected by the coronavirus. The Australians on the first flight and those who were assisted by New Zealand also remain healthy, on the advice of the chief medical officers. The passengers on the flight yesterday included 95 children under 16 years of age, 11 of whom were infants, and 16 passengers over 60 years of age. Again, we have focused on helping those Australians in an isolated and vulnerable position, and we have prioritised keeping family units together. This brings the total number of Australians who have been assisted to leave Wuhan to 531.

The Department of Foreign Affairs and Trade crisis centre has taken over 10,000 calls since 23 January. Our embassies and our consulate in China have received more than 2,000 calls for advice or assistance. We are, of course, also aware of a number of Australian children who remain in Wuhan with family but who have no immediate guardian to accompany them on any assisted departure flight. We have explored options to assist these children to come home, but Chinese authorities have not agreed to allow family members who are Chinese nationals without Australian citizenship or permanent residence to board these flights. That does, in effect, restrict those options. We understand that this is a difficult situation. The children remain with family—I'm advised that in most cases they're with grandparents—and are being well cared for. We are well aware of the challenges that this presents and we will continue to talk with Australians as this matter proceeds.

The PRESIDENT: Senator Bragg, a supplementary question?

Senator BRAGG (New South Wales) (15:27): Can the minister provide an update on what the Australian government is doing to help Australians beyond Wuhan and Hubei province?

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (15:27): I thank Senator Bragg for his supplementary question. A number of Australians are in other parts of China beyond Hubei province as well as on cruise ships, as senators would be aware. The government is in contact with many of them. Australian officials are closely monitoring medical and welfare services on board the Diamond Princess.
cruise ship, which has been quarantined in Japan and is carrying 218 Australians. Where necessary, we are referring Australian cases to cruise company officials or the Japanese government as appropriate for action. DFAT is providing consular assistance to the seven Australians who were diagnosed with the virus on the Diamond Princess and are now in hospitals in Japan. Our officials have also relayed offers of consular assistance through the operator of the Westerdam cruise ship, on which there are 49 Australians. To date, there are no known cases of coronavirus on board that ship.

The PRESIDENT: Senator Bragg, a final supplementary question?

Senator BRAGG (New South Wales) (15:28): Can the minister explain how Australia has coordinated with our neighbours to help citizens of the Pacific island communities?

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (15:28): We are working closely with our Pacific island neighbours, with New Zealand and with the WHO, to protect our region from coronavirus through a number of measures, including a regional response plan, the provision of personal protective equipment and the deployment of Australian health experts to the region. An Australian DFAT official has joined the WHO hub in Suva to assist with addressing the coronavirus issues in our region. We are also working with regional governments on issues related to the movement of shipping and the coronavirus in the region. I was very pleased that we were also able to help members of our Pacific family by including eight vulnerable students from the Pacific islands on the second assisted departure flight from Wuhan, which arrived yesterday, as New Zealand did on their flight last week.

Community Sport Infrastructure Grant Program

Senator CHISHOLM (Queensland) (15:29): My question is to the Minister for Youth and Sport, Senator Colbeck. I refer to an answer to questions on notice returned 18 December 2019 regarding the $150 million female facilities program which asked: which minister currently has the authority to approve projects for funding from this pool? The answer returned by the Department of Health stated, 'Minister Colbeck in consultation with the Prime Minister.' What consultation has occurred between the minister and the Prime Minister, or their offices, regarding this $150 million election slush fund?

Senator COLBECK (Tasmania—Minister for Aged Care and Senior Australians and Minister for Youth and Sport) (15:29): The answer provided to that question on notice is absolutely correct. Any further allocations that come out of that program will be done as a matter of consultation between myself and the Prime Minister. At this point in time, the only funding allocated is that which was publicly released to the media on Friday. My department is effectively managing the administration of the grants that were made under the program to date. There is no further granting or approval of projects at this point in time. The process is in the phase of management of existing grants.

The PRESIDENT: Senator Chisholm, a supplementary question?

Senator CHISHOLM (Queensland) (15:30): Further answers to questions on notice reveal that the authority to grant approvals under this program transferred to the minister in August 2019. How many projects were approved prior to the minister for sport receiving this authority?
Senator COLBECK (Tasmania—Minister for Aged Care and Senior Australians and Minister for Youth and Sport) (15:31): As I said earlier in question time, the projects that are being funded through this program were election commitments. The government made election commitments in the lead-up to the election, in exactly the same way that the opposition did. In fact, the opposition promised many of the same projects.

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

Senator Wong: Direct relevance. Would you like me to repeat the question, Mr President? It was a quantitative question.

The PRESIDENT: Quite right. That's a good way to describe it. I'm listening very carefully to the minister's answer. In being directly relevant, my view is that he is entitled to talk about grants made and timing. I don't view discussion of alternative policies to be directly relevant to such a specific question. Senator Cormann, I will take your submission on the point of order.

Senator Cormann: On the point of order, I would just point out how the minister has been directly relevant. He was asked about the projects that had been approved. The minister clearly spelled out that the projects under this program—those that were publicly announced prior to the election—were election commitments.

The PRESIDENT: That's exactly where I was going, on the basis: being asked about a number I consider to be asking the chair to instruct the minister on how to answer the question. He is being directly relevant, as long as the answer pertains to what I believe he was talking about at that point, which was the grants made prior to the time stated in the question.

Senator COLBECK: All of the projects that are being funded under this program were the subject of election commitments. Senator Wong is right in her chatter across the chamber. There were 41 projects allocated funding through election commitments that are now being administered under this program.

The PRESIDENT: Senator Chisholm, a final supplementary question?

Senator CHISHOLM (Queensland) (15:33): Has the minister at any point under this program approved grants in his home state of Tasmania?

Senator COLBECK (Tasmania—Minister for Aged Care and Senior Australians and Minister for Youth and Sport) (15:33): This program is administering the delivery of election commitments that were made during the election campaign before I became minister. The role that my department has at this point in time is to administer the election commitments that were made by the government in the lead-up to the election.

Defence Personnel

Senator McMAHON (Northern Territory) (15:33): My question is to the Minister for Defence, Senator Reynolds. Can the minister update the Senate on how Defence is supporting our Australian Defence Force members transition from permanent military service to civilian life?

Senator REYNOLDS (Western Australia—Minister for Defence) (15:33): I thank Senator McMahon for her question and for her deep commitment to the ADF personnel who are stationed in the Northern Territory. Thank you.
I'm extremely proud that this government is showing the same commitment and duty to our ADF members, our veterans and their families as they themselves have shown to this nation. As highlighted in the recently announced suicide prevention measures, the issues we face—I know we face them together on a bipartisan basis—are numerous and complex. For example, transitioning from military service to civilian life can be for many a very challenging life event, and it does provide a period of uncertainty for many members and their families.

Since 2017, Defence has put smart thinking and targeted resources behind its transition transformation program, and we believe that continual improvement is the key. As the minister, I'm committed to ensuring that Defence works closely with the Department of Veterans' Affairs to help our ADF members and their families in very practical and very positive ways to transition successfully from their service life to the next chapter of their lives in both their careers and their family lives. Defence has a suite of enhanced transition programs designed to prepare ADF members and their families to take responsibility for their own lives, welfare and development, which includes their health and wellbeing, social engagement, employment, education, accommodation and finances. We are also committed to ensuring that members have access to the right support at the right time, especially those who are vulnerable or at risk and—importantly, I think—that members are assessed individually and treated according to their own personal needs, whether it's in mental health care, patient care or occupational rehabilitation.

Senator McMAHON (Northern Territory) (15:35): Can the minister update the Senate on how Defence is working with Veterans' Affairs to ensure young at-risk veterans get the support they need as they transition out of service?

Senator REYNOLDS (Western Australia—Minister for Defence) (15:36): Thank you again, Senator McMahon, for the question. Yes, I can confirm that Defence and DVA are working closely together—in fact, I believe, the most closely they have ever worked together—to provide at-risk transitioning veterans with a single point of contact to ensure their seamless support is ongoing, to ensure access to the appropriate health treatment and to help them finalise their own claims. Last week the government announced a significant funding boost to this coordinated program, with the addition of 170 veterans, particularly those from the most vulnerable age group, which is the 17-to-30 cohort. They will be supported as they transition into a civilian career. This means that 10 additional case coordinators will be backed by nearly $5 million in investment in a program that is already helping over 1,200 veterans facing challenging circumstances. A further investment of $5.6 million will assist another 1,600 ADF members.

Senator McMAHON (Northern Territory) (15:37): Can the minister outline to the Senate the significance to Australian Defence Force members, veterans, their families and the nation of ensuring successful transition from service to civilian life and employment?

Senator REYNOLDS (Western Australia—Minister for Defence) (15:37): Thank you again, Senator McMahon. You are right: it is absolutely critical that we get this component correct. All of us here in this chamber and the government, and all Australians, owe it to the men and women who have served our nation and also to their families to give them the
support that they have given us through their service and also their sacrifice as a family. As Australians, we demand the highest standards of our ADF men and women, and we have a responsibility to support them in all aspects of their professional and personal development, health and wellbeing, from the first day of their service through to their return to their civilian lives and their lives with their families. Transition planning should start, and is now starting, from their enlistment to start thinking about and preparing for the time that they transition back to a civilian life. This is why the government is so focused on ensuring that they have a successful transition and a long and happy life with their families and in their employment.

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

**BUSINESS**

**Rearrangement**

The **PRESIDENT** (15:38): Can I just deal with one brief housekeeping matter. As senators are aware, the temporary order agreed to last year means that no divisions can take place between 6.30 and 7.30 tonight. I understand that it suits the convenience of the Senate for the discussion on the matter of public importance from Senator Siewert to be held tonight between 6.30 and 7.30, and this has been discussed between whips and managers. So, with the concurrence of the Senate, it is so ordered.

**QUESTIONS TO THE PRESIDENT**

**Australian Bushfires: National Aerial Firefighting Centre**

**Senator WATT** (Queensland) (15:39): Mr President, it's come to my attention that, in answering my question, Senator Reynolds asserted that I was linking the loss of lives of Australians to government policies and decisions. That is completely incorrect, and I did no such thing. I'd ask that you review the Hansard and, if I am correct in saying this, ask that the minister withdraw those remarks.

The **PRESIDENT** (15:39): I will review the Hansard.

**QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS**

**Community Sport Infrastructure Grant Program**

**Senator FARRELL** (South Australia) (15:39): I move:

That the Senate take note of the answer given by the Minister for Youth and Sport (Senator Colbeck) to a question without notice asked by Senator Farrell relating to the Community Sport Infrastructure Grant Program.

Just when we thought it couldn't get any worse for the government under the sports rorts scandal over the first three weeks of this year, we found out last Friday about sports rorts 2. Senator McKenzie, when she was first confronted with the evidence in relation to sports rorts 1, said it was ridiculous that she should be asked to resign. She did resign and we thought that might be the end of it, that the $100 million that had been spent on sports rorts 1 was the end of the matter. Of course, on Friday we discovered that we had sports rorts 2—and it wasn't just $100 million; it was $150 million. Between them, those two sports rorts projects represent almost a quarter of a million dollars of taxpayers' money.

The Prime Minister, when confronted about sports rorts on Friday, was so confused—and, one suspects, embarrassed—that we hadn't just been dealing with sports rorts 1 but now had
sports rorts 2 that he answered the question in respect of sports rorts 1. He went back to his notes, to his concept of what his response to this should be, and that was that it was all about how the government has been supporting women's change rooms.

We had a look at sports rorts 2, the $150 million which the Prime Minister and then sports minister Senator McKenzie said was all about giving women change rooms and improving their facilities. That's a terrific aim and it is supported by the Labor Party. But what have we found out about this $150 million? We have found out that only a fraction of the money that was supposed to go towards improving women's facilities at sporting grounds around the country actually went to them.

I can see that you are quite distressed there, Mr Acting Deputy President Griff. Coming from South Australia, you would know just how desperate a lot of these sporting clubs were for that money. And you can probably recall that, when the government in South Australia changed a couple of years ago, the Liberals axed all of the money that the previous Labor government had set aside for improving women's sporting facilities. You'd also know that, in South Australia, in the three years of women's football, the Adelaide Crows have won two premierships. That has encouraged all these young women to start getting involved in sports.

When the Prime Minister announced $150 million to improve their facilities so they didn't have to change behind the sporting sheds, they thought all their Christmases had come at once.

But what happened? That money didn't go to those people. It didn't go to what the government said it was going to go to. Where did it go to? It was a lot of money—combined, it was almost a quarter of a billion dollars. Where did it go to? Overwhelmingly, it went to swimming pools. Don't get me wrong, there is nothing wrong with swimming pools, but it went to two swimming pools in marginal seats the government was trying to hang on to at the last election. How deceitful is that? You tell the Australian community you are big on women's sports and increased participation. 'We're serious about looking after you. We're serious about stopping you having to change behind the change rooms out the back.' What do they do? They don't spend it on women's change rooms. They give it to two swimming pools—

(Expired)

**Senator ANTIC** (South Australia) (15:45): I take the opportunity to acknowledge Senator Farrell's kind words there in relation to the Adelaide Crows, which of course is one subject that we can agree on: his passion for that club is shared by me. One thing we can't agree on, however, is the use of this term 'sports rorts'. Those across the chamber consistently use this term like it has some sort of currency or like it's the repeat of a bad Hollywood sequel. On this side of the chamber, we know that that is nothing but fabrication. The government has acknowledged the recommendations of the ANAO performance audit into the Community Sport Infrastructure Grant Program, and is taking action with Sport Australia to address the findings. Where it is the case that deficiencies have been identified across the board in transparency and in documentation, then, quite simply, they will be remedied.

It is trite to suggest that this is something that the government should hang its head about. It's quite the opposite. Between 2018 and 2019 the federal government delivered 684 projects, investing in the order of $100 million into the Community Sport Infrastructure Grant Program. We've seen firsthand the positive impacts that this program had delivered for many grassroots sporting organisations and local communities. Indeed, Senator Farrell's noted a few
of them. The cause of women's sport in South Australia has, of course, been, in my home state—and your home state, Mr Acting Deputy President Griff—a very, very fine win for the community.

Once again, to take issue with this concept of 'sports rorts', as it's been characterised, the advice of the Attorney-General, in consultation with the Australian Government Solicitor, was that he didn't agree with the Auditor-General's specific comments regarding ministerial authority. Publically released guidelines clearly state that the minister was the final decision-maker and could take into account other issues. It's more than reasonable in circumstances that the minister is the final decision-maker and has some discretion, because it is clear that that is the role of the minister. The minister's job is to make decisions, and that is what he or she will do in the circumstances. That's why this government, ultimately, is acting on recommendation 4 from the ANAO, so that where ministers have discretion to make decisions, and where they move away for whatever reason from what those recommendations might be, there is a process of accountability and transparency.

We should also take this opportunity to make the point that one only has to cast one's mind back a relatively short amount of time—

*Opposition senators interjecting—*

**Senator ANTIC:** I hear the calls of 'sports rorts' and that sort of thing from the other side of the chamber, but of course the ANAO made it very clear that the way the program was conducted delivered on its intent. That is the critical factor to be brought into account here. All the projects that the government backed were eligible. They were eligible for support, unlike, for example, with Labor's Catherine King, whom the Auditor-General found was spending taxpayer money on projects against the recommendations of experts. Or let's say Ros Kelly, who funded ineligible projects. So we are talking about quite separate and distinct concepts here, and, as the Prime Minister has said, the secretary found that the minister actually did not take into account political factors as a primary consideration when making her decisions. So, these are crucial distinctions. They are not merely trivial matters; they are quite significant. We are dealing with decisions that have been made which have had positive impacts in the community. We are now seeing these funding arrangements rolled out such that there are now change rooms for community clubs and so forth. In fact, it's true to say that electorates held by our friends across the chamber—the Australian Labor Party—represent a significant number of approved projects and 34 per cent of approved funding. Of course, these electorates would have been less successful had Sport Australia's assessment team's recommendations been maintained. There are many Labor frontbenchers who have welcomed these, none more significant than the opposition leader, Anthony Albanese, who actually went so far as to thank Minister McKenzie for her support for the Dawn Fraser pool—quite a suggestion.

**Senator CHISHOLM** (Queensland) (15:50): I rise to speak again on this important issue, which was the focus of questions from the Labor opposition during question time today. I'd say to those government senators who have been sent in here to defend the sports rorts—I said it last week, as well—that they should put themselves in the shoes of those moms and dads and other volunteers who are the lifeblood of these community groups, who were responsible for putting in these submissions that received a high score but were completely disregarded by the government for its own political purposes. Those are the people they need to be thinking...
about when they come in here to defend the rorts and say: 'This is just what the government did. We made those decisions.' The people they are dudding are those mums and dads and other volunteers out there who put in hours that they don't have—they give up other things while they are putting in those hours—to make these submissions that the government ignored.

The government ignored them through three processes through the first sports rorts. There were rounds 1, 2 and 3. We know that as each round went further the government completely disregarded the Sport Australia recommendations. By the last round it was ignoring up to 73 per cent. The closer the election got the more likely they were to disregard the Sport Australia recommendations. That wasn't enough for them—the three rounds and $100 million weren't enough—so they came up with another plan for $150 million for them to spend during the election campaign. All up, the government spent a quarter of a billion dollars through this process to help its re-election campaign. If that's what those opposite want to come in and defend then I'm happy to take the fight up to them every day of the week.

What is outrageous is the performance of the Prime Minister, particularly when it comes to sports rorts 2. When he launched this fund, the Prime Minister said:

The principal objective of that is to ensure that there are changing facilities and other facilities to support more girls and women's participation in sport all around the country.

That is what the Prime Minister said when he launched this fund. Guess how much of the $150 million was spent on female change rooms—less than 15 per cent. So for him to justify that on the support that everyone in this place and around the country has for female sport and for trying to get more women involved in sport is absolutely nonsense. He should be held accountable for that. He is still using that line today to try to justify the sports rorts as being for female change rooms, when the reality is that just 15 per cent went on female facilities.

We know that $60 million, or 40 per cent of the total, went on funding pools in the two Liberal held seats of Corangamite and Pearce. That actually goes to show the motivation of this government. They say one thing to try to justify the program, but the reality of this program is that it was intended to buy votes and win marginal seats so they could try to form government again. That was the sole purpose of the program. We saw that with sports rorts 1. Increasingly, as we got closer to the election, those opposite were disregarding Sport Australia and trying to fund their projects in marginal seats. They weren't done with that. That program finished with April. They came up with another $150 million that was to go to funding they could use to fund projects that they wanted. This goes also to the substance of the decisions that they made around who was responsible for it. When the policy was released, a document was prepared by the infrastructure department, which said that guidelines for the program were meant to be delivered in June last year. Guidelines for this funding program have never been released, and already the $150 million allocation has been exhausted. So even when they released and announced the money—we heard the rot from the Prime Minister about the basis for it; that can be dismissed, because that is not what they have done. When they launched the fund they said guidelines would be issued. But we now know that the fund has been completely spent and that no guidelines have been issued at all. The health department stated that the program was not open to applications and that all proponents were selected by government. So there were no published guidelines and no criteria for the
allocation of funding, and all announcements were made by the government at the time, including the minister.

We know the Department of Health and Senator Colbeck had responsibility for the program in consultation with the Prime Minister, but I think they have so many sports rorts programs that they are funding that the minister himself got confused about which one he was talking about in terms of the question from Senator Farrell regarding the guidelines they were using. They are desperately trying to keep their head above water on this, but we know there is so much more coming their way to take accountability for. *(Time expired)*

**Senator HUGHES** (New South Wales) (15:55): The hide of the Labor Party—the pink hide of the Labor Party—to lecture anyone on so-called sports rorts. For you, Senator Chisholm: I haven't been sent here at all. In fact, I'm more than happy to be here today, because those opposite didn't just put the pork in the barrel; they ran the piggery—snouts in the trough all the way back to Gough. In fact, even they have forgotten their own patron saint. Who could ever forget St Ros Kelly and the whiteboard? Only barefaced hypocrites would fail to recall the events of late 1993, when sports minister Kelly failed to explain the distribution of grants to marginal seats in the Labor-Keating government. Every time you want to attack the Prime Minister, just have a good think about your insult to the memory of your beloved Keating. Paul would be appalled. Your amnesia couldn't be any more convenient or selective.

Of course, when Ros Kelly resigned, it was a disaster for Labor. They even lost the traditionally safe Labor seat of Canberra. Maybe they should have been installing the lights at Manuka Oval way back then. And guess what. It was the Auditor-General complaining about the manner in which the department had administered $30 million in grants under the Community Cultural, Recreational and Sporting Facilities Program. It was a program started by—guess who. Yes, there's no party without punch. It was the godfather, Graham Richardson of the Labor right, Mr Whatever It Takes, the prince of the piggery, cooking up this program on a spit in 1988. It was Richo's very own bicentenary gift to the nation—a rort in which Labor could shore up endangered seats. In fact, only recently Richo told Paul Murray and Sky News: 'I did exactly the same thing, only better, and I got into no trouble whatsoever. I skated through as I used to do on everything.' Then he joked that Ros Kelly wasn't so lucky. He was laughing out loud. Now there's a sick sense of humour.

But, as a senator for New South Wales, the fact that any Labor member from my state should suggest impropriety in this dog whistling smear of a way is astounding. In fact, if it weren't so offensive, it would be hilarious. The party that boosts the Audi brand better than any advertising campaign, who appears before ICAC so regularly it's almost part of their brand, who must attend caucus meetings so inconveniently and uncomfortably when the poor member for Kingsford Smith has to acknowledge he wasn't so keen on the elevation of now Senator Kenneally for the premiership. Luckily for Senator Kenneally, the Frank Sartor supporters had Eddie Obeid make calls on her behalf. So I suggest to those opposite that they try to keep a straight face when they gaze into that mirror and look at themselves with those shifty eyes.

On a more positive note, I would like to acknowledge the success of the former Minister for Agriculture, who has now stepped aside from the ministry, and look at the loss that she is to the cabinet and to the ministry and look at the contribution that she made to Australia, the
successful programs that she did introduce and the wonderful contributions she made to this country. Even at the end of last year, she delivered a mandatory dairy code of conduct. There is the fact that she injected $3.5 million into the Farm Safety Education Fund to improve on-farm safety, something that we should always be looking at when we look at the number of accidents that cause unnecessary deaths on farms. There is the fact that she put $3.9 million towards Beef Australia, promoting our Australian beef in international markets, something that we should be looking at today when we look at our Indonesian trade deal. She was very much a part of opening up agricultural trade and market access cooperation programs worth $6.8 million to help farmers access new and profitable markets. She passed the farm trespass laws to make it unlawful to incite others to invade farms and harass farming families, something too many people opposite in this place were too slow off the mark to condemn. She established a National Feral Pig Coordinator to tackle the Australia's feral pig population. She put $5 million towards the Kids to Farms program, part of the government's $10 million Educating Kids About Agriculture. A significant part of these programs were great contributions to this nation, and I'm sure, given time, Senator McKenzie will once again be able to make a great contribution to our country.

The ACTING DEPUTY PRESIDENT (Senator Griff): It now being four o'clock, we do have a hard marker. The question is that the motion moved by Senator Farrell to take note of answers be agreed to.

Question agreed to.

BILLS

Marine Safety (Domestic Commercial Vessel) National Law Amendment (Improving Safety) Bill 2019

Second Reading

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

Senator AYRES (New South Wales) (16:00): I move:
That the question be now put.

The PRESIDENT: The question is that the question be now put on the second reading of the bill.

The Senate divided. [16:04]

(The President—Senator Ryan)

Ayes .....................33
Noes .....................30
Majority................3

AYES

Ayres, T
Carr, KJ
Ciccone, R
Dodson, P
Gallagher, KR
Griff, S
Hanson-Young, SC

Brown, CL
Chisholm, A
Di Natale, R
Faruqi, M
Green, N
Hanson, P
Keneally, KK
The question agreed to.

The PRESIDENT (16:06): The question is the bill be now read a second time.

The Senate divided. [16:08]

(The President—Senator Ryan)

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Question agreed to.

Ayres, T .................................. 33
Carr, KJ .................................. 30
Ciccone, R .................................. 30
Dodson, P .................................. 30

AYES

Brown, CL .................................. 30
Chisholm, A .................................. 30
Di Natale, R .................................. 30
Faruqi, M .................................. 30

CHAMBER
AYES
Gallagher, KR
Griff, S
Hanson-Young, SC
Kitching, K
McAllister, J
McKim, NJ
Patrick, RL
Pratt, LC
Roberts, M
Siewert, R
Steele-John, J
Urquhart, AE (teller)
Whish-Wilson, PS
Green, N
Hanson, P
Keneally, KK
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McCarthy, M
O’Neill, D
Polley, H
Rice, J
Sheldon, A
Smith, M
Sterle, G
Waters, LJ

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Askew, W
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Bragg, A J
Brockman, S
Canavan, MJ
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Paterson, J
Payne, MA
Rennick, G
Ryan, SM
Scarr, P
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Smith, DA (teller)
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PAIRS
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Farrell, D
Fawcett, DJ
Gallacher, AM
Ruston, A
Lines, S
Reynolds, L
Walsh, J
O’Sullivan, MA
Wong, P
Cormann, M

Question agreed to.
Bill read a second time.

Third Reading
The PRESIDENT (16:09): As no amendments to the bill have been circulated, I shall call the minister to move the third reading unless any senator requires that the bill be considered in Committee of the Whole.

Senator STERLE (Western Australia) (16:10): I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

Telecommunications Amendment (Repairing Assistance and Access) Bill 2019
Second Reading

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

Senator KENEALLY (New South Wales—Deputy Leader of the Opposition in the Senate) (16:11): I rise to speak to the Telecommunications Amendment (Repairing Assistance and Access) Bill 2019 in my name. I will say at the outset, Labor always seeks to work in a bipartisan fashion when it comes to ensuring Australia's national security. Labor also believes our national security and law enforcement agencies need powers and resources to keep our communities safe and our nation secure. It is with this principle in mind that we bring this private senator's bill before the chamber. Labor's legislation seeks to correct the mistakes of a hyperpartisan Prime Minister and Minister for Home Affairs, who've been more interested in their marketing messages and selling empty promises than they have been in securing effective national security legislation.

Before I speak about why I believe this legislation is needed, it is worth restating the circumstances by which the encryption laws came into being. On 6 December 2018, this chamber debated and passed the Telecommunications and Other Legislation Amendment (Assistance and Access) Bill 2018. That bill sought to both strengthen and broaden a variety of powers that could be used by Australia's national security and law enforcement agencies to combat the threat of terrorism. Commonly referred to as the encryption laws, this legislation gave law enforcement and national security agencies the power to request or compel assistance from telecommunications providers in the course of their investigations. Powers of this kind deserve, in fact necessitate, careful deliberation and consideration by all parliamentarians.

We must consider how to best maintain the delicate balance between personal freedom and the safety and security of Australians. However, the way the bill came before this place could not be characterised as either carefully deliberated or considered by the Morrison government. In fact, the passage of this bill was both highly politicised and deeply flawed.

The Parliamentary Joint Committee on Intelligence and Security is the prime deliberative body in this place that reviews laws relating to national security. It is a bipartisan body through which the government and the opposition can play a constructive role in the formation of national security policy, a mechanism that works best when it is informed by expert advice and given the time to properly consider the complexities that exist in this space. Labor has always sought to work constructively with the government in this forum, and it was no different in our deliberations on the assistance and access bill in 2018, but both the Prime Minister and the Minister for Home Affairs sought to politicise the process and rush the committee's work.

The ACTING DEPUTY PRESIDENT (Senator Fawcett): Order! Senator Keneally, resume your seat. I just remind you of standing order 193 about imputation of improper motives. Having named two particular individuals and then attributed a motive, I remind you of that standing order. Senator Keneally.
Senator KENEALLY: Thank you. The Prime Minister harried the committee's work, saying:

Our police, our agencies need these powers now and I would like to see them passed. In fact, I would insist on seeing them passed before the end of the next sitting fortnight.

Minister for Home Affairs Peter Dutton went as far as to link the bill to the fatal Bourke Street knife attack. He even claimed that Labor opposed the legislation; that was a false claim. And so, under this political pressure, Labor members of the PJCIS worked diligently with their Liberal colleagues to complete as thorough a review as possible of the assistance and access bill. Ultimately, the Parliamentary Joint Committee on Intelligence and Security made 17 substantial bipartisan recommendations on the legislation. These were informed by the advice and testimony of our security agencies and of industry heads and key stakeholders. Many of these recommendations, however, were then ignored by the government.

This chamber was forced to consider and vote on a version of the assistance and access bill which was different to what the experts and the Parliamentary Joint Committee on Intelligence and Security recommended. In the interest of national security, Labor agreed to pass the bill but only with a commitment from the government that it would do two things. Firstly, the government committed that it would allow the PJCIS to continue its inquiry into this lengthy, complex and controversial bill. Secondly, the government committed that it would move the amendments that reflected the recommendations of the PJCIS when parliament resumed in 2019. The latter commitment was stated by the Leader of the Government in the Senate, Senator Cormann, on the floor of the Senate when he said:

I also confirm that the government has agreed to facilitate consideration of these amendments in the New Year in government business time. Finally, I also confirm that the government supports, in principle, all amendments that are consistent with the Parliamentary Joint Committee on Intelligence and Security recommendations in relation to this bill. This will facilitate this bill becoming law without amendment, and I do support it on that basis.

Let's be clear about the quote I just read out: Minister Cormann, as Leader of the Government in the Senate, stood here in this chamber and said that the government supported, in principle, all the amendments that were consistent with the PJCIS recommendations and would facilitate those amendments in government business time.

Labor upheld our side of the deal, as we facilitated the passage of the legislation through the parliament in the last sitting hours of December 2018, taking the Leader of the Government in the Senate, Minister Cormann, at his word—taking the government at their word when it came to national security legislation. One year, two months and two days have now passed since Senator Cormann made that commitment here on the floor of this chamber, and not a skerrick of government business time has been provided to debate the legislation. In short, Senator Cormann and the government have not kept their word.

This has left Australia with flawed legislation that must be resolved by this parliament. There are three key issues with the current iteration of the assistance and access laws that I will talk about today. Firstly, these laws are having a significant impact on Australia's technology industry, risking Australian jobs in the process. With fears the Morrison government's laws will force technology companies to introduce systemic weaknesses into their systems, some 40 per cent of technology companies are already reporting losses in sales and commercial opportunities, according to the Communications Alliance. Shockingly, 95 per
cent of companies believe the Morrison government's encryption laws have had a negative impact on Australia's technology reputation in global markets. The Morrison government cannot claim it was not warned, as the global giants Facebook, Google, Apple, Amazon and Twitter came together before the legislation was passed to say:

This legislation is out of step with surveillance and privacy legislation in Europe and other countries that have strong national security concerns. Several critical issues remain unaddressed in this legislation, most significantly the prospect of introducing systemic weaknesses that could put Australians' data security at risk.

Atlassian's Scott Farquhar said:

We've got to recognise this law threatens jobs … The fact is that the jobs of the future—these high paying jobs, export dollars that we bring to Australia, largely in technology—are at risk …

We must face the flaws in this legislation and provide certainty to the technology industry that we understand how important consumer trust in their products and services is.

Secondly, it is apparent that the encryption laws do not provide the robust oversight mechanisms that Australians have come to expect from our national security laws. This lack of oversight has become a major sticking point in Australia's negotiations with the United States to improve Australian access to data held overseas. Despite warnings from Labor in 2018—that judicial oversight of these new encryption laws was critical to building trust with the Australian public and private sectors that these laws would not be abused—the government has refused to listen. The consequences of the government's arrogance are now apparent for all to see, as the Chairman of the United States House of Representatives Judiciary Committee, Congressman Jerrold Nadler, has written to the Minister for Home Affairs to express his concerns about these laws. Congressman Nadler has explicitly highlighted: 'A diverse coalition of technologists, Australian and US technology firms and civil society advocates has expressed concerns that the access act has profound impact on privacy and security well beyond Australia's borders.' Congressman Nadler raised these concerns because, for Australian law enforcement officers to be able to access data held in the United States, Australia must first reach an agreement with the US through the CLOUD Act. But, with Australia's current encryption laws left as they are, Congressman Nadler believes the laws 'may undermine Australia's ability to qualify for an executive agreement under the CLOUD Act. Without reaching an agreement with the United States, we are selling our security agencies short. The United States House of Representatives, through the CLOUD Act, has sent a clear signal that protections for citizens and privacy for civil liberties must be robust and substantive, not just for their own citizens but for those with whom their own agencies interact. The ambitions of the United States for robust protections for civil society should not outpace our own.

Finally, Australians cannot even be sure that these laws are working. Barely two weeks after the assistance and access bill passed the Senate, Minister Dutton claimed:

Encryption had put the communications of terrorists and criminals beyond the reach of law agencies, but they are now using the measures under the Assistance and Access Act to target and disrupt threats to the Australian community.

Yet, thanks to the latest annual report, we now know that in the 2018-19 financial year not a single technical assistance notice or technical capability notice was issued. We also know that only 25 technical assistance requests have been issued through to 15 November 2019. It is
worth reflecting briefly on the nature of that particular power. A technical assistance request is not a coercive power. From the information the government's released so far, it's unclear whether these technical assistance requests were actually complied with. It's also unclear whether these requests were for assistance beyond what tech companies were already happy to provide to law enforcement agencies prior to the passage of the assistance and access bill. In the 432 days since this bill passed the Senate, Australians can't be sure that any Australian agency has ever used these powers to compel a provider to assist authorities in a criminal investigation. Disturbingly, this may be because our law enforcement agencies don't know how these laws work. New South Wales Police Force Superintendent Arthur Kopsias said in March 2019:

There's probably thousands of people we are likely to deal with—under the new laws.

I haven't got a clue how to implement it. There should have been a lot more consultation …

Yet, these powers are on our books, inflicting their unintended consequences on our economy, our civil society and our diplomatic relations. Minister Dutton also said in an interview on Sky News that former ASIO head 'Duncan Lewis advises 90 per of their targets now are utilising encrypted messaging apps'. This is a major red flag. If these powers are not being employed when they supposedly could be used in some 90 per cent of cases, something is terribly wrong. These are complicated laws which confer extraordinary powers to our national security and law enforcement agencies. The process by which we would normally consider legislation of this nature was hijacked by a government more interested in wedging than governing. We have a responsibility to the Australian people to seek the right balance between our security and our freedom. The minister's dereliction of duties does not excuse us from ours. In this parliament we must balance the privacy and freedoms of Australian citizens with the paramount importance of providing a safe and secure nation. When we change the dials on our national security policy, we cannot compromise the very freedoms of the way of life we are seeking to uphold and protect.

That is why we are bringing forward this private senator's bill: to repair the government's assistance and access laws. The majority amendments proposed in this bill were agreed to by government members of the PJCIS and received in-principle support from Minister Cormann in his statement to the Senate on 6 December 2018. In addition, Labor is proposing an amendment to resolve the rightful concerns of Congressman Nadler and many other stakeholders to introduce a judicial authorisation requirement. This would allow greater oversight of issuing notices and address concerns raised by members of the United States Congress in relation to Australia's eligibility to enter into a CLOUD Act agreement.

Labor does not suggest these amendments will address all the problems with the encryption laws that have been identified by industry, law enforcement and other stakeholders. We have listened carefully and closely to these concerns, and we will continue to work closely with our intelligence and law enforcement agencies and technology experts throughout the course of the current PJCIS inquiry. The amendments proposed in this bill are an important step towards repairing Australia's encryption laws for the sake of our national security and the growth of a key sector in our domestic economy and the jobs it would create. So I commend the bill to the Senate and I ask my colleagues around this chamber to join with Labor in support of this sensible restraint and robust oversight for these extraordinary laws.
Senator ABETZ (Tasmania) (16:26): Labor's ill-considered private member's bill, the Telecommunications Amendment (Repairing Assistance and Access) Bill 2019, is indicative of an opposition willing to play politics, and destructively so, with Australia's national security. It highlights why Labor is not fit to govern. It exposes the Labor leadership's manic determination to play partisan politics with any issue—even the top priority of national security. Australians are rightly repulsed by such behaviour.

Labor's bill seeks to amend the Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018. Back then, only two wannabes in the House of Representatives voted against it. A message to Senator Keneally and the Labor senators in this place: Labor actually voted for the legislation. Yet here comes Senator Keneally, condemning the whole process as somehow some great infringement of human rights, et cetera. Well, you can make that argument out if you want to, but what it does not overcome is the fact that our good friends in the Australian Labor Party actually supported the legislation at the time. I commend them for it, but why they are seeking to undo all the good work they did at the time is quite frankly beyond me, other than a shadow minister seeking to project herself yet again into the media spotlight for any reason whatsoever. I think that might be the reason we have this private member's bill before us.

The TOLA bill was considered about a year ago. It was required to enable our law enforcement and national security agencies to deal with the challenges of the ever-advancing technologies which have the capacity to be employed for both good and evil. I speak specifically of encryption, a development allowing for the protection of personal, commercial and government information—on the face of it, a good thing. But, as we might imagine, advances in technology are exploited by unsavoury elements within our community and within the world community—such as terrorists, paedophiles, drug traffickers, human traffickers, and the list goes on. Indeed, we are told that 95 per cent of ASIO's dangerous counterterrorism targets use encrypted communications. So encryption is a very real issue for our law enforcement agencies. It therefore stands to reason that, to protect us, our law enforcement agencies need a framework to engage with relevant industry stakeholders.

The regime that was proposed was passed by the parliament, I remind Senator Keneally and her colleagues, on a bipartisan basis. Today we have a tawdry attempt from Senator Keneally—

Senator Keneally: With a deal that you would support amendments.

The ACTING DEPUTY PRESIDENT (Senator Fawcett): Senator Abetz, resume your seat. Senator Keneally, you were given the courtesy of being heard in silence. I ask that you extend the same courtesy across the chamber.

Senator ABETZ: Thank you for the protection, Mr Acting Deputy President. Today we have a tawdry attempt by Senator Keneally to amend the legislation when there are two separate inquiries underway to consider the functioning of this legislation. Also, the Parliamentary Joint Committee on Intelligence and Security specifically asked for an extension of the inquiry to consider it more and in further detail. And guess what? That was a unanimous request from the committee. Who sits on the committee? Oh! Senator Keneally. Oh! So here she is sitting on the committee saying: 'Yes, we do need to consider issues further. Yes, we will come together, as the government has rightly done, in a bipartisan or non-partisan way, and seek to ensure we get the best possible evidence together so that any
amendments that might need to be made to the TOLA legislation could be forthcoming so that the committee could be fully informed and then inform the government of its findings.’ Senator Keneally herself is part of that committee that made that bipartisan recommendation.

So here we have Senator Keneally, along with the Australian Labor Party, not only voting for the initial legislation that she now condemns, but also supporting the committee being given extra time to consider elements that might be required to amend the legislation. And yet she comes in here today to, first of all, deny that she voted for the legislation in the first place, and now she's in here with this tawdry attempt to circumvent the committee inquiry. And not only is she trying to circumvent the committee inquiry, but she's also trying to circumvent INSLM's review of the legislation—all important considerations; all important factors. And what do we have? Senator Keneally, thankfully no longer interjecting but simply smiling at her two-faced approach to this. I find it very disturbing because you cannot—

Senator Keneally: Point of order.

The ACTING DEPUTY PRESIDENT: Senator Keneally, a point of order?

Senator Keneally: Acting Deputy President, you asked me—I would say quite correctly—to consider my reflection upon people's character and motivation. I would ask that you apply the same standard to Senator Abetz.

The ACTING DEPUTY PRESIDENT: Senator Abetz, that was verging on unparliamentary language. I would ask you to consider and withdraw.

Senator ABETZ: I am more than happy to withdraw 'two-faced' if it offends the honourable senator. I withdraw it. With respect, I think you are right; it does not offend on the basis of previous rulings. But for the good governance of the chamber, I'm more than willing to keep Senator Keneally's blood pressure lower by withdrawing that comment. But suffice to say, the evidence does stand. These are the indisputable facts: Senator Keneally and the Labor Party voted for the legislation; today she has been condemning it. Some people might give that a description that I previously did. And, if so, I would say they would be justified in doing so, but I'm not justified in saying so in this chamber.

We then move on to her involvement in the Joint Standing Committee on Intelligence and Security, which has unanimously, on a non-partisan basis, sought an extension of time to consider all the matters to which mention was made by Senator Keneally. And she's a member of that committee. Yet here she is today moving a private member's bill, trying to truncate and obviate the need for that inquiry. Now, some people might come to the conclusion that that sort of behaviour could be characterised in the way that I sought to previously. I will allow people to make that judgement call. But can I simply say there is, to use polite language, a considerable degree of inconsistency in the approach shown by the honourable senator in this matter. Then what is worse, the honourable senator, before Christmas, sought to involve the Leader of the Government in this place by making allegations against him as to promises that he made in relation to the legislation. He completely and utterly debunked that—chapter, verse, comma, full stop, semicolon—which Senator Keneally alleged against him. You've got to ask: why would Senator Keneally seek to introduce into the public arena those sorts of accusations against Senator Cormann when he was so capably able of absolutely debunking everything that Senator Keneally asserted? So here we have another assertion by Senator Keneally in this sensitive area, seeking to get some cheap publicity in circumstances—
The ACTING DEPUTY PRESIDENT: Order! Senator Abetz, again, I will draw your attention to standing order 193 of attribution of motive and I think that is breaching that standing order.

Senator ABETZ: All right. Seeking publicity, cheap or otherwise—people will make up their own mind in relation to that. But one has to ask and one might reflect on the motives, but I will not do so any further. Suffice to say, there is a complete inconsistency in approach by the Australian Labor Party in relation to matters of national security, and in my time on the Parliamentary Joint Committee on Intelligence and Security there has been a great degree of cooperation and a great degree of understanding by those of us on that committee of the need to protect our fellow Australians. Regrettably, we do live in an environment today where intelligence and security matters are very much front and centre of concerns—quite rightly so—and we need to protect our community to the very best of our ability.

Do I understand that with that you want to protect people's individual liberties, privacy et cetera as much as possible? Absolutely. As a Liberal that is always where I start: seeking to protect individual liberties and privacy. But you always have to balance these things, take a mature approach and ask: how much liberty do you give to the individual when it might potentially prejudice not just one or two but, in a very bad terrorist attack, it could involve hundreds of our fellow Australian citizens? So you need a mature balanced approach.

Did the initial TOLA legislation get everything absolutely right? Chances are not. Like every other piece of legislation, it's very hard to say that you always get it right right from the start. But guess what? That is why the government and the parliament have agreed to the Parliamentary Joint Committee on Intelligence and Security having this review of the legislation inquiry, which is ongoing as we speak, and because of all the issues involved there is detail, there is complexity.

The Labor members of that committee, with the government members of that committee, agreed that there should be an extension of time for consideration of what amendments may or may not be necessary. And that is why it is so disappointing to see the Australian Labor Party, through their shadow minister for home affairs, trying to peddle this private member's bill to the Senate in circumstances where their record was to vote for the initial bill, and full marks to them for that, then to have an inquiry into its operation, its efficacy, its capacity—all those things that new legislation should be subjected to to ensure whether it's working as planned. If not, how can it be amended and changed? That's what this inquiry's about. We're having support from INSLM as well in relation to that inquiry, and yet here we have this private member's bill. It defies logic. It defies consistency. There are certain political considerations that might be involved in this, but I simply say to the Australian Labor Party and their leadership that it does them no credit—having looked at their past history in this area, which has been exceptionally good—to now come in and try to truncate the inquiry and the consideration. It pays no respect to those people that have made submissions or will be making submissions to the inquiry. It pays no respect to the committee system of this parliament. It pays no respect to the unanimous bipartisan, or non-partisan, decision of the committee to undertake this investigation.

So it is genuinely a matter of disappointment that when we are dealing with one of the most important issues that our parliament can deal with—namely, a framework for our national security—somebody would come into this place with a private member's bill and seek to
truncate those procedures that are already in place and the capacity that exists for Senator Keneally and anybody else in the Labor Party to have input to that committee, and to exercise whatever rights they want to or exercise their capacity to put forward suggestions and amendments that can then be maturely considered in the privacy of the committee and on which recommendations can be made to the government and then to the parliament. That's the way we ought to be dealing with these matters, especially when we are dealing with matters of national security. Mr Acting Deputy President Fawcett, I'm sure you are aware of all these sensitivities as well, being a long-time member of that committee—and, if I might say so, a very distinguished member of that committee. There are very real concerns from my perspective as to the way that the shadow minister has gone about this exercise, and I would invite the Senate to vote against the bill.

Senator McKIM (Tasmania—Deputy Leader of the Australian Greens in the Senate) (16:41): The Greens will support the Telecommunications Amendment (Repairing Assistance and Access) Bill 2019, but it has to be said that neither the government nor the opposition have covered themselves in glory in regard to the toings and froings leading us up to this day. In fact, the actions of both the government and the opposition on these matters have been at times quite reprehensible, and we Greens say, 'A pox on both your houses.'

It shouldn't have come to this. It shouldn't have come to where we are today. The government should not have proceeded with the legislation as it did, knowing full well the recommendations of the Parliamentary Joint Committee on Intelligence and Security, but neither should Labor have rolled over and allowed the government to tickle their collective tummy on this issue. Labor talked tough on the legislation that this bill seeks to amend, the Telecommunications and Other Legislation Amendment (Assistance and Access) Bill 2018, voicing their opposition and tabling five amendments in the Senate. But then, as we have seen before, when push came to shove, Labor capitulated and voted the bill through without even bringing on their amendments for debate and decision here in the Senate. Neither should Minister Cormann have made the commitments that he in fact did make—and, on my advice, those commitments have been accurately quoted by Senator Keneally in this debate—if he did not intend to stand by them. I mean, fair dinkum! No wonder people turn off politics and are turning off politics in absolute droves at the moment, because they look up here and they genuinely believe that they cannot trust a single word that any of us says.

It has to be put on the record that what's happened on this legislation is a small but important example of the kind of problem that Labor's propensity to collapse at the first sign of political pressure from the LNP on national security matters is causing in Australian politics and the problems it is causing in our society in terms of the ongoing erosion of precious rights, freedoms and liberties.

What happens is this: when Labor capitulates, the law is changed according to the desires of the LNP. Remember they are a command-and-control political party. Their rhetoric of freedom and liberty simply does not stack up when you put it against the suites of legislation they continue to bring into this place. They are a command-and-control party that has led the charge to erode fundamental rights, freedoms and liberties in this country and has led the charge on the dangerous path down the road to a police state in Australia.

And what happens when Labor capitulates, as it does all too often, is that the law is changed and that resets the starting point for the next debate. In the meantime, we've lost
more of our rights, more of our freedoms, more of our liberties. A classic example of this—
not context of national security or rights and freedoms but in the broader political context—
was Labor supporting the over $50 billion worth of tax cuts that the government legislated
post election last year. In doing so, they locked in those tax cuts for the billionaires. They
were tax cuts for the superwealthy in this country. The reason that the Leader of the
Government in the Senate, Minister Cormann, was so delighted with that capitulation by
Labor is that he knows that there is somewhere between Buckley's chance and no chance
whatsoever that Labor will go to the next election with a policy of increasing taxes, so we are
stuck with the billionaires' tax cuts because Labor capitulated.

I go back to this legislation. It contains the five 2018 amendments that Labor tabled but did
not propose for debate or decision and which the government promised to consider in 2019
and then went back on its word and didn't. Of course, in addition to that, as Senator Keneally
has explained, it introduced judicial authorisation requirements. So, in brief, this bill seeks to
restrict access to the act's powers by state and territory law enforcement agencies, remove the
ability of the Minister for Home Affairs to edit and delete information in reporting and, as I
indicated a moment ago, introduce a judicial authorisation requirement for the deployment of
certain powers. In the main, these amendments are consistent with recommendations made by
the Parliamentary Joint Committee on Intelligence and Security, which, as all members would
know, is a closed shop with only Labor and Liberal members. At that time, it had a Liberal
chair, so it's very interesting that the government has made it very clear that they don't support
this legislation. I'll say that again. Most of these amendments were supported by the PJCIS,
which at the time had a chair from the Liberal Party.

The Assistance and Access Act is an absolute shocker. These amendments will rasp a few
of the rough edges off that legislation, but they certainly, in the view of the Greens, do not go
far enough. That act is an act that with a minimum of oversight gives the government power
to force technology companies to deliberately introduce targeted weaknesses into their
software and their devices. The legislating of state-sponsored back doors and malware is truly
and frighteningly Orwellian. And, as we see so often in this place and in parliaments around
the country, there is a very high risk of unintended consequences and of legislative measures
being utilised for aims that were not foreseen by the legislation. I'll just use the metadata
retention laws as a classic example of how this can sometimes roll. Remember, metadata
retention was sold—again, a capitulation by the Labor Party—by the government as
something we needed to fight terrorists, yet here we are a few years down the track and the
metadata that has been retained as a consequence of that legislation has been used by local
governments to bust people for having unregistered pets. This is the problem when you create
these powers. This is the problem when you pass such draconian legislation—the things that
you thought needed addressing are actually not the issues that end up being addressed. To
have people's metadata that has been compulsorily retained by telecommunications companies
as a result of the metadata retention legislation used by local governments to bust people for
having unregistered pets is as extreme an example of scope creep as I can remember seeing in
my now well over 15 years in politics.

Not only does this act—that is, the original act passed by the government with Labor's
support—attack the fundamental rights of people to privacy and the security of Australia's
digital economy and our community; it also dealt a significant blow to Australia's tech sector.
With Australian companies and coders forced to write the snitch ware, Australian based tech companies are losing sales and other commercial opportunities. Many are actively considering either moving offshore or employing only offshore coders.

The act could also, as warned by Jerrold Nadler, the chairman of the US House Committee on the Judiciary, 'undermine Australia's ability to qualify for an executive agreement under the CLOUD Act,' which is the Clarifying Lawful Overseas Use of Data Act, and I offer as an explanation that that is because the US will only enter into CLOUD Act agreements with 'close foreign partners who have robust protections for privacy and civil liberties.' But, unlike the US and every other liberal democracy in the world, Australia does not have a legislatively or constitutionally enshrined charter or bill of rights. It's a matter of some significant concern to the Greens in this place that neither the LNP nor the ALP took to the last election a policy of delivering on a charter or bill of rights. The Liberals have been consistent in their opposition to it. There are differing views inside the ALP on a charter or bill of rights, and their policy looks pretty good until you read it closely, at which time it becomes blindingly obvious that Labor do not support a charter of rights either. In the last parliament, Labor voted against the Greens motion for a committee to inquire into the form and functions of a charter of rights.

We've seen many hundreds of pieces of legislation that have passed through Australian parliaments this century, delivered in a bipartisan fashion by the major parties, that erode fundamental rights and freedoms in this country. It is, as I said, a matter of significant concern that Australia remains the only liberal democracy in the world that does not have some kind of charter or bill of rights.

The Greens will support this legislation, but in doing so I want to be clear that we share the view of Ms Lizzy O'Shea from Digital Rights Watch, who said of the bill:

These amendments outlined in this Bill are a good starting point, but far from a full solution. Tinkering at the edges of badly designed legislation is not going to solve the underlying problem – that the powers being handed out to law enforcement are poorly designed and infringe on individuals’ privacy and the security of the Australian digital economy and society.

We could not agree more with Digital Rights Watch. Our support for this current legislation does not change the fact that the original bill, passed with bipartisan support in this place prior to the last election, was recklessly rammed through parliament without due consideration by a government fixated on a shuffle down the dangerous path to a police state and an opposition that, sadly, only ever pays lip-service to human rights, to freedoms and to liberties in this country. Australia now, more than ever, needs a charter of rights.

**Senator McALLISTER** (New South Wales) (16:55): Senator McKim has just delivered a speech that would be very familiar to those who take an interest in national security debates in this parliament. And his interest in human rights and freedoms is admirable and, I would assert, one shared by everyone in this place. The very great difference is, though, that I have never heard—actually ever—Senator McKim engage in a serious way in a debate in this place with the material issues of national security that drive the conversation about our public policy response. From this, I have come to the conclusion that there is actually no national security problem that the Greens political party are prepared to accept is real. I have never heard any such concession in any of these remarks. Senator McKim may wish to approach his next set of remarks differently. But the consequence of that is there's never any justification
that the Greens political party are prepared to accept any kind of policy response to a national security challenge.

**Senator McKim:** That's untrue.

**Senator McALLISTER:** Senator McKim interjects to say, 'That's untrue.' I look forward to listening to the Greens political—

*Senator McKim interjecting—

**Senator McALLISTER:** party's story the next time they stand up to speak.

*Senator McKim interjecting—

**The ACTING DEPUTY PRESIDENT (Senator Fawcett):** Order! Senator McAllister, resume your seat, please. Senator McKim, you were heard in silence. I ask that you extend the same courtesy to other members of the chamber. Senator McAllister.

**Senator McALLISTER:** The challenge, of course, is that this approach also has the significant deficiency of being out of step with what most Australians want. People do value their freedoms. People also want to know that their government is taking steps to make sure that they and their families can feel safe in their places of worship, in their homes, at airports and on the streets. It is a fundamental responsibility for any party of government to protect its citizens and that is a responsibility that Labor takes seriously.

So, whether we are in government or opposition, Labor have worked to ensure that our security agencies have the powers and the resources they need to keep our community safe, and that our laws are appropriately adapted to preserve the nature of our civil society, our rights, our freedoms and our democracy. And our approach is very consistent.

First, Labor take the advice of national security agencies seriously. It is not open to us to simply ignore that advice despite what some in the Greens political party may suggest. This government is rightly criticised for ignoring the advice of experts when the health and safety of people is at risk; for instance, as they continue to do in relation to climate change. Responsible parliamentarians cannot ignore warnings from the people charged with keeping Australians safe. Second, Labor understand the context of our decisions. Most specifically, in acting to protect our nation, we act to protect a nation founded on the rule of law and respecting individual liberties. Our approach to national security needs to respond to these core values and, to the extent that individual rights are burdened, such a burden must represent the least intrusive manner to achieve the security objective and be proportionate to the actual threat. Third, we scrutinise evidence carefully and we never politicise national security.

Labor is committed to working through the evidence of agencies, stakeholders and experts in a deliberative manner. And, when we talk about bipartisanship, this is exactly what we mean. We expect PJCIS to robustly interrogate the issues placed before it, without any member seeking to obtain narrow electoral advantage, and, in my experience, this has generally been the way in which this committee has worked. It's why I continue to support the PJCIS as an incredibly important institution in the national parliament. Thoughtfully, we seek to embed our national security architecture in a system of robust oversight. Strong and effective oversight does not undermine national security; it enhances it. Public trust and confidence in our security and intelligence agencies are best ensured through strong and rigorous oversight and scrutiny.
So Labor brings forward this bill today with that spirit of balance and proportionality, reflecting those principles that underwrite the way that we operate in the national security space. As Senator Keneally has explained, this bill seeks to amend the laws that were passed at the end of 2018 and our amendments are in line with the recommendations that were tabled in that same month by the PJCIS. Those laws back in December 2018 sought to address a real policy problem—a real one. In recent years, the agencies charged with maintaining Australia's national security have publicly and privately raised concerns about encryption technology.

These are not abstract concerns. The agencies contend that their investigations of individuals and entities suspected of being involved in a range of very serious offences have been frustrated by these technologies. As people under investigation or surveillance migrate towards the use of encrypted apps their communications go dark. There are examples overseas where this has both prevented law enforcement from predicting attacks or prevented them from gaining access to crucial evidence to understand attacks after they have occurred. Our national security agencies provided advice that widespread use of encryption in digital communications was hindering intelligence and law enforcement to the detriment of Australia's national security.

From the outset, Labor was clear that the government's response to this policy challenge needed to be reworked in order to be effective and appropriate. It is worth briefly recapping on the process that led us to the bill before the chamber today. Senator Abetz, in his remarks earlier, made a stirring case for the integrity of the PJCIS and its processes. Well, I agree with that, and it might be worth reflecting just a little bit about what happened on the process that led us to this point. In September 2018 the government introduced the Telecommunications and Other Legislation Amendment (Access and Assistance) Bill. It was referred to the Parliamentary Joint Committee on Intelligence and Security for inquiry. The committee started its inquiry; it called for submissions and held hearings, as it normally does.

Midway through the process, in November 2018, the Minister for Home Affairs asked the committee to accelerate its inquiry into the bill in order to enable it to pass the parliament before the end of the year. The case for urgency was forcefully prosecuted by the government in the media, not in the committee, and at one point documents that had been provided to the committee confidentially were leaked into the public domain and appeared on the front page of a newspaper. The government has refused to initiate any investigation of that leak. National security agencies subsequently gave public evidence to the committee that they needed the powers contained in the 2018 bill in order to respond to the heightened risk of terror over the Christmas period.

And so, in response to that evidence, the committee did the only thing that I think was available to it at that time: it finished its inquiry early. It issued a bipartisan report that made 17 recommendations for a range of amendments to improve the laws, and the government committed to moving amendments that reflected those recommendations. It did not. On the last parliamentary sitting day of 2018 the government introduced its proposed amendments, which we consider did not properly reflect the text or the intent of the committee’s recommendations. And that was not just Labor's view; it was the view of the Inspector-General of Intelligence and Security, of lawyers, of civil society groups and of the Commonwealth Ombudsman. We noted our dissatisfaction with this process during the debate in 2018. We secured from the government a commitment that would allow
consideration of our proposed amendments but still allow the agencies to obtain the powers that they briefed us that they required—public briefings in the lead-up to that Christmas period. When we came back in February we brought those amendments forward. And, for the most part, those amendments were not supported by the government. We are returning to the chamber with the present bill because we are committed to improving the law.

It is important to emphasise that the majority of the provisions in this bill seek to properly implement the bipartisan recommendations made by the PJCIS—as I said, an incredibly important institution in our parliamentary system. Our amendments go to the scope of the powers allocated in the bill and the appropriateness of the authorising arrangements. They are sensible, they are proportionate and they make the bill more effective. They are amendments that should have been included in the bill that passed the parliament in December 2018. They are amendments that the government should have voted for back in February last year.

I’m going to turn now to some of the specific provisions of the bill. The evidence from the industry placed before the PJCIS raised serious concerns about the government's bill and its impact on internet security and the public trust in internet security and, consequently, on the competitiveness of Australian IT businesses subject to these laws. Through the course of the inquiry, the government sought to reassure industry that the bill prohibited an agency from forcing a provider to implement any kind of systemic weakness or systemic vulnerability. However, many submitter to the committee contended it was not clear what those terms meant. To this end the committee made two recommendations—recommendations 9 and 10—which both relate to the meaning of the term 'systemic weakness'. We do not consider that those recommendations have been satisfactorily realised. Our proposal today reflects the true intent of the PJCIS recommendations. Our proposal has the support of industry. It puts in place safeguards to ensure that actions taken under this legislation will not create a material risk that the information of innocent persons will be compromised by an unauthorised third party.

When we put this amendment up in February a joint statement was issued by leading industry groups, including the Communications Alliance, the Ai Group, the Australian Information Industry Association, the Australian Mobile Telecommunications Association, the Digital Industry Group and the Information Technology Professionals Association. They supported Labor's proposal, saying:

- It has proved very difficult to adequately define the terms 'systemic weakness/vulnerability' and 'target technology'. As currently drafted in the Act, these definitions are difficult to understand, ambiguous and … significantly too narrow. The limitations intended to be given to systemic vulnerability/weakness through the definition of target technology do not achieve the desired objective.

They recommended deleting that definition of 'systemic weakness' and more clearly and narrowly articulating the prohibited effects of a technical assistance notice or a technical compliance notice. Schedules 1 and 2 in this bill make these changes, as recommended by industry.

Labor is also concerned that the legislation as it currently stands may prevent Australia from reaching a bilateral CLOUD Act agreement with the States. 'CLOUD' stands for 'clarifying lawful overseas use of data'. It's a mechanism that gives Australian law enforcement and national security agencies access to data held by US authorities that may be
crucial to their investigations. For an agreement under the CLOUD Act to be approved, the US must determine that a partner country's laws appropriately protect privacy and civil liberties and should not introduce requirements for decryption of user data. If the government cannot reach a CLOUD Act agreement with the United States, our national security and law enforcement agencies may be without an important tool.

Congressman Jerrold Nadler, Chair of the US House of Representatives Judiciary Committee, wrote to the Minister for Home Affairs in October last year to express concerns about the powers provided under the assistance and access act. He said that the encryption laws, as they currently stand:

… may undermine your ability to qualify for an executive agreement under the CLOUD Act.

When national security laws confer extraordinary powers, we must treat these powers as extraordinary and not simply as the new norm. They require robust and significant oversight in order to ensure that they are being used appropriately. That is why Labor is proposing in schedule 5 of this bill that a judicial officer be involved in the issuing or varying of a technical assistance notice or a technical capability notice. That was not one of the original PJCIS recommendations but it responds to an important argument that has been made subsequently. It is an important protection that Labor supports.

The bill also seeks to enact PJCIS recommendations not properly implemented by the government, in particular in relation to a redaction power. Recommendation 4 of the report from the committee called for the Commonwealth Ombudsman to be given appropriate oversight of the administration of the industry assistance measures. When the government's amendments sought to give effect to that recommendation, they also introduced an additional provision enabling the Minister for Home Affairs to delete information from an ombudsman report if that information could reasonably be expected to prejudice certain agencies' activities. The inclusion of that new power has not been explained by the government. The Commonwealth Ombudsman has written to the committee to express his concern about a ministerial power to delete information from a report prepared by an ombudsman. The Ombudsman also argued that this power is unnecessary, given that his office routinely consults with agencies to identify whether a draft report contains operationally sensitive material that should be removed or amended before it is published. Schedule 4 of this bill would remove the ability of the Minister for Home Affairs to edit and delete information in relevant reports prepared by the Commonwealth Ombudsman.

Labor also seeks to make amendments consistent with recommendation 7 of the committee's report, in relation to the role of the Commissioner of the Australian Federal Police in approving technical assistance notices that are initiated by state and territory authorities. The intention of this is to ensure consistency of decision-making and reporting across jurisdictions.

This bill is one of a number of means by which Labor has tried to force the government to remedy some of the issues that arose as a result of the rushed time line the government imposed for consideration of the original legislation last year. Labor voted for the legislation last year because of the advice from our national security agencies that these powers were needed, but we take seriously the task of making sure legislation is appropriate, and that is why we're going through this process today. We've been consulting with industry, and we're doing the work to improve this legislation.
Senator STOKER (Queensland) (17:11): It's really quite interesting to be here and speaking against this bill, the Telecommunications Amendment (Repairing Assistance and Access) Bill 2019, because it sits quite awkwardly with the processes that are currently in place for reviewing the Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018. In fact, to amend in the way that those in the Labor Party have suggested should occur speaks to a desire to put the quick political point well before the national interest, because what is the point of going through a review process that all of the members of the PJCIS, the Parliamentary Joint Committee on Intelligence and Security, agreed was necessary—they agreed it had to occur—if you're going to try and bring a bill to legislate or pre-empt the outcome of that review process? It just doesn't make any sense. But that reflects the motivations that one could assume lie behind this bill—the desire to appear to be fighting for particular causes whether or not the review process, which all agreed needed to occur, supports it. That's a disappointing thing to see.

Indeed, if it were me, I'd be quite embarrassed to be caught in that little bit of game-playing over something as important as Australia's national security, but everyone has different standards on these things. I would be mortified. Those opposite don't seem quite so worked up about it, but it's an embarrassing tactic to try and undermine these ongoing, detailed reviews of the legislation that are occurring in two fora: one by the Independent National Security Legislation Monitor, known as the INSML, and the other by the PJCIS. No doubt, as always, the government will carefully consider any recommendations that are made in those reviews—we always do—when the PJCIS, which has a long history of making an important contribution to the quality of policy in this field, and the INSML, who is a well-respected lawyer in this field, both give their reports as scheduled in the second half of the year. But to be amending the legislation at a time when we haven't even got the outcomes of those reviews—they're not complete, and we don't have the benefit of that work—is something bordering on daft. If we in this place, including those opposite, are serious about considering the amendments that might be necessary to that act—and I don't suggest for a moment it's perfect—then why on earth would we circumvent a process in place to bring out the very best of policy in this field? It's hard to imagine that it could be motivated by anything other than the cheap political point.

Let's have a little examination of some of the claims that have been made in the Senate today. The first claim that was made by those opposite was that the government has refused to accept the PJCIS's recommendations on the assistance and access legislation. False—absolutely, completely false. In fact the government has supported in principle all amendments consistent with the PJCIS recommendations and that remains the government's position at this very moment. When those recommendations from the bipartisan agreed review process are to hand, we'll consider them and act on them as we always do. But we actually get the value of a proper process here. We understand the way that these processes bring out the best in legislation and we aren't prepared to play political games with Australia's security.

On 6 December the government introduced amendments to the then assistance and access bill to implement the recommendations of the PJCIS, but those opposite didn't like them. It doesn't mean they didn't attempt to give to the PJCIS recommendations: it means it didn't conform to the whim of those opposite. Well, on 3 April the PJCIS had made its
recommendations following a second review of that act. All were accepted by the government. The government introduced and the parliament passed legislation to, at the request of the PJCIS in a unanimous sense, defer the date for that committee to complete its third review of the legislation until 30 September this year. Now, to suggest that that constitutes a rejection of the PJCIS recommendations or a refusal to take action on them is nothing short of cooking the books. It's not truthful. It's not honest at all.

Now, let's go to the second claim we've heard today—that is, that this legislation, the assistance and access legislation, would prevent Australia from concluding a CLOUD Act Agreement with the United States. This kind of agreement is quite important to allow Australian investigative agencies to access data relevant to investigations that are held overseas. Those opposite have been peddling what I would say is misinformation on this part: there is no reason why this bill stands in the way of Australia concluding a CLOUD Act Agreement. It simply doesn't compute.

There have been a number of members of the Labor Party peddling this story. We heard it from Senator Keneally today. We heard it from Mr Dreyfus in the speech he gave in 2018 on the bill and we've heard it from Senator Urquhart in this chamber on 4 December, 2019. They say over and over that it's going to stand in the way of an agreement, but you know what? No issues—zero issues—have been identified with the current Assistance and Access Act that would prevent Australia successfully negotiating a CLOUD Act Agreement. They relate to access to communications data and the content of communications; they're not in any way based on an industry assistance request or the provision of a notice under the Assistance and Access Act. To suggest that this legislation stands in the way of a CLOUD Act Agreement is nothing more than peddling the kind of misinformation and hyperbole that is designed to strike fear into the hearts of people who work in this industry. It isn't right, it isn't fair and those opposite need to come clean on it.

The industry assistance framework under the act doesn't itself allow agencies to access communications data or the content of communications. The industry assistance framework is only about technical assistance, and if you want to access communications data or the content of communications agencies have to seek a separate warrant or authorisation from an independent authority. That's never talked about in this debate either. Nobody ever talks about the warrant protections that exist under this arrangement. So, I will give you an example: a stored communications warrant under the Telecommunications Amendment (Repairing Assistance and Access) Bill 2019 would authorise access to the content of stored emails or text messages. That's not new; that's been around since 1979. A technical assistance request or notice wouldn't authorise this access, whether it was domestically or whether it was under the CLOUD Act. So when we're talking about something this important, I'd implore those opposite to raise the bar and stop peddling campaigns of fear on this important subject.

Let's deal with another furphy we got from those opposite.

**The ACTING DEPUTY PRESIDENT (Senator Griff):** Senator Stoker, it being 5.20 you are in continuance. I call Minister Cormann, pursuant to the order of 5 February.
DOCUMENTS

Report on Ministerial Standards and Sports Grants

Order for the Production of Documents

Senator CORMANN (Western Australia—Minister for Finance and Vice-President of the Executive Council) (17:20): Mr Acting Deputy President, as I advised the Senate in my letter dated 6 February 2020, as the Minister representing the Prime Minister in the Senate I have claimed public interest immunity over the document referred to in the motion on the grounds that this document informed, and was the subject of, cabinet deliberations. As is well recognised in the Westminster system, it is in the public interest to preserve the confidentiality of cabinet deliberations to ensure the best possible decisions are made following thorough consideration and discussion—

The ACTING DEPUTY PRESIDENT (Senator Griff): Senator Patrick?

Senator Patrick: A point of order, Mr Acting Deputy President: the minister is making a public interest immunity claim in respect of deliberations of cabinet—that is, discussions that took place in the cabinet—in circumstances where Senator Lambie's OPD seeks to access a report prepared by the secretary outside of cabinet. The point of order is on relevance.

The ACTING DEPUTY PRESIDENT: The minister is making a statement, which in this particular instance the minister will continue.

Senator CORMANN: Thank you very much, Mr Acting Deputy President. As I have indicated, this is a document that was prepared for the consideration of the public governance committee of the cabinet, which is part of the deliberative processes of cabinet. As is well recognised in the Westminster system, it is in the public interest to preserve the confidentiality of cabinet deliberations to ensure the best possible decisions are made following thorough consideration and discussion of relevant proposals within cabinet. Disclosure of the document subject to the motion is not in the public interest, as it would reveal, and therefore harm, cabinet deliberations.

However, as I did also note in my letter, the report was the subject of a press conference from the Prime Minister on 2 February 2020, which is on the public record. Further, Mr Gaetjens has advised the Prime Minister that he intends to make a public statement in due course; in fact, I understand that he will have the opportunity to appear in front of the select committee established by the Senate to inquire into these matters.

Senator LAMBIE (Tasmania) (17:22): I move:

That the Senate take note of the explanation.

I find it very shameful. What a sorry, sorry affair this is, and what a poor show from our government. Australians deserve an explanation. You can tell us whatever rot you want to in here. This is why there is no trust from the Australian people. Senator McKenzie stepped down because she had not declared her membership of a shooting club that received $36,000 under the Community Sport Infrastructure Grants Program to pay for new toilets. The government still maintains that she didn't do anything wrong in targeting the sports funding to marginal electorates that the coalition wanted to win in the 2019 election.

It was the right thing for Senator McKenzie to resign—well, better late than never! I said within 12 hours she had to go, and I had no problem in texting her and telling her that either.
Her behaviour was disgraceful. But, by pinning her resignation on a conflict of interest, the government are trying to pretend that using taxpayers' money to bolster their re-election campaign is acceptable behaviour. They're saying that pork barrelling is acceptable behaviour. They're saying that using a supposedly independent $100 million grant scheme as a slush fund is, once again, acceptable political behaviour. They're telling us that they don't see a problem with using a spreadsheet colour-coded by electorate to overrule the independent advice of Sport Australia. They don't see any issue with the fact that worthy projects missed out on funding because they weren't in electorates that the coalition needed to win and knew they did haven't the numbers to win.

Now they're telling us not to worry about the independent review from the very well-respected Auditor-General. Apparently, the auditors got it wrong. The PM is asking us, instead of putting our trust in the Auditor-General, to believe in a PM&C review into whether Senator McKenzie breached the ministerial standards. The person in charge of the review was Mr Phil Gaetjens, the head of PM&C. He is supposed to be an objective observer but he's really the PM's former chief of staff. If that is not a conflict of interest, my God, what is wrong with you people in here? Now we've been told we can't see the report? We just have to take the PM's word, his mate's word about whether Senator McKenzie's behaviour was unethical? We don't need his word, because every Australian out there can see it is unethical. What is going on in here?

Without seeing the report, the public can't know how Mr Gaetjens investigated the matter or how he came to his conclusions. That would be because, I imagine, the report is below the standard required. I'm not the only one saying this. Nearly every Australian out there is saying it. If you think you're pulling the wool over their eyes, that is shameful, absolutely shameful. I want trust. I want trust back in politicians, and you're doing everything you can to destroy that—everything. I've had a gutful.

We're supposed to trust this so-called independent process that found that Senator McKenzie made a mistake in not declaring her shooting club membership, but not that she misused taxpayer funds. According to the Prime Minister we're supposed to trust that there was no basis for the suggestion that political considerations were the primary determining factor. Does he take us all for morons? Does he? Does he take millions of Australians out there for absolute morons? Shameful! Apparently all this should be more convincing than the Auditor-General. The Auditor-General is going up against the PM's mate, and apparently we should trust the PM when he says the report shows there is nothing to see here, nothing to see here, but he doesn't have the guts to show that report here and show it to millions of Australians that want to see that report. Like I said, another shameful day in politics today. I cannot believe the Minister representing the Prime Minister didn't blush when he was running his lines over there. He feels no shame; he has no conscience. He might as well as fronted up here and declared the sky isn't blue. We've seen the evidence; we've seen the spreadsheets; we know what you've been up to. At least have the courage, the spine, to release the PM&C report so that the Australian people can make up their own minds about why the PM's buddy would disagree with the Auditor-General.

If the process really was that thorough and independent, they shouldn't have anything to hide. Completely, absolutely, it wrecks of cover-up. It reeks of absolute cover-up. It's the stench of it. Stop protecting yourselves and start governing the country. Start being bloody
honest with the people in this country. I don't buy all this 'it's a cabinet document' rubbish. Reports of this nature do get made public and they should be made public as a matter of course.

As David Speers wrote for the ABC over the weekend, there are cases of the PM&C reviews into potential breaches of the ministerial standards being published. Martin Parkinson's report on the post parliamentary jobs taken up by Julie Bishop and Christopher Pyne were published in full last year. Before that, the public saw a summary of the PM&C review into Bruce Bilson's lobbying job after he left office. It wasn't the whole kit and caboodle but at least it was something. Why is the report on Senator McKenzie's behaviour any different? Could it be the government doesn't want to say either way about whether they think the pork barrelling is wrong or are they worried about sending other ministers down the gurgler if they admit this behaviour is unacceptable?

Seriously, the government are so good at avoiding taking responsibilities for their actions, they could teach a thing or two to Donald Trump. This is why we need a truly independent administration of the ministerial standards. Right now it's up to the Prime Minister or the secretary of the PM&C or a mate to decide whether a minister's actions are a breach of the code. But we've seen time and time and time again that the standards aren't enforced. They aren't upheld, they aren't binding and there's no accountability for ministers' behaviours or for those who blatantly ignore these rules. It isn't right that so many people in this place can get away with behaving in a way that doesn't align with public expectations. I assure you that you are way below those public expectations of how elected representatives should behave in this place.

Our licence to be here comes from voters. We have a responsibility to them to act in a way that aligns with public expectations and to hold each other to account when that doesn't happen. When it's up to the government to investigate themselves—God forbid; I don't know how you get away with investigating yourselves—that's when things go wrong. They do go wrong and are going wrong right now. I tell you now that that's got to stop. It's too easy for them to hide things away or ignore the facts in front of them. It's too easy to hold onto reports and information the public has a right to know about. When it's left up to the government, the enforcers of the rules have too much of an incentive to say that everything is fine and dandy, when most Australians would know that something reeks. Once again, it stinks.

I've been saying for a long time that there should be an independent body, like an independent parliamentary expenses authority, to oversee this sort of stuff. The body should be able to undertake its own reviews independently, make recommendations to the Prime Minister and publish all its findings. It should not be beholden to the public needs of government at the time. For even more serious corruption issues, we need a federal ICAC. Unfortunately, there will always be people in this place who abuse their power, and I tell you you see it frequently. It's getting great; you can nearly pick it out for breakfast. An integrity commission with teeth is the only way to make sure that they don't get away with it anymore. We urgently need to bring in more accountability and transparency of the behaviour of the people in power here. Until we do, this parliament will continue to lose the trust of voters. Honestly, that is the most shameful thing. You sit up here and you actually believe you are so untouchable.
Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (17:31): I also rise to take note of the minister's response to the Senate order for the production of documents relating to the report on ministerial standards and sports grants by the Secretary of the Department of the Prime Minister and Cabinet, Mr Gaetjens. I support very much a lot of what Senator Lambie said today and I think it's no wonder Senator Cormann left the chamber very quickly after giving that extraordinarily weak explanation of why the Senate will not be afforded the right to access the report that this government is doing everything it can to keep secret. Minister Cormann's answer was shamefully inadequate and didn't convincingly outline any reason why this report should be kept secret.

This arrogant government has decided to claim that the release of this report into the sports rorts saga would not be in the public interest, but then it fails to explain why. After selectively quoting from the document to cover his political needs, the Prime Minister now seeks to hide behind cabinet-in-confidence to protect the government from further scrutiny. Finally, the claim of cabinet-in-confidence is at odds with past practice even of this government, which publicly released other reports prepared by former secretaries of PM&C, namely into the Pyne, Bishop and Billson matters.

This government with this response today treats senators in this place and, through us, the Australian people as mugs. It's a patronising, arrogant response which says to the Australian people: 'We know better than you. Trust us. Everything will be okay. Let's just ride out this latest integrity failure of this government and move on.' The Prime Minister is keeping this report secret as a shield from proper accountability to the Australian people, but, by keeping this report secret, it also sends another, more sinister message. It represents a view that this Prime Minister thinks he is untouchable from the forms of this place—no accountability, no transparency, no problem. And, of course, if the rules or guidelines get in the way, change them, ignore them or rip up the rulebook and then blame others.

Let's have a look at why the government is saying it won't release this report. Just because a document was used by cabinet does not mean it is cabinet-in-confidence. According to Odgers, it has to be established that disclosure of the document would actually reveal cabinet deliberations. Senator Lambie's order for production of documents did not seek any information relating to the deliberations of cabinet. It merely sought access to a report that was commissioned outside of cabinet, which Minister Cormann was unable to establish in his brief comments today. Minister Cormann failed to address this in the limited words he did say, but he weakened his own argument by outlining that some of the Gaetjens report's key findings were already in the public domain—the bits that the government want us to see and believe. The reality is that the Prime Minister chose to quote selectively from the report in his press conference, telling Australia simply to believe him and to take his word for it.

We in this place all know that the Gaetjens report got the Prime Minister out of a tricky political situation. He knew he had to get rid of Senator McKenzie, but he couldn't do that without implicating himself and countless other members of this government if she departed over the actual rorting of the scheme. Enter the Secretary of the Department of the Prime Minister and Cabinet and former chief of staff to the Prime Minister with a quick and dirty investigation to provide the PM with the McKenzie exit strategy he needed. What a surprise to learn that the secret Gaetjens report has in fact cleared his government of any wrongdoing in relation to the allocation of sports grants! Case closed. Us mugs here and the Australian...
people are meant to believe that in just 16 days the secretary was able to reach the ultimate public finding that it 'did not find evidence that this process was unduly influenced by reference to marginal or targeted electorates'. He was able to investigate this matter fully over 16 days, presumably interview a number of people and reach conclusions with, I hope, a similar rigour to that which would have applied to the ANAO's inquiry and report. The Auditor-General, on the other hand, presented unequivocal evidence of bias towards seats targeted by the coalition in the 2019 federal election. Indeed, the report found:

There was … bias in the award of grant funding—

which—

was not consistent with the assessed merit of applications.

So the not releasing of this report leaves us with two possible conclusions. The first is that Mr Gaetjens's report reflects poorly on the Prime Minister and his government—otherwise, why wouldn't he release it? The second is that the report was simply a ruse to get rid of Senator McKenzie, without acknowledging any wrongdoing with the blatant pork-barrelling that occurred within the sports grants, and that the investigation, if there actually was any, was nothing other than to write a script to get a dodgy government with a weakened Prime Minister off the hook. If that is so, the Secretary of the Department of the Prime Minister and Cabinet is not acting with the appropriate level of impartiality that his office requires. Without the release of the full report, it is impossible to understand just how our nation's most senior public servant could form a view that is the complete opposite of that of the independent Auditor-General.

We are not the only ones to think that the Gaetjens report looks like a political stitch-up. On Thursday, Mike Keating, a former Secretary of the Department of the Prime Minister and Cabinet, said:

… having been involved in a similar situation, I find the fact that Gaetjens' report apparently ignored these fundamental considerations of good government and ministerial conduct inconceivable. In my view the Gaetjens' report reflects poorly on its author.

It would seem on the evidence that Gaetjens has produced a report whose only purpose was to get the Government off a political hook.

Instead of owning up to the sports rorts saga, the Prime Minister is trashing the Public Service. In his recent speech at the National Press Club, the Prime Minister doubled down on the legitimacy of his government's pork barrelling. Instead of owning up to the government's failings on the grants program and taking any responsibility at all, he attacked the role of the APS to conduct merit based assessments of grant applications. This makes a mockery of the fact that the minister had tasked Sport Australia with assessing the applications against the published criteria, as they were asked to do by this government.

The sports rorts saga has crystallised what we know and what Australians are increasingly starting to realise about this Prime Minister, that we have a Prime Minister who thinks he doesn't need to answer openly, honestly and respectfully to the Australian people. Against a backdrop of persistent claims of maladministration and industrial-scale pork barrelling from Australia's chief auditor, he simply commissioned another report which conveniently finds 'nothing to see here'. We see also a Prime Minister who, when under pressure, seeks to lay blame with anyone but himself, even if that has to be public servants from Sport Australia or those pesky journalists who keep asking probing questions.
The government might like to think they're untouchable right now. Their failure to comply with the Senate order for the production of documents shows again the level of arrogance they govern with and the worrying level of secrecy this government enforces. My message to this government is that arrogance, secrecy and failures of government are not looked upon favourably by the Australian people. Australians do not like to be treated as mugs.

Labor will not let this go, as some in the government want. We will continue to investigate these rorts. We will continue to defend the APS from the blame-shifting of this government. We will continue to stand up for an independent impartial public service as one of the key institutions of our democratic system, something this government has total disregard for. Australians know that everything about this sports rorts saga stinks because they can cut through all the faff, the words, the explanation and the bluster and see it for what it was—an out-of-control government on the eve of an election abusing taxpayers' money by using it to help them sandbag seats and win others. Today the government has confirmed what we've all come to expect—no accountability, no transparency, no respect for the conventions of this place, no care at all. It's up to the Senate to take a stand against this and work together to make sure we hold this government to account, because Australians deserve much better than this.

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (17:40): What an absolute farce that this afternoon the Senate has tried to require the Prime Minister to have some shred of integrity and disclose a report that somehow magically exonerated himself and his ministers and that they haven't even the guts to table. This whole situation is just so wrong. The Prime Minister should have released the Gaetjens report into the conduct of his ministers abusing public funds and spending public money with extreme arrogance without the Senate having to ask him to do so. Yet, having had the opportunity today to think twice and to disclose that report, we've had the Leader of the Government in the Senate come in and say, 'It's cabinet-in-confidence, and it would not be in the public interest to disclose this report.' It certainly wouldn't be in his government's interest to disclose this report because what is patently clear is that this government turns a blind eye to corruption, particularly when it is in its own ranks.

We all know that there's another opportunity for the government to disclose other documents tomorrow which go to just how much the Prime Minister was behind 'sports rort No. 1'. Of course, there's another sports rorts saga. Just when you thought it was safe to play sport again, there's yet more rorting—you're going to be accosted by a Liberal MP trying to give you money for a swimming pool you don't even want, when all you want is bushfire funding support. But that's another matter.

We have the extreme arrogance of this government in trying to cover up what is so obviously corruption of the highest order. I can't believe that they think they're going to get away with this. Is it any wonder that confidence and trust in democracy has been absolutely bottoming out for several years now? There's only now a tiny majority of people that have any trust in our democracy, and that is incredibly damaging and corrosive. On the flipside, the vast majority of Australians can see the clear need for a federal corruption watchdog, and that is clearly what's needed here. When you have ministerial standards that are clearly so weak that not even this blatant rorting is found to have breached them, they're not worth the paper they are written on. Not only is it about time that those standards are strengthened and
independently enforced; it's perfectly clear that we actually need an independent corruption watchdog. We can't have the fox in charge of the henhouse any more. We can't have the PM's mate who used to be his chief of staff and who's now running the department just say: 'Nothing to see. Everybody go back to sleep. She'll be right. Watch the Prime Minister make a fool of himself and be distracted in some other way.' That is not how our democracy is supposed to work.

This is a debasement of the obligation of all of us in here to act in the interests of the public. This government is so arrogant it thinks it's going to get away with this. Well, it's got another thing coming. None of us in this chamber will let this lie. We have more OPDs coming this week for more documents that we will seek disclosure of. Even the press gallery is up in arms about the flagrancy of this secrecy. We've had secret governments before, mostly of this persuasion, but this is the worst that we have seen. Even previous Prime Minister and Cabinet secretary reports have been made public. Even the children overboard report, which was extremely damaging for the government, was tabled.

Clearly, the Liberals used to have some standards and now they have none! These ministerial standards are clearly not worth the paper they're written on. The Prime Minister is not enforcing his own standards. It's kind of interesting that the excuse given for not disclosing this report is that it's cabinet-in-confidence. Well, last time I read the Prime Minister's ministerial standards they didn't mention cabinet. They are in fact a document that the Prime Minister himself has written and is responsible for implementing. So something even more dodgy is going on if that process is now subject to cabinet deliberation.

No-one is going to buy this attempted fob-off by the Leader of the Government in the Senate today, and it's perfectly clear that this is exactly why support for this government—and, frankly, for both major parties—is on the decline. We've seen disclosure of inconvenient reports before; today we've seen sheer arrogance from this government, which thinks it can get away with bribing electors in marginal seats with public money and then have absolutely no transparency and accountability about it.

We will not let this rest. It's exactly why this chamber passed a bill to set up a federal corruption watchdog. I note that the government didn't vote for it, but everybody else voted for it. It passed this chamber and, gee, I wonder why it's been sitting on the bottom of the list in the House of Reps for five months? It's pretty clear to us that the reason the government said, reluctantly, a year and a half ago that, yes, we needed a federal watchdog but have done absolutely nothing to deliver one is that they know they've got an awful lot of skeletons in the closet. Some of them have been revealed in recent weeks. Perhaps there are more to come. But if we have the system that we've got at the moment, where it's the Prime Minister's whim either to choose to enforce or to turn a blind eye to flagrant breaches of the ministerial standards and to get his former mate—his former chief of staff—just to say, 'There's nothing to see here,' then nothing will get fixed in this government. The rorting will get worse, the arrogance will get worse—if we thought it could possibly do so; I'm sure they'll find a way—and public confidence in our system of democracy will continue to decline.

That is the most damaging thing of all. We have a responsibility here to act in the interests of the community and of the planet. If our citizens don't even think that this place speaks for them or represents their interests anymore then this government should bear full responsibility
for that. Bring on the election, we say. We cannot wait to see the back of this terrible, self-invested and arrogant government!

Once again, big money is calling the shots. The government is trying to buy seats to win an election. It's getting massive donations from all sorts of vested interests, from big corporates through to the coal and fossil fuel sector. And, of course, there was $2 million from the gambling lobby in the year just before the election. This is democracy for sale, and there are no checks and balances to stop the hubris and the self-interest of this government. In my view it's criminal, and I think this is exactly why Australians are hanging their heads in shame about their government. Certainly, the rest of the world is looking at our government and laughing. They're laughing at the climate denial, they're laughing at the extreme arrogance of the continued rorting and the fact that big money seems to rule decision-making in this place. This is not how it's meant to be.

It's not just that we've seen sports rorts saga No. 1 swept under the carpet; now there is sports rorts No. 2! And of course there is the ongoing saga with Minister Angus Taylor, who has had very dubious dealings with various water companies and various land-clearing issues involving family companies. He was then referred to the AFP for potentially doctoring documents. Again, the AFP have said, 'Look, it's going to take too long to look at it; we're just going to park this.' There is no independent, external investigative body that is holding the government to account—that is even holding them to standards that governments gone by have held themselves to. This government has just given up on accountability and transparency. They just 'reject the premise of the question'. If we hear that phrase one more time I am sure we'll collectively feel even sicker than we do, witnessing the conduct that happens in this place every single day. There is no accountability. The Australian people desperately deserve a federal corruption watchdog. It's going to be very busy indeed.

For 10 years the Greens have been pushing for this. It has been 16 months since the government said: 'Sure, fine. We'll do something about it. We agree.' This was because the election was just around the corner. A year ago this government said an ICAC, a corruption watchdog, was 'imminent'. That was a year ago. We have not seen a draft bill. A bill passed this chamber to set up a corruption watchdog—one with teeth, one that would actually have covered the scandals that we have seen throughout the news since the election, and even before. It would have been a government watchdog with teeth, but this government just does not want the transparency, it doesn't want the scrutiny, it can't hack the accountability. It's continuing to try to sweep things under the carpet. Well, the Australian people are not fooled by your fool at the helm. They deserve better, and we all look forward to them having their say at the next possible opportunity.

**Senator AYRES** (New South Wales) (17:50): I rise too, like the previous speakers, with a sense of disappointment about the government's failure to respond properly to the order for the production of documents that Senator Lambie moved in the Senate last week. It really leaves the Senate in a position where the Australian people are being asked who they believe. Do they believe the Australian National Audit Office, or do they believe what the Prime Minister said his friend Phil Gaetjens wrote up in his report? Do they believe the Auditor-General, or do they believe the Prime Minister's former chief of staff, the most political of appointments to that important, supposedly impartial position? Do they believe in common sense, or do they believe in the evasions, the dissembling and the cover-ups that have come to
characterise the way that this government behaves, the way that this government purports to govern itself?

The only purpose that's served by this cover-up, by this failure to disclose, is to diminish Mr Gaetjens himself and to diminish this tawdry excuse for a government. One of the Senate's jobs is provide accountability of the government. Instead, here you have got members of the government, particularly what remains of the National Party members of this government, out there in regional electorates pretending that what this government did was somehow in the interests of country people, was somehow in the interests of rural and regional people. They rorted the scheme, they say, because it was in the interests of country communities—as if country communities couldn't do well being evaluated properly in a $100 million sports scheme.

Well, the evidence will show quite a different thing happened to country communities when Senator McKenzie and the Liberal Party headquarters got their hands on $100 million of public money. They knew what to do in the context of the election: they sent the money to privileged, inner-city and city electorates in the political interests of the Liberal Party. And the other thing that the National Party, or what remains of them, are trawling around in the bush—I had to listen to it a little bit over the course of last week—is: 'This this all just Canberra bubble nonsense. You don't need to worry about this.' Well, public accountability actually matters. The way that $100 million of taxpayers' money is spent really matters. If you take—deliberately take—$100 million of public money for your own narrow political purposes then there's a word for that. It's corruption. Do you think any ordinary Australian could take $100 million of public money absolutely for the purpose, as the Auditor-General spelt out pretty clearly, of buying votes in the context of an election that they believed that they would lose; commission an investigation into themselves conducted by their political friend, who owes his job to their patronage; sack a fall guy, Senator McKenzie, for an apparent conflict of interest which, while a serious matter in itself, is in fact the smallest matter that's occurred over this sordid saga; refuse to release the inquiry; and hope that everybody moves on?

This is a government that's incapable of shame. I saw the Leader of the Government in the Senate leave as soon as he'd made his statement. I'd like to think that was because he felt some sense of shame, but it's probably because he had another appointment. The basis upon which this order for production of documents was refused—that somehow it's cabinet-in-confidence—is wrong and, in fact, is the coward's castle of excuses for refusing to provide documents. Previous governments have provided documents that were much more embarrassing and that have done much more damage without complaint, but this government will do everything to avoid public scrutiny.

I think it's wrong in fact too. I have been provided with an excerpt from Odgers that says:

It is accepted that deliberations of the Executive Council and of the cabinet should be able to be conducted in secrecy so as to preserve the freedom of deliberation of those bodies. This ground, however, relates only to disclosure of deliberations. There has been a tendency for governments to claim that anything with a connection to cabinet is confidential. A claim that a document is a cabinet document should not be accepted; as has been made clear in relation to such claims in court proceedings, it has to be established that disclosure of the document would reveal cabinet deliberations. The claim cannot be made simply because a document has the word "cabinet" in or on it.
It's pretty straightforward. The claim that this document is cabinet-in-confidence is misleading. It is a claim, made on behalf of the government, that is dishonest. It is a claim that is designed to provide a shield and to mean that this government somehow evades public scrutiny. Well, I'm here to tell you that we on this side will fight tooth and nail over the coming months to make sure that all the facts about this sordid affair come out and that Australians understand completely who did what, who said what to who, how this sordid plot was put together, who executed it, and who in the Prime Minister's office and the Liberal Party and National Party campaign offices were responsible.

As I said before, the communities that were hurt the most in the sports rorts scandal were country communities. I've heard the National Party MPs out there trying to imply, 'Yes, we rorted it, but we rorted it in your interests.' Well, what I'm told is that, of the 52 grant applications that were knocked back, 47 were in country and regional communities, and all the money flowed back into the city, into the seats that the Liberal Party cared about the most. There was the Mosman Rowing Club. Who knows what other funding arrangements were made to try and prop up the return of the poor old former member for Warringah?

The minister took the decision-making out of the hands of the independent process. The minister chose who got the novelty cheques and who didn't. Let's look at a few of these applications. The Tamworth Regional Council applied for a grant to install more lights at the Riverside Sports Complex. The lighting would have allowed more clubs to train on those fields in winter. The council applied for $432,304 and got an assessment score of 84, a score which should have guaranteed funding, but it didn't. Senator McKenzie knocked them off too. The Morrison government chose to send that money to a less worthy but more politically expedient place. You'd think that the member for New England—the member who, when he bothers to turn up, claims to represent the people of Tamworth—would be out fighting for their interests. But, no, that's not what he said. He said: 'We didn't vote for the bureaucrats, they were employed. We want the members of parliament to represent us. And if there is a blue between the bureaucrats and the minister then I think that is a good sign that the minister has actually got the gumption and the fortitude to stand up and fight.' Well, if I was in Tamworth, I'd want the bureaucrats standing up for me because I know that the member for New England won't fight. He couldn't fight his way out of a paper bag. When it really comes down to it, whose side is he on? Is he on the side of his constituency or is he on the side of the narrow, politically based self-interest of the Liberal Party and the National Party? He talks big about representing country communities. But what the show over there is all about is avoiding scrutiny; it's about doing the wrong thing; it's about being shonky; it's about being crook. They will stoop to any level to protect their own shallow, narrow, venal, opportunistic self-interest.

Senator Patrick (South Australia) (18:00): The government's public interest immunity is not made out. I would like to assist the chamber in detailing what could properly attach a cabinet-in-confidence label and what could not. There are three things that can be determined as cabinet-in-confidence. One of them is a submission to cabinet—a document that goes into the cabinet that, were it disclosed, would reveal something that was talked about in cabinet. The second thing is the deliberations of cabinet. We accept the principle of collective responsibility. We like the idea that the Prime Minister can have a different view from the Attorney and relevant ministers and that is kept secret because of that collective
responsibility. It is important, and I accept that it is important. And the third thing that is entitled to the protection of a cabinet-in-confidence claim is a decision of cabinet—until, of course, the cabinet decides to announce it. So that's what we're dealing with—one of three choices.

Senator Lambie's order for the production of documents relates to a report prepared by the secretary of PM&C outside of the cabinet. It can't be the latter two—it can't be a deliberation of cabinet and it can't be a decision of cabinet—so the best claim that can be made is that it is a submission to cabinet. There are a couple of tests in the law as to whether a document is indeed a cabinet submission. The first of those is: was it submitted to cabinet? And my understanding is that perhaps in this case it was. The second and most important test is what is called the dominant purpose test: for what purpose was the document produced at the time of its birth? You can't simply have a report and then decide at some later stage that you are going to wheel it through cabinet, sprinkle a bit of cabinet fairy dust on it and then have it protected by the doctrine; that is not the case. And whether a document's dominant purpose at birth was as a submission to cabinet is a question of fact.

To inform us in relation to that fact, we have to go to some of the statements made by the Prime Minister when he announced that this document was being formed. He basically stated that he had asked the Department of the Prime Minister and Cabinet for advice in relation to any action in the application of the statement of ministerial standards. The Prime Minister is awaiting the secretary's advice and will continue to follow due process. That's what the Prime Minister indicated. There is nothing in there that says this was for cabinet. I will read from section 109 of the latest version of the Cabinet Handbook to give a feel of how important this dominant purpose is. It says:

If an attachment or supporting document has been brought into existence for the dominant purpose of submission for consideration by the Cabinet, then the attachment or supporting document must clearly state this. This ensures each document is appropriately identified as a Cabinet document and handled in line with the security requirements for Cabinet material.

I would like the government to return to this chamber some evidence—because we're dealing with a question of fact—that this document was intended at birth to be a cabinet submission. That should be very easy. If, indeed, there is no evidence of that then they must table the document.

I've FOIed this. I've been through the FOI process before and I have managed to have released to me documents that were purportedly cabinet documents. I know this space really well. As I said, I have FOIed this document. Won't it be a shame, when I get to the end of the two-years the process is likely to take me, if it's revealed to me that Mr Rex Patrick can get it, under FOI, but the Senate couldn't? We'll see how that pans out.

Even if it is cabinet-in-confidence—and we've already heard some remarks about this—we need to understand that the principles of cabinet confidentiality are not creatures of statute; they are creatures of convention. They are longstanding and respected conventions but they are subservient to our Constitution. As Senator Ayres suggested, and as per his quote from Odgers, the courts, for example, when deciding whether or not someone can subpoena a cabinet document, have to balance up the public's interest in the principles of cabinet versus the public's interest in the administration of justice. It is for the court to decide, not the cabinet. If you want to know the cases, Mr Acting Deputy President, we have Commonwealth
of Australia v Northern Land Council, High Court of Australia; we have Sankey v Whitlam, High Court of Australia. These are well-established legal principles from the highest court in this land. I note that Mr Bret Walker SC, who gave a presentation to the Senate about a year ago, made it very clear:

… it is clear that there is no absolute bar against the compulsory disclosure or tender into evidence of even the most core cabinet documents, such as those recording the secret deliberations of its members.

He went on to say:

The High Court has no difficulty with the courts carrying out a balancing process when the administration of justice is the public interest competing against the public interest in cabinet secrecy. It is ridiculous to suppose that the Senate could not carry out a corresponding exercise when the public interest in responsible government through accountability to a parliamentary chamber is involved.

The Constitution makes it very clear there is a high threshold, but we could insist upon it. But we don't know whether it's a cabinet submission. The government makes that claim; we need to see some evidence, particularly in relation to its dominant purpose at birth.

I say to this chamber: this is a multistage process. Senator Lambie has, through the Senate, asked to see this document, asked for it to be tabled. The minister has the right to present a public interest immunity response, but it is for the Senate to decide whether or not to accept it. There are further processes that we can now take to get access to this document. In the end, parliament is supreme. The Senate chamber will win this if it wants to. It will require some courage from the alternative government, who tend to back away from enforcement of these sorts of things. I have no doubt the Greens, Senator Hanson and Senator Lambie will provide support. We can get access to this document, and I'm happy to speak to any senator about the next steps.

Senator RICE (Victoria—Deputy Australian Greens Whip) (18:09): Public interest immunity, hey? Secrecy, more secrecy, more secrecy to hide this government's corrupt practices. They are corrupt practices. This is corruption. This is the use of public funds to achieve an outcome that the government wants to see happen, not occurring under a process that is fair and just and accountable and transparent. Are we surprised? I'm not surprised. It didn't surprise me at all when Minister Cormann turned up and said 'public interest immunity', despite, as Senator Patrick just said, it almost certainly being unjustified. I'm not surprised, because this government has got form. We have got these sports rorts on top of other scandals: Minister Taylor, for example, with both the grasslands saga and the issue of the doctoring of documents with the City of Sydney—scandal after scandal after scandal.

Of course, whilst we are still coming to terms with this sports rorts scandal, we've got another one that lands on the desk—one that is actually even worse: $150 million of another sports program, the Female Facilities and Water Safety Stream program. It's a $150 million slush fund, a $150 million pork barrel, with no guidelines about how this money is going to be spent. They're not opening up the process to grant applications. Basically, here is $150 million that the government is going to use to buy itself an election. Under this new program we know that, on top of the sports rorts scandal that we are yet to see Phil Gaetjens's report about, the biggest single grant, for $25 million, was for a pool in Attorney-General Christian Porter's marginal seat of Pearce, which was announced three weeks before the election. This is the very example that typifies absolutely classic pork barrelling 101. Then there's the Sydney tidal pool under this new program as well. The local council weren't even aware the
money had been awarded for this tidal pool. They weren't aware of the grant when they were listed as a recipient. And then the department listed another recipient, a local charity lobbying for the pool, but a member of the tidal pool committee said they didn't have any idea about that $4½ million and that he had no idea if it would be given the grant to build the pool. These examples show the scale of this blatant pork barrelling that is going on and the blatant corruption of using public funds to buy or attempt to buy election outcomes.

An analysis done by The Guardian of the 41 projects awarded under sports rorts version 2 found that almost 60 per cent of the projects were in marginal seats, including $30 million in the ultramarginal seat of Corangamite, which the government were desperate to hold onto, $25 million in Christian Porter's Western Australian seat of Peace and $20 million in the WA seat of Swan. When some other coalition-held seats which were under threat are taken into account, 73 per cent of projects were located in marginal or at-risk seats. By dollar value, $111 million of that $150 million of grants was spent in marginal seats.

This is not a level playing field. This is dodgy and this is unfair. We've got community sports clubs that are working hard to instil values of fairness, cooperation and inclusion in their members, and basically we've got the government saying, 'Stuff that; we only care about your club if it's in the seat that we want to win.' People are working so hard to raise money for their local community sports club, with sausage sizzles, trivia nights and raffles. They put in hours volunteering, washing uniforms, coaching the teams and running committee meetings. They put so much time and effort in, only to be told by this government: 'No, we don't care. Even if you demonstrate that the value of your application is really, really high, you don't get any money unless you're in our target seats.' The Greens see this selfish and unfair scheme that's been cooked up by the government, and we say it is enough. We need to have genuine time for real scrutiny and transparency. It is absolutely time for a federal anticorruption watchdog that has real teeth.

It is interesting that Minister Cormann talked about public interest immunity. It's interesting that he's talking about the public interest. Here are a few things that might be more in the public interest than another coalition cover-up. We need to get an honest account from the Prime Minister about the role that his office has played in sports rorts 1 and in sports rorts 2. We need a government that uses government funding in the public interest, to benefit the community, rather than a desperate cash splash to benefit its constituencies. We need a government that's got a real plan to tackle the climate emergency. We need a government that's willing to lift Newstart and to help people on income support—a government that believes in the public interest rather than in its own narrow-minded self-interest.

But instead, we have now got yet another corrupt cover-up from the scandal-ridden coalition. The Greens believe in transparency, and we know that this is not transparent. This smells, and the Australian public know it smells as well. We believe in accountability, and the coalition absolutely have to take their hands out of the public purse and start being honest with the Australian people about what they've done, and whether they stand for anything more than just being elected. I can say that at the moment it certainly looks like they don't. The government have sent a clear message to anybody who lives in a safe seat, saying: 'You lose! You get nothing!' And people know it's true. It's no wonder that people have lost faith in politics; it's no wonder faith in politics is at an all-time low. No wonder people are cynical about politicians—we just can't blame them.
The government's excuse is, 'Well, Labor does it too.' As if that fixed anything! Prime Minister: we need you to get off the bench, lace up your boots and bring the Green's bill for a national integrity commission to a vote. The Senate voted recently to establish a committee into sports rorts round 1, and that was before this latest development. We will be examining the evidence. We know that Senator McKenzie has resigned, but we know that isn't the whole story. It's barely even the start of the story. In particular, what we need to know is what the Senate and the Australian public are so far having hidden from them: what role the Prime Minister's office played in this corrupt pool of cash. There are questions which the Prime Minister must answer. Did his office coordinate with Liberal Party strategists in the lead-up to the 2019 election in allocating these grants? What other programs did his office coordinate the allocation of funding for? And was the Prime Minister aware of his office's involvement in this scandal?

The Australian public needs answers to these critical questions. Anyone concerned about the state of our democracy needs answers to these critical questions. Our democracy is fragile, and to see it undermined by this latest attack is truly alarming. Any time we ask the government probing questions about this, the response we get from the government is that they 'reject the premise of the question'. Well, I have something to tell them: it's not a matter of rejecting the premise of the question. We need to reject the premise of this government. This government is corrupt. These scandals are just coming one after another and there is only one thing for it: the Australian public needs to vote this rotten government out of office.

Senator SHELDON (New South Wales) (18:18): I rise to talk about Senator Lambie's motion calling on the government to table the Gaetjens report into the breach of the ministerial standards by Senator McKenzie.

This looks at a very fundamental issue: the whole question of what corruption is. What is the responsibility of government to act transparently in the case when confronted with the issue of corruption? Certainly, I would think that one of them is to clear the air. Secondly, I think that they would actually want the public to be confident that our democratic system is about transparency. When we look at the word 'corruption', the form it takes is dishonesty or criminal offence undertaken by a person or organisations. I looked at Wikipedia, because I thought that would be a bit of fun, just to see whether they've nailed it for the world—or if they've nailed this government. You make some assessments on this.

Wikipedia says when:

… entrusted with a position of authority, to acquire illicit benefit or abuse of power for one's private gain. Corruption may include many activities including bribery and embezzlement, though it may also involve practices that are legal in many countries. Political corruption occurs when an office-holder or other governmental employee acts in an official capacity for personal gain—

tens of millions of dollars, hundreds of millions of dollars; 'sports rorts 1'; 'sports rort 2'. The list goes on and on and on. Hardworking sports activists and communities right around this country are missing out because they weren't the ones who decided to have a rort delivered their way. They weren't people who had an opportunity to turn around and argue the right cases, because it was never about the right cases going forward. It was about corruption going forward. It was about self-interest going forward. It was about a lack of transparency going forward.
The government has failed to make a very fundamental report that was written outside cabinet available to the Australian community. It could have dealt with this very critical question of the rorting of the system. It could have looked at the very fundamental question of whether this was done in a fit or appropriate way by the government. It could be set up in a situation where transparency would allow the community to judge whether the investigation was carried out correctly in a fit and proper way.

I look at it with some amusement, unfortunately, and with some concern, because, when political corruption occurs when an office holder or other governmental employee acts in an official capacity for personal gain, corruption is most commonplace—and it says this in Wikipedia, 'Kleptocracies, oligarchies, narco states and Mafia states'. I'm not quite sure which state we're in, but I'll tell you what: it's certainly not a democratic state when you haven't got transparency on the seriousness of the allegations and the seriousness of the concerns that have been raised by the Australian public.

The government refused to table the Gaetjens report into breaches of ministerial standards. Instead the government claims the report is a cabinet document and is not to be made public—simply fundamentally outrageous. This contrasts with the report tabled by the government compiled by former Secretary Parkinson of the Department of Prime Minister and Cabinet, relating to ministerial standards looking into whether former MPs Christopher Pyne and Julie Bishop had breached standards. The government has basically said that they released the report because it concerned people who have left the parliament but won't release the current one into McKenzie because she's still in parliament. What a ludicrous double standard. There's no technical nature to this.

The ACTING DEPUTY PRESIDENT (Senator Sterle): Order! It being 6.23 pm the time for debate has expired. I put the question to the Senate that the motion moved by Senator Lambie to take note of the report delivered by Senator Cormann be agreed to.

Question agreed to.

NOTICES

Presentation

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (18:23): At the request of Senator Wong, I give notice that, on the next sitting day, she will move:

1) That the Senate notes that:

(a) under the guidelines for the use of special purpose aircraft, the Minister for Defence is responsible for tabling the schedule of special purpose flights "...in June (for the six months ending the previous 31 December) and December (for the six months ending the previous 30 June)"

(b) regretfully, under the Abbott-Turnbull-Morrison Government, the schedule has routinely been tabled late, in one case over eight months late;

(c) the most recent schedule published at https://www.defence.gov.au/Publications/Parliament/ is for the six months ending 30 June 2017;

(d) consistent with the guidelines, previous governments tabled schedules on the last sitting day of June and December each year; and

(e) the most recently tabled schedule for the six months ending 31 December 2018 was not tabled until 28 August 2019.
(2) That there be laid on the table by the Minister for Defence, by no later than 9.30 am on 13 February 2020, the schedule of special purpose flights for the period 1 January to 30 June 2019.

**Senators Dean Smith, Griff and Ciccone** to move on the next day of sitting—

That the Senate—

(a) notes that 27 January 2020 marked International Holocaust Remembrance Day, a day where we remember the atrocities committed by the Nazi regime and its collaborators, and reaffirm our promise to 'never forget' the 6 million Jews and 11 million others who were exterminated during the Holocaust;

(b) acknowledges the importance of International Holocaust Remembrance Day in honouring the memory of all Holocaust victims, and the ongoing efforts of the International Holocaust Remembrance Alliance to advance and promote Holocaust education to ensure the history and stories of its victims are passed on to successive generations;

(c) notes that Australia officially became the 33rd member of the International Holocaust Remembrance Alliance at the Mondorf-les-Bains Plenary meeting on 4 June 2019;

(d) notes this year's annual observance also marked the 75th anniversary of the liberation of Auschwitz, the largest and most notorious concentration camp operated by the Nazi regime, located approximately 60 km west of Krakow, Poland;

(e) further acknowledges that more than 1.1 million people were killed at the Auschwitz complex alone, including nearly 1 million Jews, and that on the day of liberation only 7,000 people were saved; and

(f) further notes that during the 1940s, tens of thousands of European Jews emigrated to Australia, and that Australia has the largest per-capita Holocaust survivor population outside Israel.

**Senator Sheldon** to move on the next day of sitting—

That the Senate—

(a) notes that:

(i) Aged Care Assessment Teams (‘ACATs’) are teams of medical professionals which run clinical and psychological checks on older Australians who have applied for home or residential aged care,

(ii) based in hospitals across the country, ACATs are ultimately responsible for assessing which older Australians should receive government-funded care,

(iii) an ACAT team usually includes a nurse, plus another healthcare worker such as a physiotherapist, occupational therapist or social worker,

(iv) the Morrison Government has announced that it will privatise the ACAT workforce from April 2021, when a tender will be put out for organisations to deliver this vital assessment,

(v) on 14 January 2020, the chair of the Royal Commission into Aged Care Quality and Safety, the Honourable Gaetano Pagone QC, issued a statement saying the commission’s interim report "did not endorse the government's stated position" on privatising the ACATs;

(b) supports the retention of ACATs as a publicly provided service; and

(c) commends the Health Services Union and other unions for their continued advocacy on behalf of working people in healthcare across Australia, in particular in the aged care sector.

**Senator Kitching** to move on 12 February 2020—

That the Senate—

(a) notes that members of the Naval Shipbuilding Advisory Board are officers for the purposes of standing order 26(5); and
(b) requires members of the Naval Shipbuilding Advisory Board including, but not limited to, the Chair of the Board to appear before the Foreign Affairs, Defence and Trade Legislation Committee when it meets to consider the 2019-20 additional estimates, at 9 am on 4 March 2020.

**Senator Bilyk** to move on the next day of sitting—

That the Senate—

(a) notes that:

(i) Palliative Care Tasmania’s (PCT) three-year $1.5 million funding agreement expires on 30 June 2020, and

(ii) most state and territory palliative care peak bodies receive recurrent government funding;

(b) recognises that:

(i) PCT provides valuable services to the palliative care sector and the broader community, including advocacy, policy advice, and community education and professional development delivered to over 4,000 Tasmanians a year,

(ii) these services:

(A) help educate Tasmanians on the importance of advance care planning, writing advance care directives and discussing future care wishes with family and close friends,

(B) lead to millions of dollars of savings in residential aged care and acute health care—conservatively, cost savings of $30 million a year are made through their work in residential aged care and cost savings of $25 million a year are made based on 10% of participants in their education programs understanding advance care planning and completing an advance care directive, and

(C) provide Tasmanians with life-limiting illness greater choice, control, comfort and dignity in their care, and help to ensure that thousands of Tasmanians can have a good death; and

(iii) should PCT not receive further funding, their services would either have to be provided directly by the Tasmanian Government at much greater cost or would be lost to the palliative care sector; and

(c) calls on the Tasmanian and Australian Governments to work together to come up with a plan to fund PCT which provides PCT with adequate funding and certainty to continue its core activities beyond 30 June 2020.

**Senator McAllister** to move on the next day of sitting—

That the Senate—

(a) notes the address of New South Wales Minister for Energy and Environment and Liberal Matt Kean MP on 10 December 2019 to the National Smart Energy Summit;

(b) endorses Minister Kean’s:

(i) acknowledgement that this summer’s “...bushfires have been caused by extreme weather events, high temperatures, the worst drought in living memory – the exact type of events scientists have been warning us about for decades that would be caused by climate change”,

(ii) observation that “We cannot allow ideology and politics to get in the way of our clear path to secure our economic prosperity, let alone the health of our planet for generations of Australians”, and

(iii) statement that “… taking action to reduce our emissions today is not about a cost that we are morally obliged to pay, it’s about taking an economic opportunity that we would be negligent to miss”; and

(c) concurs with Minister Kean that “renewables today are the cheapest form of new generation”; and
(d) calls on Prime Minister Morrison to listen to Minister Kean and experts across all fields and take strong action to address climate change.

**Senator Waters** to move on the next day of sitting—
That the Senate—
(a) notes that:

(i) the Morrison Government told the United Nations in Madrid that technology improvements are central to their plan to reduce Australia’s emissions, and praised the work of the Australian Renewable Energy Agency (ARENA),

(ii) ARENA has driven the acceleration and uptake of home-grown emissions reductions technologies with $1.4 billion funding 478 projects, leveraging $2.83 of private investment for each dollar committed to generate a total $5.5 billion in projects, and

(iii) the evidence provided by ARENA during Senate estimates hearings indicate that they expect to run out of money by the middle of this year; ARENA has 60 expressions of interest and 94 full applications still before them; and

(b) calls on the Minister for Energy and Emissions Reduction, Mr Taylor, who has issued 32 media releases promoting the work of ARENA, to ensure that the Agency will receive more legislated funding in the 2020-21 budget and continue their important work in the fields of hydrogen, bioenergy and clean technologies that are central to our future prosperity and driving new employment in Australia’s regions.

**Senator Hanson** to move on the next day of sitting—
That the Senate—
(a) notes that building new high-efficiency low-emission coal fired power stations will create jobs, lower power prices, increase competition and increase reliability in the energy system; and

(b) supports projects, like the Collinsville clean coal-fired power project, which will provide stable reliable baseload power and help lower power prices.

**Senator Hanson-Young** to move on the next day of sitting—
That the Senate—
(a) affirms its commitment to a complete moratorium on nuclear energy, as expressed in the Australian Radiation Protection and Nuclear Safety Act 1998 and the Environment Protection and Biodiversity Conservation Act 1999;

(b) notes the devastating and lasting impacts of the nuclear disasters in Fukushima, Chernobyl and Three Mile Island; and

(c) call on all Ministers to commit to Australia being a nuclear-free zone.

**Senator Di Natale** to move on the next day of sitting—
The Senate—
(a) notes with deep concern United States President Donald Trump’s so-called "peace" proposal for Israel and Palestine, which:

(i) further entrenches injustice and conflict in the Middle East,

(ii) rewards breaches of international law like the Israeli Government’s flagrant settlement building,

(iii) enables and encourages illegal annexation in the West Bank, and

(iv) forces Palestinians to live on scraps of territory without a genuine state of their own;

(b) further notes that Palestinians were not involved in the process of developing the proposal; and

(c) calls on the Federal Government to publicly reject this biased, unfair and dangerous proposal.
Senator McAllister to move on the next day of sitting—
That the Senate endorses Senator Cormann’s statement to the Senate on 10 February 2020, that climate change is human induced, and welcomes his confirmation that the Morrison Government accepts this fact.

Senator Siewert to move on the next day of sitting—
That the Senate—
(a) notes that the Government is in discussions with the big four banks, major retailers and EFTPOS around a possible national rollout of the cashless debit card (CDC);
(b) recognises that compulsory income management disadvantages people on low incomes by limiting their ability to shop around and make savings where purchases can be made through cash;
(c) acknowledges that rolling out compulsory income management to people on income support payments would remove the choice and control they have over the financial products and services they use;
(d) further notes that the Australian National Audit Office found that there was no evidence that there has been a reduction in social harm following the introduction of the CDC;
(e) urges the big four banks, EFTPOS and major retailers not to facilitate any national rollout of compulsory income management to income support recipients across Australia.

Senator Watt to move on the next day of sitting—
That the Senate—
(a) notes:
   (i) that the Morrison Government committed to implement a Commonwealth Integrity Commission (CIC) on 13 December 2018,
   (ii) that it has been 424 days since that commitment and the Morrison Government has still failed to introduce legislation to establish the body, and
   (iii) reports that the Member for Wide Bay, Mr Llew O’Brien, has called for the proposed federal anti-corruption body to be given “more strenuous, stronger” powers;
(b) calls on the Attorney-General, Mr Porter, to revise his proposed anti-corruption commission to give it the powers, independence and transparency it needs to effectively combat corruption in the federal sphere; and
(c) calls on the Federal Government to introduce legislation on the CIC as a matter of priority.

Senator Faruqi to move on the next day of sitting—
The Senate—
(a) notes with deep concern:
   (i) the ongoing lockdown in Kashmir since the revocation of Kashmir’s special status by the Indian Government in August 2019,
   (ii) the ongoing internet and communications blockade, with all communications in and out of the valley still tightly controlled and journalists being intimidated,
   (iii) the ongoing denial of freedom of movement and freedom to protest to the people of Kashmir, who face ongoing curfews in large parts of the valley, and
   (iv) the militarisation of Kashmir;
(b) expresses solidarity with the many Australian Kashmiris who remain deeply concerned about their loved ones in Kashmir;

(c) further notes that Kashmiris have an unequivocal right to self-determination, as recognised by the United Nations; and

(d) calls on the Australian Government to urge the Indian Government to respect the human rights of the people in Kashmir and their right to self-determination, withdraw military forces, and end the mass lockdown.

Senators Watt and Griff to move on the next day of sitting—

That the Senate—

(a) notes:

(i) reports that, in December 2017, the National Aerial Firefighting Centre (NAFC) submitted a business case to the Government requesting a permanent increase in funding of $11 million to its annual budget,

(ii) evidence from the Department of Home Affairs that, as at 6 December 2019, the Government was still considering the business case, and

(iii) that when asked about the business case on 4 January 2020, the Commissioner of the New South Wales Rural Fire Service, Mr Shane Fitzsimmons, said that "We haven't seen a positive response to that business case"; and

(b) recognises that, given the Government's failure to respond to the NAFC business case for at least 2 years, more could have been done to ensure adequate aerial firefighting capability during the 2019 bushfire season.

Senator Marielle Smith to move on the next day of sitting—

That the Senate—

(a) notes that:

(i) global estimates indicate more than 600 children have died from ingesting button batteries,

(ii) up to 20 children each week present to emergency departments after swallowing button batteries, and

(iii) two and a half years after the introduction of a voluntary industry code in Australia, a high level of unsafe button battery products remain available in the Australian market, and a meaningful decrease in the rate of button battery exposures or injuries is not yet apparent; and

(b) calls on the Federal Government to implement a mandatory code to protect children from being exposed to button batteries in Australia and to prevent the sale of dangerous products.

Senator Griff to move on the next day of sitting—

That the Senate—

(a) notes that 11 February 2019 is Safer Internet Day, a worldwide event that raises awareness about online safety and encourages everyone to help create a better internet;

(b) expresses concern that online dating sites provide a 'fertile landscape' for predators including cases where:

(i) paedophiles are using dating sites to find single women with children,

(ii) adolescent girls and boys are using dating sites and being targeted by paedophiles, and

(iii) women are being sexually assaulted by known sex offenders;
(c) acknowledges that sexual assault victims and their advocates are calling for better coordination between law enforcement and tech companies to stop sexual predators repeatedly using dating sites to lure victims;

(d) further notes that, in the United States, a congressional investigation is underway by the subcommittee on Economic and Consumer Policy of the Committee on Oversight and Reform into how the major dating site companies have allegedly allowed sex offenders to use their services; and

(e) calls on the Federal Government to engage with online dating sites, as a matter of urgency, to develop memorandums of understanding to facilitate easier access and information sharing between law enforcement agencies and dating sites.

**Senator Griff** to move on the next day of sitting—

That the Senate—

(a) notes that:

(i) Australia’s aged care system receives over $21 billion of taxpayer money each year,

(ii) despite receiving large government subsidies, there is a significant lack of transparency in aged care, and

(iii) aged care providers are not required to publish details on how government subsidies are spent including on food, medical products, accommodation, staffing and staff training;

(b) recognises that the aged care sector requires robust financial transparency in order to make clear how much facilities actually spend on delivering care;

(c) acknowledges that families relying on the aged care sector to care for loved ones deserve access to information to assist them in making informed decisions about aged care for family members; and

(d) calls on the Federal Government to legislate for financial transparency in aged care, as a matter of urgency.

**Senators Waters and Rice** to move on the next day of sitting—

(1) That there be laid on the table by the Minister for Youth and Sport by no later than midday on Thursday, 13 February 2020:

(a) all communications between the Department of Health (the Department) and the Minister for Youth and Sport (the Minister) or the Minister's office in relation to the Community Sport Infrastructure – Female Facilities and Water Safety program (FFWSP);

(b) all communications between the Minister or the Minister's office and the Prime Minister or the office of the Prime Minister in relation to the FFWSP;

(c) all communications between the Minister and the Minister for Infrastructure, Transport and Regional Development in relation to the FFWSP;

(d) any incoming Ministerial brief prepared for the Minister in relation to the FFWSP;

(e) any guidelines or program arrangements applying to the FFWSP;

(f) any advice on the content of guidelines or program arrangements, or drafts of same, prepared by the Department for the Minister in relation to the FFWSP;

(g) any advice prepared by or for the Department for the Minister regarding the need for guidelines for the FFWSP;

(h) any advice prepared for the Minister regarding eligibility for the FFWSP or the process for determining the list of organisations invited to apply for funding;

(i) a list of all projects invited to seek funding under the FFWSP, and any documents pertaining to the basis on which they were selected; and

(j) a list of all projects funded under the FFWSP.
(2) In the event the Minister fails to table the documents requested in paragraph (1), the Senate requires the Minister to attend the Senate at 3:30 pm on 13 February 2020 to provide an explanation, of no more than 10 minutes, of the Government's failure to table the documents requested in paragraph (1).

(3) Any senator may move to take note of the explanation required by paragraph (2).

(4) Any motion under paragraph (3) shall have precedence over all business until determined, and senators may speak to the motion for not more than 10 minutes each.

**Senators Waters and Rice** to move on the next day of sitting—

(1) That there be laid on the table by the Minister representing the Minister for Infrastructure, Transport and Regional Development by no later than midday on 13 February 2020:

- (a) all communications between the Department of Infrastructure, Transport and Regional Development (the Department) and the Minister for Infrastructure, Transport and Regional Development (the Minister) or the Minister's office in relation to the Community Sport Infrastructure – Female Facilities and Water Safety program (FFWSP);

- (b) all communications between the Minister or Minister's office and the Prime Minister or the office of the Prime Minister in relation to the FFWSP;

- (c) all communications between the Minister and the incoming Minister for Youth and Sports in relation to the FFWSP following the federal election;

- (d) any advice prepared for the Department, the Minister or the Prime Minister regarding the need for guidelines for the FFWSP;

- (e) any advice on the content of guidelines or program arrangements, or drafts of same, prepared by the Department for the Minister or Prime Minister in relation to the FFWSP;

- (f) any advice prepared by or for the Department for the Minister or Prime Minister regarding eligibility for the FFWSP or the process for determining the list of organisations invited to apply for funding;

- (g) a list of all projects invited to seek funding under the FFWSP, and documents pertaining to the basis on which they were selected; and

- (h) a list of all projects funded under the FFWSP Program.

(2) In the event the Minister fails to table the documents requested in paragraph (1), the Senate requires the Minister representing the Minister for Infrastructure, Transport and Regional Development in the Senate to attend the Senate at 3:30 pm on 13 February 2020 to provide an explanation, of no more than 10 minutes, of the Government's failure to table the documents requested in paragraph (1).

(3) Any senator may move to take note of the explanation required by paragraph (2).

(4) Any motion under paragraph (3) shall have precedence over all business until determined, and senators may speak to the motion for not more than 10 minutes each.

**Postponement**

The Clerk: Postponement notifications have been lodged in respect of the following:

General business notice of motion no. 403 standing in the name of Senator Hanson-Young for today, relating to environmental flows, postponed till 11 February 2020.

General business notice of motion no. 407 standing in the name of Senator Whish-Wilson for today, relating to accurate reporting of bushfires, postponed till 26 February 2020.
COMMITTEES
Legal and Constitutional Affairs Legislation Committee
Reporting Date
The Clerk: Notifications of extensions of time for committees to report have been lodged in respect of the following:


The PRESIDENT (18:25): I remind senators that the question may be put on any proposal at the request of any senator.

BUSINESS
Leave of Absence
Senator URQUHART (Tasmania—Opposition Whip in the Senate) (18:25): by leave—I move:

That leave of absence be granted to Senator Lines for today, for personal reasons.

Question agreed to.

MOTIONS
Newstart Allowance
Senator SIEWERT (Western Australia—Australian Greens Whip) (18:26): I move:

That the Senate—

(a) notes that:

(i) there are over 3 million people in Australia living in poverty including over 700,000 children,
(ii) Newstart and Youth Allowance have not had an increase in real terms for over 25 years,
(iii) the Government's continued failure to act has meant that those trying to survive on Newstart are falling even further behind, prompting the Australian Council of Social Service to call for an urgent $95 increase in Newstart, and
(iv) the Government's position on Newstart is out of step with community expectations; and

(b) calls on the Federal Government to make it a priority to help address poverty in Australia by immediately significantly increasing Newstart and Youth Allowance.

Question agreed to.

COMMITTEES
Foreign Affairs, Defence and Trade Joint Committee
Government Response to Report
Senator FARUQI (New South Wales) (18:26): I inform the Senate that Senators McCarthy, Patrick and Griff will be sponsoring this motion with me. I, and also on behalf of Senators McCarthy, Patrick and Griff, move:

That the Senate—
(a) notes that:

(i) the issue of per- and poly-fluoroalkyl substances (PFAS) contamination has caused significant mental, emotional and financial stress for communities where PFAS have contaminated land and water, including the communities around the RAAF bases in Williamtown and Richmond in New South Wales, the Oakey Army Aviation Centre in Queensland, and RAAF Base Tindal at Katherine in the Northern Territory,

(ii) it has been more than 14 months since the Joint Standing Committee on Foreign Affairs, Defence and Trade tabled its report, Inquiry into the management of PFAS contamination in and around Defence bases, and the Federal Government has still not issued its response, and

(iii) communities are waiting anxiously on the Government's response to the key recommendations of the Committee, such as that the Federal Government appoint a Coordinator-General to coordinate the national response to the PFAS contamination issue; undertake measures to improve participation in the voluntary blood testing program for PFAS; and assist property owners and businesses in affected areas for demonstrated, quantifiable financial losses associated with PFAS contamination, including the possibility of buybacks; and

(b) calls on the Federal Government to immediately release its response to the report of the Joint Standing Committee on Foreign Affairs, Defence and Trade report into management of PFAS contamination in and around Defence bases.

Question agreed to.

MOTIONS

Australian Bushfires

Senator FARUQI (New South Wales) (18:27): I move:

That the Senate—

(a) notes that:

(i) unprecedented bushfires across Australia have burnt at least 10 million hectares of land, primarily in New South Wales (NSW), Victoria and South Australia,

(ii) an estimated 800 million animals have been killed in NSW, with national impact to more than 1 billion animals, including kangaroos, koalas, bats and reptiles, and

(iii) wildlife carers have been on the frontline, rescuing and caring for injured animals, often at great emotional, financial, physical and emotional cost and sacrifice; and

(b) thanks wildlife carers for their work in saving animals during the recent horrific bushfires.

Question agreed to.

Domestic and Family Violence

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (18:27): I seek leave to amend general business notice of motion No. 402, relating to violence against women.

Leave granted.

Senator WATERS: With sadness, I omit the number of women killed being six and, sadly, increase it to seven. I move the motion as amended:

That the Senate—

(a) notes:
(i) the overall national toll for women killed by violence since the start of 2020 already stands at 7, as reported by Counting Dead Women Australia from Destroy The Joint,
(ii) there is no national government reporting program to record the ongoing toll of women killed by violence in real time,
(iii) on average, one woman is murdered every week by her current or former partner,
(iv) according to the Australian Bureau of Statistics Personal Safety Survey 201:
   (A) more than 370,000 Australian women are subjected to violence from men each year,
   (B) 1 in 3 Australian women has experienced physical violence,
   (C) 1 in 5 Australian women has experienced sexual violence,
   (D) 1 in 6 Australian women has experienced physical or sexual violence by a current or former partner,
   (E) 1 in 4 Australian women has experienced emotional abuse by a current or former partner,
   (F) Australian women are nearly three times more likely than men to experience violence from an intimate partner, and
   (G) Australian women are 2 times more likely to be hospitalised for assault injuries arising from family and domestic violence than men, with hospitalisation rates rising by 23% since 2014-15;
   (v) in 2017, young women aged 15-34 accounted for more than half of reported sexual assaults,
   (vi) there is growing evidence that women with disabilities are more likely to experience violence,
   (vii) Aboriginal and Torres Strait Islander women report experiencing violence at 3 times the rate of non-Indigenous women,
   (viii) in 2016-17, Indigenous women were 32 times as likely to be hospitalised due to family violence as non-Indigenous women,
   (ix) the Fourth Action Plan of the National Plan to Reduce Violence against Women and their Children 2010-22 states that the overall prevalence of violence against women will only start to decrease in the very long term as gender roles change,
   (x) the Fourth Action Plan recognises that demand for domestic and family violence services has increased, and will continue to increase; and
(b) calls on the Federal Government to:
   (i) recognise domestic violence against women as a national security crisis,
   (ii) adequately fund frontline domestic, family and sexual violence and crisis housing services to ensure that all women seeking safety can access these services when and where they need them,
   (iii) legislate for 10 days paid domestic and family violence leave so that women don’t have to choose between paying the bills and seeking safety,
   (iv) ensure that all government funded counselling services for domestic and family violence are delivered by expert family violence service providers in accordance with the National Outcome Standards for Perpetrator Interventions,
   (v) implement all 25 recommendations of the 2015 Senate Standing Committee on Finance and Public Administration report, Domestic Violence in Australia, tabled 20 on August 2015; and
   (vi) maintain and publish an official real-time national toll of women killed by violence in Australia.

Senator DUNIAM (Tasmania—Assistant Minister for Forestry and Fisheries and Assistant Minister for Regional Tourism) (18:27): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.
Senator DUNIAM: The Morrison government is committed to preventing, addressing and ultimately ending family, domestic and sexual violence in Australia. Violence against women and children is an issue this government is responding to with the largest-ever Commonwealth investment, of $340 million, to support the Fourth Action Plan of the National Plan to Reduce Violence against Women and their Children. Delivery of frontline domestic and family violence services is indeed, though, a matter for state and territory governments.

Question agreed to.

City of Wanneroo: Australia Day Awards

Senator DEAN SMITH (Western Australia—Government Whip in the Senate) (18:28): I add the name of Senator Sue Lines as a sponsor of this motion. I, and also on behalf of Senator Lines, move:

That the Senate—
(a) notes that:
(i) the 2020 City of Wanneroo Australia Day Awards were announced on 26 January 2020 at Wanneroo Showgrounds, Wanneroo, Western Australia, and
(ii) the City of Wanneroo Australia Day Awards have three categories, including the Charles Searyson Australia Day Youth Award, which honours people under 25 who have made an significant contribution to their community;
(b) acknowledges:
(i) the winner of the 2020 Charles Searyson Australia Day Youth Award, Miss Jayda Feifar of Girrawheen Senior High School, Girrawheen, Western Australia, for being a dynamic member of her school community and demonstrating effective leadership skills,
(ii) the following winners of the 2020 City of Wanneroo Australia Day Awards:
(A) 2020 Australia Day Individual Award, Daniel McEvoy of the Achievers Club WA, Girrawheen, Western Australia, for his dedication towards supporting students of lower socio-economic backgrounds with their studies, and
(B) 2020 City of Wanneroo Community Award, BAPS Shri Swaminarayan Mandir, Wangara, Western Australia, for its commitment to enhancing the community by providing support through a suite of outreach programs.

Question agreed to.

Indigenous Australians

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:29): I move:

That the Senate—
(a) notes that 26 January 2020 was marked by added sorrow for many First Nations peoples due to the damage that has been done to country and sacred places from drought and bushfires;
(b) recognises that First Nations peoples have a long and deep history of looking after country;
(c) further notes that it is time to listen with respect as we learn from First Nations peoples about traditional burning practices, land management practices and regeneration of vegetation; and
(d) calls on the Federal Government to ensure First Nations peoples have a leading role in the fire and drought recovery process.
Senator DUNIAM (Tasmania—Assistant Minister for Forestry and Fisheries and Assistant Minister for Regional Tourism) (18:29): I seek leave to make a very short statement.

The PRESIDENT: Leave is granted for one minute.

Senator DUNIAM: The government is committed to working with First Nations people to incorporate traditional land and fire management practices to improve Australia's resistance to bushfires. All jurisdictions have a role to play in managing bushfire risk and intensity.

Question agreed to.

The PRESIDENT: Pursuant to order agreed earlier today, we will now move to the MPI and return to the discovery of formal business after its conclusion at 7.30.

MATTERS OF PUBLIC IMPORTANCE

Fossil Fuels

The PRESIDENT (18:30): I inform the Senate that, at 8.30 am today, two proposals were received in accordance with standing order 75. The question of which proposal would be submitted to the Senate was determined by lot. As a result I inform the Senate that the following letter has been received from Senator Siewert:

Pursuant to standing order 75, I propose that the following matter of public importance be submitted to the Senate for discussion:

There is a clear link between the burning of fossil fuels and worsening bushfires, and the Government must put in place a plan to eliminate climate pollution, including a phase out of thermal coal mining.

Is the proposal supported?

More than the number of senators required by the standing orders having risen in their places—

The PRESIDENT: I understand that informal arrangements have been made to allocate specific times to each of the speakers in today's debate. With the concurrence of the Senate, I shall ask the clerks to set the clock accordingly.

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (18:31): I rise to speak on this matter of public importance about how the burning of fossil fuels is making bushfires worse. It's also making all our extreme weather events more frequent and more extreme. We've gone from one extreme to the other. We've had bushfires that have ravaged our nation, starting one week out of winter in my home state of Queensland. They have been burning since then, and it has only been the torrential rain that is now wreaking absolute havoc in cities like Sydney and parts of Queensland—

Senator Canavan: Climate change!

Senator WATERS: Yes, it is; I'll take that interjection from former Minister Canavan—I'm not quite sure what to call him now: Senator Canavan. That is in fact precisely what meteorologists and climatologists have been predicting. Perhaps Senator Canavan will have a bit more time on his hands now to read through some of that science. We would certainly welcome him turning his mind to that very clear link between the mining, exporting and burning of fossil fuels and the severity and the frequency of these devastating weather events.
It is perfectly clear that the single biggest cause of the climate emergency that we are in is coal. Australia is the world's largest exporter of coal and is not too far behind on being the world's largest exporter of liquefied natural gas, LNG. We are, in fact, in total, the world's third-biggest exporter of fossil fuels. Yet our Prime Minister likes to say that we have no impact on this global phenomena—that we are somehow absolutely powerless to do anything about this situation and that we're making just some tiny contribution. That flies in the face of the fact that we are the third-largest exporter of this problem which is making life harder for everybody around the world and impacting nature.

I've already talked about the impacts that we are feeling disproportionately. We have so much to lose economically if we fail to act on this opportunity to transition our economy as rapidly as possible to clean, renewable energy. We know that renewable energy is more job intensive than dirty fossil fuel energy. We know that those coal communities can see that global coal decline is continuing to occur. They want to know what the plan is for what happens next in their towns. They want to know what kinds of new industries they might be transitioned into. Perhaps they'll need retraining. Maybe they'll be able to use their existing skills. They are not hearing that conversation from this government; they're not hearing much from the state government either, I might add. They are desperate to have an input into what happens next economically for their communities and for their families. We're really proud to be having those conversations with them and to be calling on this government to be honest with people about the global coal decline and the ability to transition and create more jobs and more prosperity while we safeguard ourselves from the rampant effects of extreme weather events.

We're seeing ABARES predict that climate change has already reduced farming profits by 22 per cent since the year 2000. We have the Nationals purporting to be a party that represents farmers. They sold out to the big miners long ago. We all remember those massive donations from big mining and gas companies; Santos springs to mind, but there are many, many others. There is a conflict between farming and mining, and I'm afraid the Nationals are completely wedged on this. We've seen a 22 per cent productivity drop in farming over the past two decades, so why aren't the alarm bells ringing in that party?

The more we dig up, export and burn coal, the more we endanger human life, our economy and the state of nature. We've lost 50 per cent of the coral cover of the Great Barrier Reef, and that's 64,000 jobs on the line there if we lose the other 50 per cent. And yet we've got parliamentarians on both sides of the chamber who continue to take massive donations from big coal, big oil and big gas. Coincidentally, in the year before the election half a million dollars was donated to each side of this chamber by big coal, big oil and big gas. And in return? Well, gosh, they've got a feasibility study into a new coal-fired power plant in Collinsville, haven't they? Well, it will not be feasible. The economics of the transition to clean energy are clear: it will be good for the bottom line, it will be good for communities and workers, and it will be good for the planet. We will continue to push for that transition to happen as quickly as possible in a just way.

Senator CANAVAN (Queensland—Deputy Leader of the Nationals in the Senate) (18:35): I always try to find redeeming features in people. You always try to be fair to people, even those you disagree with, and I certainly have my disagreements with the Greens political party. But everybody in life will have some qualities that shine through and mark
them out from others, and there's no doubt the Greens have the gold medal in exaggeration and outlandish statements. They have the gold medal in taking an inch, taking a little bit of evidence, and stretching it out as far as the eye can see.

What we just heard from Senator Waters was an enormous amount of hyperbole, exaggeration and outlandish statements. Senator Waters, through this motion, and the Greens party are making out that somehow if you shut down thermal coalmines in Australia then we won't have bushfires anymore. We won't have a problem anymore; it will all go away. I think people listening to this would understand how absurd that notion is.

As a country, we have been subject to bushfire risk for as long as we know. Indigenous Australians have records of fighting fires with fire for tens of thousands of years, but I can't think of and I don't know of any records of Aboriginal Australians mining coal prior to the arrival of European settlers. I don't think coalmines were the problem back then. We had bushfires back then; we have bushfires today; we are subject to this risk.

The challenge we have is from those who want to shut down our coalmines. They want to shut down an industry that is our nation's largest export, employs more than 50,000 people, sustains so many towns and provides billions of dollars—especially to state governments to fund hospitals, schools and other services. So they want to shut down an industry that provides all those benefits. That's their policy. You would think that they would be able to tell us: okay, how many bushfires will this stop? How many days will we be without bushfire risk because of this change? They have no such evidence, no such data, and no such rigour in their arguments; they're just broad, outlandish statements that don't add up.

In fact, it's worse than that, because the statements of the Australian Greens are also misleading this chamber. They are misleading because Senator Waters tried to put a big weight on the fact that Australia is the world's largest coal exporter. Yes, we're a very large coal exporter. We have vied for the top prize with Indonesia over different time periods. We're not the largest thermal coal exporter, not by far; Indonesia beats us on that mark. But if you add in coking coal, steelmaking coal, we sometimes go above Indonesia; sometimes they're above us. That's exports, though. That's not the use of coal; that's the export of coal from one country to another. It's not the total amount of coal used in the world, which the Greens provided no evidence about. I'm sure they'd know this. They are not silly people. I think Senator Waters is a smart person, and I'm sure she can look up these figures as easily as I can. She could use the resources of the Parliamentary Library. She could just ask the Parliamentary Library: What is Australia's contribution to the world's coal production? What is the answer to that question? It's not a hard question. It's not a complex one. The data is all available. It's an easy one: the world market for thermal coal, the global use of thermal coal, is over six billion tonnes a year. Australia produces about 250 million tonnes of that.

That's not what you heard from Senator Waters. We're a big coal exporter so we must be bad! But we actually account for only five per cent of the world's coal production—just five per cent! But that's not what you got from Senator Waters' contribution. From her contribution it would seem like we were the cause of it all, and if we just shut down the five per cent of world production that we account for then everything will be fine. That is patently absurd, because we produce such a small proportion of the coal.
But I will grant that what our great coal industry—our fantastic coal industry—produces is a high-quality product. It's a very high-quality product. It has high energy content. Typically, it has low ash and it often has low NOx. I should explain that: it has low nitrous oxides and sulphur oxides. Those are the things that can create the worst types of smog. So we have coal that goes onto the world market which helps to improve the quality of coal used in other countries.

There is a good reason for that: countries are not going to pay for coal to be transported enormously long distances unless it's of high quality. It is costly; it's costly to put the coal on the ships and the rail lines to be transported long distances. So that only happens with a high-quality product, and that's what we produce. We produce that. In raw numbers, the specification of our coal out of Newcastle is around 6,000 to 6,300 kilocalories per kilogram. So every kilogram of our coal has about 6,000 kilocalories of energy embodied in it. That might not mean much, but when you compare it to the energy content of other country's coal it is much, much better. Indonesia's coal is typically around 4,700 kilocalories per kilogram, so we're a good 20 to 30 per cent higher than Indonesia's coal. India's coal content is around 3,000 to 3½ thousand kilocalories per kilogram, and so we are a good 50 to 60 per cent higher.

If you use a tonne of Australian coal to generate electricity compared to a tonne of Indian coal or Indonesian coal you are saving something between 20 to 60 per cent of carbon emissions because you get more energy for the same input. It's not a hard concept to understand. If we want to reduce carbon emissions then we should move towards more energy-efficient and energy-rich fuel sources which can help lower carbon emissions but still provide the same amount of electricity. We should provide electricity to people who do not have it. It's very easy for us to say here: 'Let's just cut all this coal use. Let's get rid of it.' For people in countries which are much poorer than ours it's the difference between being able to heat or cool their homes with a safe energy source. In India, 20 per cent of their energy still comes from biomass—straw or wood based products, and sometimes worse things. The burning of those fuels, particularly indoors in households, contributes to terrible health outcomes. Our coal helps to electrify those systems and helps countries to cut their air pollution, as well as their carbon emissions, and is generating much greater environmental outcomes as well as supporting economic growth and development. That is why our coal industry is so good.

I also heard from Senator Waters that somehow coal markets are in decline and people are moving away from it. Again, that is actually not just misleading, it's just wrong. It is just factually, factually wrong. In the last couple of years, coal use in the Asia-Pacific region has boomed. Over 300 terawatts hours more are produced through coal-fired power than two years ago. That's a much greater increase than the increase in solar and wind. They are increasing quickly too—they are increasing substantially—but the increase in coal-fired power across the world has outpaced the increase in solar and wind power over the past couple of years. That's because, thank God, we are still seeing economic growth in the Asian region. It's a great thing that people are being brought out of poverty. Yes, we should seek to cut our carbon emissions, but we should also seek to support other important goals—the Sustainable Development Goals, for example, of ending poverty and supporting economic growth.
I've only got a little bit of time. I could talk for a lot longer, but I wanted to reserve some time to comment on the broader scientific issues. Again, comments from the Greens are highly misleading. We heard from Senator Waters that they are linking all types of weather— when it rains; when it hails; when it snows, presumably, or when it doesn't snow; or when there is fire; or when it's hot or it's cold. All of those things are due to the coal industry. It's an amazing industry that can cause all these issues!

What I didn't hear from Senator Waters was her quoting any science—any science at all. There were no quotes of scientific papers or anything like that. So that's what I'm going to do. There is a report called *Climate change in Australia*. It's the go-to guide by the CSIRO and the Bureau of Meteorology which outlines what the baseline science thinks about future projections in Australia due to climate change. That report shows that the number of fire-weather days—days that are hot, windy and dry—has increased over the past 40 years, and there's almost certainly a climate change impact from that. The report goes on to say:

… no studies explicitly attributing the Australian increase in fire weather to climate change have been performed at this time.

That's in the CSIRO's document. In the latest IPCC special report there's a table which has different natural disasters that are potentially linked to climate change and the state of science on them. In that report the IPCC concludes that for Australia there is little to no information about a link between climate change and bushfires. You wouldn't hear that from those on that side, because they don't quote you the science. There's a lot more I could quote, but I don't have time.

**Senator Pratt:** That's because you cut the research.

**Senator CANAVAN:** I will take the interjection from over there, because I don't want to leave the Labor Party out of this. They've been trying to make out in the past year that, somehow, they're converts and they might actually support the coal industry. They definitely didn't a year ago at the election. Now they're trying to say: 'We didn't mean what we said. We actually support coal jobs.' We've seen the lie of that statement today, because today they had an opportunity to back, just a business case, for a coal-fired power station at Collinsville to support an Indigenous group that wants to build a coal-fired power station on traditional owners' land. Don't give me any rubbish about the Greens supporting Indigenous Australians. They definitely don't. That group wants to build that power station. The Labor Party have been tested here and they've come up short, because they're not supporting it. They're not supporting those economic development goals. You cannot say that you support the export of Australian coal and the creation of Australian jobs if you don't also support some of the use of that coal in Australia to support jobs here too. *(Time expired)*

**Senator PRATT** (Western Australia) (18:46): The past few months in our nation have been very much a harsh look at what could be our new reality as a nation. It was devastating to see in my home state of WA the destruction of much of the Stirling Range, one of the world's most important biodiversity hotspots, which burned from Boxing Day to the new year. It's a region that may never recover. This was a drop in the ocean compared with the chaos Australia has been thrown into over the past few months. In the 2019-20 bushfires so far— they are not 'this summer's fires'; they began burning in Queensland in late winter last year, and the Stirling Range also started burning before winter—these fires have burned more than 18 million hectares of our nation. Thirty lives have been lost and thousands of homes have
been destroyed. A billion animals are estimated to have died, with the possibility that some endangered species are now extinct. We still don't really know the full scale of the devastation that we are facing. In responding—as a parliament, as a national government, as an opposition—we cannot think just of short-term relief. We also need to think of Australia's long-term future, given what has so far been a dismal response to this climate change emergency. Our climate is changing adversely. Longer hot and dry spells have created a tinderbox of much of our nation. Last year, 2019, was Australia's hottest and driest year since records began.

The government hasn't been listening. The government was told that back-burning was becoming more difficult because moist and cool windows of opportunity have become fewer and fewer. There was a politicised debate in which governments blamed greenies for refusing to allow back-burning, and on it goes without recognition that this very debate is a manifestation of climate change itself. Scientists have been telling us that greenhouse gas emissions are contributing to changes in our weather patterns and that the global community should play safe and adjust its behaviour in relation to emissions. Greg Mullins, a former commissioner of Fire and Rescue NSW, said in a letter to Minister David Littleproud in November last year:

To protect Australians from worsening bushfire conditions and natural disaster risks, Australia must accelerate and increase measures to tackle the root cause, climate change. Despite the clear and unequivocal advice and evidence we have before us we have a divided and shambolic federal government that is divided over the science of climate change. We heard it in question time today and in Senator Canavan's remarks just now.

For years now our nation has been subjected to a government that is incapable of acknowledging the deep concern in the Australian community about the threat of climate change—particularly over this awful and, for some, absolutely terrifying summer that they've experienced in recent months. And yet we have a government that has no energy policy, just an ideological climate change denial not at all based on the evidence. The cost of renewable power generation is coming down, and this represents the future of Australia's electricity grids.

Recently, as Senator Canavan highlighted, we've seen plans to spend large amounts of taxpayers' money on building a new coal-fired power station that even private investors will not touch. Let's be clear: Labor does not support government funding for new coal generation. Given the investment that's been going into renewable energy, I do not believe that, without a government subsidy, you can attract investment for a new coal-fired power station. In this delicate climate, we as Australians should be demanding an update of processes and careful distribution of our resources to a more sustainable method of energy generation. And yet we have proponents of nuclear power promoted to our ministry.

I know. I work very closely with coal communities in my state, and their jobs are jobs we're fighting to keep around for years to come. But that's not the debate that you're having now in promoting new sources of coal-fired power in northern Queensland. We also have a Prime Minister who says his government is meeting and beating its climate targets. Well, your own data—your own official emissions data—confirms that Australia will not meet our Kyoto commitment to cut emissions by five per cent. Our emissions reduction by 2020 will amount to little more than a rounding error of 0.3 per cent. As a high per capita emissions nation, this
is simply not good enough. We are experiencing the effects of climate change as a nation, and it's all very well for this government to say that Australia is but a tiny fraction of those emissions. The rest of the world does look to what Australia does and they can see. If we as a higher per capita emissions nation cannot lower our emissions then why should their citizens have that burden? We have to show national leadership in order to deliver emissions reductions within Australia and to have credibility in global discussions and agreements about these issues. Without that, we will be simply preparing for disaster after disaster after disaster, which we know we need to do in any case. But we must bring down that risk and reduce it as much as we can. Three degrees of global warming will represent catastrophic impacts on our nation, but time and time again we see a government that cares more about their image than about the Australian people.

I find it somewhat ironic that the Greens should put up such a motion given their voting down of the Carbon Pollution Reduction Scheme some 10 years ago now. I believe they bear a very heavy responsibility for the fact that Australia still does not have an effective policy to tackle climate change and reduce emissions. If those five Greens senators at that time had voted with Labor, the CPRS would have passed this parliament. A carbon price would have been embedded in our economy, reducing emissions in the most environmentally and economically efficient way, and driven the rollout of clean energy technologies, creating a great boost for Australian jobs. Very importantly, greenhouse gas emissions would have been some 81 million tonnes lower in 2020 than currently predicted. It would have been something incredible we could have taken to the world stage. Over the past 10 years an additional 218 million tonnes of emissions would have been prevented from entering into our atmosphere. The Greens' rationale for voting against the CPRS was that its emissions reduction targets were inadequate and its transitional assistance for emissions-intensive industries was too generous. But you will find that these elements are very similar to what was finally past in the Clean Energy Future Package with the Greens support.

There's much more I would like to be able to say in this debate. Labor is very proud to have been responsible for the most comprehensive energy and climate plan during the Gillard government, and emissions dropped under that plan. Professor David Bowman, an experienced fire ecologist from the University of Tasmania, said that this fire season would 'reframe our understanding of bushfire in Australia', and it would be 'teaching us what can be true under a climate changed world'. It's not always comfortable but, if this impasse of climate change denial cannot be resolved, I dread what future generations will think of us. (Time expired)

Senator ROBERTS (Queensland) (18:56): The Greens are seen as ambulance chasers, using a political stunt and falsities on the back of a natural disaster tragedy. The Greens are making brazenly false statements and they're relying on people suffering climate amnesia and weather amnesia. Let's have some facts. Bushfires are not worsening, no matter how they are measured. In 1939, the loss of life number was 71, while 1,300 homes were lost and 3,700 buildings were lost. In 1974-75, 117 million hectares were burnt, four times the number this year. Lombarb provides graphs of satellite data from the years 1997 to 2020. There's been a one-third decrease in 20 years and a continuing downward trend. He also provides data going back to 1900. Twelve per cent of Australia was burned in 1900. It is now less than four per cent. That is not bushfires worsening.
Secondly on facts, there is no clear link with burning hydrocarbon fuels. Senator Macdonald stood over there in 2016, looked across at me and said, 'I don't always agree with Senator Roberts, but he is the first to start a debate on the climate science in this parliament.' We still haven't had the debate because the Greens will never specify their science. The Chief Scientist has said there will be virtually no impact, virtually nothing will occur, if Australia shuts down 100 per cent of its industry and transport. CSIRO, in cross-examination from me, have told me that temperatures in the last 10,000 years showed that today's temperatures are not unprecedented. CSIRO have admitted that they've never said that there's danger from human use of hydrocarbon fuels—human carbon dioxide.

Temperatures—fact!—in the 1880s and 1890s were warmer than today. Heatwaves were longer, more intense and severe. The medieval warming period a thousand years ago was significantly warmer than today. Ninety-seven per cent of the Holocene period, which is since the end of the last ice age, was warmer than today. The longest temperature trend in the last 140 years was 40 years of cooling at a time when carbon dioxide from human activity increased dramatically. For the last 25 years temperatures have been flat despite massive increases in human production of carbon dioxide. Greenpeace wanted to shut down the Australian Open in Melbourne due to severe temperatures. In 1939, the temperatures were warmer than today.

We've heard the Labor Party and the Greens talk about drought. Rainfall, according to the Bureau of Meteorology, was about 25 per cent higher in the first 20 years of this century than the first 20 years of the last century. The last fifty years show considerably higher rainfall than the previous 60 years. The United Nations Intergovernmental Panel on Climate Change shows these is no link to drought.

What we need to do now is consider the Greens. I asked Senator Larissa Waters, the Leader of the Greens, to provide the evidence for her claims—

Senator Steele-John: Leader of the Greens in the Senate.

Senator ROBERTS: in the Senate—and for 154 days she has failed to respond. For 154 days there's been no evidence. Ten years ago, I challenged Senator Waters to a debate on the climate science. I've challenged her three times in total now. She won't front. In fact, she runs from me. On 5 February, in motion No. 353, Senator Waters said that the State of the climate 2018 report, authored by the CSIRO and the Bureau Of Meteorology, indicates that 'as the climate crisis continues'—they'd never used the term 'climate crisis'; they never used the term 'climate emergency'; they didn't even say, 'We're all going to die!' No, Australia, she was making that up. Talking about a climate emergency, we've now seen her saying 'the science says that, the experts say that and the community knows that'. That was just one week ago, Wednesday 5 February. False, false, false. And now we are told that coking coal won't produce carbon dioxide and we only have to shut down thermal coal. What a lot of rubbish!

The Greens are hurting people. They are dramatically hurting the cost of living. They are hurting industry and exporting it overseas. They are hurting jobs and killing Australia's future. Remember two things, Greens: you need empirical evidence to determine 'science' and you need to come up with proof of causation. You have zero!

Senator SCARR (Queensland) (19:01): I rise to speak on this MPI. In the first instance, I think Australians are getting very, very tired of the polarisation of the debate in this respect.
Certainly, Queenslanders are getting very, very tired of the polarisation of this debate. I note that Senator Siewert's motion talks about 'the elimination of climate pollution'—as if it were easy for a government, or anyone, to eliminate all climate pollution. And what do we mean by 'eliminate'? What are we actually eliminating? Because one person's climate pollution is another person's job provider and wealth creator, adding value to our resources. And that's what we would be eliminating if we followed the extreme policy advocated by the Greens.

Let me draw this out by talking about our smelters and out refineries. I believe that this country needs to do more to add value to the resources which are mined here. We need to add value to those resources, create jobs and generate wealth in this country rather than exporting those jobs and that wealth overseas and importing the value-added products. We've got a number of successful refineries and smelters in this country. So what do they say? What are the people who actually run businesses that rely on intensive electricity provision saying about renewables and electricity prices in this country?

Let me give you three examples. This is what Matt Howell, Chief Executive of Tomago Aluminium, was reported as saying in a newspaper article on 7 February 2020. Matt Howell actually has solar on his roof to provide heat generation for his water. Fine. That's good. So it's not that he does not believe in the benefits of renewable energy, but he is realistic. He said: There's no question you can have a smelter run by batteries and renewables: wind and solar—so he says you can do it—But you'd be bankrupt, you can't make money from it.

That's the reality. It's not an extreme ideological position, it's the reality. Mr Howell explained that he had been approached by wind and solar developers on the hunt for an industrial customer who could underpin the projects. But the typical offer, approaching $45 a megawatt-hour, only applies when the plant is generating—when the sun is shining and the wind is blowing. In the meantime, you need to rely on gas. And that means that the rate goes up to $70 a megawatt-hour for firmed renewables—typically wind or solar backed up by gas power. At that price, Tomago does not have a future in this country. That's the reality. That's not a politician speaking; that's someone who is running a business providing thousands of jobs directly and indirectly to people in this country. Those are his words: renewables plus gas are not good enough to maintain the future of that smelter. That's renewables plus gas; the Greens wouldn't even have gas.

Example No. 2, Alcoa, with the Portland smelter in Victoria, provides thousands of direct and indirect jobs in this country. Alcoa reported a $1.12 billion net global loss in 2019, and its President, Roy Harvey, said that part of the reason is that Australia has one of the 'highest energy price markets on the planet'. About his Portland smelter he said:

… it's a plant that operates very stably, it is a good technology, it just happens to be one of the most highest energy price markets on the planet.

Our electricity prices are too high, and this ideologically driven argument just means electricity prices would go higher and higher and the jobs of Australians would be put at risk.

What about Boyne Smelters in Gladstone in my home state of Queensland? Just recently, in August 2019, Rio Tinto's chief executive officer, Jean-Sebastien Jacques, said the company was on very thin ice in terms of the buyability of its Australian smelters. He said:
I am not going to lie to anybody here, at this point in time it is a very, very challenging situation, and we are in discussions with the federal government and the state government and our utility providers ... in order to see ways to ensure the long term viability of those assets.

Three smelters—Boyne, Portland and Tomago—are all struggling, under our existing electricity prices, to keep those businesses operating in this country. The chief executive of Tomago said that even with solar and wind plus gas—and we know the Greens don't like LNG, don't like gas—he can't make Tomago work. Once those smelters are shut down, once that capital-intensive business leaves this country, it is not going to come back.

I was part of a regional select committee that travelled to Victoria and spoke to the union representing the workers from Loy Yang. We heard from them in Hazelwood with respect to their prospects. Even with the best of intentions from the Victorian state government and other agencies to try to assist them to transition, the empirical evidence was that a third of them got full-time jobs, a third got casual jobs and a third have never worked again. Those are the outcomes when energy-intensive large capital projects are shut down. Those are the results. Doing that on a mass scale across our country, including in my state of Queensland, would be an absolutely nightmarish scenario—especially when common sense tells you that it would have absolutely no impact because Australia accounts for only 1.3 per cent of the emissions. It would have no impact on the climate. All you are doing is shifting those jobs and that capital intensity offshore to countries like China, India and the United States.

Let me give you two examples. BlueScope recently invested $1 billion in a steel mill in Ohio—not in Australia, in Ohio! Those jobs are now offshore in the United States. Those jobs should be here. They once were. They're now offshore. Incitec Pivot has built a $1.1 billion ammonia plant in Louisiana. Again, those jobs should be here. But the electricity prices, even today, are too high in this country, and we need to bring them down.

I say to the members of the Labor Party: if you're going to criticise our policy, maybe you need to have your own policy. If you're going to criticise our policy, you need to come up with your own policy first. Watching Richard Marles on Insiders yesterday was as excruciating as watching a patient in a dentist's chair. The Labor Party still can't get their heads around where they are up to in terms of the coal industry, neither in terms of thermal coal power nor in terms of opening new coal mines. It was absolutely painful to watch. On this side, our policy was articulated by no better person than the Prime Minister when he said before the National Press Club:

Our action though, is a balanced and responsible emissions reduction plan to reduce emissions by 26 per cent through to 2030. These are the three cornerstone pledges that were made and this is what the Prime Minister said. We will do this consistent with the commitment we gave to the Australian people: (1) without a carbon tax that will slow our economy; (2) without driving up electricity prices; (3) without leaving behind Australians so often ignored, so often left out, particularly in regional areas, including in my state of Queensland. Whilst I'm ever in this Senate, whilst I'm standing in this chamber, I will always fight for Queensland jobs and I'll fight to make sure those jobs are not sacrificed on the altar of extreme Green ideology.

Senator MARIELLE SMITH (South Australia) (19:11): I hope anyone who might be listening along at home or listening online to the debate today just engages in a little bit of fact-checking before taking some of the comments which have been made by previous
senators on board. A little bit of fact-checking would help because there have been pretty extreme views from those opposite put forward in today's debate. I don't have time to go through them one by one, so before you take them on board, a little fact-checking might help. I'm really pleased to speak on this matter of public importance today and I'm pleased to do so because I stand here as part of a great political party which is the only political party that can come into this place with a meaningful record behind it on strong action on climate change, meaningful action on climate change which would make a real difference, which did make a real difference and, if it was still in place, would be continuing to make a real difference.

We in Labor are the only ones who can hold our heads up high in this regard because, if we look at the facts, if we look at history, we know those to my left voted against meaningful action on climate change when they voted down the CPRS almost a decade ago. Despite their rhetoric, despite their claims to the moral high ground on climate change and climate action, they joined the Liberals and Nationals, those on the other side who made the kinds of interesting contributions we have seen this evening. They joined with them to vote down the CPRS. It is convenient to forget it but that's what happened, that's on the record, and we remember it. That fateful day one decade ago, that decision was made and, because of that decision, we lost the opportunity of a generation in that moment to take meaningful action on climate change which had a political mandate behind it, which had the will of the Australian people behind it.

The consequences of that vote were severe, and I wonder if a different decision had been made that day would we have the same policy vacuum we have had this past decade? Because the reality is those to my left care more about rhetorical climate change than genuine policy, more on rhetoric than actually delivering change. Of course, they're not the only ones in this chamber who have issues when it comes to climate change because, even worse than what's on my left, on the other side, we've got people who don't even believe in climate change. They don't believe in science. They don't believe in the facts.

Indeed, we had Senator Molan on the ABC recently say that climate change may not be caused by humans and declare that he was not relying on evidence when he came to his views. Of course, the senator is in good company. He is certainly not alone in the coalition; he is not alone in the LNP party room; he has plenty of company. We have a party filled with people who deny the facts on climate change, who deny the science, who aren't interested in engaging in genuine debate and who aren't interested in genuine policy reform when it comes to climate change.

We have people like the member for New England accusing those calling for action on climate change within his own party of using the recent bushfire tragedy to push the hobbyhorse of climate action. We have another member of parliament from the other side who told the BBC there was no link between Australia's bushfire crisis and climate change. We've had a former Prime Minister from that side who claimed climate change zealots have threatened the energy sector. We had another former Prime Minister using phrases like 'climate cult', not to mention relentlessly campaigning against meaningful climate action. Yes, we've got senators on my left who care about the talk. We've got senators opposite who don't believe in any action, who don't believe in change, who struggle with the basic science and with the facts, who find the facts inconvenient to their ideology, who repudiate them and who will not engage in genuine debate. They are in denial on this issue.
Only Labor governments have delivered genuine action on climate change in government. We were responsible for the most comprehensive energy and climate plan during the Gillard government. Emissions dropped under that plan, yet it was dismantled by the current coalition government after the 2013 election—and not just dismantled but proudly dismantled. We were beamed scenes of jubilation and celebration as that legislation was repealed, with pats on the back, wide smiles and celebrations in the other place when that legislation came down. So what do we know now? Emissions are no longer dropping. That's the fact.

Labor believes in action. We believe in genuine policy reform. We've driven genuine policy reform and delivered it, because we believe in the science. We believe in the facts. We know that climate change is real, we know that it's a global problem that needs a global solution, and we know that every country must play its part, including ours, Australia. We have a strong role to play, and we need to be part of the global story in reducing emissions. First and foremost, that starts with meaningful action at home.

There is no doubt that the burning of fossil fuels is a contributor to higher greenhouse gas emissions which raise global temperatures and mean more intense climate-driven events such as bushfires. There is also no doubt, of course, that the future lies in renewable energy generation, and there is no doubt that climate change is increasing the frequency and severity of extreme weather events and natural disasters. The scientists have been telling us this. The experts have been telling us this. They've been telling us this for years. Their predictions have come true, yet we still have those opposite who deny the facts, ignore the warnings and ignore their responsibility as those holding the keys to executive government, those in a position to enact change and to develop meaningful policy to join global efforts at tackling climate change to get us out of this policy stagnation, this hole, which has left Australia without meaningful policy on energy and climate change. That affects the market, of course. It affects our international obligations. It affects the public's confidence in this place to tackle the real, ever-present, serious, urgent challenges of our time. What greater job could we have here than to tackle something like climate change and develop a policy response to it?

We know climate change is making us more vulnerable to extreme weather and climate related events, just like the horrific bushfires that have recently torn through South Australia. We all paused and talked about the horror and the scale of the tragedy. Climate change exacerbated that. You cannot separate those bushfires from climate change and pretend that they're completely unrelated and that there's no link unless you completely deny the science, deny the facts and deny the things that the experts have been telling us. We cannot deny them, and it is disrespectful to deny them. It's disrespectful to not stop and take the meaningful action that we must take to try and stop these things happening again—to try and stop these extremites. That's our responsibility here. There is a link between the severity of this season—the extreme weather that exacerbated conditions—and our change in climate.

My state, South Australia, is especially vulnerable to some of the risks of climate change—especially vulnerable. We saw that in the recent fires and we see it in our River Murray. We see the risks and the risks that are presented to our entire state—to our future, to our livelihoods, to our wellness and to our health and wellbeing. The goal of this government should be to genuinely reduce greenhouse gas emissions in line with its Paris commitments, not dodgy accounting. They need to stop with the phony climate wars and they need to stop with the phony arguments, because the best policy change in Australian history, the best
things we've ever done as a nation, we've done with consensus. We do it when we come together—when we work together—to deliver meaningful change. It will be when we negotiate, come together and accept the facts, talk about the solutions and work together towards change.

Those opposite hold the keys to this change. They have the levers of government, which enable them to enact change. They talk a lot about Labor and Labor policy, but the fact is that they are in government. They have the opportunity here, and there is a huge weight of expectation from the people we represent out there to do something meaningful: to act on climate change and to work with consensus; to come together and to solve this urgent issue for our nation.

Senator STEELE-JOHN (Western Australia) (19:21): The choice which has been put before this chamber tonight by the Greens is a simple one: join with the community and join with the experts—the scientists, the nurses, the teachers and the students—in acknowledging that which is true, that there is an indisputable link between the burning of coal, the burning of gas and the burning of oil and the climate crisis which now grips our nation. The Greens are asking this chamber and the major parties within it to work with community and to heed that demand for action in creating a plan which removes from our community the dirt, the filth and the fossil fuels that are so choking us.

That is a simple request, and yet what we have seen during the course of this debate is nothing less than spin, self-interested one-liners, howls of derision and the quoting of pseudoscience in the face of reality. We have seen nothing but low politics play out in this chamber this evening, and our communities are demanding high action. They will be looking to this place and asking themselves, 'Why?' Why in the face of 3,000 homes lost, why in the face of a billion animals lost and why in the face of 33 lives lost can this chamber not recognise that which is immutably true? Climate change is driving this disaster, and the burning of fossil fuels is driving climate change.

The answer is as simple as it is terrifying and terrible. It's money—dirty money—from coal, from oil and from gas. It is from the people who are making billions as our towns burn. They donated a million bucks—$500,000 to each side of this chamber—in the lead-up to the federal election in the full knowledge that it would buy them the government, whoever won. In the years from 2012 they have donated more than $100 million to both sides. That corruption and that complicity have leached out from this place across the nation: down to Tasmania, where the Liberals try to trash the forests; up to Queensland, where the Labor Party want to dig up Adani and sell it to the world; and across to Western Australia, where the Labor Premier, Mark McGowan, is seeking to open up the North West Shelf, a gas project which would contribute more to the global emissions of this country than the entire Adani project. This corruption leaks out across our community, across our nation, and binds the major parties together in a mutual pact of destruction—a mutual pact which says: 'Whatever happens, however many die, whatever the suffering, we shall continue to allow you to trash our planet. We shall continue to allow you to pollute as long as you fill our back pockets with the money we need to keep our position of power.'

This low, cynical politics, this cowardice, is why the Australian people look to this house in contempt. They hold the Prime Minister in contempt. They hold the opposition leader in contempt. They see what is being done here. They know the decisions that are being made.
They know that their kids' lives, that their families, are being sold out to the highest bidder, and they are revolted by it. They have gathered here in their thousands, in the weeks after some of the worst disasters ever to grip this country, to demand action. Your response is to turn them away and make excuses for your inaction. Shame on the lot of you! The damage is on your hands. The lives are on your hands. Good luck sleeping at night.

Senator McKIM (Tasmania—Deputy Leader of the Australian Greens in the Senate) (19:26): This debate clearly shows what the fossil fuel companies have bought through their donations to the major parties. They have bought deliberate ignorance. There is a clear and present danger between burning fossil fuels and dangerous climate change. There is a clear and present danger between strip mining our native forests and burning most of them on the ground, which is what the logging industry does, and dangerous climate change.

You will hear words, accurate words, like 'a climate emergency' or 'a climate crisis', but we need to be clear what that means: there is a clear and present link between burning fossil fuels—coal, oil, and gas—between strip mining our native forests and burning what's left on the ground and the bushfires that we have seen so tragically destroy so many millions of hectares and so many communities. Over a billion animals and 33 people are dead. Fires are made more dangerous and more likely as a result of the breakdown of our climate.

To those who come in here and keep running the agenda of the big emitting corporations—for the avoidance of doubt, that is the LNP and the ALP in this place: you are nothing but climate criminals and history will remember you as such, mark my words. Those who come in here and shill for big coal, big oil, big gas and big forestry are stealing. To them: you've stolen from those communities who were devastated by bushfires and you are stealing from your children, from your grandchildren and from their children. It is our descendants and billions of the poorest people around the world who will pay the price, just as many have paid the ultimate price in the bushfires that we've just seen.

I want to talk quickly about my home city of Hobart. We are one of the most vulnerable cities in Australia to bushfires. I tell you now, I shudder to think what will happen if, in one year's time, we get dry lightning strikes up in the Derwent Valley when it's a 40-degree day and the big nor'-westers and the big northerlies are all blowing. We could lose whole suburbs in Hobart as a result of bushfires. Whole suburbs could go. We are extremely vulnerable.

But we can't just focus on the risks. We have to focus on the solutions and what gives us hope. Renewables are a solution. We can plant trees instead of strip mining our forests. Plant trees to draw down carbon instead of emitting it. We've got to end those fossil fuel subsidies. We've got to break that nexus, that corruption, those links in the big donations from the big emitters to the major political parties. When I need hope, you know who I look to? I don't look to either of the major parties in this place. I look to the kids who come out on the climate strikes and say: 'Enough is enough. We are no longer prepared to sit quietly by and watch our future get trashed by people who will not act in line with the climate science.' So to those kids I say the Greens are with you. We back you in. We support you in what you're trying to achieve. Every day in here we will demand the major parties get with the program; end their shilling for big forestry, big oil, big gas and big coal; and start taking the action that the climate scientists have been telling us for decades that we need to take to reduce emissions and give us all some hope for the future.

The PRESIDENT: The time for the discussion has expired.
MOTIONS

Mining

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (19:31): I move:

That the Senate—

(a) notes that:

(i) Adani Mining has received a criminal conviction in relation to giving false and misleading information to the regulator in relation to unlawful clearing activities, and

(ii) criminal convictions are a trigger under section 145 of the Environment Protection and Biodiversity Conservation Act 1999 for review and revocation of approvals granted under that Act; and

(b) calls on the Federal Government to revoke Adani’s environmental approvals related to its Carmichael Coal mine.

Senator DUNIAM (Tasmania—Assistant Minister for Forestry and Fisheries and Assistant Minister for Regional Tourism) (19:31): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator DUNIAM: Advice to government is that the fine issued to Adani by the Brisbane Magistrates Court is not relevant to the power to revoke approvals section 145 of the Environment Protection and Biodiversity Conservation Act, as it relates to noncompliance with a Queensland requirement and not an EPBC Act requirement. The federal government approved Adani’s Carmichael mine in 2015, and Adani has now met all EPBC approval conditions to start extracting coal. Unlike others in this chamber who’ve treated this project with antimining hysteria, the federal government has taken a considered approach that will see this project proceed whilst meeting rigorous environmental standards.


The PRESIDENT: Leave is granted for one minute.

Senator GALLAGHER: Labor will not be supporting the motion. Approvals for any project must be in accordance with relevant Commonwealth, state and territory laws, and ministers must abide by these laws when exercising the powers available to them. The Senate is not the place to pick and choose the approval or otherwise of particular projects.

The PRESIDENT: The question is that motion No. 409, moved by Senator Waters, be agreed to.

The Senate divided. [19:37]

The President—Senator Ryan)

Ayes ......................9
Noes ......................48
Majority.................39

AYES

Di Natale, R
Hanson-Young, SC
Rice, J
Steele-John, J

Faruqi, M
McKim, NJ
Siewert, R (teller)
Waters, LJ

CHAMBER
Oil Exploration

Senator FARUQI (New South Wales) (19:41): I move:
That the Senate—
(a) notes that:
(i) Asset Energy has announced that it will not proceed with plans for seismic testing in the Petroleum Exploration Permit 11 zone, which was originally planned for thousands of square kilometres of ocean from Newcastle through the Central Coast to Manly in New South Wales,
(ii) while this is welcome news for ocean life, exploration through drilling could occur soon causing irreversible damage to the marine environment, and
(iii) there is a climate emergency and further coal, gas or oil reserves should not be developed if we have any chance of preventing more than 1 degrees of warming; and
(b) calls on the Federal Government to cancel Petroleum Exploration Permit 11.

Senator DUNIAM (Tasmania—Assistant Minister for Forestry and Fisheries and Assistant Minister for Regional Tourism) (19:41): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.
Senator DUNIAM: The government is committed to the safe and responsible development of Australia's offshore oil and gas resources. Any proposed well in the PEP 11 exploration permit will require full approvals from the National Offshore Petroleum Safety and Environmental Management Authority before any drilling can commence. The Chief Scientist, Dr Alan Finkel, has found that NOPSEMA is a world-class regulator with the world's best processes and practices. New gas resources close to demand centres are vital in order to bring down energy prices, to save manufacturing jobs and to bring down emissions. The Greens job-destroying policies put the economy at risk and undermine responsible climate policies.


The PRESIDENT: Leave is granted for one minute.

Senator GALLAGHER: Labor will not be supporting this motion. We support rigorous safety and environmental assessments that consider whether impacts and risks are acceptable on the basis of independent scientific expertise. Labor also believes that science and consultation, including with the community, should be at the heart of NOPSEMA's decision-making processes. All political parties should work towards coherent and effective policies to deal with climate change.

The PRESIDENT: The question is that motion No. 411, moved by Senator Faruqi, be agreed to.

The Senate divided. [19:43]

(The President—Senator Ryan)

Ayes ......................9
Noes ......................49
Majority.................40

AYES

Di Natale, R
Hanson-Young, SC
Rice, J
Steele-John, J
Whish-Wilson, PS

Faruqi, M
McKim, NJ
Siewert, R (teller)
Waters, LJ

NOES

Abetz, E
Askew, W
Bilyk, CL
Brockman, S
Canavan, MJ
Chandler, C
Davey, P
Fawcett, DJ
Gallagher, KR
Henderson, SM
Hume, J
Kitching, K

Antic, A
Ayres, T
Bragg, A J
Brown, CL
Carr, KJ
Colbeck, R
Duniam, J
Fierravanti-Wells, C
Hanson, P
Hughes, H
Keneally, KK
Lambie, J
NOES

McAllister, J
McDonald, S
McKenzie, B
McMahon, S
O'Sullivan, MA
Pratt, LC
Roberts, M
Ryan, SM
Sheldon, A
Smith, M
Stoker, AJ
Van, D
Watt, M

McCarthy, M (teller)
McGrath, J
McLachlan, A
Molan, AJ
Paterson, J
Rennick, G
Ruston, A
Scarr, P
Smith, DA
Sterle, G
Urquhart, AE
Walsh, J

Question negatived.

BILLS

Australian Education Legislation Amendment (Prohibiting the Indoctrination of Children) Bill 2020

First Reading

Senator HANSON (Queensland) (19:47): I move:
That the following bill be introduced:
A Bill for an Act to amend the Australian Curriculum, Assessment and Reporting Authority Act 2008 and the Australian Education Act 2013, and for related purposes.

Question agreed to.

Senator HANSON: I present the bill and move:
That this bill may proceed without formalities and be now read a first time.

Leave granted.

Second Reading

Senator HANSON (Queensland) (19:48): I move:
That this bill be now read a second time.

I seek leave to table an explanatory memorandum relating to the bill.

Leave granted.

Senator HANSON: I table an explanatory memorandum, and I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—
The purpose of this legislation is to give parents the legal right to protect their children from indoctrination at school.
Educators argue there is no need for legislation to protect children from indoctrination, because school children can use their critical thinking skills. That is a cop out, because students are no match for an adult using their positional power to instruct.

Parents have the responsibility to decide how their children will be educated, provided it is in the best interests of the children. Parents want their children educated, not indoctrinated.

Firstly the Bill seeks to prevent indoctrination by placing an obligation on the Australian Curriculum, Assessment and Reporting Authority to develop a balanced curriculum for States and Territories to adopt. This is currently not the case in many subject areas, including climate.

The current climate curriculum (ACSES092) states as fact that near surface temperatures are increasing, sea levels are rising and mountain glaciers are melting. Further, the Australian Curriculum says most agree that human activity is responsible for the majority of measured global warming. Climate science is far from settled however, with no one knowing the climate's sensitivity to increasing carbon dioxide in the atmosphere.

Secondly, the Bill seeks to tie federal education funding to the existence of State and Territory legislation which prohibits indoctrination in schools. Gender fluidity theory is widely taught in schools even though it is a medical and scientific fact that inheritance from your father of a Y chromosome makes you a biological male, and inheritance of an X chromosome from your father makes you a biological female.

Most parents do not support the promotion of gender fluidity theory being taught in schools and they are quite right because it is dangerous.

Parents can move their children to another school or home school them, but they ought to have the right to challenge indoctrination wherever it occurs.

I am going to use climate studies and gender studies as two examples of why we need the laws proposed in this Bill.

In 2007, Mr Stewart Dimmock challenged the way climate studies was being taught in English secondary schools where the government held beliefs identical to the ones now being taught to our children.

The court had the power to look at Mr Dimmock's concerns, because sections 406 and 407 in the UK Education Act 1996 dealt with indoctrination in schools.

The case concerned teaching materials described as the 'English Secondary Schools Climate Pack' which included Al Gore's film An Inconvenient Truth.

Two graphs presented in the film relate to a 650,000-year, time period. One graph shows increasing CO2 and the other increasing temperature. Al Gore says the two graphs provide evidence that increasing CO2 has caused increasing global temperature.

The Judge did not agree, finding the two graphs simply showed increasing CO2 and increasing temperature had occurred over the same time period.

The two graphs equally support the two opposing theories at the centre of the climate debate. Firstly, increasing CO2 is causing an increase in global temperature and secondly increasing global temperature is causing increasing CO2.

Either Gore made an interpretative mistake or like the writers of the Australian Curriculum decided to support one of the theories about global warming.

Al Gore is a climate crusader, under no obligation to present both sides of the debate. In the UK, teachers and schools are obliged to present verifiable facts and provide a balanced presentation of theories which explain those facts. Unfortunately Australian teachers and schools are not under the same legal obligation.
The British Government gave an undertaking to the court to correct all the factual errors in the film, including Al Gore's interpretative mistake.

Three years after the Inconvenient Truth case finished and the judgement had been written, the United Nations Intergovernmental Panel on Climate Change (IPCC) owned up to a shocking scientific fraud concerning the melting of the Himalayan glaciers.

If the Judge had known that a media release from an activist group was the source of the scientific claim that the Himalayan glaciers were melting, he would not have relied on the IPCC documents tendered to the court as evidence. Sadly, Australian teachers and schools are still relying on IPCC reports which make claims that are not supported by science.

The IPCC is a repeat victim of dodgy scientists and dodgy science, meaning that the IPCC can no longer be considered an authoritative source on climate.

The Australian climate curriculum would benefit from the study of the Inconvenient Truth case, Glaciergate and Climategate scandals because students need to be open to the possibility they will be misled and lied to by scientists.

So how did teachers and teacher unions in the United Kingdom respond to the findings of the High Court of England? They were outraged that the Teacher Guidance Notes were re-written to include references to all the errors in the film. They were further outraged that the court found teachers were not experts in climate studies and would be required to warn pupils that there were other scientific opinions on global warming, and that students should not necessarily accept the views in Al Gore's film.

The largest teachers union in Wales questioned the right of any Judge to say what should be taught in schools and how.

I expect this attitude is widespread here in Australia, because educators feel they know better than parents.

The growing lack of quality education provided means that some students are worried about the future of planet earth. These indoctrinated young people believe the severity of the current bush fire season is attributable to man-made global warming, but like Al Gore they lack the necessary critical thinking and research skills to discover the real reason.

The real reason for the tragic loss of life and property in the past few months is the direct result of the government's failure to reduce fuel on the floor of national parks, and the government's failure to allow land-owners to clear their properties.

Exaggeration about global warming comes from groups, like Extinction Rebellion, who want to replace capitalism with socialism. Their environmental interests are just a means to that end.

I now want to turn to gender theory indoctrination in schools. It involves some teachers and schools pushing the idea that a child's biological sex does not determine whether you are male or female.

It is based on the theory of gender fluidity pioneered by Alfred Kinsey who believed children were sexual from birth and that the age of consent should be lowered to 7. The fathers of transgender theory, Dr Harry Benjamin and Dr John Money, liked Dr Alfred Kinsey's theory of gender fluidity and his ideas. They ruined the lives of an unknown number of children, including the Reimer twins, but still some teachers and schools in Australia are attempting to encourage gender confusion among children.

These teachers and schools have had some success because gender confusion is increasing among young children and teenagers. Even the Australian Medical Association is worried about the dramatic increase in children seeking hormone and surgical treatment for gender confusion. In Queensland it has been reported that the number of children and teenagers seeking hormone treatment has increased by 330% in the past five years.
The preoccupation with gender identity by some teachers and schools is correlated with an increase in children identifying as transgender, which is why I say these educators are transgendering our children.

So, how do educators create gender confusion at school?

In Queensland some teachers are reading stories like the Gender Fairy to 4 and 5-year-old children. The Gender Fairy shows young children that they can choose their gender, because their body parts don't make them a boy, or a girl.

In Western Australia some 8-year-olds are spending learning time dressing up as the opposite sex, using a government-supplied box of dress up clothes. By the time these students are in year 9 they will have a new vocabulary based on gender diversity theory, and they will have been taught the art of sexting and advanced sexual techniques.

In Queensland, the government has decided that parents cannot be allowed to know whether the ‘Safe Schools' program is being taught in a school their child attends. The Safe Schools Coalition has labelled Queensland parents 'homophobic and transphobic' and says the government's decision to keep the program secret from parents is justified. I do not agree.

Advocates for the Safe Schools program say this program and others like it promote equality of opportunity and combat bullying at school. In practice nothing could be further from the truth, because girls are being bullied into losing their rights.

Students who do not show the required level of enthusiasm for the radical LGBTQI agenda, including materials like the Genderbread Person, are humiliated and embarrassed by teachers, according to reports from parents.

School policies in every State and Territory are based on the belief it would be discriminatory to separate biological males from girls with whom they share the same gender identity.

Transgender policies in the education system mirror policies underpinning the laws in Australia where biological sex has been redefined to include chosen gender identity. These policies provide a small number of transgender people with rights at the expense of the majority, particularly girls and women.

The following recent case came before a Canadian court, but could just as easily have come before the Human Rights Commission in Australia: Jessica Yariv now identifies as a transgender woman. Jessica has also sought relationships with underage girls.

In 2018 Jessica complained to the British Columbia Human Rights Tribunal, because several women in beauty salons had declined to provide waxing and other beautician services to Jessica's male genitals. Jessica argued that the women were guilty of transphobic discrimination.

The case was lost in 2019, in part because the court found Jessica was motivated by money and revenge on South East Asian women who held ideas hostile to LGBTQ people.

The point I want to make is that the re-definition of a person's biological sex as gender identity in law will be abused.

Policy makers say they want to protect minorities. There is nothing wrong with that, but when educators protect the rights of a minority by stripping girls of their rights then something is wrong. We all see that in the decision of education bureaucrats to provide unisex toilets at the Fortitude Valley State Secondary College.

I understand the school, which opened in 2020, has now changed its unisex toilet policy and returned to segregated toilets. This decision followed angry protests from parents and students, but that does not end the matter.
The Queensland Government needs to explain why boys and girls aged 12 and 13 had to give up their right to dignity, safety and privacy. Is it to accommodate the needs of one transgender child who may attend the school?

If the school suggests that all they are doing is creating the same situation as the children have at home, I can tell them that explanation met with outrage at another school.

The decision to force children to use unisex toilets is just part of larger plan to get children preoccupied with gender issues.

Other policies which aid gender preoccupation include gender neutral uniforms, library policies to buy gender theory affirming books, and teachers putting gender theory stories on reading lists.

How did we get to the situation where schools are preoccupied with gender theory issues?

It begins with a belief that our experience is rooted in our membership of gender group, and that membership of that gender group makes it more likely we will suffer discrimination and oppression. These left leaning elites see life as one long battle of identity groups for social justice.

Identity politics causes division and undermines democracy, which is precisely what socialists and progressives want because it undermines our democracy, which is based on common interests. We need to stop that kind of indoctrination at schools where it starts.

In 2017 President Trump rolled back the transgender rights put in place by Obama. We should do the same.

Our children deserve an education that will allow them to reach their potential and will, as the late Roger Scruton stated, provide society with a store of knowledge to be passed from one generation to another.

We want our children educated for life and not indoctrinated so they can be controlled by others, and we need laws to guarantee parents' rights to challenge indoctrination.

Australian 15-year-olds are falling behind their counterparts on global tests of literacy and numeracy. The curriculum is over-crowded. I suggest teachers and schools focus on the basics, so our children don't leave school with skill levels three years behind their global counterparts.

In my view parents should be required to give their consent to their child's participation in the teaching of LGBTQI+ theory. Parents do not have that right, but they can move their child to another school or home school them.

By now I would have hoped the Liberal Government would have acted to protect our children from indoctrination, but they have not which leaves it to One Nation to draw attention to this problem and offer up a solution.

Senator HANSON: I seek leave to continue my remarks later.

Leave granted; debate adjourned.

MOTIONS

Telecommunications: CapTel

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (19:48): I move:

That the Senate—
(a) notes that the Government cut the access of Australian users to CapTel through the National Relay Service (NRS) on 1 February 2020;
(b) welcomes the actions of Ultratech, a US-based company, to establish an interim CapTel service for Australian users;
(c) notes the statement by the Ultratech CEO, Mr Rob Engelke, on 1 February 2020:
"I have been genuinely moved by the outpouring of heartfelt messages from Australians who are clearly distressed and frightened about living without CapTel. CapTel has been available for over ten years in Australia and I believe it is not acceptable to leave CapTel users without access to family, friends, employment, emergency services and the myriad ways that all of us use the telephone".

"Therefore, as a temporary measure, I have instructed our American captioning centers to support existing Australian CapTel handsets so that they will continue to operate with captions while, we investigate long-term options based in Australia".

(d) further notes that:

(i) cutting access to CapTel through the NRS has created distress for senior deaf and hearing impaired Australians, and a permanent loss of service would negatively affect their quality of life and sense of security and safety at home,

(ii) while the Government has been prepared to protect a Cabinet Minister whose administration of the $100 million community sports grant program has been criticised by the Auditor-General, they have not been prepared to protect the dignity and wellbeing of senior deaf Australians, and

(iii) the Minister for Communications, Cyber Safety and the Arts, has now attempted to blame the 2013 Labor Government, the public service, the previous relay provider, and recently the US technology licensee, for the Government's own decision to cut funding and services;

(e) condemns the Government for its lack of consultation with CapTel users, or their concerned family members, before imposing a decision that would affect their welfare; and

(f) calls on the Minister for Communications, Cyber Safety and the Arts to stop the misinformation and buck passing, and move urgently to reach an agreement to secure ongoing access to CapTel.

Senator DUNIAM (Tasmania—Assistant Minister for Forestry and Fisheries and Assistant Minister for Regional Tourism) (19:48): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator DUNIAM: Australia's National Relay Service has a range of services to support people who are deaf, hard of hearing or have a speech impairment to make and receive phone calls. The CapTel handset, which uses proprietary technology owned by a US company, Ultratec, ceased to be supported under the NRS from 1 February this year. The government advises any remaining CapTel users to migrate to the NRS supported alternatives. The government remains open to CapTel being supported by the NRS if Ultratec can strike a suitable commercial arrangement with the current NRS provider, Concentrix. Existing CapTel users should be aware that there is no certainty that such an arrangement can be reached.

The PRESIDENT: The question is that motion No. 404 be agreed to.

The Senate divided. [19:53]

(The President—Senator Ryan)

Ayes ................. 33
Noes ................. 29
Majority .......... 4

AYES

Ayers, T
Brown, CL
Chisholm, A
Di Natale, R
Faruqi, M

Bilyk, CL
Carr, KJ
Ciccone, R
Dodson, P
Gallagher, KR
I seek leave to amend general business notice of motion No. 408, relating to a Commonwealth integrity commission.

The PRESIDENT: Leave is granted. I understand it has been circulated, Senator Waters?

Senator WATERS: Yes, it has been circulated in the chamber. I move the motion as amended:

(1) That the Senate notes that:

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**National Integrity Commission Bill 2018 (No. 2)**

Senator WATERS (Queensland—Leader of the Australian Greens in the Senate) (19:56): I seek leave to amend general business notice of motion No. 408, relating to a Commonwealth integrity commission.

The PRESIDENT: Leave is granted. I understand it has been circulated, Senator Waters?

Senator WATERS: Yes, it has been circulated in the chamber. I move the motion as amended:

(1) That the Senate notes that:
(a) the Senate passed the Australian Greens’ National Integrity Commission Bill 2018 (No. 2) on 9 September 2019 to establish a federal corruption watchdog with broad remit to investigate allegations of corruption and misconduct, and to ensure strong, independent oversight of the actions of parliamentarians; and

(b) public consultation on the Commonwealth Integrity Commission model proposed by the Government ended more than one year ago, but the Government has yet to introduce legislation to establish an integrity commission,

(2) That the Senate calls on the Federal Government to bring on the Australian Greens’ National Integrity Commission Bill 2018 (No. 2) in the House of Representatives for a vote in the February 2020 sittings.

(3) That this resolution be sent to the House of Representatives for concurrence.

Senator DUNIAM (Tasmania—Assistant Minister for Forestry and Fisheries and Assistant Minister for Regional Tourism) (19:56): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator DUNIAM: The government is committed to introducing a Commonwealth integrity commission that is well designed and avoids the significant issues of the Greens bill, including overlap with existing integrity agencies and the potential to use serious coercive powers to investigate minor disciplinary matters and publicly funded journalists. The government will soon release an exposure draft of legislation to establish the CIC for public consultation.

The PRESIDENT: The question is that motion no. 408, as amended, be agreed to.

The Senate divided. [19:58]

(The President—Senator Ryan)

Ayes .................... 33
Noes ..................... 29
Majority ............... 4

AYES

Ayres, T
Brown, CL
Chisholm, A
Di Natale, R
Faruqi, M
Griff, S
Hanson-Young, SC
Lambie, J
McCarthy, M (teller)
O’Neill, D (teller)
Pratt, LC
Roberts, M
Siewert, R
Steele-John, J
Urquhart, AE
Waters, LJ
Whish-Wilson, PS

Bilyk, CL
Carr, KJ
Ciccone, R
Dodson, P
Gallagher, KR
Hanson, P
Kitching, K
McAllister, J
McKim, NJ
Patrick, RL
Rice, J
Sheldon, A
Smith, M
Sterle, G
Walsh, J
Watt, M
Question agreed to.

**Address by the President of the Republic of Indonesia**

_Senator DI NATALE_ (Victoria) (20:02): I ask that general business notice of motion No. 412, relating to the visit by the President of the Republic of Indonesia, be taken as a formal motion.

**The President:** Is there any objection to this motion being taken as formal? There is an objection.

_Senator DI NATALE:_ In lieu of suspending standing orders, I seek leave to make a one-minute statement.

**The President:** Leave is granted for one minute.

_Senator DI NATALE:_ We've just had a visit from the President of Indonesia. He himself, during his speech, acknowledged the importance of upholding human rights, yet, in Indonesia right now, in the second half of last year and into this year, we've seen a dramatic escalation in the human rights abuses being perpetrated on the West Papuan people. We know that the West Papuans have endured human rights abuses for decades. We know that they've been denied the right to self-determination. We know that there has been a slow-motion genocide occurring in Indonesia. West Papuans have been killed protesting. They've been detained without charge, or detained and charged for treason, simply for flying their own flag. We need the Australian government to call on the President to uphold human rights and to ensure that there is access for journalists and human rights monitors into Indonesia. *(Time expired)*
Senator DUNIAM (Tasmania—Assistant Minister for Forestry and Fisheries and Assistant Minister for Regional Tourism) (20:03): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator DUNIAM: Australia and Indonesia are close friends, neighbours and comprehensive strategic partners. Australia recognises Indonesia's sovereignty over the provinces of Papua and West Papua. This is a bipartisan position in Australia, underlined by the 2006 Lombok Treaty between Australia and Indonesia. Indonesian sovereignty is widely recognised by the international community. The Australian government condemns all violence in the Papua provinces affecting civilians and security personnel alike. Our consistent position has been that the rights of all citizens in Indonesia should be upheld and credible allegations of human rights abuses in Indonesia, including in the Papua provinces, should be investigated.

Morrison Government: Ministerial Standards

The PRESIDENT (20:04): On Thursday afternoon after 4.30 pm a division was called for on a motion moved by Senator Ayres at the request of Senator Gallagher relating to ministerial standards. I understand that it now suits the convenience of the Senate for that division to be held. The question is that the following motion moved by Senator Ayres last Thursday be agreed to:

That the Senate—

(a) notes the Morrison Government's consistent failure in 2019 and 2020 to uphold its own Statement of Ministerial Standards or to be an open, transparent and accountable government in line with the expectations of the Australian community on matters, including:

(i) Prime Minister Morrison’s failure to act for over a fortnight on the Auditor-General’s scathing report into the Community Sports Infrastructure program, overseen by former Minister McKenzie,

(ii) Prime Minister Morrison’s failure to release his former political chief of staffs advice on Minister McKenzie’s breach of the Ministerial Standards,

(iii) the cloud hanging over former Minister Canavan following his failure to declare a potential conflict of interest in his portfolio,

(iv) Prime Minister Morrison’s failure to explain the ongoing criminal investigation by New South Wales Police, encompassing the use of the fraudulent document by Minister Taylor, referred to the Australian Federal Police in December 2019,

(v) Prime Minister Morrison’s inappropriate contact with the New South Wales Police Commissioner regarding a criminal investigation into a member of his Cabinet, the Minister for Energy and Emissions Reduction, Mr Taylor,

(vi) Prime Minister Morrison’s refusal to confirm whether he invited the head of the Hillsong Church, Pastor Brian Houston, to a state dinner in Washington DC,

(vii) Prime Minister Morrison’s refusal to uphold his own ministerial standards for former Ministers Pyne and Bishop,

(viii) Prime Minister Morrison’s refusal to require Mr Gladys Liu, MP, to make a full and frank statement to the Parliament,

(ix) Minister Taylor’s and Minister Frydenberg’s involvement in the ‘grasslands’ affair,

(x) Minister Taylor’s use of falsified information in correspondence to the Lord Mayor of Sydney,

(xi) Minister Porter’s appointments to the Administrative Appeals Tribunal,
(xii) Minister Hunt’s awarding of MRI licences in South Australia, and
(xiii) Minister Dutton’s awarding of the $423 million Paladin contract; and

(b) expresses its disappointment in the Morrison Government’s ongoing disregard for its Statement of Ministerial Standards, the conventions of our parliamentary system of government, and the expectations of the Australian community for integrity and accountability in government.

The Senate divided. [20:09]

(The President—Senator Ryan)

Ayes ...................... 34
Noes ...................... 30
Majority ............... 4

AYES

Ayres, T
Brown, CL
Chisholm, A
Di Natale, R
Faruqi, M
Griff, S
Hanson-Young, SC
Lambie, J
McCarthy, M (teller)
O’Neill, D
Polley, H
Rice, J
Sheldon, A
Smith, M
Sterle, G
Walsh, J
Watt, M

Bilyk, CL
Carr, KJ
Ciccone, R
Dodson, P
Gallagher, KR
Hanson, P
Kitching, K
McAllister, J
McKim, NJ
Patrick, RL
Pratt, LC
Roberts, M
Siewert, R
Steele-John, J
Urquhart, AE
Whish-Wilson, PS

NOES

Abetz, E
Birmingham, SJ
Brockman, S
Chandler, C
Davey, P
Henderson, SM
Hume, J
McGrath, J
McLachlan, A
Molan, AJ
Paterson, J
Renwick, G
Ruston, A
Scarr, P
Stoker, AJ

Askew, W
Bragg, A J
Canavan, MJ
Colbeck, R
Duniam, J
Hughes, H
McDonald, S
McKenzie, B
McMahon, S
O’Sullivan, MA
Payne, MA
Reynolds, L
Ryan, SM
Smith, DA (teller)
Van, D

PAIRS

Farrell, D

Fierravanti-Wells, C
Question agreed to.

**DOCUMENTS**

**National Children's Commissioner**

**Consideration**

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (20:11): In respect of the National Children's Commissioner's children's rights report of 2019, *In their own right: children's rights in Australia*, I move:

That the Senate take note of the document.

This is an extremely important report from the Children's Commissioner, Megan Mitchell, and I congratulate her on this report. She starts the report by saying:

As National Children's Commissioner, I want to see that all Australia's children grow up loved, safe and respected, are heard, and have every opportunity to realise their full potential.

I'm sure that everybody in this place agrees with her in those comments at the opening of this very important report, and I urge all parliamentarians to read this report.

Her report makes 83 recommendations, and it tells the story of how well children's rights are being protected and promoted across Australia. Sadly, it shows that there are too many of Australia's children whose rights are not being adequately protected. The alarming trends highlighted in this report include: child deaths by suicide and hospitalisations for intentional self-harm have increased; approximately 17 per cent of children under the age of 15 live in poverty; there has been a 27 per cent increase in reported substantiations of child abuse and neglect; and the number of children in out-of-home care has increased by 18 per cent over the last five years.

As I said, there are 83 excellent recommendations in this report which I think need implementation. The report recommends we develop a national plan for child wellbeing. How sensible and essential is that? Absolutely essential. It also recommends prevention and early intervention programs to reduce the number of children entering our child protection systems, in which, as I said, there has been a disgraceful 18 per cent increase over the last five years. It talks about removing barriers to sustained reunification of children with their families, something which is not happening and we're not putting enough resources into. Importantly, it talks about increasing the age of leaving out-of-home care so that children can stay in out-of-home care longer than the current 18 years, which is about the standard around Australia. It also talks about making transition payments longer for young people leaving out-of-home care.

I also want to draw the Senate's attention to the issue of youth justice, which is also covered extensively in this report. There is still a significant number of children in Australia who are subject to punitive approaches and who are caught up in the offending and punishment cycle. In 2017-18, 974 children were in youth justice detention. Sixty per cent of
these children were in fact unsentenced, with 56 per cent being First Nations children. The reality is that children as young as 10 years of age have been put in detention in Australia. As a result, we are failing children in this country, especially our First Nations children.

There are many reasons for raising the age of criminal responsibility, including that it would decrease the over-representation of First Nations children in detention. Children have not developed the requisite level of maturity to form the necessary intent for full criminal responsibility and children have lack of capacity to properly engage in the criminal justice system. That's why the Greens support the recommendation made by the Children's Commissioner to raise the minimum age of criminal responsibility to at least the age of 14 years. Kids are being locked up across Australia when the detention of children should in fact be the last resort. We urgently need to implement the reforms to the criminal justice system, many of which were outlined in the Northern Territory royal commission and its many excellent recommendations.

If we are serious about reducing the over-representation of First Nations children in the youth justice system, we need to raise the age of criminal responsibility immediately. Once again, I urge the Senate and members of the House of Representatives to read this excellent report and the 83 recommendations which would make the lives of children in this country much better. We need a national plan for child wellbeing. We need a senior minister to take responsibility for children's wellbeing. If we look after children's wellbeing, they'll grow into healthy, happy adults and that will make such a difference to this country. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

DOCUMENTS

Attorney-General's Department

Order for the Production of Documents

Documents were tabled pursuant to the order of the Senate of 5 February 2020 for the production of documents relating to unanswered and overdue questions that were taken on notice by the Attorney General's Department in the 2019-20 supplementary estimates round.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Community Sport Infrastructure Grant Program

Senator SESELJA (Australian Capital Territory—Assistant Minister for Finance, Charities and Electoral Matters) (20:18): I table the response to a question taken on notice during question time on 6 February 2020 asked by Senator Kitching relating to Community Sport Infrastructure Grants Program. I seek to have the correspondence incorporated in Hansard.

Leave granted.

The answer read as follows—

Dear Mr President

I write with regard to a question I took on notice from Senator Kitching during Question Time on Thursday 6 February 2020 on the matter of the report prepared by Secretary Gaetjens.
I can advise that Secretary Gaetjens was asked by the Prime Minister to prepare the advice on the adherence to the Statement of Ministerial Standards by Senator McKenzie and it was considered by the Governance Committee of Cabinet.

It is longstanding practice, and stated in the Cabinet Handbook, not to disclose information about the operation and business of Cabinet, as to do so could potentially reveal the deliberations of the Cabinet, which are confidential.

The Secretary has discussed the report with Senator McKenzie.

I have copied this letter to the Prime Minister and Senator Kitching.

Kind regards
Mathias Cormann
Minister for Finance
10 February 2020

BILLS
Australian Business Growth Fund Bill 2019
First Reading

Bill received from the House of Representatives.

Senator SESELJA (Australian Capital Territory—Assistant Minister for Finance, Charities and Electoral Matters) (20:19): I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator SESELJA (Australian Capital Territory—Assistant Minister for Finance, Charities and Electoral Matters) (20:19): I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

This Bill introduces new legislation that authorises the Commonwealth Government to participate in forming, and acquiring shares in or debentures of, the Australian Business Growth Fund (BGF), and appropriates $100 million for that purpose.

The Australian BGF’s purpose will be to offer growing, established companies and entrepreneurs patient capital and strategic support, to assist them to reach their growth potential.

With better access to more competitive finance, SME’s will be able to grow, fulfil their potential and continue to underpin Australian economic growth and employment.

Small and Medium Enterprises (SMEs) are a key driver of activity and growth in the Australian economy. SMEs generate employment, drive innovation and boost competition in markets. In 2016-17, there were over 2.2 million SMEs (those employing up to 199 employees) in Australia, accounting for around 68 per cent of private sector employment. Furthermore, a culture of innovation in business is a key factor in boosting Australia’s productivity over the medium- to long-term.
A challenge for SMEs seeking to grow can be access to capital. In 2018, the Reserve Bank of Australia released a report outlining the difficulties Australian SMEs face in accessing finance.

Australia currently lacks a patient capital market for SMEs. Patient capital can provide entrepreneurs the finance needed to expand without relinquishing control of their business. Patient capital equity funds established in the UK and Canada have shown that there is a demand for this type of finance and that patient capital investment can be profitable for investors.

The Australian BGF has been modelled on the established UK and Canadian equivalents where a company collectively owned by financial institutions provides long term capital and business guidance to small and medium businesses.

The Australian BGF will provide long-term patient capital to a number of small and medium businesses each year. Small businesses will have to demonstrate three years of revenue.

Established Australian businesses will be eligible for long-term equity capital investments growth and profitability and a clear growth vision in order to be eligible to receive capital from the BGF. Business seeking support can be from across Australia (from metropolitan areas to regional Australia). Support offered will be both financial (investment) and non-financial (provision of strategic advice, mentoring, talent management and network referrals for small businesses to access) between $5 million and $15 million, where they can demonstrate three years of revenue growth and profitability and a clear growth vision.

The BGF’s investment stake will be between 10 and 40 per cent, allowing small business owners to maintain controlling interest, while also allowing the BGF to have sufficient influence to encourage business growth.

To facilitate sufficient support for the small business market and using international precedent as a guide, the BGF’s initial fund size is anticipated to be around $500 million, with potential to grow to around $1 billion. Its size however will be dependent on the number of financial institutions that participate and the amount they invest, and will be subject to further analysis of market opportunity and demand.

Last week, I announced that the Government had agreed key terms with NAB, CBA, Westpac and ANZ where each of us will invest $100 million and HSBC and Macquarie Group $20 million each. If the Parliament passes this legislation, it will allow the Government to invest in the Australian Business Growth Fund which will see $540 million invest in Australian small and medium businesses allowing these businesses to reach their full potential. I would like to thank NAB for leading their work in leading the working group that has bought the parties to this point.

Full details of the measure are contained in the Explanatory Memorandum.

The ACTING DEPUTY PRESIDENT (Senator Bilyk): In accordance with standing order 115(3), further consideration of this bill is now adjourned to 21 February 2020.

Trade Support Loans Amendment (Improving Administration) Bill 2019

First Reading

Bill received from the House of Representatives.

Senator SESELJA (Australian Capital Territory—Assistant Minister for Finance, Charities and Electoral Matters) (20:20): I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.
Second Reading

Senator SESELJA (Australian Capital Territory—Assistant Minister for Finance, Charities and Electoral Matters) (20:20): I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

Today I am introducing the Trade Support Loans Amendment Bill. This Bill will improve the administration of the Trade Support Loans (TSL) program by providing another avenue for Australian Apprentices to pay overpayment debts. During the 2018-19 financial year, the Trade Support Loans Program provided financial support to 55,998 Australian Apprentices to assist with everyday costs whilst completing their apprenticeship.

The measure proposed by this Bill will allow TSL overpayments to be managed with minimum administrative burden on Australian Apprentices.

An example of when an overpayment might occur is where an Australian Apprentice temporarily ceases their apprenticeship and an instalment of TSL is made before the Department is notified of the apprenticeship ceasing. In such circumstances, instead of the Australian Apprentice being invoiced to repay the amount back to the Commonwealth, under this Bill the delegate can reduce the amount of future payable instalments, effectively offsetting the overpayment against those instalments.

This Bill will provide legislative footing for offsetting as a way of recovering overpayment debts.

The Bill also aligns the TSL written notification periods to allow for more flexibility:

- In respect of the notice requirements relating to the delegate's general information-gathering powers, the Bill will provide the delegate with a discretion to specify a period, longer than 14 days, for notifying a change of the person's address.
- In respect of the delegate's notice regarding the obligation to notify change of circumstances, the Bill will also align the minimum notification period with that of the Secretary's general information-gathering powers.

The Australian public can be confident that the new offsetting arrangements will continue to support Australian Apprentices whilst undertaking their apprenticeship. This Bill is part of Government's ongoing commitment to reducing red tape and safeguarding the integrity and reputation of its income contingent loan programs.

I commend the Bill.

Debate adjourned.

Treasury Laws Amendment (Research and Development Tax Incentive) Bill 2019

First Reading

Bill received from the House of Representatives.

Senator SESELJA (Australian Capital Territory—Assistant Minister for Finance, Charities and Electoral Matters) (20:21): I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.
Second Reading

Senator SESELJA (Australian Capital Territory—Assistant Minister for Finance, Charities and Electoral Matters) (20:21): I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

The Government is committed to backing R&D in Australia and the economic opportunities and jobs it creates.

In 2019-20 the Government's total support for R&D is estimated to be around $9.6 billion. This includes almost $400 million for our Medical Research Future Fund and record funding of over $860 million for Australia's national science agency — the CSIRO.

Today the Government is reintroducing legislation to reform the Research and Development Tax Incentive — reforms that will ensure that the tax incentive remains an effective and sustainable part of Australia's overall support for R&D.

The reforms, announced in the 2018-19 Budget, are a response to the 6 month '3-Fs' review into the incentive - chaired by the former Treasury Secretary, John Fraser, then Chair of Innovation Australia, Bill Ferris, and Australia's Chief Scientist, Alan Finkel.

That Review found that the incentive is falling short of meeting its objectives of supporting additional R&D activities that generate broader benefits for the Australian economy.

The measures contained in this Bill respond to these findings.

The key reforms to the incentive are contained in Schedule 1 to the Bill.

Firstly, the existing flat premium available to companies above an annual turnover of $20 million is being changed to one that increases as a company's R&D intensity increases. This will provide an incentive for companies to increase their R&D expenditure.

Relative to the Bill introduced in the previous Parliament, the intensity test has also been simplified with a three tier test replacing the previous four tier system.

Secondly, the maximum amount of R&D expenditure eligible for concessional R&D tax offsets will increase from $100 million to $150 million per annum. This gives the largest investors in R&D an incentive to keep their R&D activities in Australia.

Smaller companies, with an annual turnover below $20 million, will continue to be supported by the Government through fixed R&D support of 13.5 percentage points above their company tax rate. To ensure the sustainability of the regime, they will have their annual cash refunds capped at $4 million, twice the amount recommended in the Review. Clinical trials are exempt from this cap.

Importantly, the start date of the measure has been deferred by 12 months so that the changes apply from income years commencing on or after 1 July 2019.

Schedule 2 of this Bill will introduce a number of amendments into the income tax law to bolster the integrity of the incentive. These changes will ensure that the concessional treatment available under the incentive is only claimed by those companies undertaking genuine Research and Development.

Schedule 3 of this Bill makes a number of changes to the tax incentive regime to improve public accountability and transparency.

This includes the public disclosure of claimant details and the R&D expenditure they have claimed. Furthermore, the Board of Innovation and Science Australia will have the ability to make public
determinations and binding decisions about R&D eligibility, providing greater clarity to claimants as to what is eligible.

In better targeting and improving the integrity and sustainability of the Research and Development Tax Incentive, the reforms in this Bill will ensure that the Incentive remains an important part of the Government's overall support for Research and Development in Australia.

Full details of these measures are contained in the explanatory memorandum.

The ACTING DEPUTY PRESIDENT (Senator Bilyk): In accordance with standing order 115(3), further consideration of this bill is now adjourned until 30 April 2020.

Intellectual Property Laws Amendment (Productivity Commission Response Part 2 and Other Measures) Bill 2019
Returned from the House of Representatives

Message received from the House of Representatives returning the bill without amendment.

Treasury Laws Amendment (Combating Illegal Phoenixing) Bill 2019
Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendments made by the Senate to the bill.

COMMITTEES

Implementation of the National Redress Scheme: Joint Select Committee Membership

Message received from the House of Representatives notifying the Senate of changes in the membership of the Joint Select Committee on Implementation of the National Redress Scheme, as follows:

Message no. 153, dated 10 February 2020—Appointed—Dr Allen, Dr Webster, Ms Hammond and Mr Sharma.

BILLS

Treasury Laws Amendment (2018 Measures No. 2) Bill 2019
Second Reading

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

Senator BRAGG (New South Wales) (20:23): I rise tonight to conclude my remarks in relation to the Treasury Laws Amendment (2018 Measures No. 2) Bill 2019—the fintech bill. I guess the reason we're doing this is that we are deeply committed to more Australian jobs and to giving Australian consumers more choice. Ultimately, that is the objective of everything in this fintech space.

Today there is some very good news that, as reported by The Australian Financial Review, the PitchBook, or KPMG, report has announced that we have delivered a record $1.7 billion in investment into start-ups to date, which is against the trend in our own region, where we've actually seen a reduction of investment into start-ups and small businesses. In the last year, you've seen significant new companies like Airwallex and Canva emerge. These are real
people with real ideas, creating real jobs which are giving consumers and small businesses new choice when it comes to doing business here in Australia. So, before you have a technical discussion about why you want to have a particular bill or a particular change to a bill, it's always worth remembering why we're doing it, and we're doing it because we want more jobs in this country and we want consumers to have a better choice.

The Hayne royal commission into financial services showed that the incumbents aren't doing a very good job, and that is why it is very important to foster and grow this fintech bridge, because, if people want more choice and more competition, this is the way to deliver innovation in this space. So one of the common threads of this coalition government over many years has been a commitment to innovation, a commitment to more consumer choice and a commitment that government will foster new ideas. We won't get into the market ourselves, because we believe in the market, but we want to make sure that the market can bring new ideas into this country.

The sandbox which was introduced as part of the National Innovation and Science Agenda has been considered to be underused, I would have to say. What we are now seeking to do is to make it more user friendly and more flexible. This is a dynamic approach which governments across the board should try to do more of. We've introduced a flexible scheme, the sandbox. It is not sufficiently flexible, so we are making it more flexible so more organisations can try it in that safe regulatory environment. Remember, this is about more jobs and more consumer choice. If you don't have a sandbox and these sorts of measures, frankly, these sorts of ideas will very quickly disappear abroad. Labour and capital are mobile, so, unless you're competitive and dynamic in responding to what the market is asking for, you can kiss goodbye to these jobs.

This dynamic approach is reflected in this bill. Labor have an amendment where they want to basically wind the clock back and make it much more rigid. The whole point of accountability in this space is very important; I grant the Senate that. I've always been of the view that we elect people into these chambers, and ultimately people are selected to go into the ministry, to make policy for the country. We should hold people to account by virtue of their legislation and the regulations they put their names to. We shouldn't be outsourcing policymaking to regulators. One of the concerning things I read in the Fin Review again today was that, potentially, regulators would be able to make policy. Regulators are there to enforce the law. Again, drawing on the Hayne royal commission, we know that the regulators haven't always done a good job of enforcing the law, so I think it's critical that we get regulators focused on enforcing the law, whether it be in relation to a large bank or a fintech—I know fintechs are very close to Senator Whish-Wilson's heart—or all of the above.

Senator Whish-Wilson: I don't have a heart!

Senator BRAGG: I know you have no heart! The changes in this bill give the parliament, the government and the market the flexibility that is being asked for without ducking accountability, because, of course, a regulation can be disallowed, and financial services regulations have regularly been disallowed in previous years. So the answer here is more flexibility whilst maintaining the accountability that we all expect as Australians. What we don't want to see is a hard-coded prehistoric approach where everything is written into the law, which requires us then to come through these two chambers and spend all this time trying to change it. So regulations deliver flexibility without undermining accountability. On
the other extreme, of course, you have an approach where you let the
regulator set the policy, in effect putting everyone here out of work. If they're making the policy then what are we doing?

With that in mind, I want to remind the Senate that if people feel strongly about the findings of the royal commission—and they should—the pathway to more competition, more choice and ultimately more jobs in Australia is to have a flexible, dynamic approach which welcomes investment into the financial sector, especially into this fintech and start-up area.

**Senator CICCONE** (Victoria—Deputy Opposition Whip in the Senate) (20:29): I want to rise tonight to make a couple of remarks about the bill that's before the Senate this evening obviously in relation to the fintech industry. There's no mistaking the significance of this bill—and I know Senator Bragg mentioned this as well—and what it means for modern Australia. As other senators have also well articulated in the debate so far, it's important that Australia supports a domestic fintech industry. It supports those who want to try something new—and, dare I say, to have a go—and, more importantly, be supported by government in that endeavour. These days we call those who want to have a go entrepreneurs and we call their businesses start-ups. Some may claim that the Labor Party isn't the natural home for these types, but I must say I claim that Labor is the party for them.

In considering this bill, I want to make sure that the Senate does take note that it is important that we do our bit to ensure that this piece of proposed legislation provides enough avenues to support those who are trying to do something new, and this is what this bill seeks to achieve. It also seeks to establish what often is termed a sandbox and to provide regulatory relief to innovators. This relief, this exemption from the ordinary burdens of red tape, allows these enterprising individuals to create innovative products and services, and fast-track their delivery to the market. In allowing such concessions, however, it is important that we are carefully balancing them with the needs to safeguard consumers. These ordinary Australians for whom these products and services may have the potential to profoundly benefit their lives deserve our support as well, and it is these people whom we must also consider as we debate the merits of this particular bill in the Senate.

It is important that, in speaking on these matters, we are clear about exactly what we mean. For instance, the term sandbox, as I mentioned before, is a convenient term that is frequently used to describe the outcome of the provisions of this bill, but what exactly is a sandbox? In this context, it is really a closed test environment designed for experimenting with web or software projects. In the example of the Treasury Laws Amendment (2018 Measures No. 2) Bill 2019, these web or software projects are financial products or services. A sandbox provides an important level of flexibility in relation to regulatory standards that otherwise would not be available.

Financial technology is already a significant industry in Australia. A recent report by Ernst & Young found that almost 60 per cent of Australians are digitally active and are already using some form of financial technology in their lives. And Australians really are at the forefront of these products. We're the early adapters of many IT-innovative programs and apps on mobile phones. Australian fintech firms span across five different areas, including transfers and payments; budgeting and planning; savings and investments; borrowing and lending; and insurance. These are widely disparate areas, but Australians welcome innovation where it leads to better outcomes in all of these.
In December 2016 the Australian Securities and Investment Commission launched Australia's very first sandbox. It wasn't quite the success that we had hoped for, and since then only seven companies are using them. There were 15 in the pipeline, sure, but still only seven were in the space making the most of it. To provide some context to this number, in a similar period the United Kingdom had 50 entities making use of its regulatory exceptions; Singapore had 30; and there were nine in Hong Kong. Clearly, the settings we've got right now aren't working. Clearly, we're not where we need to be. This is why Labor supports the bill and the spirit of this bill, but we need to do a much better job and get ourselves at the front of the pack.

Labor want to see a flourishing and expanding financial technology sector in Australia. We support the establishment of a fintech sandbox to provide some regulatory relief when needed to allow for innovative products and services to be brought to the market. Nonetheless, while accepting this, we cannot allow consumers to be negatively impacted; they must have the kind of protections that they would expect and we would expect from us as politicians and as their representatives on this matter. Any framework that we seek to establish should be used by start-ups who are genuinely seeking to deliver something that is innovative and that seeks to provide a clear consumer benefit. Whilst innovation can produce great benefit, we must bear in mind that not every innovation is necessarily in the consumer's best interest. This is especially so in some financial services—a naturally complex market where bad products or service design can have disastrous consequences for individuals. Sandboxes should be for those who are seeking to make genuine innovation, not just those who are seeking to skirt the law. Labor's amendments will require companies accessing regulatory relief through the fintech sandbox provided for by this bill to show that they are using it for products and services that are generally innovative and will benefit consumers. We want innovation and we are the party of innovation, and our amendments will ensure that we have the regulatory relief that is necessary without compromising on protections for ordinary Australians.

Before concluding, I would also like to recognise the important work that is being done by members of the select committee, with Senator Bragg as the chair and Senator Smith as deputy chair. The fintech committee is looking at these kinds of challenges and the opportunities this bill seeks to address. I particularly would like to acknowledge all the senators for their work to date and look forward to their report in this place.

Senator SHELDON (New South Wales) (20:37): I rise in support of the Treasury Laws Amendment (2018 Measures No. 2) Bill 2019. This amendment bill is about how we nurture the next generation of innovative new financial products and services. But financial products and services don't exist for their own benefit; they are there for the people they serve and ideally will evolve for the benefit of all Australians. That is what is at stake in this bill. These new financial technology services will be an important part of our economy this century, not least for their ability to bring some much-needed competition to the financial sector as a whole. We want these companies to be able to show that they are genuinely innovative. We want them to show that they can bring real benefits to the Australian public.

After the horrors of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, almost everyone in Australia understands that big banks could do with a little bit more competition. But importantly—and I want to stress this—this additional fintech competition must come with a healthy dose of regulation as
well. The need for a better-regulated industry was in fact the most important thing to come out of the hearings and the heartbreaking testimony of individuals, families and businesses who fell victim to the greed and shoddy practices of banks and other financial institutions in Australia. Without the right regulation, financial services can quickly morph into weapons of mass destruction.

Unfortunately, we seem destined to have to relearn this lesson. Let's not make the mistake again as a new era of fintech rolls out in Australia and around the world. No matter how you purchase or experience a financial product or service, offline or online, there need to be proper rules and protections for consumers. Consumers have the most important thing at stake, other than their lives, and that is their financial security and dignity. That brings us to this bill and the amendments being supported by Labor. I should say that it is not often that a senator goes to play in the sandbox—actually, in Australia we play in the sandpit, but you understand what I mean. The sandbox I'm referring to is of course the so-called regulatory sandbox which is set up whereby new financial products are beta tested. The regulatory sandbox essentially allows for these new products to be refined and stress tested before they go to market with a certain amount of regulatory flexibility so that the best product can be devised.

Labor supports this beta-testing environment, and we support the development of fintech products. There are huge opportunities here for the Australian start-up sector, for businesses generally and for individual consumers to assess a range of financial products specially designed for their needs. Labor wants to see an energetic and homegrown fintech industry that can create the products that will support the personal and business goals of individuals, families and companies. Already, more than half of Australians are active online in some form of financial technology and this is growing every day. I'm talking about fintech products that enable savings and investment; fintech products that enable payments and fund transfers, borrowing, lending and insurance. This is a huge range of different services. But we are also mindful that regulation in the most critical area of the economy is a no-brainer. It is our role as a parliament to look beyond the shiny and the new, to ensure that consumers are protected and that we can benefit from the incubation of this important new industry. This is why I stand to support this bill and the sensible amendments to it.

Innovation can really deliver for Australian consumers, but not every shiny new financial product is going to be in the best interests of consumers. Complicated financial products which are difficult to compare, or products designed to prey on those with few resources and little money, can be a safety risk. These should be subject to the best regulation we can devise. This bill will also give the regulator, ASIC, the powers to provide consumer protection benefits. We should note that these increased powers may require greater capacity. It is appropriate that ASIC is funded so that it can properly oversee the financial sector and this new emerging fintech sector, with all of its innovations and complexity.

The banking royal commission laid bare for us all the terrible human and business costs of financial products and services when they are not regulated properly. Technology can be a multiplier effect on these risks. We have seen the rise of predatory payday lenders and consumers targeted for new financial products online which are little more than a scam. We saw an example recorded in November last year from a Ms Kirsten White, who lives in Kingston on the outskirts of Hobart. She urgently needed $350 and went to a payday lender.
She needed that money for a car repair, a basic tool for looking after her family. She said, 'I was under the impression that the payday lender was quite flexible with repayments.' However, her $350 spiralled into an $800 debt within half a year. Ms White believes the lender was deliberately vague about interest rates and that she was taken advantage of financially. John Cooper from Tasmania's No Interest Loans scheme talked about payday lenders who were charging 400 per cent, which of course is outrageous. He said that needs to stop. But, unlike this bill, the federal government announced plans to tighten laws around small consumer loans and leases in 2016 following a review of the sector. We are now at the beginning of 2020 and there is no legislation dealing with these matters appropriately.

To talk more about this particular bill in front of us: we have to take into account the fact that the government also has more work to be done. We need to stay vigilant, no matter how a financial product or service is delivered. We know that vulnerable groups in our community, including older Australians, people already in debt or those struggling to pay the bills from week to week, are especially at risk. Since ASIC launched Australia's first fintech sandbox in 2016, even the fintech industry itself has been persuaded by the need for better regulation. Labor will move amendments to this bill so that companies who want to access this regulatory relief must demonstrate that they are using it for products and services that are genuinely innovative and that the innovation offers a good prospect of identifiable benefits to consumers either directly or because it establishes better competition.

The message of this bill is that fintech firms who want to use this great regulation to test their products and make money while benefiting consumers should have that opportunity. I also note that regulatory sandbox rules very similar to those embodied in these amendments are present in other jurisdictions around the world that are leaders in financial technology. This includes Hong Kong and Singapore, in our region, and the United Kingdom as well. So Australia should not hesitate to follow their lead when consumers need to be protected and innovation encouraged.

Meanwhile, other experts, including the local fintech sector, are also supportive of the reforms that Labor is putting forward. In their submission to the Senate inquiry into the bill, FinTech Australia, which represents the financial tech industry, also supported reforms that ensure only the right companies can take advantage of this regulatory sandbox. Consumer advocates Choice have also raised concerns. Labor believes that these concerns must be addressed by these amendments before the bill is passed by the parliament. To bring on innovation and to bring on the enhanced competition that the emerging fintech sector promises, we want to encourage firms to innovate. What we don't want is a system where regulation protecting consumers and businesses is watered down and undermined.

Enhanced competition must go hand in hand with enhanced regulation. This is a sensible bill that supports an important emerging industry and supports the rights and expectations of consumers and businesses—expectations that have rightly arisen since the banking royal commission told us the dirty truth about how exploitative and greedy some people in our financial institutions can be. The Hayne royal commission told us some powerful lessons on how not to structure and regulate our current financial sector. We have the opportunity to get the settings and regulations right with this new financial sector.

**Senator HUME** (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (20:47): I would firstly like to thank those senators who have
contributed to this debate. The government remains committed to establishing Australia as a leading global financial technology centre, a fintech hub. This bill builds on our work to ensure that we have policy settings in place to foster innovation.

Schedule 1 to the bill amends the Corporations Act 2001 to lay the foundation for the government's enhanced regulatory sandbox by extending the regulation-making powers in the Corporations Act. This will support fintech businesses to test their products and services without a licence from ASIC under certain conditions. We believe this measure will reduce the initial burden faced by firms as they look to innovate in providing specified financial services while also retaining important measures to minimise the risk for consumers.

The bill incorporates the government's response to the Senate Economic Legislation Committee's report on the 2018 version of the bill, including providing that an independent review of the sandbox be undertaken 12 months after its commencement.

Schedule 2 of the bill makes a number of very minor technical amendments to the early stage venture capital limited partnership and tax incentives for early-stage investor regimes to clarify the income tax law, to provide certainty to investors and to ensure that these provisions operate in accordance with their original policy intent.

The measures contained in this bill demonstrate the government's continuing commitment to promote a culture of entrepreneurship and risk-taking in Australia and will help ensure that innovative Australian businesses have access to the capital and expertise they need to grow and succeed. I commend this bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator McALLISTER (New South Wales) (20:49): I have some general questions for the minister. We've also circulated an amendment in the chamber and I'll come to that later, depending on whether other senators have questions. Minister, a version of the sandbox has been in place for some time through other means. As I understand it, there are only three entities using the sandbox and 15 in the pipeline. It's been unfavourably compared to the UK, where they've had 146 applications; Singapore, with 30 applications; and Malaysia, with seven applications in the first six months. Hong Kong had nine entities using their sandbox for 11 trials. I am working on the assumption that, in part, the rationale for the approach proposed in the legislation is that the government doesn't think that the present rate of utilisation of the sandbox is acceptable. I want to understand what the government would consider success. In 12 months time what should we expect from the changes that are being proposed this evening?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (20:51): Thank you, Senator McAllister. Yes, you're right, the sandbox has been around since 2016 and it has been underutilised. Seven eligible businesses have been able to make use of ASIC's regulatory sandbox since September 2016. Even more could have, in fact, approached ASIC, but many have been unable to make use of the existing licensing exemptions. That's why, of course, the government is moving this bill, which will allow for the making of regulations that broaden the scope of eligibility.
The feedback that we had from participants was that it was too restrictive. I think Senator Ciccone said that we want to see fintechs get ahead of the pack, but the problem is that without the bill, unamended, getting ahead of the pack is very difficult. It's like doing it with one hand tied behind your back. It's hard to say exactly how many firms we would want to see use the sandbox, but we want to make it flexible enough that it helps a vibrant industry grow and flourish. I don't think it would be unreasonable to expect the same take-up of the sandbox as they saw in the UK and, potentially, Singapore.

Senator McALLISTER (New South Wales) (20:52): Is the minister aware of any firms that are waiting, ready to go and interested in utilising the sandbox? If you are able to talk about those firms, what are their characteristics and the kinds of regulatory intervention that they'll require? An example or two of that kind would be helpful.

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (20:52): Without naming the firms themselves, one of the points of the regulatory sandbox changes that we're proposing is that it expands the number and the type of products that can use the sandbox. For instance, deposit products and payment products—if ADI-issued—general insurance, liquid investments and consumer credit contents with certain features were available in the old ASIC sandbox. In the enhanced ASIC sandbox you'll certainly find those deposit products, and you would also find non-cash payment products that are ADI-issued; general insurance products, although excluding consumer credit insurance; life insurance; superannuation products; interest in simple managed investment schemes; Commonwealth debentures; stocks and bonds; listed securities, including shares and bonds; and also crowd-sourced equity securities. That said, not all products will be available to be used in the sandbox; certainly not things that involve derivatives, marginal lending products and credit contracts. Payday lenders won't be involved either.

Senator McALLISTER (New South Wales) (20:54): Minister, you listed a range of product types. The legislation before us provides for regulation-making to enable, I assume, product types to be brought into the sandbox. Can you advise how you see those regulations being structured. Would they be structured around the kind of list that you just provided?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (20:54): You have a copy of the draft regulations that have been proposed, so you would see that those products are the ones that have been mentioned. The aim of the game here is to make it as flexible as possible in a very fast-moving and innovative environment.

Senator WHISH-WILSON (Tasmania) (20:54): Minister, my understanding is that what we're dealing with here is making it easier for companies who want to use a sandbox to raise finance—correct? This is about raising money for these companies, making it easier for them?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (20:55): No, it's about allowing businesses to test their business model in a safe and monitored environment.

Senator WHISH-WILSON (Tasmania) (20:55): So, Minister, it doesn't change restrictions on brokers or financial planners or others recommending people invest in these companies in the sandbox? Can you just clarify that?
Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (20:55): No, it does not. In fact, the consumer protections that will remain in place include: disclosure requirements, best interest duties for financial advisers, responsible lending obligations, internal and external dispute resolution mechanisms, and adequate compensation arrangements. Before providing services, businesses need to notify clients that they’re operating without a licence or authorisation from ASIC and those normal protections will apply.

Senator WHISH-WILSON (Tasmania) (20:56): So what's the change, Minister? At the moment you need a licence to be able to recommend investing in these companies, but you won't need one following this regulation? Can you just clarify that?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (20:56): No, that's nothing to do with it, Senator. I think you've missed the point of the sandbox itself. It's simply to test new business models.

Senator WHISH-WILSON (Tasmania) (20:56): It has been put to me that that is the case. I'm asking you to clarify that.

Senator McALLISTER (New South Wales) (20:56): Nonetheless, Minister, the list that you provided then is not exhaustive. The regulation-making powers are quite broad, so other categories of product could be brought into the sandbox?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (20:56): Yes, you're right. That's why we're keeping it in regulation, so it can be flexible, so it can be changed, because, as I said, it is a very fast-moving space. And even since we originally put this legislation together a couple of years ago, times have moved on. One of the things that came up in the Senate committee when we originally had this legislation was the need for a review. I think that was an amendment suggested by Labor. That's something the government has taken on in order to make sure there is an appropriate monitoring of the bill as it stands.

Senator McALLISTER (New South Wales) (20:57): You'll have observed that in many of the submissions made on the bill and in many of the contributions in the chamber, there is an understandable anxiety about any proposition that loosens regulatory requirements. It's not as though we've had a particularly good experience with the finance sector in recent years, and the capacity for exploitation has become really obvious. And that's not just in the banking sector; that's also in insurance, in non-bank lending and in a range of other product categories. I assume that, in addition to advice from ASIC, you've received advice from Treasury. What advice have you received about the risks that are attendant upon a sandbox approach? How do you seek to have those managed?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (20:58): You're right, Senator McAllister, it is about finding the right balance between allowing innovation to flourish and at the same time putting in the appropriate consumer protections. To reduce the risk of consumer harm during unlicensed testing, businesses will need to comply with certain disclosure and consumer protection requirements. As I mentioned earlier, before providing the services, businesses will need to notify clients that they're operating without a licence or authorisation from ASIC. Of course the normal protections will apply that I mentioned before—disclosure requirements, best
interests duties for advisers, responsible lending, internal and external dispute resolutions, and adequate compensation.

In addition, many of the underlying products that are offered through the regulatory sandbox will still be backed by a licensed business. For example, businesses can only provide financial advice to retail clients in relation to superannuation products in a regulated superannuation fund. In addition to that, there will be further safeguards that will be in place to limit the financial exposure for retail clients. Businesses will only be able to offer specified products and services to retail clients, and will generally only be able to invest up to specified exposure limits. This recognises that retail clients are less able to withstand financial setbacks. ASIC, of course, can take action if businesses aren't meeting those requirements, and the regulations are, of course, still disallowable.

Senator McALLISTER (New South Wales) (21:00): In the course of their submission, one of the civil society groups made the point that the product intervention power represents a possible avenue of intervention for ASIC should one of these products be performing in a way that was not expected at the time it was admitted into the sandbox. Do you consider that the PIP would be a component of the safeguards, or are there adequate safeguards built into the regime in terms of the capacity for ASIC to intervene should a product not be functioning as anticipated?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:00): I think the PIP is a corollary to the ASIC sandbox, but it isn't necessarily an integral part of the sandbox, and those consumer protections and safeguards that I have already mentioned would form the framework for consumer protections within this particular bill.

Senator McALLISTER (New South Wales) (21:01): Just for clarity: the EM sets out how schedule 1 allows for an exemption to be withdrawn should the product not be meeting certain conditions set at the outset. Can you explain the other circumstances where an unanticipated harm emerges in relation to a particular product or category of products, and the capacity for ASIC to deal with that problem?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:01): The bill does give ASIC the power to revoke a firm's ability to use the sandbox, and we expect that this power will allow ASIC either to provide notification to a business that they can no longer rely on the exemption or to apply to the Federal Court for an order that the business comply with a particular requirement where a business fails to meet the requirements or ASIC considers they haven't acted fairly, honestly or efficiently. So breaches of some of the requirements will mean that a provider automatically ceases to be exempt from the licensing exemption, and these include requirements related to eligible activities, investment thresholds and consumer notifications. Of course, that product intervention power and the design and distribution obligations that are currently before the parliament will also apply to these enhanced sandbox activities as a corollary.

Senator LAMBIE (Tasmania) (21:02): I have worked very collaboratively with the minister, and I thank her for that. It has not been a problem, but we did have a few minor issues. I'd just like to make it quite clear that ASIC confirm that they will publish the following data on the ASIC website: the names of the businesses currently in the sandbox, the
cumulative total of businesses admitted to the sandbox, the number of businesses disallowed from entering the sandbox during their 30-day waiting period, the number of businesses removed from the sandbox due to misconduct, and the number of businesses in the sandbox issued with a compliance order. ASIC also confirms that the numerical data listed will be published on a quarterly basis. I seek leave to table a document.

Leave granted.

Senator LAMBIE: I table the document.

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:03): Yes, that's all good. I think we know where we stand on that one. Thanks, Senator Lambie. ASIC have obviously agreed to all of that.

Senator McALLISTER (New South Wales) (21:04): The EM indicates that any regulations or subordinate legislation made under this legislation would specifically provide for AAT review for ASIC decisions relating to exemptions from the ACL requirements. It's at the top of page 10 in the explanatory memorandum. I'm interested in understanding how the public can be assured that what is essentially a political commitment being made in the EM will continue to be a feature of the regime as implemented.

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:05): My understanding is that it's standard for administrative decisions to be appealed to the AAT.

Senator McALLISTER (New South Wales) (21:05): The EM reads:

Under paragraph 327(1)(i) of the Credit Act, decisions made by ASIC are only subject to AAT review if the regulations specifically provide for this. As such, to ensure consistency across the application of the Corporations and Credit Acts to the regulatory sandbox, the Government intends that the regulations would specifically provide for AAT review for ASIC decisions relating to exemptions from the ACL requirements.

That appears to set out a legal reason why it needs to be specified in the regs. My question to you is: how can we be assured that this, which is a statement of government intent, will actually be a feature of the regime as implemented?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:06): My understanding is that it can't start until the regs have been allowed. The regs have been available to you for six months and they actually are in the regulations—I think that is a feature of the regulations.

Senator McALLISTER (New South Wales) (21:06): Yes, I understand that, but, as we explored earlier, the draft regulations that you've provided are not complete. The legislation provides for other regulations to be drafted at some subsequent point. My question is: how is this feature, described in the EM as being important for maintaining consistency across the application of the corporations and credit acts, to be assured?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:07): My understanding is that this is standard practice and that the regulations do allow for this. Obviously, it will take 15 days to get the regulations in place once the bill is passed.

Senator McALLISTER (New South Wales) (21:07): Minister, I'm not concerned about the timing or the immediate implementation. I am concerned about just understanding the
framework that's being set up for the long term. This is a piece of legislation that presently allows for regulations to be made. The EM seems to indicate that an AAT review would only be available if it were specified in the regulation. It also indicates that it's the government's current policy intent to ensure that would happen for this round of regulation-making and also perhaps for a future round. My question to you is: how can you assure the public that that will be so? It's asserted that it's an important thing and it's asserted that it's a government commitment in the EM, but can people be assured that it is in fact the government's intention that all regulations made under this act would allow for AAT review?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:08): It is in the draft regulations, under section 10.3, that applications may be made to the Administrative Appeals Tribunal for review—the decisions made by ASIC under subsection 1—and it is also disallowable.

Senator WHISH-WILSON (Tasmania) (21:09): I have a question on the process. In terms of obtaining an Australian financial services licence, an AFSL, or an Australian credit licence, an ACL, for something like a fintech product—and we've listed lots of examples—what is actually the most difficult aspect of the concept validation for these companies that they want exemptions to be granted for two years? What's the key reason for that?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:09): My understanding is that it's largely the cost of the advice that goes into obtaining these licences that is prohibitive, and, unless the company can be sure that they have a viable business model, it is a barrier to increasing competition in financial services.

Senator WHISH-WILSON (Tasmania) (21:10): Thanks, Minister. That was my understanding as well. You did mention in your summary speech that you want to encourage a culture of risk taking in this particular industry, but, of course, risk taking has a downside, especially for those who are investors. Reading directly from the Parliamentary Library Bills Digest:

In order to facilitate the development of new Fintech products, ASIC's 'regulatory sandbox' allows new products to be tested in the Australian market for 12 months without requiring financial advisers or dealers of the product to first obtain an Australian Financial Services Licence (AFSL) or Australian Credit Licence (ACL).

The licensing exemption is limited to those providing financial advice on the relevant products... Essentially, by providing that exemption for the service provider they're able to sell these products to obtain finance—presumably equity—at an early stage if we're dealing with venture capital, high-risk kinds of projects, but with what information? If they don't go through the validation process to get their licence so that they have established they are 'viable', to use your words, where do advisers get their information on the risk aspects of these companies before they flog them to potentially unsuspecting investors?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:11): There are no changes to disclosure laws and there are consumer protections in place. Moreover, this 24-month time frame that is associated with the sandbox is intended to provide sufficient time for businesses to test their products or services and also continue to operate while their licence is being considered. The government expects
the businesses will plan ahead, and if their business model is viable they'll submit their applications with adequate time before the end of that testing period.

Senator WHISH-WILSON (Tasmania) (21:12): During that period, will they be seeking any kind of financing? It could be equity financing. It would be unusual that they might get debt financing at an early stage of a highly risky concept, but will they be seeking any kind of financing for advisers or for brokers?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:12): I'm sorry, can I clarify your question? Are they seeking financing for their businesses or are they seeking financing for their products?

Senator WHISH-WILSON (Tasmania) (21:12): Well, either. Their products and their businesses are obviously going to be related. You said that the reason for the 24 months was to give them time for their businesses to operate, but businesses need capital to operate. So during this period will they be seeking any kind of financing— theoretically speaking—to make their businesses viable?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:13): I imagine that if they felt they had stumbled onto a very viable, successful business model and there was a lot of consumer demand that they would certainly go out and seek finance from broader industry. But probably by that stage, if they were successful, they would have broken the boundaries of the ASIC sandbox anyway, so they wouldn't qualify to be in the sandbox anymore.

Senator WHISH-WILSON (Tasmania) (21:13): I'm not sure about that. Firstly you said that the whole point of this was to reduce regulation to give them access, and you're saying that if suddenly they come up with a viable business model and there was a lot of consumer demand that they would certainly go out and seek finance from broader industry. But at what point are retail investors going to get dragged into providing capital while these companies are going through a sandbox stage and don't have to disclose the kind of 'viable'—to use your words—information to show they're viable? That's what they're getting an exemption for.

To quote from the Bills Digest:

... financial advisers or dealers of the product to first obtain an Australian Financial Services Licence—will be exempt. It says:

It is not available to issuers of the product—

but to those who are going to be advising on these products and their services.

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:15): A start-up company, whether it be in fintech or in any other industry, is going to seek capital at some stage in its growth cycle. It won't necessarily be from retail investors. It might be from hostile investors. It might be from a bank. It could be from anyone. Fintechs are no different. That's an irrelevant part to this bill anyway. If I was seeking to finance a start-up business, whatever industry it was in, I would be asking them to test their business model. If I was wanting to invest in a fintech and I saw that its business model was being tested within a sheltered environment, like a sandbox, I might not provide that funding. Then again, I might be a risk-taking, wholesale investor as well.
Senator WHISH-WILSON (Tasmania) (21:15): Minister, if the loss as an exemption is limited to those providing financial advice on the relevant products, who are these financial advisers and what role and purpose do they serve? I'm now completely lost.

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:16): I'm completely lost too, Senator Whish-Wilson. They are not necessarily just providing financial advice; they are product manufacturers that are being tested in ASIC, in the sandbox.

Senator WHISH-WILSON (Tasmania) (21:16): I can understand product manufacturers in terms of insurance, superannuation, credit products and those kinds of things, but they're still being flogged by financial advisers while they're in the sandbox; correct? That's why the exemption is there in the first place. It could even be that their business is being sold wholesale—lock, stock and barrel—to Facebook or whoever it happens to be. At the end of the day, the exemption is for financial advisers. What roles are the financial advisers playing here?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:17): The exemption is for the product, not the advisers. Any adviser still has to be licensed. They still have to have products on an approved product list. I doubt there would be an approved product list that would have on it a fintech product that had been listed in the ASIC sandbox a couple of weeks before. That just seems an unlikely scenario.

Senator WHISH-WILSON (Tasmania) (21:17): The Bills Digest talks about the licensing exemption as:

... limited to those providing financial advice on the relevant products or those dealing in the products. It is not available to issuers of the product.

I think what you just said is completely different to what the Bills Digest is saying. You're saying that providers of financial advice are within the company, the product or the services themselves. Presumably a product doesn't just get up and sell itself; there has to be some kind of entity behind it to sell it—or a company itself is trying to sell a product, a stream of new services or a new technology in credit. Where does the financial advice come into it?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:18): I think we're going round in circles, Senator Whish-Wilson. Financial advisers do one thing and product manufacturers do another thing. These are product manufacturers testing their business model in a restricted licensed environment. That's all it is. I think maybe you are conflating two things.

Senator WHISH-WILSON (Tasmania) (21:18): I'd ask that you ask your staff, as to the summaries that have been put forward on what fintech is, what a regulatory sandbox is and the use of the regulatory sandbox. What we're dealing with here tonight is giving exemptions to financial advisers. That's what it says in the Bills Digest, Minister. I know these things aren't going to be sold to retail, to customers, because they're being tested; they may be one day. It certainly looks like it is aimed at getting financing, and that's why this exemption is in place. That's what the Bills Digest says. I'm interested in why we can't come to an understanding here.
Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:20): I think, again, we're going round in circles and I will take it as a comment. But I will say that the financial advice, the product that is spoken about in this bill, referred to in this bill is largely things like robo-advice. It is innovations as opposed to your bog-standard everyday financial advice that you would go to a retail adviser or even a wholesale adviser for.

Senator WHISH-WILSON (Tasmania) (21:20): So who would that kind of advice that you just outlined be aimed at then, Minister?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:20): It could be aimed at anybody, but it is in a tested environment where the consumer upon whom it is tested is made fully aware that they are dealing with a start-up, new product, that is not fully licensed and which doesn't have the same protections that any other established product would have.

Senator WHISH-WILSON (Tasmania) (21:20): Could I just get you to clarify: did you mean consumer or investor with that statement you made?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:21): Consumer. I think this is all in the regs.

Senator McALLISTER (New South Wales) (21:21): Minister, you will be aware that in other forums we have had ongoing discussions with ASIC about its resources. There was a significant collapse in the resources available to ASIC over time and it is engaged in a process, as I understand it, of retooling. It has some additional resources but is, at least as has been reported into estimates, increasing its emphasis on enforcement and investigation activity. I'd like to understand the impact of this regime on ASIC and its operations and, in particular, what the annualised cost of implementing the legislation is projected to be?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:22): The government is ensuring that ASIC has adequate resources to oversee the enhanced sandbox. The government is committed to ensuring that the financial system regulators have the resources they need to combat misconduct in Australia's financial services industry at the same time as it bolsters consumer confidence in the sector. In fact, the government recently announced it would provide ASIC with a further $404.8 million to strengthen and intensify its approach to enforcement and to take on expanded responsibilities to stamp out misconduct in the financial sector. That money builds upon the $70.1 million in additional funding that was announced in 2018 to bolster ASIC's enforcement capabilities and enable it to undertake the new regulatory activities and investigations. So the government has given and continues to give consideration to ASIC's immediate funding needs and resources to undertake its important regulatory work.

Senator McALLISTER (New South Wales) (21:23): I wanted to pick up on some of the questions that Senator Whish-Wilson was going towards—they are, the exposure of ordinary consumers to products that might not be suitable as a consequence of their inclusion in the sandbox and having regulatory relief made available to them. Other senators have talked about it in their contributions, but the consumer advocates to the Senate inquiry noted that, for example, recent innovation—as it might be termed—from payday lenders has led to more online targeting and quick loan applications for high-cost debt. It has resulted in an explosion
of payday loans that originate online. That's not a particularly good consumer outcome; I
would argue that's a bad consumer outcome. It is a bad product being sold to people who
either shouldn't get that credit at all or who might get it on better terms elsewhere in a more
suitable product. You know, this is tightly associated with some of the things we
conventionally associate with innovation—it is happening online, it is digital, it uses big data
to microtarget a product to certain types of people and it is integrated with other kind of retail
activities. It's certainly innovative, but it is not particularly great for consumers. One of the
other examples provided by consumer advocates in the Senate inquiry process was innovation
in the superannuation sector, with new entrants offering relatively high-cost options to
consumers sold in a highly targeted manner online. The submission argued:

New funds … market on providing values alignment with members by investing in ethical, green,
sustainable and tech related options. Fees on these new products are well above the industry average …

I guess the question is: are you satisfied with the model you are proposing, where the
protections around consumer value and the best interests of consumers are not contained in
the primary legislation but instead live in the regulations? You would know that we have
circulated an amendment in the chamber that seeks to place that testing into the primary
legislation. I'm trying to understand why government hasn't proceeded down that path.

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and
Financial Technology) (21:25): I can see where you are going with this, Senator McAllister,
but I think you have probably answered your own questions. First of all, payday lending is not
included as an acceptable product in the enhanced regulatory sandbox. Secondly, you
mentioned the fact that this is a fast-moving space. Because it is such a fast-moving space,
because it is so fluid, the flexibility with which regulations enable ASIC in particular to act
are, I think, a far greater consumer protection than having it locked into legislation.

Senator McALLISTER (New South Wales) (21:26): I guess I'd make the assertion that,
whether it is a credit product, an insurance product or an advice product—which Senator
Whish-Wilson alluded to—there is kind of a baseline test which ought to be met, which is that
the product has the capacity to introduce innovation that genuinely benefits consumers. I don't
think that is a test that is disputed. My question is: why would a general test that goes to
consumer benefit not be included in the primary legislation? It would provide some assurance
to those who are watching the process here and asking themselves about where the consumer
fits in in all of this. I understand that payday lending is not on the menu for the sandbox at the
moment, but it is a very good example of the kind of innovation you can come up with if you
really put your mind to it that uses digital, uses online, uses targeting, looks really nifty and is
integrated with other kinds of business services but is actually really terrible for consumers. I
present it—and, presumably, the consumer advocates present it—because we shouldn't be
naive about the idea that innovation, in and of itself, is good for consumers. Some innovations
are and some aren't. Our position, I guess, is that the idea that that test ought to be good for
consumers should be a core feature of the legislation, not just something that is popped into a
subordinate instrument and can be removed pretty easily by a minister.

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and
Financial Technology) (21:28): It can't be removed. It still has to be disallowable, so that
means there is parliamentary oversight there. The government's position of having this in
regulations helps us to make changes as necessary, including at the conclusion of the recommendations that come out of the review in 12 months time.

Senator WHISH-WILSON (Tasmania) (21:28): In relation to the kinds of products that we are talking about, I noticed that the services and products that can be issued under a licensing exemption are the subject of limits in order to minimise the risk of losses to consumers. This includes a whole range of things, including that businesses relying on an exemption can only provide services to up to 100 retail clients and so on and so forth. The maximum credit contract can be $25,000. In terms of the financial advisers providing advice on these kinds of products, I've got to find 100 retail clients to test my new innovation in insurance in the sandbox. Can you give us some examples of the kinds of advisers that are currently working with companies in the sandbox, or is this a totally new paradigm? Minister, these people aren't going to find clients on their own. They're creating products; they have actually got to find the 100 retail clients, for example, to test their products—the consumers of financial advice. How do the advisers get familiar with these products, and are there any working with companies in sandboxes at the moment?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:30): Senator Whish-Wilson, in fact most fintechs start with clients who are friends and family, and by word of mouth. They don't go through national advisers.

Senator WHISH-WILSON (Tasmania) (21:30): When we debated the bill in here about crowdsourcing, I totally got that. I know that's definitely the case with crowdsourcing. I find it hard to believe that about financial products, although you're saying that some very complex financial products, like derivatives products, won't be included in this—I'm very glad to hear that! But I would have thought that with some of the products that you outlined earlier, the range of products that are now available in the sandbox—all sorts of credit products, insurance products and deposit products—do their friends really understand those kinds of products? I'm quite amazed as to where there is any mature market for this kind of high-risk product with retail investors. If there is, I've never heard of it. Can you give me some examples—perhaps in other countries if it's not an established market here?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:31): A lot of these fintechs are quite tech savvy, unsurprisingly, and a lot of them use the internet as a form of distribution as well.

Senator WHISH-WILSON (Tasmania) (21:31): You're talking about an app—the use of an app, for example. That's like a couple of the disasters that we've seen which I listed in my second reading debate speech. Are you talking about technology platforms here or are you talking about engineering new financial products as well? Or is it the two together? Are they mutually exclusive? If it's just delivery of financial products then I can see your point. But you mentioned there that a whole range of new products are going to be included in the sandbox. I suppose it's hard for me to ascertain exactly what you mean until I see some examples of the kinds of products that you're talking about.

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:32): Well, the good news is that those products are going to be listed on the website, thanks to Senator Lambie. Can I just remind you that advisers are still going to be subject to the best-interest duty? They will still be subject to the FASEA Code of
Ethics and they are still subject to the design and distribution obligations in ASIC, the product intervention powers at ASIC and all disclosure requirements.

Senator WHISH-WILSON (Tasmania) (21:32): That's great to hear, Minister, but you said earlier that you didn't think they'd be going through advisers, that they'd be going through friends and family when they establish their products. I'm sure they would want to get some relationships going with good advisers so that they could find clients to test their products. If I were a banker or an insurance company that wanted to look at add-on products that might innovate in these areas I'd probably use my existing client base, and maybe even my financial advisers' client bases. My question is: are there actually any examples of this working? Are we totally in the infancy of this market? You said there are some in the sandbox already. Perhaps you could take it on notice to give us some examples of those companies which are already in the sandbox and what kinds of advisers they've used to find the crash test dummies for their products?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:33): They're already on the ASIC website, so the names of those companies are available already.

Senator WHISH-WILSON (Tasmania) (21:34): Sorry, Minister—the names of the advisers or the names of the products and the companies?

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:34): The names of the companies that are currently using the existing sandbox are listed on the ASIC website.

Senator WHISH-WILSON (Tasmania) (21:34): I'll just make this statement, Chair. I am just interested in the advisers who are promoting or selling their products. That's what I'm interested in and that's what my question relates to.

Senator McALLISTER (New South Wales) (21:34): Other senators seem to have exhausted their questions for the minister. I'd like to move now to the amendment that's been circulated in my name. I seek leave to move amendments (1) to (8) together.

Leave granted.

Senator McALLISTER: I move:

(1) Schedule 1, item 2, page 4 (lines 16 to 21), omit subsection 926B(3), substitute:

FinTech sandbox exemption

(3A) A FinTech sandbox exemption does not apply in relation to a person and a financial service unless:

(a) the person has lodged a notification in relation to the service with ASIC that complies with subsection (3B); and

(b) the 30-day period starting on the day the notification was so lodged has ended without ASIC giving the provider written notice of a decision under subsection (3C) relating to the notification.

(3B) For the purposes of paragraph (3A) (a), the person must lodge a notification with ASIC that includes the following:

(a) a description of each financial service (including of any related kind of financial product) for which the person is proposing to use the exemption;
(b) a justification of why exempting each of those financial services will result, or be likely to result, in a benefit to the public that will outweigh the detriment to the public that will result, or be likely to result, from exempting that service;

(c) any other information required by regulations made for the purposes of this paragraph.

(3C) ASIC may, after considering the notification referred to in paragraph (3A) (a), decide it is not satisfied of one or more of the following:

(a) that the financial service:
   (i) is new; or
   (ii) is a new adaptation, or new improvement, of another financial service;

(b) that exempting the financial service will result, or be likely to result, in a benefit to the public that will outweigh the detriment to the public that will result, or be likely to result, from exempting that service;

(c) that any other condition prescribed by regulations made for the purposes of this paragraph is met.

(2) Schedule 1, item 2, page 4 (line 22), omit "an exemption", substitute "a FinTech sandbox exemption".

(3) Schedule 1, item 2, page 4 (line 26), omit "An exemption described in subsection (3)", substitute "A FinTech sandbox exemption".

(4) Schedule 1, item 2, page 4 (after line 28), at the end of section 926B, add:

(6) In this section:

**FinTech sandbox exemption** means an exemption that:

(a) is made for the purposes of paragraph (1) (a); and

(b) exempts a person or class of persons from subsection 911A(1) to enable testing of particular financial services.

(5) Schedule 1, item 5, page 5 (lines 10 to 14), omit subsection 110(2), substitute:

**FinTech sandbox exemption**

(2) A FinTech sandbox exemption may apply unconditionally or subject to specified conditions.

(2A) A FinTech sandbox exemption does not apply in relation to a person and a credit activity unless:

(a) the person has lodged a notification in relation to the activity with ASIC that complies with subsection (2B); and

(b) the 30-day period starting on the day the notification was so lodged has ended without ASIC giving the provider written notice of a decision under subsection (2C) relating to the notification.

(2B) For the purposes of paragraph (2A) (a), the person must lodge a notification with ASIC that includes the following:

(a) a description of each credit activity (including of any related kind of credit activity) for which the person is proposing to use the exemption;

(b) a justification of why exempting each of those credit activities will result, or be likely to result, in a benefit to the public that will outweigh the detriment to the public that will result, or be likely to result, from exempting that activity;

(c) any other information required by regulations made for the purposes of this paragraph.

(2C) ASIC may, after considering the notification referred to in paragraph (2A) (a), decide it is not satisfied of one or more of the following:
(a) that the credit activity:
   (i) is new; or
   (ii) is a new adaptation, or new improvement, of another credit activity;
(b) that exempting the credit activity will result, or be likely to result, in a benefit to the public that will outweigh the detriment to the public that will result, or be likely to result, from exempting that activity;
(c) that any other condition prescribed by regulations made for the purposes of this paragraph is met.

(6) Schedule 1, item 5, page 5 (line 15), omit "an exemption", substitute "a FinTech sandbox exemption".

(7) Schedule 1, item 5, page 5 (line 19), omit "An exemption described in subsection (2)", substitute "A FinTech sandbox exemption".

(8) Schedule 1, item 5, page 5 (after line 21), at the end of section 110, add:

(5) In this section:

**FinTech sandbox exemption** means an exemption that:

(a) is made for the purposes of paragraph (1) (a); and

(b) exempts a person or class of persons from subsection 29(1) to enable testing of particular credit activities.

This follows on from my earlier remarks to the minister. The legislation provides exemptions for certain firms from some regulatory obligations. As I argued earlier, we think that these exemptions should only be available to firms that have products and services that are genuinely innovative and will benefit customers. It's the second part of the test that seems to me to be quite important, given the very large number of examples that we have available to us of innovation that in fact is not good for customers and is only good for businesses by virtue of exploiting customers. The amendment that's been circulated sets out a basic test that ASIC would apply. It would empower ASIC to prevent products and services that don't meet the innovation-and-benefit test from accessing the exemption.

We acknowledge that the government has issued draft regulations that incorporate a test that is like this, but the concern is that that really doesn't go far enough. I think that, as a matter of general principle, if the parliament is going to provide for regulatory exemptions in legislation it should also provide the baseline threshold of consumer protection in the same legislation, and that protection should be approved by parliament itself, not merely contained in subordinate legislation. It's our view that the test ought to be incorporated within the substantive legislation and that it should be an enduring protection for consumers, not one that can be changed by the minister.

Earlier in debate, Minister, you made the observation that regulations can be disallowed. That's true, but I think everyone here understands that a legislative protection is a more powerful protection than a protection contained in subordinate legislation. In an environment where trust in financial services is low, our view is that incorporating that protection into the primary legislation is an important step. It's hard to see what the objection to doing it would be. It doesn't create detailed implementation requirements for how exactly that test would apply in relation to any particular product. It merely establishes a benchmark, which is that there must be a benefit for consumers. I think that that safeguards the purpose of providing a
sandbox. The sandbox isn't there just to encourage innovation; it needs to be connected to benefit. I also think that it provides an important reassurance that the public interest must always be established in any kind of regulatory relief. We want firms to innovate—of course we do—but we don't want to provide a backdoor for firms to avoid regulations that apply to the rest of industry.

Senator WHISH-WILSON (Tasmania) (21:38): I haven't looked at the amendment in any detail. I think the principle is a good one, but I'm not sure how it is going to work. It sounds very subjective to me. I think ASIC making a deliberation about whether it will be good ultimately for the consumer or to the consumer's benefit, or in the public interest, kind of defeats the purpose of having a sandbox and testing these products. I'd be interested to hear what the minister has to say, but I'm not sure how ASIC would come to those conclusions for an individual company or a product or service that's being tested. I'd be interested to hear what the minister has to say about how that would work in principle.

Senator McALLISTER (New South Wales) (21:39): Given that the minister isn't going to make this observation, I'll say in response to Senator Whish-Wilson's observations: essentially, the same test is embedded in the regulations that are proposed. ASIC will need to make an assessment based on the regime that's been established now. Our argument's a procedural one. This is a reasonable and sensible thing to ask ASIC to do in the case of every application that comes before it for regulatory relief. Why wouldn't you put it in the primary legislation?

Senator WHISH-WILSON (Tasmania) (21:40): Look, I accept that. I think ASIC would assume that any company seeking to go into the regulatory sandbox would want to develop a product that would ultimately be to the consumer's benefit, so it's going to be successful and they will make money out of it because it'll take off. But it would be interesting if ASIC knew how to spot a spiv—someone who just wanted to get a product out there and raise some capital, which, I think the minister is aware, is a source of concern for me. I'm not sure how they would do that—whether a company would need a certain track record for a period of time when it was developing a service or a product that was going to go into the sandbox.

It is unusual to be talking across the chamber to someone who is putting up an amendment, but I would be keen to hear from Labor one more time as to how ASIC would make that deliberation. Would it be a test on, for example, the directors? That wouldn't be a bad one if they had had previous records of a whole range of illegal activity or any kind of shady behaviour. A little bit of background would probably be enough to help me, Senator McAllister—through you, Chair—with how ASIC would actually come to those conclusions.

Senator McALLISTER (New South Wales) (21:41): I would probably just draw Senator Whish-Wilson's attention to the amendment sheet that's been circulated. It sets out a process where a person would lodge a notification with ASIC that included a description of the financial service for which the person, or the business, was proposing to use the exemption and 'a justification of why exempting each of those financial services will result, or be likely to result, in a benefit to the public that will outweigh the detriment to the public that will result, or be likely to result, from exempting the service'.

That weighing of costs and benefits is a central public policy process that ASIC will need to undertake, and it's similar to the process proposed by the government in their draft regulations. It's not perfect, of course. I think your earlier comment, Senator Whish-Wilson,
made the obvious observation that it's sometimes difficult to pick in advance a person who wishes to do harm. But it at least establishes a baseline proposition and requires applicants to make the case for why regulatory relief is in the consumer's interest or the public's interest. The government, as I understand it, doesn't disagree with that principle. It is a legislative principle that we are in dispute about, and our argument is that this test ought to sit in the primary legislation.

The TEMPORARY CHAIR (Senator Walsh): The question is that the amendments moved by Senator McAllister be agreed to.

The Senate divided. [21:48]

(The Temporary Chair—Senator Walsh)

Ayes ....................30
Noes ....................36
Majority ..............6

AYES

Ayers, T
Brown, CL
Chisholm, A
Di Natale, R
Faruqi, M
Hanson-Young, SC
Kitching, K
McCarthy, M
O’Neill, D
Pratt, LC
Sheldon, A
Smith, M
Sterle, G
Walsh, J
Watt, M

Bilyk, CL
Carr, KJ
Ceccone, R
Dodson, P
Gallagher, KR
Keneally, KK
McAllister, J
McKim, NJ
Polley, H
Rice, J
Siewert, R
Steele-John, J
Urquhart, AE (teller)
Waters, LJ
Whish-Wilson, PS

NOES

Antic, A
Birmingham, SJ
Brockman, S
Chandler, C
Davey, P
Fawcett, DJ
Griff, S
Hughes, H
Lambie, J
McGrath, J (teller)
McLachlan, A
Molan, AJ
Paterson, J
Payne, MA
Roberts, M
Ryan, SM
Seselja, Z
Stoker, AJ

Askew, W
Bragg, A J
Canavan, MJ
Colbeck, R
Duniam, J
Fierravanti-Wells, C
Henderson, SM
Hume, J
McDonald, B
McKenzie, B
McMahon, S
O’Sullivan, MA
Patrick, RL
Reynolds, L
Ruston, A
Scarr, P
Smith, DA
Van, D

CHAMBER
Question negatived.
Bill agreed to.
Bill reported without amendments; report adopted.

**Third Reading**

*Senator HUME* (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (21:51): I move:

That this bill be now read a third time.

Question agreed to.
Bill read a third time.

**ADJOURNMENT**

The **ACTING DEPUTY PRESIDENT** (Senator Hume) (21:52): Order! I propose the question:

That the Senate do now adjourn.

*Colebatch, Dr Hal Gibson Pateshall*

*Senator DEAN SMITH* (Western Australia—Government Whip in the Senate) (21:53): I stand here to recognise the life of one of Western Australia's leading conservative intellectuals, Dr Hal Gibson Pateshall Colebatch. Hal was incredibly wise and well-read, the essential ingredients to make him a successful author, poet, lecturer, journalist, editor, lawyer and historian.

The son of former senator and WA Premier Sir Harry Pateshall Colebatch, also known as Hal, and Lady Marion Colebatch, the daughter of long-time Fremantle Mayor and parliamentarian Sir Frank Gibson, Dr Colebatch was born into a politically prominent family. Widowed in 1940, with two sons, his father, then aged 72, remarried in 1944 to his mother, Marion Gibson, aged just 33, a nurse with health issues following a wartime incident. Ten months later, Hal Gibson Pateshall Colebatch was born.

Although Sir Harry, or Hal, Colebatch passed away when his son was just seven years old, his influence on Hal Colebatch's life, beliefs and values was considerable. Dr Colebatch's father was a central figure in a number of important issues that faced Western Australia in the first half of last century, including dealing with the Spanish flu crisis of 1919, the establishment of the North West Department and leading Western Australia's secession delegation in 1934. And he was a critical, but sometimes very lonely figure, in highlighting the rise of Nazi Germany as Agent-General in London prior to the Second World War.
It's no wonder that Hal Colebatch's written works include a biography of his father, Steadfast Knight: A Life of Sir Hal Colebatch. In this biography, Dr Colebatch touches on his relationship with his father:

During my mother's too-frequent absences in hospital he would cook for me, dress me, read to me until late at night and look after me generally. It must have been difficult for a man approaching—and reaching—the age of 80 with severe diabetes to cope with an active infant and a sometimes very sick wife, yet all I remember is happiness.

With his father's life committed to public service, he passed away with an estate of just over 2,000 pounds with no house and no car. As a result, his mother returned to nursing at Hollywood hospital, living in a private room onsite, while young Hal Colebatch boarded at Christ Church Grammar School, thanks to the generosity of his grandfather and the Soldier's Children's Education Fund.

In a Quadrant article from October 2013, 'Hal Colebatch: Inside an Outsider,' Dr Colebatch recalled his time at Christ Church Grammar:

I had lived at home with doting parents who treated me like a little prince. Christ Church was mainly for farmers' children, with whom I had nothing in common. I got bad advice that if anyone bullied me, ignore them. That got me bullied worse. Finally I threw a boy out of a second-storey window and the bullying stopped.

Despite his obvious intelligence, Hal Colebatch had to repeat his matriculation at Leederville tech. He went on to earn five degrees, including a PhD in political science; a Master of Arts; a Bachelor of Arts with honours; a Bachelor of Jurisprudence; and a Bachelor of Laws. Hal Colebatch went on to write and contribute to numerous books, including seven volumes of poetry, biographies, a popular science fiction series called Man-Kzin Wars and institutional histories, and he even wrote about Western Australian road traffic laws.

Hal Colebatch's work includes the official biography of the original Modest Member and fellow economic dry the Hon. Bert Kelly, and was the winner of the 2014 Prime Minister's literary award for history, Australia's Secret War. As well as being an award-winning historical writer, Hal Colebatch was the author of an extensive portfolio of poems. In poet Les Murray's forward for Hal Colebatch's 2007 book of poetry, The Light River, Murray wrote that Hal's work had been unjustly suppressed by the Australian literary establishment because of his refusal to join poetic cliques. Instead, Hal Colebatch kept the company of fellow conservatives, with memberships including the Victoria League for Commonwealth Friendship, including as past chairman and holding the position of senior vice chairman at the time of his passing; the Australian National Flag Association; the Australia-Britain Society; the Australian Monarchist League; Australians for Constitutional Monarchy; and of course the Western Australian Liberal Party. Over his extensive period within the Liberal Party, Hal Colebatch was a member of the Curtin and Perth divisions, and, after a break from the party early last decade, rejoined the Cowan division in 2015.

Not all things were spectacular for Hal Colebatch though. He was an unsuccessful candidate for parliament, failing twice to win the safe Labor seat of Perth, although at his second attempt he came within just 0.12 per cent of a victory. But no-one could remark that Hal Colebatch had an unremarkable career. An accomplished barrister and solicitor, Hal Colebatch completed his articles with Stone, James & Co before operating a private practice. As a journalist, Hal Colebatch wrote articles for a number of publications, including The
During his time with *The West Australian*, Hal Colebatch made several trips to the Kimberley to report on the Ord River dam construction. He forged a close friendship with well-known conservationist, the late Harry Butler, who wrote the foreword to his book, *Caverns of Magic*. As a leading conservative intellectual, Dr Colebatch spent time working for the think tank set up by two other Western Australian giants, the former Liberal member for Moore, John Hyde, and Western Australian engineering pioneer Harold Clough—and of course that was known as the Australian Institute for Public Policy. While he was studying law he also worked as an adviser to former politicians including the honourable member Sir Victor Garland and former senator the Hon. Chris Ellison, who is still familiar to many senators in this chamber today. And of course he worked in academia, tutoring in creative writing at Curtin University; political science at the University of Western Australia; torts and contract law at Curtin University; as well as lecturing in international law at Edith Cowan University and the University of Notre Dame.

Hal Colebatch has made a lasting impact on Western Australia and on Western Australians. From his pivotal contribution to the exposure of the WA Inc scandal, where with Patrick O'Brien, Bevan Lawrence, Hal Colebatch and others he exposed much of the corruption and inappropriate government spending that occurred during the height of the Burke Labor government. His work with Vietnamese refugees, who came to Australia following their warm welcome by the Fraser government, earned him tremendous respect and was recognised by the WA Vietnamese community in 1987.

Hal Colebatch is a testament to the power of ideas, the power of the written word and the importance of history in understanding our contemporary challenges. In *Steadfast Knight*, Dr Colebatch wrote about his father and his father's funeral. I did not attend the funeral but was taken to the cinema. However, I remember the half-mast flags which my mother pointed out to me and told me not to forget. She told me later that one of my father's last hopes and ambitions had been to live long enough for him, the young Hal Colebatch, to remember him. There is no doubt, through Dr Colebatch's life and legacy, that this hope and ambition was achieved.

On behalf of the many in Western Australia and beyond Western Australia who put great store in classical conservative and liberal ideals, I extend our deepest appreciation to Hal Colebatch for his contribution to WA politics and to conservative thought, and we extend our respects and our prayers to his family—his wife, Alexandra; his children Katie, Mike, Alexander and Fiona; and his grandchild, James. Hal Colebatch passed away on 10 September 2019, leaving a great deficit in the intellectual rigour of our nation. Vale Hal Colebatch.

**Ovarian Cancer Awareness Month**

**Senator POLLEY** (Tasmania) (22:02): I rise to speak on Ovarian Cancer Awareness Month. Ovarian Cancer Awareness Month is held in Australia each February, a time when we recognise and support women diagnosed with ovarian cancer and their families. Sadly, there are no early detection tests available for women like there are for breast cancer and cervical cancer. Ovarian cancer is only recognised from symptoms. Therefore, it is vitally important that women are armed with information in order to know what the symptoms are. I've spoken
on this subject every year for so long now and I wanted to, rather than go over the statistics, which are really high for Australian women, share a story of some women who have lived this experience.

I want to speak about Jane. She is a young woman who was diagnosed with ovarian cancer aged 20. The first symptoms Jane experienced included pain, bloating and frequent urination. During her periods, her pain was so bad that she often passed out. Jane was a frequent visitor to the emergency department, where she was told on numerous occasions to 'harden up and take Panadol'. This young woman spent years feeling like no one would listen, which is unfortunately a common experience when women share their recount of their ovarian cancer journey.

Once Jane was finally diagnosed, the first question Jane had was whether she would still be able to have children. Most young women need to take treatments or undergo surgery that sometimes make it impossible to have children. There would be some who may possibly be able to freeze their eggs; however, this is not always an option due to the severity of the cancer or the ability to afford the costs associated with harvesting and storing their eggs.

Another concern Jane had was with the medication she was given to treat her cancer. Jane experienced weight gain while taking the medication. She went from a size eight to a size 14, which was mentally challenging for her. She desperately wanted to lose weight but just didn't have the energy to exercise.

Once Jane was diagnosed, she found she lost a lot of her friends—friends who she once was able to talk about anything with or confide in. But they didn't know how to deal with her illness or what to say to her, and the result was that they stopped calling her and visiting her. As a young woman, Jane found herself isolated from the social life of her friends. She suffered with feelings of depression, loneliness, sadness and anger, feelings foreign to Jane—not easy for anyone, but particularly difficult for a young woman.

Jane was extremely lucky to have an amazing gynaecological oncologist who could relate so well to her and was a good communicator. If Jane had a question at any stage about her treatment or medication, her doctor was more than happy to answer and told her no question was silly. What got Jane through the tough times of diagnosis and treatment was the love and support of her family. Her mum attended every appointment. If it weren't for her mum pushing, she might never have had the ovarian cancer detected, as she had almost given up hope that anyone would believe how sick she actually felt. Jane's experience reminds us that we should always seek a second, a third or even a fourth opinion if we aren't happy with the doctor's advice.

I now want to share a story and journey from Karen. Forty-eight-year-old Karen had no symptoms that she recognised. In fact, she was fit and healthy. Karen had lost 30 kilos and was looking the best she ever had. She was scheduled to have an ultrasound for something completely unrelated. However, when the sonographer was doing her scan, they noticed some shading on her right ovary. The sonographer sent the results through to Karen's doctor, who delivered to her the news on what they had found. The following week, Karen was booked in and had a biopsy of the growth on her ovary. It felt as if the days dragged by for Karen as she waited for the biopsy results, and then she had to continue to wait to see her doctor.
When the doctor delivered the shattering news that they had detected cancer, Karen was referred to a gynaecological oncologist who, like Jane's, was fantastic. He informed Karen of all her options, but Karen's first concern was what she was going to tell her children. How was she going to explain to them what was happening? She didn't want to cause them any undue stress. Karen had two children aged nine and 14. She wanted to be positive, but she was also terrified, as she knew the success rates of treatment for ovarian cancer were not great. Through her journey, she had support from her close friends and her husband, Ben, who attended appointments and was a great support in those dark days when Karen was so sick she couldn't even get out of bed. Luckily for Karen, the early detection of ovarian cancer saved her. Sadly, for many the diagnosis is made when it is too late, and treatment is not successful.

Finally, I'd like to tell you about Betty. Betty, aged 61, loved to exercise and had done so for most of her life. However, while she was exercising, she started to have acid reflux every time she bent at her waist. The problem continued for three weeks, after which time Betty made an appointment to visit her doctor. Betty was given antireflux medication and told to go and see how she went. Unfortunately, the problem didn't go away, and Betty made another appointment with her doctor for more tests. These tests came back with nothing as well. Betty was getting frustrated, as the doctor could not give her any answers. She continued to put up with the reflux issues for another three months. However, Betty started to experience other problems that were unusual. For the third time, Betty went back to the doctor's surgery and saw another doctor. She explained her previous symptoms and the reflux and now added feeling bloated, frequently urinating, and having constipation and a lack of appetite. This time the doctor sent her for more tests, including an ultrasound, which showed a shadow that covered her ovaries. Once Betty was given the results from this second doctor, she was referred to a gynaecological oncologist and had the tumour removed. The story of Betty does not have a happy ending. The cancer spread aggressively to other parts of her body. In her final stages, Betty was cared for by her daughter. It is a terrible experience to lose a loved one and even harder when you have to watch them suffer.

Ovarian cancer research and treatment desperately needs more funding. The funding it gets is a quarter of what is spent on breast cancer, and I feel that we don't support it enough. We need to continue to raise awareness of ovarian cancer. We know that breast cancer has a much higher profile. We have the pink cricket days and pink ribbon days. But what we don't have is enough research, enough awareness and enough training of our GPs to take women seriously when they come in with symptoms very similar to those of these three women. They should take them at face value and do more investigation. We lose too many young women in this country, and too many young women are unable to go on and have children. What we need to do is be proactive and raise awareness. We need to talk to our sisters, our aunties and our mothers, because there is no age limit on this. You can be diagnosed when you are 20, you can be diagnosed in your 40s and you can be diagnosed in your 60s. So if you aren't happy, if you don't feel right, I strongly urge you to seek a second opinion.

We need to work together because, this year, 1,580 Australian women are expected to be diagnosed with ovarian cancer and 1,047 women will die from this disease. We can do more. We must do more. We must educate ourselves and we must be very persistent when we seek medical advice. We must do more in terms of raising awareness. We need to have more money going into research. There wouldn't be a person in this chamber who wouldn't be
supportive of more funding going into research. So I ask you to share the stories to help me and others in this chamber to raise awareness, because one woman saved is something we should honour and respect. I urge you to have those conversations in your community.

Western Australia: Fitzroy River

Senator SIEWERT (Western Australia—Australian Greens Whip) (22:11): I rise tonight to talk about an important river system in Western Australia, the Fitzroy River. The Fitzroy River was national heritage listed by the Commonwealth government in 2011 for its outstanding First Nations cultural values. In 2016 the traditional owners published the Fitzroy River Declaration, calling for full protection of the river and its tributaries with a buffer zone to protect it from mining, fracking, irrigation and dams. It is a desert river subject to the booms and busts of the monsoon rains. In some years there are big floods and in others there is almost no rain. The river supports a huge array of wildlife, including 18 species of fish found nowhere else in the world. It is the world's last stronghold for the critically endangered freshwater sawfish, and it is up to us as a nation to protect it.

Attempts to use the waters of the Fitzroy for industrial agriculture have failed over many decades, including the disastrous Camballin flood-plain irrigation scheme by Jack Fletcher. Millions of public and private dollars were spent on this incredibly damaging project, which was washed away by the floods of 1983. The levee banks and the other infrastructure have never been removed or rehabilitated, despite the requests of traditional owners. Multiple attempts to dam the Fitzroy River have failed, with the community and the traditional owners leading the way in saying the Fitzroy was far too important to destroy through dams. Now the McGowan government in Western Australia are pursuing a policy of no dams. They are also implementing national parks at the upper end of the river and across its tributary the Margaret River, something the community has been pursuing for a long time.

At the same time, however, corporate agriculture is attempting to access the water. For example, Gina Rinehart's Hancock Agriculture wants to take 325 billion litres of water a year; and the Harris family, beef and cotton farmers from New South Wales, want to take 50 billion litres of water a year from the Margaret River to feed cattle for live export, and they have opened the door to cotton as well. To put this into perspective, according to the Water Corporation of Western Australia the two million people of Perth and the South West used 284 billion litres in 2016-17. The lessons of the past are being ignored by industry, but the consequences could affect everyone with an interest in the river, primarily the traditional owners.

In December 2018, 46 critically endangered sawfish died in the pools on Ms Rinehart's leases at Liveringa. The WA government has been investigating whether pumping from Snake Creek, which fills up these pools, played a part in the deaths. I know that many in the Kimberley continue to be concerned about the impact of pumping on the future of sawfish. Recently, large female barramundi—the breeders, over a metre long—have died in another pool on Liveringa from which water is also extracted. Again, the WA government has been investigating that. The water licence at Snake Creek is for six billion litres a year, but such are the constraints to keep alive the critically endangered sawfish and the barramundi, as well as the vegetation on the river, around one to two billion litres a year are pumped out of the creek. Ms Rinehart is proposing to pump 150 times this amount from a national heritage listed river, the last stronghold of these critically endangered sawfish.
Industry proponents say that the floodwaters of the Fitzroy are wasted as they flow 'uselessly' into King Sound. What they don't realise, or they choose to ignore, is that the floodwaters of the Fitzroy are critical for the surrounding flood plain's survival. When the waters break the banks in a big flood, fish like barramundi feed on the flood plain, and a significant proportion of their life-cycle depends on this. The culturally significant pools along the far reaches of the flood plains need the floodwaters to survive. We can see the disastrous effects of flood-plain harvesting and other water mismanagement in the Murray-Darling system right now. Is this something the nation is willing to replicate in the Kimberley's Fitzroy River? Have we not learned the lessons of the mismanagement of the Murray-Darling system? Mr McGowan's government has a choice. It can either support the traditional owners and protect the Fitzroy in perpetuity or it can open the river to corporate agriculture and turn it into the next Murray-Darling.

There have been a number of statements—very powerful words—from traditional owners of the Fitzroy River. Mary Aiken, a Bunuba traditional owners, said:

We are here to protect the Fitzroy and Margaret River from development. It's important to all of us Aboriginal and non-Aboriginal people who enjoy this river for fishing and for taking children swimming, camping and learning about the environment. It's important for everyone to support us the Traditional Owners and Elders and all the groups who live off this River.

Olive Knight, also a Bunuba traditional owner, said:

We are not going to allow people to take the water out of this River. We don't want to see dead fish like the Murray Darling. We've got to stand up for the Fitzroy.

Lynda Nardea, a Nyikina Mangala traditional owner, said:

We want to protect those sawfish, Biyal Biyal we call them. We don't want anything happening to this Fitzroy River, we're telling Premier McGowan, we want this River to be like it was 40,000 years ago and from the Dreamtime, Boogadigadda, as it was passed down from our ancestors.

Dr Anne Poelina, a well-known traditional owner in the Kimberley, said:

This is about all of us standing for the River - we are all connected to one living River system. This River has a right to life and we as people must stand and defend the Rivers right to life.

Nyikina Mangala people are downstream and we are the ones who will be most impacted by what happens upstream. We must stand united. We need to ALL stand together united, we need 'One Mind and One voice', for the whole River.

These are the sentiments of the traditional owners. When I was there, at the Kimberley Land Council AGM towards the end of last year, the traditional owners made further strong statements standing up for the Fitzroy River. I'm joining with and supporting traditional owners and pleasing with our nation and the government to listen to the traditional owners, to protect this important river forever and to learn the lessons from our mismanagement of our precious natural resources.

When we're talking about the Kimberley we have a chance to get it right—not to overuse our resources. I would argue that this is not just our national heritage but a global heritage, for which we have a duty to stand with traditional owners and protect this vitally important river system. I urge the government to listen to, meet and work with traditional owners to ensure
that this land is managed properly so that it is sustainable in the long term, and to learn from the poor history of mismanagement of our water resources in other parts of this country.

Queensland: Foodbank Queensland and FareShare

Senator STOKER (Queensland) (22:20): In this role, I am lucky enough to work with several volunteer organisations that are dedicated to helping and improving the lives of Queenslanders. Foodbank Queensland and FareShare are two such organisations. Over five million tonnes of food end up in landfill in Australia every year. The typical Australian household throws out between $2,200 and $3,800 worth of groceries every single year, and yet over 710,000 Australians rely on food donations every month. One-quarter of those people are children.

Imagine if all of that wasted food could go to people who are in need in our cities and in our regions. FareShare and Foodbank Queensland hold this same worthy goal. FareShare, Australia's largest charity kitchen, opened a second kitchen last year in Morningside, on the south side of Brisbane. FareShare uses surplus meat and vegetables that are supplied by Foodbank to cook up tasty and nutritious meals. They're ready to eat and they can be reheated without needing access to a full kitchen. It's ideal for Queenslanders who are doing it tough and who otherwise would go hungry.

The member for Bonner, Ross Vasta, and I are proud to support FareShare's good work. We have toured their facility, and they have a really impressive state-of-the-art kitchen. The kitchen has industrial-scale food-processing tools, including 300-litre electric saucepans that can cook 750 meals at once. I've visited FareShare's kitchen a few times now. On the last occasion, I got to roll up my sleeves with young Liberal National Party volunteers to help prepare meals for those who are struggling to put food on the table. It was a really good experience for young LNP members to lend a helping hand and to learn about the challenges that some less fortunate members of our community are facing. FareShare chefs and 410 volunteers put in so much hard work. That day alone, we packed 3,200 meals, most of which went to Yeppoon to assist with the ongoing fire relief efforts.

FareShare has amazing output. Within one year of opening they cooked 1,140,739 meals. That's around 31,000 a week. Last year they cooked 2.6 million meals, and I have no doubt they'll meet their goal of three million a year by 2022. And true to the mantra of ‘waste not, want not’ FareShare donates its organic waste to Brisbane's environmental organisation, Northey Street City Farm, for use as compost. FareShare's cooked meals are frozen and distributed through Foodbank and other charities, such as soup vans and homeless shelters. Foodbank distributes these meals for free through 280 frontline charity partners which are spread throughout city, suburban and regional Queensland.

FareShare and Foodbank help the homeless, struggling families and older people who are often on their own, as well as disaster affected Queenslanders. We've heard heartbreaking stories of towns that have been hit hard by drought, bushfire and flood over the last year in the course of debate in this chamber, but FareShare and Foodbank Queensland have acted as lifelines in these difficult times by sending thousands of meals to people struggling to access food all across the state. And they remain on duty to help them even once disasters subside. They do a tremendous job distributing thousands of hampers of non-perishable food and other key supplies through Foodbank's network to bushfire affected regions in New South Wales, Victoria and the ACT, as well as throughout their Queensland network.
One of the best parts of FareShare's work is its focus on social inclusion. The volunteers at FareShare are incredibly dedicated. They treat each other like family. Helping out in their kitchen is a great way for people to make friends. One of the great things they do is help to connect people who have been part of the refugee community or who have recently emerged from a period in prison and have the opportunity to learn some skills and connect with others. I'd encourage anyone who is looking to give back to the community to sign up and bring along a few friends too, to expand their network in our community.

I commend FareShare and Foodbank for their work. I commend the generosity of their donors and encourage others to help FareShare and Foodbank give people in need the gift of a warm meal and a kind chat. It's no secret that I'm a big supporter of them being both encouraged and financially supported by this government, but it is wonderful to see that the private sector and individuals put their money where their mouth is by backing these two great organisations. It's a beautiful example of civil society delivering with a locally tailored, responsive compassion that builds the bonds between strangers until they have become something so much more special—that is, a community.

Senate adjourned at 22:26