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SITTING DAYS—2014

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Governor-General
His Excellency General the Hon. Sir Peter Cosgrove AK, MC (Retd)

Senate Office holders
President—Senator Hon. Stephen Parry
Deputy President and Chair of Committees—Senator Gavin Mark Marshall
Leader of the Government in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Government in the Senate—Senator Hon. George Henry Brandis QC
Leader of the Opposition in the Senate—Senator the Hon Penny Wong
Deputy Leader of the Opposition in the Senate—Senator the Hon Stephen Conroy
Manager of Government Business in the Senate—Senator Hon. Mitchell Peter Fifield
Manager of Opposition Business in the Senate—Senator Claire Moore

Senate Party Leaders and Whips
Leader of the Liberal Party in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Liberal Party in the Senate—Senator Hon. George Henry Brandis QC
Leader of The Nationals in the Senate—Senator Hon. Nigel Scullion
Deputy Leader of The Nationals in the Senate—Senator Hon. Fiona Nash
Leader of the Opposition in the Senate—Senator the Hon Penny Wong
Deputy Leader of the Opposition in the Senate—Senator the Hon Stephen Conroy
Leader of the Australian Greens—Senator Christine Anne Milne
Leader of the Palmer United Party in the Senate—Senator Glenn Patrick Lazarus
Deputy Leader of the Palmer United Party in the Senate—Senator the Hon Stephen Conroy
Chief Government Whip—Senator David Christopher Bushby
Deputy Government Whips—Senators David Julian Fawcett and Anne Sowerby Ruston
The Nationals Whip—Senator Barry James O’Sullivan
Chief Opposition Whip—Senator Anne McEwen
Deputy Opposition Whips—Senators Catryna Louise Bilyk and Anne Elizabeth Urquhart
Australian Greens Whip—Senator Rachel Siewert
Palmer United Party Whip—Senator Zhenya Wang
Deputy Palmer United Party Whip—

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

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(1) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice R. Carr), pursuant to section 15 of the Constitution.

**PARTY ABBREVIATIONS**

AG—Australian Greens; ALP—Australian Labor Party;
AMEP—Australian Motoring Enthusiast Party; CLP—Country Liberal Party;
FFP—Family First Party; IND—Independent, LDP—Liberal Democratic Party;
LNP—Liberal National Party; LP—Liberal Party of Australia;
NATS—The Nationals; PUP—Palmer United Party
Heads of Parliamentary Departments
Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services—C Mills
Parliamentary Budget Officer—P Bowen
<table>
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<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon Tony Abbott MP</td>
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<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senator the Hon Nigel Scullion</td>
</tr>
<tr>
<td> <strong>Minister Assisting the Prime Minister for the Public Service</strong></td>
<td><strong>Senator the Hon Eric Abetz</strong></td>
</tr>
<tr>
<td> <strong>Minister Assisting the Prime Minister for Women</strong></td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td> <strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon Josh Frydenberg MP</td>
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<tr>
<td> <strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon Alan Tudge MP</td>
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<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
<td>The Hon Warren Truss MP</td>
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<tr>
<td>(Deputy Prime Minister)</td>
<td>The Hon Jamie Briggs MP</td>
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<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>The Hon Julie Bishop MP</td>
</tr>
<tr>
<td><strong>Minister for Trade and Investment</strong></td>
<td>The Hon Andrew Robb AO MP</td>
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<tr>
<td> <strong>Parliamentary Secretary to the Minister for Foreign Affairs</strong></td>
<td>Senator the Hon Brett Mason</td>
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<tr>
<td><strong>Minister for Employment</strong></td>
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<tr>
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<td>The Hon Luke Hartsuyker MP</td>
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<tr>
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<tr>
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<tr>
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<tr>
<td><strong>Minister for the Arts</strong></td>
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<tr>
<td>(Vice-President of the Executive Council)</td>
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<td>(Deputy Leader of the Government in the Senate)</td>
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<td><strong>Minister for Justice</strong></td>
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<tr>
<td><strong>Treasurer</strong></td>
<td>The Hon Joe Hockey MP</td>
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<tr>
<td><strong>Minister for Small Business</strong></td>
<td>The Hon Bruce Billson MP</td>
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<tr>
<td> <strong>Acting Assistant Treasurer</strong></td>
<td>Senator the Hon Mathias Cormann</td>
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<tr>
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<td>The Hon Barnaby Joyce MP</td>
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<tr>
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<tr>
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<td>The Hon Darren Chester MP</td>
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<tr>
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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. However, there is a Department of Human Services in the Social Services portfolio and a Department of Veterans' Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases.
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Wednesday, 19 November 2014

The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 9:30, read prayers and made an acknowledgement of country.

COMMITTEES

Legal and Constitutional Affairs Legislation Committee

Public Works Committee

Meeting

The Clerk: Committees have lodged proposals as follows:

Legal and Constitutional Affairs Legislation Committee—public meeting during the sitting of the Senate today, from 12.45 pm, to take evidence for the committee’s inquiry into the provisions of the Australian Citizenship and Other Legislation Amendment Bill 2014.

Parliamentary Standing Committee on Public Works—private briefing during the sitting of the Senate today, from 2.45 pm.

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

Question agreed to.

Queensland Government Administration Committee

Meeting

The Clerk: A notification has been lodged for the Select Committee on Certain Aspects of Queensland Government Administration related to Commonwealth Government Affairs to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 5 pm.

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

Senator IAN MACDONALD (Queensland) (09:31): I am not quite sure what the rules are, but I certainly object to this proposal. I am the proponent of the other proposal, notwithstanding that I have an aversion to committees meeting when the Senate is sitting.

The PRESIDENT: Senator Macdonald, I take it you wish you to have the question put on this proposal?

Senator IAN MACDONALD: Yes.

The PRESIDENT: It is your right to do so. I will put the question. The question is:

That the Select Committee on Certain Aspects of Queensland Government Administration related to Commonwealth Government Affairs be authorised to meet during the sitting of the Senate today.

Senator IAN MACDONALD: Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator IAN MACDONALD: This is a stupid situation with respect to those of us who approved it. I wanted to try and convince the crossbenchers of the stupidity of this hearing this evening. We have already had, I think, five separate agendas for this hearing. We get a new agenda every couple of hours. The committee simply is dysfunctional. We really do not
know what we are even discussing tonight. I suggest that by the time the meeting comes around we will have another three different agendas.

It relates to a meeting that was supposed to be held on Friday. It does not matter what happens tonight. We will not be able to get witnesses in in one day. We will not be able to get a venue. None of this would have been done by the secretariat because to do so would disclose private business of a committee. So we are going to be starting from five o'clock tonight to try and— (Time expired)

**Senator CONROY** (Victoria—Deputy Leader of the Opposition in the Senate) (09:35): Mr President, I seek leave to make a short statement.

**The PRESIDENT:** Leave is granted for one minute.

**Senator CONROY:** Senator Macdonald is now wasting the time of the Senate chamber in the same way that he has been bullying and intimidating witnesses at the actual hearings. He is an absolute pursuit to do nothing other than disrupt—

**The PRESIDENT:** Pause the clock.

**Senator Fifield:** Mr President, I have a point of order. Senator Conroy has reflected on a colleague in this place. To accuse a colleague of that sort of behaviour is contrary to standing orders, and Senator Conroy should withdraw.

**The PRESIDENT:** Senator Conroy, in relation to the comments you made about Senator Macdonald, I think it would be advisable, if you are kind enough, to withdraw. Then you will have 43 seconds to continue your remarks.

**Senator CONROY:** I accept your ruling and I withdraw, Mr President.

**The PRESIDENT:** Thank you, Senator Conroy.

**Senator CONROY:** But let's be very clear about what is going on at this committee. There is bullying and intimidation going on at this committee. That is unacceptable behaviour. It is completely unacceptable behaviour. There is consistent, deliberate time-wasting and there is filibustering, and that is all that we are seeing here today. The Senate has already accepted this committee will take place, and those opposite should just suck it up and get on with asking questions of witnesses.

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (09:36): I seek leave to make a short statement.

**The PRESIDENT:** Leave is granted for one minute.

**Senator MILNE:** My concern is the proper operation of the Senate. We have a normal process in here that committees often seek leave to meet during the time that the Senate is sitting. If the Senate has agreed that we set up a committee and that process goes ahead then this is normal procedure. If we get to the point where we try and stymie the operations or facilitate the operations of a committee to meet when others do not want to or do not want to meet when the committee decides to, we are going to throw the whole Senate committee system into chaos.

I just do not think we should be able to jeopardise the proper operation of the committee system because people are running whatever agenda they are running, and that is why I think that if the chair wants to have the committee sit, for any committee, then that is a matter for the Senate.
Senator O’SULLIVAN (Queensland—Nationals Whip in the Senate) (09:37): I seek leave to make a short statement in relation to this matter.

The PRESIDENT: Leave is granted for one minute.

Senator O’SULLIVAN: I am pleased they raised the issue of feeling intimidated, because during the course of some of these meetings I have felt intimidated.

Opposition senators interjecting—

The PRESIDENT: Order on my left.

Senator O’SULLIVAN: I have been bullied.

Opposition senators interjecting—

The PRESIDENT: Order on my left.

Senator O’SULLIVAN: It is a workplace; you have to remember that. I have been bullied. The point is that it is so dysfunctional that it is necessary to take up the valuable time of senators who ought to be in this chamber this afternoon at the time this meeting is convened. It is so dysfunctional that some of these meetings have gone for 45 minutes and have not made their way to the apologies on the agenda. So to take up valuable time of the senators who are required to go to this meeting this afternoon when we ought to be in this place dealing with important business on behalf of the nation is, again, a support of their sham that this committee has been from the very beginning. This should be rejected.


The PRESIDENT: Leave is not granted. The question before the chair is that the Select Committee on Certain Aspects of Queensland Government Administration be authorised to meet during the sitting of the Senate today.

The Senate divided. [09:43]

(The President—Senator Parry)

Ayes ....................35
Noes .....................29
Majority ...............6

AYES

Bilyk, CL
Cameron, DN
Collins, JMA
Dastyari, S
Faulkner, J
Lambie, J
Ludlam, S
Lundy, KA
McEwen, A (teller)
Moore, CM
O’Neill, DM
Polley, H
Rice, J
Singh, LM
Urquhart, AE
Waters, LJ

Bullock, J.W.
Carr, KJ
Conroy, SM
Di Natale, R
Ketter, CR
Lazarus, GP
Ludwig, JW
Madigan, JJ
Milne, C
Muir, R
Peris, N
Rhiannon, L
Siewert, R
Sterle, G
Wang, Z
Whish-Wilson, PS
AYES

Wong, P
Wright, PL
Xenophon, N

NOES

Abetz, E
Bernardi, C
Canavan, M.J.
Colbeck, R
Day, R.J.
Fierravanti-Wells, C
Johnston, D
Macdonald, ID
McGrath, J
O'Sullivan, B
Payne, MA
Ruston, A
Scullion, NG
Sinodinos, A
Williams, JR

Back, CJ
Bushby, DC (teller)
Cash, MC
Cormann, M
Fawcett, DJ
Fifield, MP
Leyonhjelm, DE
Mason, B
McKenzie, B
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Ryan, SM
Seselja, Z
Smith, D

PAIRS

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McLucas, J
Nash, F
Edwards, S
Brandis, GH
Heffernan, W
Reynolds, L
Birmingham, SJ

Question agreed to.

BUSINESS

Rearrangement

Senator MOORE (Queensland) (09:46): Pursuant to contingent notice of motion and at the request of the Leader of the Opposition in the Senate, I move:

That so much of the standing orders be suspended as would prevent me moving a motion relating to the consideration of a matter, namely a motion to give precedence to a motion to alter the hours of meeting and routine of business today and to provide for the consideration of a disallowance motion.

We do not come easily to this place asking for rearrangement of business. We do it when it is important and we believe it is urgent. We believe that it is the will of the Senate to have this discussion today about the incredibly—and I use that word absolutely—important issues around the FOFA regulations. We know these regulations and this issue have been before the Senate on—

Senator Fifield: Mr President, I rise on a point of order. I do not believe a copy of the motion that Senator Moore will seek to move if suspension of standing orders is granted has been circulated.

The PRESIDENT: It is not required at this point in time, simply—
Senator Fifield: I thought it might be good practice and it might be of assistance to the chamber.

The PRESIDENT: Thank you, Senator. Strictly, though, it is not a point of order. It is more a point of clarification. Senator Moore is entitled to introduce this without having that circulated. I understand from the opposition that it now will be circulated.

Senator MOORE: We are always seeking to have good practice and that motion will be circulated as we speak in the chamber, though it is not required. We would have it circulated when the particular motion is before the chamber. That is being done and I am assured it is going around now for clarification. In terms of the reason for the urgency of the suspension, as I said, we know that these regulations and, more importantly, this issue has been before this chamber on a number of occasions. Many senators have had visitations and representations from people who care very deeply about this situation. We know the background and we know the irregularities of the process have led to ordinary people in our community being damaged seriously by issues around financial management.

There was a possibility that legislation could have come before the Senate for consideration. It has not been brought forward by the government. The regulations have been here. This is another ongoing issue about the relationship between primary legislation and regulation—the importance of having those working together in front of the community and in front of this place. However, we believe that we have genuine concern in this chamber. We believe members of the Senate wish to have the debate around these regulations today. We have the information that is very important to be discussed around the regulations. It is important that we have this opportunity. Many senators will want to be engaged in the process.

I will not be taking up important time which I believe should be focused on the core issue—the regulations themselves—in extended procedural debate. The chamber knows our position and the government knows our position. We believe it is important that these regulations are clearly and transparently debated in the Senate today. We have the information to do that. We desperately have the need. It is our proposition that the motion to suspend standing orders continues and then, should that be successful, we move effectively into the substantive debate.

Senator CORMANN (Western Australia—Minister for Finance) (09:50): This is an incredibly reckless and irresponsible move by the Labor Party today. Do not let anybody think that this has anything to do with the best interests of consumers. This is all about the commercial interests of the Labor Party's main shareholder, the union movement. That is what this is about. We have the union movement with a clear commercial interest in large industry super funds that are fighting very hard for market share in the financial services market across Australia. They have never liked small business financial advisers and they have used their preferential and privileged access to the previous government to make life for small business financial advisers and their clients as hard as possible. Ever since Labor lost the last election, they have been desperate to protect the commercial advantages that Labor delivered to the union dominated industry funds in the financial services market.

Senator Wong: What are you delivering to the banks?

Senator CORMANN: Senator Wong is interjecting that we are delivering for the banks. Guess what—this is not about the banks at all. I know that is what the Labor Party is trying to
suggest. This is about mums and dads across Australia saving for their retirement and wanting to ensure that the fees they pay out of their retirement savings are as low as possible. This is about making sure that we have the proper balance between consumer protections while making sure that access to high-quality advice remains affordable.

What we did in the wake of the Storm Financial collapse a few years ago was to have a bipartisan inquiry. That bipartisan inquiry came up with bipartisan recommendations for change, which the coalition supported then and still supports now. But of course the previous Labor government, with Mr Shorten as the then Minister for Financial Services and Superannuation, decided to go further. It decided to provide clear advantages to industry super funds across Australia at the expense of mums and dads saving for their retirement.

This regulation, of course, which came into effect on 1 July 2014, has been before the Senate twice before. The Senate has voted in support of these regulations twice. Here today is the third time in four months that the Senate has been asked to vote on this. Of course that is because over the last four months David Whiteley, from Industry Super Australia, has been out there coordinating a campaign, making it look as if there is a level of consumer concern. He has been coordinating a campaign as the union leader for union funds. He has been running a dishonest campaign as the union leader for union funds, and the Labor Party is the political arm of the commercial interests of the union movement in here, in this chamber.

What is happening here today is quite reckless. It is quite irresponsible. Whatever you think about it, this is not the way to deal with this. Whatever you think about the legislation in substance, the regulation has been the law of the land for four months. You gave notice at seven o'clock last night that you wanted to get rid of those regulations today. There is actually no need to deal with this today. You know. Senator Moore talked about a transparent process to deal with these issues. Well, guess what? If you were genuine in that, if you were honest about that, you would know that this can be dealt with by 27 November, next week, so we actually could let this lie on the table and continue the conversation. Instead, what you are doing is that you are putting a gun to the government's head and you are putting a gun to the head of the financial services industry, quite recklessly and quite irresponsibly. If this regulation is disallowed today, it will be gone. That will have massive ramifications.

Opposition senators interjecting—

Senator CORMANN: Well, you might cheer about this, but once you realise what the implications are in the marketplace you will have another thought about it, because there are a whole range of technical problems with your FoFA changes. There are problems that even Mr Bowen previously acknowledged—problems, for example, in the way grandfathering arrangements operated, which destroyed competition. If this goes up today, the cost of advice for consumers will go up. People across Australia saving for their retirement will have to spend more of their retirement savings on financial advice. Competition will go down. The Labor commercial interests in union funds will of course be improved. If this were fair dinkum, you would let this debate play out until 27 November, next week, which is when you know is the deadline—(Time expired)

Senator WHISH-WILSON (Tasmania) (09:55): Talking about delivering for special interests, the Greens do not have any connection to your alleged Labor-union-driven industry super fund. I come at this from a totally different perspective. During the FoFA inquiry, the Australian Bankers’ Association made it clear in black and white—and it is a shame Senator
Sinodinos has left the chamber—that they had a deal with you, Senator Cormann, and your government to deliver changes to regulations before 30 June. They had not even changed their back-office compliance systems, worth potentially hundreds of millions of dollars. They were that confident that you were going to deliver for them. They were big donors to your political party.

This is about delivering for consumers, about delivering for seniors. A bank employee came to me only last week, saying off the record that he was at risk of losing his job—he works for one of the big four—because he had not met his monthly sales targets. When he told his boss he did not think it was appropriate—

Senator Ian Macdonald: Mr President, I raise a point of order on the conduct of senators. Here is a senator who said that he was given some information off the record. He is now breaching that trust—

The PRESIDENT: That is not a point of order.

Senator Ian Macdonald: by disclosing what was said off the record.

The PRESIDENT: That is not a point of order.

Senator WHISH-WILSON: It is actually a very good point you make, Senator. He has confidentially given me some information—and I certainly will not be disclosing his name; I will make that very clear—that he was at risk of losing his job because he did not meet sales targets, and, when he explained to his boss that he did not necessarily believe that some of the products were in the best interests of the clients, he was told that that was not what mattered; what mattered was meeting his sales targets and making money for the bank. That was only a week ago. He was also told that ASIC was seen within his organisation as being a toothless tiger.

In a few months time, your own government driven Financial System Inquiry will be making recommendations about critical aspects of the FoFA changes to regulations. Why are we rushing this through? Why did you rush these through? Why did you do this on the afternoon before 30 June, on Sunday, when none of us were in the Senate? That is exactly what we expected because the Australian Bankers Association had said that you would deliver for them. You have delivered for special interests here. You have shown who runs this country, who dictates legislation in this place.

Well, we are taking the power back. The Australian consumer, the Australian senior, is taking the power back. This is about us holding you to account, bringing the legislation back into this place and getting it right. It has been a long process, and you should have understood that what the industry needs is certainty. It was very clear—not the Greens, not Labor and not the crossbenchers but the key seniors groups in this country and the key consumer groups in this country were saying, 'It's not good enough.' You have altered something that was put in place to bring back trust in the financial services industry in this country.

I have met with a lot of good financial planners and a lot of people working in the financial services industry. A lot are in my home town. They want trust back in their industry. We need to give this a go. The FoFA regulations had barely even come into force before you changed them to suit the big end of town. The Greens made a very sensible recommendation in the Senate inquiry in our dissenting report that we give these FoFA regulations five years and then we take an evidence based approach as to whether they have increased red tape and put
extra costs onto the business models of the big financial services companies. But you did not want to listen to that sensible recommendation.

I have met with the banks, with large financial services companies and with financial planners in the past two months and I have discovered that the big banks have actually gone overboard on the original FoFA recommendations. Take opt-in, for example—something you insist they need to see gone because of red tape problems. Westpac have two opt-ins a year now amongst their clients because they can see the benefit of contacting their clients and saying: 'How’s it going? Are you happy with the performance?' This is exactly what FoFA was designed to deliver. So much for this being a piece of legislation that is going to bankrupt them and lead to unnecessary cost. They see the benefit of this.

We need to bring this back to this place and have a real debate, and have sensible legislation put in place that satisfies all key stakeholders and not just the big end of town. I know your party, the Liberal-National Party, are very good at delivering for your donors, but this is for all stakeholders.

The PRESIDENT: Thank you, Senator Whish-Wilson. Before I call Senator Fifield, I remind senators to direct their remarks to the chair and not across the chamber directly to senators or parties.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (10:00): I think it is important to come back to the point that this is actually a procedural motion and that what the opposition is seeking to do, through this motion and through this debate, is to justify the rationale for a suspension of standing orders. To seek to suspend standing orders during government business time is a significant thing to attempt to do, because it is the widely accepted view, I thought, that government business time was for the government of the day to determine the business that is transacted. That has certainly previously been the understanding of Senator Xenophon, I know. It has certainly been the understanding of Senator Xenophon, so I am a little surprised that he is supporting this particular motion.

Senator Conroy: Keep a straight face!

Opposition senators interjecting—

The PRESIDENT: Order on my left.

Senator FIFIELD: As sure as night follows day, we will hear from the opposition in about 2½ weeks' time, as we get towards the end of the final sitting week of the year, and we will hear the opposition saying the government should have managed their time better. But we know, and we see time and again—and this is yet another exhibit of the fact that the opposition continually thwarts every opportunity the government has to transact business in government business time in an orderly fashion, which is what we seek to do. We have seen filibuster after filibuster on bill after bill, including on legislation that those opposite support. I think it is important that the chamber record and recognise at this point in time that this is yet another example of those opposite seeking to deny the government the right to transact government business in an orderly way in government business time.

I think it has also become clear over recent weeks and months that this particular disallowance motion has become something of a vanity project for Senator Dastyari. It is something that he is really seeking to make his mark with, to make his name with, to
demonstrate to his colleagues, 'I'm not just a backroom boy from New South Wales.' It has become something of a vanity project and an obsession of Senator Dastyari's, and it is actually an obsession to seek to deny this government the opportunity to implement one of its election commitments. As Senator Cormann has said repeatedly in relation to FoFA, this is a policy that was announced by the coalition more than two years ago and that it took to the election. What it is seeking to do is to give effect to an election commitment, and yet again those opposite pick and choose those sorts of election commitments that they think we should support. What we are simply seeking to do is give effect to that which we said we would do. This motion to suspend standing orders is also based on a false premise. And the false premise is that the government is in some way, shape or form seeking to reduce consumer protections in relation to financial advice. We are not. That is why there is no need for Senator Dastyari's disallowance motion, and if there is no need for Senator Dastyari's disallowance motion then there is no need to suspend standing orders.

The case has not been made for the suspension of standing orders in this place. To suspend standing orders would seek to delay, and have the effect of delaying, further consideration of government business. I will be interested to hear if those opposite can mount a better argument for the suspension of standing orders, as so far they have not done so. This suspension of standing orders should not be granted, and I would urge crossbench senators not to support the suspension of standing orders.

Senator Conroy: Stop wasting time and sit down!

Senator FIFIELD: I would urge crossbench senators not to support the suspension of standing orders.

Opposition senators interjecting—

The PRESIDENT: Order on my left! Senator Fifield, you have the call.

Senator Conroy: Sit down and stop wasting time!

Senator FIFIELD: Mr President, I think I have made my point. Thank you.

The PRESIDENT: Thank you, Senator Fifield.

Senator Conroy interjecting—

The PRESIDENT: Order, Senator Conroy!

Senator DASTYARI (New South Wales) (10:06): Mr President—

Senator Ian Macdonald: Mr President, I rise on a point of order: Senator Conroy just made a very unparliamentary remark. He accused Senator Fifield of filibustering, and yet his own man is now getting up to filibuster for five minutes.

The PRESIDENT: There is no point of order.

Senator Conroy interjecting—

The PRESIDENT: Order, Senator Conroy! There are standing orders to do with a lot of things, Senator Conroy, and you are sailing very close to the wind. Senator Dastyari.
Senator DASTYARI: Thank you, Mr President. This is an important, timely and necessary debate for this chamber to be having. It is a necessary and timely debate, and I urge the senators here today, while looking at this matter about whether or not this is urgent, to take a few minutes and read the Hansards of some of the evidence and testimony that has been given in the inquiries we have been holding about these matters in recent months. I note that Senator Heffernan is not in the chamber at the moment, but if you had participated, as Senator Heffernan did, in our forestry managed investment scheme hearing in the Timbervcorp collapse last week, you would have been moved, you would have been touched and you would realise how important and necessary this debate is.

We are going to have plenty of opportunity today to talk about the substantive elements of this issue. One thing Senator Fifield said was correct—it is something I am very passionate about. It is something I care deeply about. I urge all senators to take some time today to speak to some of the victims groups that have come up here to speak to them. Speak to the victims of Timbervcorp, speak to National Seniors, speak to the Council on the Ageing, speak to Choice—they are all in the building today; they are all around to speak to senators—and hear some of these harrowing, horrible tales. Sometimes in this chamber we get caught up with politics. There is a place for politics and there is a place for doing what is right, and this is about doing what is right. There is a reason why every single consumer and advocacy group in this country that looks after the interests of consumers believes that these are bad laws, that these are bad regulations and that they should not be supported.

I am proud to stand together with a series of crossbench senators, with a group of senators from different political backgrounds, from different political views, and say that these are bad laws, these are bad regulations and they should be disallowed. We are going to get to the substantive part of the debate later, and there will be plenty of opportunity to speak then. I urge the Senate to realise the urgency of this debate, the importance of this debate. For far too long too many victims have been silenced; for far too long too many people's stories have not been told. We are an incredibly privileged, lucky group of people to be able to be here in the Senate and to be able to have the opportunities we have. We also have an incredible responsibility to the many Australians who have been less fortunate—the Australians who have been victims of financial crime, the Australians who have been left behind, who have been given a dodgy information. What we are saying is let us have a debate today and say that protecting consumers and protecting consumer rights, protecting the victims of financial crime, is a priority that we will be dealing with today.

Senator Cormann: Your excessive red tape doesn't do that.

Senator DASTYARI: The minister makes the argument that he wants to get to the debate about the substantive issues. I am more than happy to get to the substantive debate. I urge the Senate, and I urge Senator Cormann, to stop the filibustering, stop the talking and put the motion—we will happily get to the substantive debate. What these regulations really come down to is a wish list for powerbrokers within the industry and it is a return to the bad old days where a handful of crooks, criminals and conmen gave the entire—

Senator Ian Macdonald: What, New South Wales Labor?

Senator DASTYARI: I wish Senator Macdonald would stop talking about Senator—

The PRESIDENT: Ignore the interjections, Senator Dastyari.
Senator DASTYARI: I want to get back to what we are talking about today, and that is whether or not this is a matter we should be suspending standing orders for and whether this should be a priority item of business for the Senate. I urge the Senate to realise that this is not about us—this is about the victims. It is about the people who have suffered; it is about the people who have lost. There is a reason why not one advocacy group, not one consumer group, has supported you in this: these are bad laws. I know you have been hearing from the Bankers Association; I have had the same big banks on the phone this morning that I am sure have been calling you as well. It is not about them. This is about the victims, and today the victims' voices deserve to be heard.

Senator XENOPHON (South Australia) (10:11): I will support the suspension of standing orders, for a number of reasons. Last Wednesday in Melbourne the Senate Economics References Committee—

Senator Ian Macdonald: Mr President, I rise on a point of order. Is it not your normal practice and the practice of the Senate to alternate between both sides of the house? Senator Xenophon is clearly on that side. So far we have had four views supporting the motion and so far only two against. I would have thought the call would have come to me or Senator Bernardi, who both indicated that we want to speak on this motion.

The PRESIDENT: I do not believe that there is a point of order but I will consider the matter and take further advice later. It is not for me to anticipate a senator's position on any particular motion. Equally, I do go from side to side in the chamber. Seniority plays a part from time to time, as senators would know.

Senator Ian Macdonald: You can't get much more senior than me!

The PRESIDENT: That is in relation to holders of office within the chamber. Senator Macdonald, you have raised a point that I will reflect upon but at this stage I am comfortable with my decision.

Senator XENOPHON: Out of my great respect for Senator Macdonald, I will keep my remarks particularly short. I will support the suspension of standing orders. There is some urgency in respect of this. The evidence heard by the Senate Economics References Committee in Melbourne on Wednesday 12 November, just last week, was particularly harrowing. There has been massive failure, with thousands of Australians facing losing their homes as a result of very bad financial advice. The concern expressed by groups such as Choice, National Seniors Australia and the Council on the Ageing is that the government's regulations weaken consumer protections. I spoke to Michael O'Neill and Ian Yates from National Seniors Australia and the Council on the Ageing respectively just a few moments ago. Their concern is not a political one; it is a concern based on the fact that their constituents, the people that they represent—particularly senior citizens and pensioners—will be in a much weaker position.

I think we ought to have a substantive debate on this. I urge my backbench colleagues from the coalition to take this into account—do you really want to be part of another financial scandal if we do not deal with this in a very comprehensive and common sense way? My fear is that the government has gone too far with these regulations. The balance, the pendulum, has swung too far to industry to the detriment of consumers. There is a real urgency in this and we need to deal with it in a common-sense, practical way. That will give an opportunity for those
who support the disallowance of this motion to sit down with the government in good faith and come up with a compromise to deal with the very genuine concerns by Choice, by National Seniors Australia, by the Council on the Ageing and by a whole range of other consumer groups who I do not see as primarily political but have genuine concerns for the people that they represent.

Senator IAN MACDONALD (Queensland) (10:14): This debate, for Senator Xenophon's benefit, is about the suspension of standing orders. This is no way to deal with an industry that is the second-largest industry employer in our country. This shotgun approach to dealing with this important matter should not be tolerated by the Senate. I cannot believe that Senator Xenophon, with all his pious words about the sanctity and importance of the Senate, would agree to this approach to deal with this so important matter. It is essential for this to work properly that we have an ordered series of business. The government places the business. These things should be dealt with and have, in fact, as I understand it, been dealt with by the Senate two or three times already.

I have not got much time left, but I am going to move before I conclude that we extend the time for this debate so that Senator Lambie and Senator Muir can indicate their views on this important matter. I have read in the paper that they have had a change of view, and I think it might be important that we hear that. I do not want to discuss the motion that Senator Moore has flagged, but I am intending to move a motion that we delete paragraphs 3(b) and 3(c). If it is so important—and I do not think it is—to the Labor Party, the Greens and some of the crossbenchers then perhaps we should forgo question time and get on and deal with it. I see the motion as it stands means that in effect we might be here until three o'clock in the morning.

Senator Kim Carr: Then you should sit down.

Senator IAN MACDONALD: There we go: the Labor Party is bullying, yet again. I can understand Senator Dastyari's concern to get himself a bit of a profile—after all, he was General Secretary of the New South Wales Labor Party at the time when all of that corruption by, I regret to say, my namesake and Eddie Obeid, Senator Conroy's mate, was exposed. I can understand why—

Senator Wong: Who is the precious petal now, Ian?

The PRESIDENT: Order! Ignore interjections, Senator Macdonald, and do not interject, Senator Wong.

Senator IAN MACDONALD: I cannot. The Leader of the Opposition in the Senate continuously interjects. It is the only time she speaks in this chamber, Mr President.

I want to move an amendment—

The PRESIDENT: I cannot entertain a motion of that nature.

Senator Conroy: Sit down!

The PRESIDENT: Order, Senator Conroy! I determine these matters, not you, Senator Conroy.

Senator Conroy interjecting—
The PRESIDENT: Silence, Senator Conroy! Senator Macdonald, I cannot entertain that as a motion. There is no provision for you to move that. There is a motion before the chair on the procedural matter to suspend standing orders.

Senator IAN MACDONALD: Can I move that standing orders be set aside to allow Senator Lambie and Senator Muir to—

The PRESIDENT: Not until I dispose of this matter, Senator Macdonald. The question before the chair now is that the motion to suspend standing orders moved by Senator Moore be agreed to.

The Senate divided. [10:22]

(The President—Senator Parry)

Ayes ....................33
Noes ....................27
Majority ...............6

AYES
Bilyk, CL (teller) Bullock, J.W.
Cameron, DN Carr, KJ
Collins, JMA Conroy, SM
Dastyari, S Di Natale, R
Faulkner, J Ketter, CR
Lambie, J Lazarus, GP
Ludlam, S Ludwig, JW
Lundy, KA Madigan, JJ
McEwen, A Milne, C
Moore, CM Muir, R
Peris, N Polley, H
Rhiannon, L Rice, J
Siewert, R Singh, LM
Sterle, G Wang, Z
Waters, LJ Whish-Wilson, PS
Wong, P Wright, PL
Xenophon, N

NOES
Abetz, E Back, CJ
Bernardi, C Bushby, DC (teller)
Canavan, M.J. Cash, MC
Colbeck, R Cormann, M
Day, R.J. Fawcett, DJ
Fierravanti-Wells, C Fifield, MP
Leyonhjelm, DE Macdonald, ID
Mason, B McGrath, J
McKenzie, B O'Sullivan, B
Parry, S Payne, MA
Ruston, A Ryan, SM
Scullion, NG Seselja, Z
Sinodinos, A Smith, D
Williams, JR

CHAMBER
The PRESIDENT (10:25): Before I call Senator Moore to move her next motion, could I invite Senator Lazarus to make an announcement to the chamber.


Leave granted.

Senator LAZARUS: I rise to advise the chamber that the Palmer United Party has removed Senator Jacqui Lambie from the position of deputy leader and deputy whip.

BUSINESS

Rearrangment

Senator BERNARDI (South Australia) (10:25): I seek leave to extend—no, what I am going to do is move for a suspension of standing orders so as to allow Senator Lambie from the 'Lambie United Party' and Senator Muir from the Motoring Enthusiasts Party to explain their about-face in supporting the previous suspension of standing orders—

The PRESIDENT: Order! Senator Bernardi, if I could interrupt you there, there would be an ordinary right under a contingency motion for you to do that, but we are now under the suspension of standing orders by a resolution of the Senate. I will not entertain a further suspension of standing orders of this nature.

Senator BERNARDI: Is it possible then, Mr President—

The PRESIDENT: Are you seeking a point of clarification?

Senator BERNARDI: Yes, I am. Is it possible then for me to seek leave that would allow Senator Lambie and Senator Muir—

The PRESIDENT: You can seek leave, Senator Bernardi, to undertake anything. It is whether leave will be granted that is the issue. Are you seeking leave?

Senator BERNARDI: I seek leave that five minutes be allowed for Senator Lambie and a further five minutes for Senator Muir to explain their positions because they were denied the ability to do so due to the lapse of time under the previous debate.

Opposition senators interjecting—

The PRESIDENT: Order! This does not help. Is leave granted?

Leave not granted.
The PRESIDENT: Again, I will not entertain a suspension of standing orders of that nature.

Senator MOORE (Queensland) (10:27): I move:

That a motion relating to the hours of meeting and routine of business today may be moved immediately and have precedence over all other business till determined.

We have now heard considerable debate about the substantive motion. People have talked about why they disagreed with the substantive motion.

Senator Ian Macdonald: On a point of order, Mr President, I did not quite catch which motion Senator Moore was moving.

The PRESIDENT: Senator Macdonald, if I can clarify: Senator Moore has moved a motion that the Senate gives precedence to a future motion that Senator Moore wishes to move in relation to the order of business today. The suspension of standing orders has allowed that to take place.

Senator MOORE: As clarification for the chamber, this allows the possibility for senators to have a discussion on this particular motion. Rather than having more points of order from the other side, we are now in a debate on this particular motion. In terms of the process, I have always said that, when we are having debates on procedural motions, they should be as tight as possible to allow the procedure to be decided and then move on to the core issue. We have moved this motion today to ensure that we have debate in this chamber around the FoFA regulations. That is our intent and that is why we have moved the suspension of standing orders and why we wish to move our hours motion.

In that process it seems to me that what we should be doing is looking specifically at now voting on that decision to see what the will of the Senate is. We are asking for no more than what the standing orders allow: that senators have the ability to move in this chamber to determine what should happen in this chamber. Then there is a vote and the Senate can determine what will occur. We believe it is entirely appropriate to allow for the will of the Senate to determine what will be debated in the Senate.

This is not overtaking the right of the government to set a pattern. In fact, we see that all the time. The reds are produced every day. Most times the reds are produced and immediately changed. But, nonetheless, in terms of what happens what we are doing today is by no means taking away from the right of the government to put forward their pattern of debate. The reason we have come today with an urgency to consider the FoFA regulations is that we believe they are urgent. We believe that the evidence before the Senate—particularly before the recent Senate inquiry—is so urgent. The content of the evidence that was heard is harrowing, it is distressing and we have a right in this place to consider the FoFA regulations, which we believe will respond in some way to allow there to be effective scrutiny in this process.

There will be every opportunity in the future for the appropriate legislation to come forward—which we believe should have come forward earlier so that we would be debating the core legislation—but nonetheless what happened is that the government brought forward a series of regulations that were supposed to be there to offer protection. We do not believe they do. We believe that it is important that we have the opportunity in the Senate to test whether the Senate believes that those regulations are the way we wish to proceed.
Should this motion succeed, there will be ample opportunity for the Senate to put forward all the arguments about why the regulations should stay or be overruled. From the government's side and from this side of the chamber, that will be the real chance in our time—in the Senate's time—to discuss the core aspects of the regulations and to put forward the arguments on which the Senate can then vote and make the Senate's decision.

In terms of the process, I will not be making a long speech at this stage even though the standing orders say that I can. I will urge the Senate to consider moving and agreeing with the proposal that we have circulated and which gives this Senate the opportunity to consider the FoFA regulations and to make a decision on them.

Senator CORMANN (Western Australia—Minister for Finance) (10:32): This is not about proper process. This is about putting a gun to the head of the Senate and a gun to the head of a very important industry for Australia and for Australians. The Labor Party in government introduced changes to our financial advice laws which went well beyond what was recommended by the bipartisan committee chaired by Bernie Ripoll. Where it went beyond what was recommended by that committee, it was at the behest of the industry fund movement in pursuit of their base commercial interests. Of course, the cost of implementation of those changes was conservatively estimated at $750 million up-front and $375 million in additional costs ongoing to implement the additional compliance burden that Labor imposed through its legislation.

Labor in government had this process called a regulatory impact statement, where there ought to be a cost-benefit analysis to ensure that any additional regulatory burden is proportionate in terms of the cost it imposes and the additional benefit it delivers to consumers. Of course, the previous government gave themselves an exemption from that process. The previous government never assessed the cost benefit of that particular legislative change, because they knew it would fail. They knew they went beyond what was sensible. They knew that they were imposing costs on families across Australia saving for their retirement and managing financial risks through life. They were imposing costs on them that were not appropriate. Every time you impose an additional bit of red tape it does come at a cost. Our objective as policymakers ought to be that we get the balance right, with appropriate levels of consumer protection, by making sure that access to high-quality advice remains affordable for all Australians. We need to ensure that we have a robust but efficient regulatory system in place.

Senator Dastyari talked about victims of bad financial advice. He talked about some instances in the past where people were hurt by bad financial advice. That is terrible. Whenever something bad happens, it is very important for us as policymakers to take a step back, consider what happened and why and consider how the policy framework can be improved, but we need to ensure that whatever change we impose makes things better and not just more complex and more costly, or reduces competition, which of course is important for consumers in the final analysis.

The changes that Labor made to our financial advice laws went too far. To the extent they went too far, they imposed additional costs that were not necessary, they lessened competition and they never went through a proper process to assess their impact. We went to the last election very openly and transparently putting out there for all to see what our policy would be to improve those financial advice laws. We said very openly and transparently we would
keep the good bits and get rid of the bad bits. That is something that we have supported all the way through. The good bit was that, as a result of the Ripoll inquiry, this parliament introduced a statutory requirement for financial advisers to act in the best interests of their client. That statutory requirement remains. It remains after our changes. We also supported—and this remains in place—a ban on conflicted remuneration for financial advisers, because we agree that it is not appropriate that remuneration arrangements should conflict with the advice that is given.

However, what we did say is that we did not think it was appropriate to force people across Australia saving for their retirement to re-sign contracts with their advisers on a regular basis. That is not something that was recommended by the Ripoll inquiry. Out of 400-plus submissions to the Ripoll inquiry there was only one submission that recommended this change. Guess who recommended that change out of more than 400 submissions? It was the Industry Super Fund Association—the Industry Super Network, as it was then. It was the only submission out of more than 400 that recommended that particular change. The Ripoll inquiry did not pick it up. But guess who picked it up? The then minister, Bill Shorten. Why did he pick it up? Because wherever he had the opportunity he was acting at the behest of the best interests of the union movement. He was advancing the commercial interests of the union movement. The Labor Party over the last four months has been working flat out to help protect the vested commercial interests of the union movement. That is what this is all about.

We are talking here about a time management motion of sorts. We are talking about a change to the order of business today which has the effect of conclusively dealing with this disallowance today. The first we heard of this was at seven o'clock last night. This is actually a very significant industry for Australia. This is an industry which is one of the largest employers across Australia. This is an industry which is very important nationally. Of course, here we are, within 24 hours—without any notice whatsoever, without any sort of debate—changing the law of the land. Whatever you think of the substance of the changes, there is actually no need to deal with this today, because under the ordinary processes of the Senate this disallowance motion can be resolved by 27 November—that is, Thursday next week. So there is actually time to deal with this in an orderly and methodical fashion.

We have to remember that this is an issue that has come before the Senate twice before over the last 12 months. The Senate has voted twice in support of those improvements to our financial advice laws. The Senate has voted twice over the last 12 months in support of these laws, so small business financial advisers across Australia and their clients had the reasonable expectation that this was the law of the land and that it would stand and that the $190 million a year in savings, which reduce the cost of accessing financial advice for clients across Australia—that those changes would stand. To come into this chamber with an ambush today and say we now have to conclusively deal with this today so that the effect is that these changes that have been the law of the land for the last four months have been abolished is quite reckless and quite irresponsible, particularly because the opportunity is there to press the pause button and to have another conversation between now and next Thursday to see what else can be agreed.

I would have thought that that is a sensible way to go. I would just invite the Labor Party to reflect on this, because the Labor Party rushed some of these legislative changes through when they were in government. They have acknowledged since then that some of this stuff
was actually not all that well drafted. There were some serious technical issues which were addressed in the regulations that came into effect on 1 July this year, in particular in relation to grandfathering arrangements. The changes that we have made in our regulations address that. Of course, the Labor Party in the past he said that, yes, that needed to be addressed. So the government has made improvements to the FoFA grandfathering provisions to address unintended consequences and to facilitate competition in the financial advice industry by enabling advisers to move licensees with their clients whilst continuing to receive grandfathered remuneration. The Labor Party said that that was something that needed to be done.

If the course of action that has been set in train by various crossbenchers, the Labor Party and the Greens today goes to its conclusion, as it currently looks like today, then all of these changes, all of these fixes of issues, disappear. And without any notice whatsoever. We have to be very clear on those consequences.

Senator Conroy: Sit down and let's talk about it.

Senator CORMANN: I think it would be sensible and I think it would be responsible—

Senator Conroy: Sit down and let's talk about it—actually have a debate.

Senator CORMANN: Well, we are talking about it.

Senator Conroy: No, this is—

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Order!

Senator CORMANN: It would be sensible not to proceed with this, what is effectively a time management motion, because it is a motion which seeks to deal with this issue conclusively today. What I am saying is that that is very reckless and very irresponsible. Senator Xenophon will not mind me saying that he has indicated to me that he has consistently been opposed to this particular change.

Opposition senators interjecting—

Senator CORMANN: I do not think that Senator Xenophon can hear my contribution, Mr Acting Deputy President, because there is a bit of noise in the aisles. I think Senator Xenophon will not mind me saying that he has indicated to me that he has been consistently opposed to the improvements we have made to our financial advice laws.

Senator Xenophon: I think Senator Cormann has fundamentally misrepresented what I have said. He has said I have been opposed—

The ACTING DEPUTY PRESIDENT: What is your point of order?

Senator Xenophon: The point of order is that the minister is verballing me by saying that I have been consistently opposed to 'improvements' in financial advice laws. I never said the word 'improvement', so I have been verballed. I would be grateful if he would withdraw that.

The ACTING DEPUTY PRESIDENT: Senator Xenophon, resume your seat. That is a debating point; it is not a point of order.

Senator CORMANN: I certainly did not intend to verbal Senator Xenophon. I readily concede that the characterisation of our changes as improvements is my characterisation and that Senator Xenophon has consistently indicated to me that he was not supportive of those changes. But, be that as it may, from a process point of view, the Senate has voted on these
changes—what we would say are improvements—twice now over the last 12 months. There is a reasonable expectation out in the marketplace across the financial services industry and across those saving for their retirement that this is the law of the land. Senator Xenophon then indicates to me, ‘Well, after this is voted down we can then have a conversation how we can put together a better package.’ The problem is that this puts the industry in a terrible position, because it makes them essentially noncompliant with the law as of whenever this passes.

Senator Kim Carr: Let's get on with it!

Senator CORMANN: That is exactly what I am suggesting we should not do. We should not get on with it today because, remember, the Labor changes, which we have effectively amended and improved as a result of our regulations, imposed $750 million in additional costs up front on the financial services industry, which ultimately have to be carried by people across Australia saving for their retirement. It imposed $375 million in ongoing additional compliance costs, which ultimately have to be carried by people across Australia saving for their retirement and managing their investments. Of course, if we now pass this regulation today, that is the law that comes back into effect, and all these institutions across Australia will have to scramble, in some chaos and facing unnecessary uncertainty while we are trying to work something out over the next week or so, to comply with a law that we are already saying we want to amend.

It would be much more sensible, given that this particular disallowance motion does not have to be dealt with until 27 November and will remain on the Notice Paper until 27 November, to have those conversations now—that is what I would say to Senator Xenophon—than to impose chaos and uncertainty on an important industry, to force them into a position to comply with a law which should not be the law of the land, which forces them, essentially, to incur expenses which they should not have to incur, given that the Senate is—

Senator Cameron: They have got some expenses—people lose their homes!

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Order!

Senator CORMANN: This is the big deceit.

Senator Cameron: What about priorities?

Senator CORMANN: I take that interjection. This goes to the heart of the deceit that the Labor Party are perpetuating on the Australian people. They are suggesting that, because somebody loses some money, imposing additional red tape will necessarily help prevent that.

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT: Order!

Senator CORMANN: That is actually not true. That is actually not true! The Storm Financial collapse—and I know that Senator Macdonald took a very close interest in this—would not have been prevented by the imposition by Mr Shorten of a requirement to keep re-signing contracts. The clients of Storm Financial, for better or for worse, had signed all the paperwork you needed to sign. They kept re-signing paperwork all of the time. The fee arrangements were very transparent. That was not the problem. The problem was that they were being badly advised. They were not given advice that was appropriate to their circumstances. Of course, these are all things that have been addressed and will continue to be addressed as a result of the sensible recommendations that came out of the Ripoll inquiry.
The debate we are having here is really a debate at the margins, but it is a debate at the margins about something that is imposing significant additional costs on people across Australia saving for their retirements. I would say to the Senate that, if there is now a majority in the Senate that is inclined to revisit the previous two votes, there is a more sensible way to go about it than the way that is now being proposed today. It is not sensible to ram this through today without any proper notice to an important industry across Australia. This is not the sensible way to go. If the Labor Party were interested in doing things in a responsible way and in the public interest, rather than trying to ram something through while they think they might be able to hold a coalition of votes together, then they would allow this to be dealt with in a more orderly and methodical fashion between now and next Thursday.

I very strongly urge the Senate to very carefully consider what we are doing here. We are putting very important institutions, very important businesses, very important consumers—

Senator Cameron: And donors to the Liberal Party.

Senator CORMANN: This has got nothing to do with donors to the Liberal Party, Senator Cameron. This has got nothing to do—

Senator CAMERON: We know what it is about.

Senator CORMANN: Let me tell you very clearly that our only motivation here is the public interest. Let me tell you something that has always been true and that will always be true. The people that like red tape are the bigger businesses because they actually can deal with it. The big banks do not mind red tape. The big banks have got the capacity to deal with it and to work around it. It is the smaller businesses that struggle with additional red tape. It creates a barrier to entry; it creates increases in concentration; it creates a lessening of competition—all things that are against the public interest.

The public interest is to ensure that we have a financial services system which is as efficient, as transparent and as competitive as possible, which has high corporate governance standards, which has high professional standards and where people across Australia can have access to high-quality advice that they can trust but which is also affordable. If we continue to add more and more burdens that only add marginal additional consumer protection benefit, then we are forcing people to pay more for their advice then they should have to. We are forcing them to accept lower retirement savings and lower retirement income ultimately than they should be able to achieve if we had a more sensible arrangement.

I am disappointed that it has come to this point because the government did negotiate an agreement with the Palmer United Party and the Australian Motoring Enthusiast Party. We did agree to a whole range of changes as part of that process, changes that we have given effect to in amendments to the substantive legislation which has already been circulated and which indeed has already been assessed for a second time now by the Senate Economics Legislation Committee. Indeed, the Senate Economics Legislation Committee has conducted two inquiries into this legislation. Both of those inquiries have recommended its passage.

I would say specifically in relation to Senator Muir that, as part of the negotiations with the Palmer United Party and the Australian Motoring Enthusiast Party, Senator Muir said that for him to support our improvements he needed the government to progress implementation of a public register of financial advisers to provide more transparent information about the credentials and the status of financial advisers in the industry—who they work for, what their
qualifications are, what their relevant past history is and so on. The government has delivered on all those commitments 100 per cent. We have delivered 100 per cent on every part of the agreement that we have committed to.

On that basis the Palmer United Party, including Senator Lambie, and also Senator Muir, on behalf of the Motoring Enthusiasts Party, agreed to vote against any disallowance and to support our FoFA legislation as amended to give effect to the additional measures in the letter to Mr Palmer as representing the Palmer United Party and the Australian Motoring Enthusiasts Party in that negotiation.

It is very disappointing for the government in those circumstances. We understand that now good public policy is getting caught up in internal party infighting.

Senator Conroy: Good public policy?

Senator Kim Carr: You're ripping people off!

The President: Order on my left!

Senator Cormann: Good public policy is, sadly, now getting caught up in political infighting inside the Palmer United Party. That is disappointing. It is disappointing for people across Australia, who deserve better—people across Australia who are saving for their retirements, managing financial risks through life and deserve access to a robust but efficient regulatory system which is competitively neutral and which will provide access to high-quality advice in a way that is also affordable.

Senator Ludwig (Queensland) (10:53): I move:

That the question now be put.

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

The Senate divided. [10:57]

Ayes .......... 34
Noes ........... 28

AYES

Bilyk, CL (teller)
Bullock, J.W.
Carr, KJ
Conroy, SM
Di Natale, R
Lambie, J
Ludlam, S
Lundy, KA
McEwen, A
Moore, CM
O'Neill, DM
Rhiannon, L
Siewert, R
Sterle, G
Wang, Z
Whish-Wilson, PS
Wright, PL

Brown, CL
Cameron, DN
Collins, JMA
Dastyari, S
Ketter, CR
Lazarus, GP
Ludwig, JW
Madigan, JJ
Milne, C
Muir, R
Peris, N
Rice, J
Singh, LM
Urquhart, AE
Waters, LJ
Wong, P
Xenophon, N
The PRESIDENT: The question now is that the motion to grant precedence be agreed to.

The Senate divided. [11:01]

(Aye—Senator Parry)

Ayes .................. 34
Noes .................. 28
Majority ............. 6

AYES

Ayes .................. 34
Noes .................. 28
Majority ............. 6

AYES

Bilyk, CL (teller) Brown, CL
Bullock, J.W. Cameron, DN
Carr, KJ Collins, JMA
Conroy, SM Dastyari, S
Di Natale, R Ketter, CR
Lambie, J Lazarus, GP
Ludlam, S Ludwig, JW
Lundy, KA Madigan, JJ
McEwen, A Milne, C
Moore, CM Muir, R
O'Neill, DM Peris, N
Rhiannon, L Rice, J
Siewert, R Singh, LM
Sterle, G Urquhart, AE
Wang, Z Waters, LJ
Whish-Wilson, PS Wong, P
Wright, PL Xenophon, N
Question agreed to.

Senator MOORE (Queensland) (11:03): I move:

That on Wednesday, 19 November 2014:

(1) the hours of meeting shall be 9.30 am to adjournment;
(2) Business of the Senate Notice of Motion No. 1 set down for 27 November 2014, relating to the disallowance of the Corporations Amendment (Streamlining Future of Financial Advice) Regulations 2014 shall be called on immediately and have precedence over all other business until determined;
(3) the routine of business shall be as follows:
   (a) the item listed in paragraph (2), followed by Government Business only,
   (b) At 2 pm, questions
   (c) Motions to take note of answers
   (d) the item listed in paragraph (2)
   (e) Notices of motions
   (f) Formal motions—Discovery of formal business
   (g) Consideration of documents under the provisions of the temporary orders
   (h) Government business only;
(4) The adjournment of the Senate shall be proposed at 7.20 pm unless consideration of the item listed in paragraph (2) has not concluded, in which case the adjournment shall be proposed following the determination of that item.

Senator IAN MACDONALD (Queensland) (11:04): I oppose the motion, but I want to indicate right now that I will later on move an amendment to the motion: to delete subparagraphs (b) and (c) of paragraph (3); because—although I do not believe it—if those
from the other side who spoke about how urgent this is and how it should not be dealt with
to take answers and perhaps the other matters as well. But I am not going to deal with them. I
am going to move that amendment just to test how genuine the Labor Party and the Greens
are on the particular urgency of this motion. I cannot help but be persuaded by, and therefore
repeat, the issues raised by Senator Cormann in a previous debate—and that is, as I
understand it, that this matter has been dealt with by the Senate on two occasions.

There were some refinements required. Senator Cormann had an arrangement with
senators, including Senator Muir and Senator Lambie. I think the arrangement was actually
even in writing. They had a written agreement that, if Senator Cormann made certain
refinements, they would support the position and the approach taken by Senator Cormann.
That of course brings in to question just what the written commitment of Senator Lambie and
Senator Muir might be. I hope Senator Lambie will take part in this debate. I hope Senator
Muir will take part in the debate too, and I hope he might indicate why his written agreement,
his written commitment, is no longer valid. From what I have seen in the media, there does
not seem to be any reason at all except a bit of an internal miff.

What the Palmer United Party does is of no consequence to me except, I might add, when
they waste the time of this Senate inquiring into another sovereign government in Australia
and set up a committee that is so outrageously undemocratic that I cannot believe it. I still
pinch myself to think that the Labor Party could have ever voted for this, because the Labor
Party should know better than anyone that what goes around comes around.

Labor has set a horrible precedent with the Palmer United Party on that Queensland
inquiry, not so much the inquiry but the committee. There are 33 government senators and the
government got one vote on that committee. There are 25 Labor senators and Labor got two
votes. There are three PUP senators and they got the same as the government, which got only
one vote. I have digressed. I should get back to the motion before the chair. We do want to see
just how genuine the Labor Party is on the urgency of this.

As Senator Cormann explained—and should have convinced any reasonably open senator:
if there is a need to relook at this, and I do not think there is, you do not do it on a midnight
phone call the night before saying that the previous written commitment I gave you is now no
longer valid. This is a huge industry in Australia, as Senator Cormann has pointed out. It is
one of the biggest employers in Australia, as Senator Cormann has pointed out. If this
substantive motion is passed, we are going to be leaving the whole industry and all of the
clients and all of the people who rely on the advice and the activities in that industry in limbo.

Even if it were obvious that some change had to be made then you do not do it on the floor
of the chamber in a hurry without the opportunity for everyone to get good, complete and
accurate advice on what should be done; how the arrangement should be recorded; and what
motions or indeed legislation or regulation need to be properly drafted to take into account
these new things. You do not do that by this gunshot approach to legislation. It seems
inappropriate that we should be diverting a day of other urgent government business to
dealing with this issue, which, important as it is, cannot be dealt with sensibly in the manner
in which it is being proposed.

I refer to the motion before the chair which says in paragraph 1 'the hours of the meeting
should be from 09.30 to adjourn' and sets out the disallowance of the substantive issue
here. It then deals with the routine of business. This is where the Labor Party, the Greens and some of the crossbenchers are taking the management of this chamber out of the hands of the government. Even in the darkest days of the Rudd-Gillard-Rudd government, in a time when the opposition often could have thwarted the business of the government, one of the rules we lived by was that Labor were the government and Labor should set the agenda. If the opposition needed to do business, there was a day set aside by the standing orders and by tradition for the opposition to do that. But we always accepted that the government, even though it was not in a majority—as is the case now and was in the Gillard years—should at least set the agenda. The parties could then exercise their right to vote on that agenda as they would.

So what this motion before the chair does is take away from the government its ability to get its legislative program before the Senate. Again, I steal from Senator Cormann’s comments or was it Senator Fifield, who said that in a couple of weeks times we will have all of these pious speeches by the Labor Party saying the government cannot manage the program and we are rushing things through. I remember the sort of rhetoric that they will be on about, yet here is the government trying to manage a program.

There are a number of bills to be considered today: the Tax Laws Amendment (Research and Development) Bill 2013, the Business Services Wage Assessment Tool Payment Scheme Bill 2014 and the very important Aged Care and Other Legislation Amendment Bill 2014. These were the bills that were to be determined. As well as that, in the normal course of the Senate and by decision of the Senate, many senators will also be dealing with other Senate committee work. How can we be doing other Senate committee work when we should be in the chamber discussing this very important issue of the Corporations Amendment (Streamlining of Future of Financial Advice) Bill 2014?

I do not know what is going to happen now to the Legal and Constitutional Affairs Legislation Committee, which was going to meet at the request of the Labor Party. As chairman of that committee, I was quite happy to do that. I believe this chamber and this parliament only works if people understand the seriousness of what they do. You have to have a little bit of give and take. On an inquiry into a bill where we had the department appearing but ran out of time—because, quite frankly, there are so many inquiries, particularly for my committee, that we are struggling to find days where we can get a quorum to meet—the Labor Party wanted to have an hour or so extra with the department. I was very happy to facilitate that; I did not have to. I remind people that we do have a majority on that committee and we could have said 'No, that's finished'. I always try to assist the Labor Party in their proper requirements and their proper obligations. They have an obligation to inquire into legislation. They wanted this extra time, and I agreed to it. We set it down for some time later today, but, at the rate this is going, I am not going to be there as chairman, and I guess there will not be a quorum because we will be in here debating this motion and, if it is passed, the substantive issue before the chair.

I say to my Labor friends: 'Don't come to me complaining that the committee is not going to meet at midday today.' I wanted to do that and my colleagues on the committee were happy to go along with that, because we understood the Labor Party needed to inquire into that particular piece of legislation. I am sorry, but I, the government generally across the board, other committee chairs and the leadership in this place bend over backwards to try and allow
the opposition to do what they have to do. We do that, I might say, even with the Greens political party and certainly the crossbenchers, because that is the only way this chamber will work: if you have a bit of give and a bit of take. Instead of going to that committee meeting at midday, I will probably still be in here debating this, as I guess my colleagues will be, and then we cannot meet because there will not be a quorum. At the rate we are going, we will all still be here at five o'clock tonight—

Senator O'Sullivan interjecting—

Senator IAN MACDONALD: Poor Senator O'Sullivan is stressed by the pressures! I am being cynical. At five o'clock tonight we are supposed to be having a meeting of the farcical Palmer initiated inquiry into the sovereign government of Queensland. At the rate we are going, we will still be here debating this motion when we should be at that committee. I might say that the chairmanship of that committee is such that, I suspect, those niceties will go completely over the head of the chairman. Pausing here, I dislike very much having to take this approach to that committee and its chairman, but as I have said to the chairman, 'You got yourself into this.' It is the most undemocratic committee I have ever experienced in my long time in this parliament. It was a committee set up by Mr Palmer and supported by the Labor Party. I would expect that the Greens would support it. They will do anything capricious, anything they think might in some way hurt the government. I understand the Greens, but I simply cannot understand why the Labor Party supported that.

I remember when that motion first came up, the Labor Party sensibly opposed it. I understand Mr Shorten was opposed to it. I know for certain that the Queensland Labor Party leader, Annastacia Palaszczuk, is not interested in it at all. She well remembers that the Labor Party ran a campaign before the last Queensland election which suggested that Mr—

Senator Cameron: Mr President, I rise on a point of order. I know that the debates in this place are wide ranging, but I have noticed that Senator Lambie has been called up on her submissions to this chamber on a number of occasions recently. This is really diverting from the issue before the chair and I think Senator Macdonald should be brought back to the issue.

The PRESIDENT: Thank you, Senator Cameron. I remind Senator Macdonald of the matter before the chair.

Senator IAN MACDONALD: For once, Senator Cameron is right. I did get a little carried away as I usually do when I think about the farcical committee that the Labor Party has helped the Palmer party set up. With Mr Palmer as one of Australia's would-be biggest mining magnates in coal, I cannot believe that the Greens seem to be lockstep with him on this inquiry as well as on the Victorian state election preference deal. Here are the Greens, anti-coalmining—

Senator Cameron: Mr President, I rise on a point of order.

Senator IAN MACDONALD: I am sorry, Senator Cameron. Do not rise on a point of order. I will move on. The influence that Senator Cameron has: he only has to stand. I wish he had had the same influence with my namesake, Ian Macdonald, in New South Wales, whom I know from reading history that Senator Cameron strongly supported many times.

The PRESIDENT: Back to the topic, Senator Macdonald.

Senator IAN MACDONALD: Back to the topic. The point I am making is that this chamber only works if there is give and take—if people understand where everyone is going
but allow things to move. If this motion is passed, the committee on the Clive Palmer inquiry into the Newman government, which was scheduled to meet at five o'clock tonight, may not be able to proceed. That would be a shame, although I am not quite sure what the purpose of that meeting is tonight. It is supposedly setting a witness list for two days hence, and of course nobody knows who the proposed witnesses are, because to disclose that would be a disclosure of the private business of the committee. So it is not the secretariat. The senator would have told the prospective witnesses that they were going to be called on Friday, so they are not going to know about it, and I do not understand how they are going to get there to give evidence with less than a day's notice. I only mention that to say: unless you do the give and take across the board and do not set up stupid arrangements, like the Clive Palmer inquiry into Queensland or the motion before us now, this chamber simply will not work.

I notice paragraph (4) of this particular motion says that the Senate will sit until it is dealt with. We have heard it is a very, very important piece of government legislation or regulation. It is something that, if it is going to be changed holus-bolus or even substantially, it needs a lot of discussion. I imagine that the discussion today will continue into the early hours of the morning and perhaps even into tomorrow.

Senator Dastyari: Good.

Senator IAN MACDONALD: Who said 'good'?

Senator Bernardi: Dastyari.

Senator IAN MACDONALD: Thank you, Senator Dastyari!

The PRESIDENT: Ignore the interjection.

Senator IAN MACDONALD: It does mean that the replacement estimates day, which was on tomorrow, is not going to happen. If this motion to vary business is passed, we will still be dealing with the disallowance motion on the corporations amendment regulations tomorrow, so we will not be having estimates hearings. Clearly, the Labor Party have been influenced by one or two of their members to give this priority over the estimates process and the estimates hearings scheduled for tomorrow. They will not happen if we are still debating this motion tomorrow, and I suspect we will be because it is a very, very important issue and we have to get the understanding of senators who have changed their minds about their written undertakings, such as Senator Muir and Senator Lambie. So I suspect this will go on a long time. As for what is going to happen with the estimates committees, who knows? But, see, we try to accommodate the Labor Party, we do the right thing, we try to make this place work and then we are confronted with the sort of stupidity that is before us now.

Mr President, I move my amendment to the motion:
That paragraphs (3)(b) and (3)(c) of the motion be omitted.
I want to put the Labor Party to the test: how serious are you about dealing with this disallowance motion? If you are really serious about it, you will forgo question time and motions to take note of answers and you will get on with what I know will be a very lengthy debate because you cannot change this sort of legislative approach on the chamber floor over the period of time—

Senator Dastyari interjecting—

The PRESIDENT: Order, on my left!
Senator IAN MACDONALD: See, this is how the debate is going to go—shouted down by members of the opposition, trying to intimidate. You are not at a union meeting now—

(Time expired)

Senator BERNARDI (South Australia) (11:24): I rise to oppose this motion because it will disrupt a very important function of the Senate. On Wednesdays, we have an opportunity to give senators' statements, as they are now known. There is an hour and a quarter in which we are able to make explanations of circumstances that have taken place or to represent things on behalf of our constituents. Today in that senators' statements debate—and it is for a slightly selfish reason—I wanted to thank a member of the Labor Party, which I will be unable to do if this motion to vary business is passed.

The reason for my thanking a member of the Labor Party relates to my belief that I was subject to a grave injustice last week, when some things that I questioned during a Senate committee inquiry were grossly misrepresented and, I would say, in a defamatory manner—and which were not supported by any of the Hansards available—suggesting that somehow I condone domestic violence. It was a grotesque slur. Of course, it was allowed to ride by those in the Greens party, who knew it was not true. It was also fuelled by people like Tim Watts MP. Now, I did not even know there was an MP called Tim Watts. But, apparently, he is on Twitter, using vile and disgusting language, making all sorts of allegations and accusations. I looked him up and I saw some bloke who has more product in his hair than Vidal Sassoon. He was making all of these sorts of allegations without even having been there. It was disgusting. It was grotesque. This is a bloke who is seeking to make some sort of name for himself via Twitter, by appealing to the twitterati, or whatever they call themselves.

Senator Cameron: Mr President, I rise on a point of order: it is similar to the point of order that I raised during Senator Macdonald's recent contribution. In putting this point of order, I indicate that Senator Bernardi was in the chair when he made Senator Lambie sit down when she spoke on these issues, and I think it is—

The PRESIDENT: I do not need that in your point of order—but thank you, Senator Cameron. You have raised a point of order. Senator Bernardi, you started this contribution by indicating that your contribution on a matter later today would be affected if this motion were passed, and that was in order and was relevant, but you have now delved into the substantive nature of another debate. So, Senator Bernardi, I draw you back to the matter before the chair.

Senator BERNARDI: I am just highlighting how grave injustices can be done when we truncate or alter important items of business that are on the agenda. The point that I made before was that altering the order of business today would deny me the opportunity to extend a gracious thankyou to Senator Claire Moore of the Labor Party—in fact, the mover of this motion. Senator Moore, you are in some ways denying yourself rightful—

The PRESIDENT: Through the chair.

Senator BERNARDI: Senator Moore is denying herself rightful praise that she well deserves for standing up to the progressive juggernaut that sought to decapitate a Conservative senator—because Senator Moore, to her great credit, said to The Sydney Morning Herald that what was represented in the News Corp papers and what had been perpetuated by people like Senator Waters and this unknown MP, Tim Watts, was a load of...
baloney, it was not what Bernardi had said or represented and there was no way he was condoning that.

If this motion to vary business is passed, I will be denied my right and, I think, my moral obligation to say on the public record a gracious and sincere thankyou to Senator Claire Moore for her defence of me, someone who is not politically aligned with her on virtually anything, I would say, and Senator Moore may concur with that. It says to me that there are decent people in this place who are prepared to honour righteousness, truth and justice, rather than just seek to claim a political scalp. I think that is manifestly unfair, and I think that Senator Moore probably did not recognise or understand just how fulsome my recognition of her graciousness was going to be.

I know that Senator Moore is not a person whose ego needs to be fuelled somehow, and so she probably would not have stopped moving this motion today simply to receive praise and acclaim, because she is not fuelled by that. But I do think it is important for the Australian people to have the opportunity to hear that there are chances and times when senators do the right thing in the face of hostilities from some of their natural supporters.

I would have loved to have elaborated a lot more today, Mr President—which I will be denied doing if this motion is successful—about this Mr Watts MP. He is a chap who—as I said, I do not know who he is; I had to google him to find out! I do not know how long he has even been in the parliament. I have seen some photos of him and I have seen some of the vile slurs that he has put out on Twitter. He is obviously incapable of writing any substantive article or of dealing with substantive issues. He has referred to a *Hansard* that he has never seen. He has not seen—

Senator Bullock: Mr President—

Senator BERNARDI: Is he one of yours, is he?

Senator Bullock: I do not pretend to be a substitute for Senator Cameron, but I would like to echo his point of order.

The PRESIDENT: Thank you. It is noted. Senator Bernardi has been skilfully linking the matter of another debate to this debate, and whilst he continues to do that he is in order. However, I will remind the senator of the matter before the chair.

Senator BERNARDI: Thank you, and I appreciate any reminders that you would like to throw my way, Mr President. But I will conclude in 14 minutes and 23 seconds, Mr President. What we have is an opportunity for natural justice, through senators' statements, that will be denied, absolutely denied, if we are to remove them today. I would point out also, Mr President, that we have only two more sitting weeks after this and that we have been denied another day of debate tomorrow because of Senate estimates. We have only two more sitting weeks. There are some 76 senators in this chamber, all of whom may seek to offer accolades to Senator Moore—they may do; I am not sure about that. Perhaps some of her own team might not do that, but certainly on this occasion I would be. So there is no opportunity in senators' statements time for all 76 of us to make that contribution, unless it were less than a minute each. And let me tell you, Mr President: my acknowledgement and recognition of the contribution that Senator Moore has made to public life in the last week would go for much more than a minute or two.
It is more poignantly brought home to me because the day that this grievous offence was supposedly taking place, the day that Mr Tim Watts MP was attacking me and beating me up on Twitter for some alleged statements, was my birthday. Can you imagine what a terrible, terrible birthday gift that was, to wake up to these sorts of slurs and think, ‘Gosh, I spent my birthday dealing with a very important subject and now I'm being attacked and harangued by the fools on Twitter and some of their supporters? That is why the greatest gift I got for my birthday this year—apart from the one my wife gave me, of course—was the gift of honesty from Senator Moore. A more generous senator I do not think we could ask for, and so that is why it is unfair for Senator Moore to deny herself that moment in the spotlight, where someone can say thank you—thank you, thank you, thank you. And yet, by some quirk of fate, my surprise plan of thanks has been quashed by the person who was going to be on the receiving end of it. I would say to you, Mr President, that Senator Moore was blissfully unaware of what was coming in senators' statements today—blissfully unaware. She probably would not have been in the chamber because it would have made her blush, so gushing was my praise. But I would invite Senator Moore, in the 11 minutes and 37 seconds in which I conclude, to perhaps reconsider her motion and maybe withdraw it just so that justice can be done.

I made the point before that we still have a couple more sitting weeks, but there is only finite time in which to deal with senators' statements. But, as was so rightly pointed out by Senator Cormann, the Minister for Finance—a person who, I think, has been doing an outstanding job on behalf of the government—there is plenty of opportunity for this to be debated and discussed, this disallowance motion of this FoFA deregulation, in the following week. The disallowance has to be dealt with by 27 November—I think that was the date that he said. If there is an opportunity for us to deal with the FoFA disallowance motion in the following week, that would also allow for further consultation for those who are perhaps uninformed about the consequences of what they are doing—the full implications of it—then I think we should heed that wise advice.

A secondary benefit of that, of course—a secondary benefit, but no less important to me—is that it would allow me to acknowledge publicly the support of a senator who saw a grave injustice being done, and that is Senator Claire Moore. I mean, she is a true champion of truth and honesty I hope. I would say to Senator Moore: she is not very successful at points of order on relevance in question time, but she is extraordinarily successful at cutting through the progressive baloney that attacks a conservative senator simply because he is who he is. I think that Senator Moore needs to be paid tribute to—

**Senator Polley:** I'd want to frame this speech!

**Senator BERNARDI:** I hear the interjections, Mr President—which are disorderly I would remind you—but I hear the interjection 'I want to frame this'. I may frame my original remarks that I hope to deliver to the Senate today in praise of Senator Moore to thank her for her incredible support last week. It acted like a rod of iron that supported the crushing weight of all the progressives piling on and seeking to destroy a person simply going about their business.

I am hearing some requests from some of my colleagues for a greater explanation of what transpired, and I would like to provide that detail. In particular, I quote from the *Hansard*, which has only recently been released. Doing that means I have to prioritise between further
praise of Senator Moore and discussing how the process of the Senate is truly being undermined by this. Who are we to make a determination today that injustices can go uncorrected in the very small amount of time we have to do that; that personal explanations and representations on behalf of constituents can be made in only a very finite time? Between now and the end of the year we have three hours and 45 minutes for senators to make statements on Wednesdays, from 12.45 until question time at 2 pm. A full third of that will be cut. It will be removed. That disenfranchises perhaps a dozen, maybe more—maybe two dozen—senators from doing their work of representing their constituents, from standing up for truth and justice and the Australian way.

Senator Polley: You can't even keep a straight face yourself!

Senator BERNARDI: I am being heckled by the other side—this is a very emotional issue for me. All senators need to have the opportunity that I will be so cruelly denied if this motion is supported. I say this not just because it affects me personally, not just because I had something that I thought was very important—and I have mentioned that before: the praise of Senator Claire Moore for her stoic defence of truth and justice and enlightenment. This is not just about me. I know other senators who also had senators’ statements to make today. They had statements about their constituents. I do not think any of them were going to be praising Senator Moore quite as solidly as I was going to be, but I know that some other senators did have various things to talk about, such as the tactics of the Labor Party. Those things are important to public life, as are FoFA reforms. There is a time and a place to have these debates but, as the minister said, the time and probably the place to really have this discussion and this debate is when people can plan for it and prepare for it, not when there is some sort of malicious hijacking of due process, not when there is some surprise attack or stealth manoeuvre; not when you have a gang of Independent senators who just pop up with Senator Dastyari pulling their strings. That is what I saw on the TV today. Senator Dastyari’s time of pulling strings was done when he was moved on from Sussex Street—he was demoted to the Senate, in Labor Party terms.

Senator Seselja: He was backing Craig Thomson.

Senator BERNARDI: I thank Senator Seselja. I do make the point that Senator Dastyari, who has been pursuing this FoFA disallowance motion for such a long time, was a very solid supporter of the former member Craig Thomson and it is reasonable for us to call into question the judgement exhibited both by the support of Craig Thomson, the former member who I understand has been convicted of a number of offences that he denied ever committing, and the judgement attached to this sort of hijacked stealth manoeuvre. This is not just some union cabal where you can turn up with your thugs and smash people's legs and things like that to get your way. That is not how it works here—it works on the courtesies; it works on the ethic of reciprocity; it works on convention. They are all the things that conservatives like myself value.

I know it is not just about politics. Courtesy, reciprocity and convention were the very things that saw Senator Claire Moore last week come out in support of someone who is perhaps her political opposite when she saw an injustice being done. That is what distinguishes a truly solid senator from the others. It says to me that Senator Moore is perhaps the person with the greatest character on the other side. I know Senator Moore is probably blushing now; I only wish the people of Australia could see how she is forced to stand there
and listen to nice words being said about her. It is not the Labor way to say nice things about your colleagues, but Senator Moore has broken with that. She said, if not nice things, honest things and she put to bed and dispelled some falsehoods and some myths that were being peddled by some of her colleagues—who I did not even know were colleagues, such has been their impact on this place. I am talking about Tim Watts MP.

**Senator Cormann:** Who is he?

**Senator BERNARDI:** That is a very good question, Senator Cormann. No-one knows who he is. If you see someone with a lot of product in their hair, walking around with long hair and gazing into mirrors adoringly, it is probably Tim Watts MP.

**The PRESIDENT:** Senator Bernardi, you cannot adversely reflect on members of the other house. I remind you of that fact and also draw your attention to the matter before the chair.

**Senator BERNARDI:** Mr President, I return to the point that there is a time and a place for everything. I believe there is a time for us to be having a discussion about the disallowance motion. In fact we have had a couple of discussions before—

**Senator Cormann:** Twice.

**Senator BERNARDI:** We have had the discussion twice, and both times the Senate has rejected it. I wonder whether today's motion is just some sort of scheme. I wonder whether perhaps one of my colleagues leaked my little plan about what I wanted to do in senators' statements today—which was to praise Senator Claire Moore for her honesty—to Senator Moore in goodwill and said, 'Senator Moore, you are going to be getting praised by Bernardi today; you should be in the chamber for it. I won't say there are going to be chocolates—not in the chamber. But they may be delivered later on,' and because of the character of that lady and her desire to remain out of the spotlight she said, 'I will join Senator Dastyari in this stunt,' just to deflect attention from herself. But I would say that is inappropriate. That is why I am going to oppose this motion. I think it is unfair for us to deny the rightful accolades and acclaim that should flow the way of a particular senator. On this occasion, I wanted to say something, and I have been unable to say it. I regret that I will be unable to say it in the appropriate place. I am going to have to deny Senator Moore the praise that she deserves for denying the lefties, progressives, twitterati, poison pens, or whatever they want to call themselves, some sort of perversion of the truth.

That is my reason for opposing this. I stand with Senator Cormann. Let us deal with this next week. I stand with those who admire process and who respect the courtesies that are extended in this chamber. I will be voting against this because it would deny me the opportunity to praise Senator Moore. *(Time expired)*

**Senator URQUHART** (Tasmania—Deputy Opposition Whip in the Senate) *(11:46)*: I move that the question now be put.

**Senator Back:** Mr President, I rise on a point of order. I was actually on my feet before Senator Urquhart, Mr President, which I think, in fact, you recognised. So I seek the call—

**The PRESIDENT:** Senator Back, the convention of this place is to alternate from side to side of the chamber. That convention will be maintained by me. Senator Urquhart rightly had the call. Senator Urquhart then moved that the question now be put, so I am putting that question.
**Senator Back:** Mr President, I rise on a point of order. I request that Senator Urquhart respect the probity of this place and allow me to speak. Through you, Mr President, I ask as a point of order that Senator Urquhart withdraw or defer her motion until such time as I have spoken.

**The PRESIDENT:** There is no point of order. I think your request has been noted. Senator Urquhart has moved the motion—

**Senator Fifield:** Mr President, I seek leave to make a short statement.

**The PRESIDENT:** I have a question before me, Senator Fifield, that the motion now be put. It is very unusual to seek leave as I am putting a question. Is the chamber willing for Senator Fifield to seek leave to make a short statement?

**Senator Moore:** No.

**The PRESIDENT:** Leave is not granted, and I certainly will not entertain a suspension of standing orders. So the question before the chair now is that the question now be put. For clarification, the question is the amendment moved by Senator Macdonald, which we will not be voting on until this question is determined. The question is that the question now be put.

**Senator Fifield:** In the common practice of this place, it is not unusual for a senator to seek leave to make a short statement once the question has actually been put but before the vote is taken, and I seek leave to do so.

**The PRESIDENT:** This is a different matter, Senator Fifield. This is a procedural motion. I am not taking any more points of order. The question before the chair is that the motion now be put. I am going to put the motion and determine it now. The question is that the motion moved by Senator Urquhart that the question now be put be agreed to.

The Senate divided. [11:53]

(The President—Senator Parry)

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

AYES

Bilyk, CL
Bullock, J.W.
Carr, KJ
Conroy, SM
Di Natale, R
Lambie, J
Ludwig, JW
Madigan, JJ
Milne, C
Muir, R
Peris, N
Rhiannon, L
Siewert, R
Sterle, G
Waters, LJ
Wong, P
Xenophon, N

Brown, CL
Cameron, DN
Collins, JMA
Dastyari, S
Ketter, CR
Ludlam, S
Lundy, KA
McEwen, A
Moore, CM
O’Neill, DM
Polley, H
Rice, J
Singh, LM
Urquhart, AE (teller)
Whish-Wilson, PS
Wright, PL
Question agreed to.

The PRESIDENT: The question is that the amendments moved by Senator Macdonald be agreed to.

The Senate divided. [11:57]

(The President—Senator Parry)

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

AYES

Back, CJ
Bushby, DC
Cash, MC
Cormann, M
Fawcett, DJ (teller)
Fifield, MP
Leyonhjelm, DE
Mason, B
McKenzie, B
O'Sullivan, B
Payne, MA
Ruston, A
Sculliion, NG
Sinodinos, A
Wang, Z

Bernardi, C
Canavan, M.J.
Colbeck, R
Day, R.J.
Fierravanti-Wells, C
Lazarus, GP
Macdonald, ID
McGrath, J
Nash, F
Parry, S
Ronaldson, M
Ryan, SM
Seselja, Z
Smith, D
Williams, JR

Back, CJ
Bushby, DC
Cash, MC
Cormann, M
Fawcett, DJ (teller)
Fifield, MP
Leyonhjelm, DE
Mason, B
McKenzie, B
O'Sullivan, B
Payne, MA
Ruston, A
Sculliion, NG
Sinodinos, A

Bernardi, C
Canavan, M.J.
Colbeck, R
Day, R.J.
Fierravanti-Wells, C
Lazarus, GP
Macdonald, ID
McGrath, J
Nash, F
Parry, S
Ronaldson, M
Ryan, SM
Seselja, Z
Smith, D

Back, CJ
Bushby, DC
Cash, MC
Cormann, M
Fawcett, DJ (teller)
Fifield, MP
Leyonhjelm, DE
Mason, B
McKenzie, B
O'Sullivan, B
Payne, MA
Ruston, A
Sculliion, NG
Sinodinos, A

Bernardi, C
Canavan, M.J.
Colbeck, R
Day, R.J.
Fierravanti-Wells, C
Lazarus, GP
Macdonald, ID
McGrath, J
Nash, F
Parry, S
Ronaldson, M
Ryan, SM
Seselja, Z
Smith, D

Pair

Faulkner, J
Gallacher, AM
Hanson-Young, SC
Lines, S
Marshall, GM
McLucas, J

Abetz, E
Edwards, S
Heffernan, W
Brandis, GH
Reynolds, L
Birmingham, SJ

Back, CJ
Bushby, DC
Cash, MC
Cormann, M
Fawcett, DJ (teller)
Fifield, MP
Leyonhjelm, DE
Mason, B
McKenzie, B
O'Sullivan, B
Payne, MA
Ruston, A
Sculliion, NG
Sinodinos, A

Bernardi, C
Canavan, M.J.
Colbeck, R
Day, R.J.
Fierravanti-Wells, C
Lazarus, GP
Macdonald, ID
McGrath, J
Nash, F
Parry, S
Ronaldson, M
Ryan, SM
Seselja, Z
Smith, D
I move an amendment to the motion before the chair:

That all words after 'shall be called' in paragraph (2) be replaced with 'on 27 November 2014 and have precedence over all other business until determined that day'.

The amendment I am moving to the motion is a very important amendment to ensure that we have an orderly and methodical process here in the Senate, that we do not have reckless impacts on a very important industry across Australia through our actions today. The actions in the Senate this morning have already caused a significant level of concern.

I will quote to the Senate the media statement that has just been released by the Financial Planning Association. The Financial Planning Association is a professional association for financial planners. It is an association that represents small-business financial planners. It is not an association that represents the big banks—in fact, it is quite removed from any interests relating to the interests of the big banks. The Financial Planning Association is an association, along with others, that has done outstanding work when it comes to lifting professional, ethical and educational standards across the financial advice industry. It is work that the government has been very pleased to be supporting. This is what the Financial Planning
The Financial Planning Association of Australia (FPA) today condemned the disallowance motion of the amendments to the Future of Financial Advice (FoFA) Regulations.

To be tabled in the Senate today by the Opposition and cross-bench Senators, the disallowance motion threatens to remove the Regulations put in place on 30 June this year which amended the FoFA reforms.

"This will have a catastrophic effect across the entirety of the financial services industry, one of the largest employers of people in Australia," said Mark Rantall, FPA CEO

"If passed, this disallowance motion will continue five years of uncertainty for financial planners and their clients which commenced when the FoFA process began under the Labor Government.

"The industry has been adhering to these Regulations for nearly five months. This disallowance motion has the potential to put the entire financial services industry immediately into breach of the law.

"The Coalition's amendments contained in the Regulation ensured the FoFA reforms remained intact in a sensible way that reduced red tape and maintained vital consumer protections.

"The original FoFA reforms created unnecessary red tape and compliance driven processes that did not achieve the then Minister's stated aim of improving the quality of advice for consumers."

The original FoFA requirements, such as opt-in and retrospective Fee Disclosure Statement (FDS), created back end red tape that did not improve client outcomes or services for clients. Clients agree to set Terms of Engagements with their financial planner, a contract that binds the planner to service agreements but allows the client to legally opt out of the arrangement at any time. Fees and services are properly disclosed upfront under the amended FoFA reforms.

The Financial Planning Association represents the interests of the public and Australia's professional community of financial planners. The FPA says of itself:

The FPA is unrivalled in its reach of the financial planning market, influence on government and regulators, standards set through a world-class Code of Professional Practice, unique position as the certification body in Australia for the global CFP® designation, and reputation for quality professional development.

And:

With a growing membership of more than 10,000 members and affiliates, of whom 7,500 are practising financial planners, the FPA is also home to Australia’s 5,500 CERTIFIED FINANCIAL PLANNER® professionals.

The point here is that we have 10,000 members of the Financial Planning Association, for example, who are completely disregarded by what appears to be the rushed ambush that is being attempted here this morning. The truth is that, if the intent is to have a considered approach to this policy issue, it is not required.

The effect of my amendment is that this disallowance motion would be dealt with and would be dealt with conclusively on Thursday, 27 November, which is when it was listed in the first place. Disallowance motions, as those of us who have been in the Senate for a while would well understand, have 15 sitting days within which they have to be resolved. These 15 sitting days come to an end on 27 November; indeed, this particular motion was listed on the Notice Paper up until today, to be dealt with on 27 November.

In a sign of goodwill and good faith, in the way I have crafted the amendment, not only would this disallowance be dealt with on 27 November; it would be dealt with conclusively
on 27 November. If my amendment got up, the effect of it would be that we would not be dealing with this today; we would be dealing with it next Thursday. That would give us the time to take a bit of a breather, take a bit of a step back and have some sensible conversations about some of the technical aspects, for example, that need to be tidied up.

If there is a majority in the Senate to overturn the regulations the government has put in place, with effect from 1 July, it ought to be done in a more sensible and orderly way. I happen to think that the improvements we have put forward are sensible improvements. But it might well be that the majority of senators in this chamber do not agree with the government. While I am not happy about that, I will have to accept it if that is the case. But to ram this through today without giving ourselves the space to assess all of the consequences and implications of such a move would be irresponsible.

Senator Xenophon, in particular, is one who is always a stickler for process. In relation to some other legislation, because there was an amendment to change a particular piece of legislation, he took the view—which is reflected, I believe, in some separate motions before the Senate today—that there ought to be a quick, additional Senate inquiry so that the Senate can be very clear, when voting, as to what the implications of a particular move are going to be.

I say to the Senate: be very careful about voting for a disallowance motion today which would have the effect of putting our financial institutions, our financial services providers, in a situation of breach of the law as of today, with all of the consequences that come with that which would force them to expend significant money in order to comply. Even though the Senate might not be supportive of our regulations, there appears to be an appetite for improving the previous legislative framework nevertheless. That means that the industry still has uncertainty and still has to spend money, which ultimately is a cost borne by consumers in order to comply with something that they do not know what it is going to be yet. I would urge the Senate to be sensible in relation to this and to think very carefully about what the implications would be.

Beyond the policy driven changes—and, I add, policy driven changes that we took to the last election, that we first announced in March 2012, that we announced as election commitments in the lead-up to the last election, that we have explained in great detail at various times since the last election, that we consulted on extensively for more than a year after we were elected to government and that had been considered by two Senate inquiries, which both recommended their passage—the regulations that took effect on 1 July also provided much needed certainty in a number of areas, including in relation to the application of the rules to existing customers, which is also known as grandfathering.

These changes actually had bipartisan support, because this is the third time we are dealing with this disallowance. If the Senate were to reflect on the second occasion we dealt with this, the Labor senator who moved the disallowance actually excluded a series of parts of the regulations from the scope of the second disallowance—in particular, the changes that fixed some problems with Labor's FoFA laws on grandfathering, because they had not been properly thought through.
There were unintended consequences. We fixed those unintended consequences. Those fixes—which the Senate has supported on two occasions—if this disallowance is dealt with today and is voted on today, will immediately disappear, creating chaos and uncertainty across a very important industry, a very important industry, I might add, for people across Australia saving for their retirement and managing financial risks through life.

The current motion before the chair of course does not include the elements that Senator Dastyari previously excluded from his disallowance motion; it goes well beyond that. The disallowance would take effect immediately, meaning that service providers would need to immediately change contractual arrangements and probably have to stop providing products and services to consumers while they assess their status for compliance with what would become the law.

You have to remember that Labor’s laws never actually came into practical effect, because the date of the practical effect of the implementation of Labor’s laws was 1 July 2014. If this disallowance motion is passed, with the short notice that has been given to everyone, those laws will come into effect as of today. That has serious implications. I say to the Senate: think very carefully about the implications of this; think what it would mean for employees in one sector of the economy, which is the largest employer of Australians—that is a very important point.

Beyond that, it is important to remind ourselves what we are actually talking about. We are talking about changes to our financial advice laws which removed, as of 1 July, the excesses of Labor’s changes. We have kept the good parts of Labor’s changes. We have kept the parts of Labor’s changes that improved consumer protections in a sensible way but removed those parts which just pushed up the cost of advice for people across Australia saving for their retirement, without delivering additional consumer protection benefits.

Some people might say that every bit of red tape is good, but guess what? Not every bit of red tape is good. Some bits of red tape just add costs without making things better. If you are faced with a problem as a policymaker, you should always focus on only pursuing those changes that make things better. That is the point that I am making to the chamber here today. Why do we—

Senator Wong: You are looking a bit desperate now, Mathias.

Senator CORMANN: Senator Wong clearly is intent—

Senator Wong: You are filibustering so there can’t be a vote on it.

Senator CORMANN: Senator Wong is quite intent on pressing ahead with a very reckless—

Senator Wong: Everybody knows you are filibustering.

Senator CORMANN: a very reckless course of action which is going to have disastrous consequences across the financial services sector, if it is allowed.

Senator Wong: Filibuster—why don’t you sit down and have a vote?

Senator CORMANN: Madam Acting Deputy President O’Neill, is it appropriate that a senator in this chamber is arguing that I am not allowed to express my view as a senator?

Senator Wong interjecting—
The ACTING DEPUTY PRESIDENT (Senator O’Neill): Order! The senator can continue his remarks.

Senator CORMANN: Thank you very much. We are talking about very important changes to our financial advice laws, which help ensure that we have a robust but efficient financial services system here in Australia—a system where people can have access to high-quality advice they can trust but which also remains affordable.

Sadly, here in Australia, we are very good at red tape. We are the world champions in financial services red tape as a result of some of the changes that Mr Shorten, when minister for financial services, imposed. There is no precedent anywhere in the world, for example, for his requirement imposed on clients of financial advisers to re-sign contracts with their financial adviser on a regular basis. There is no precedent for that anywhere in the world. Mr Shorten as the minister for financial services made us the world champions in financial services red tape.

None of this comes for free. It comes at a cost. It comes at a cost to the economy. It comes at a cost to people saving for their retirement. And for what benefit? The only benefit is a commercial benefit for industry funds that have always waged a campaign against small business financial advisers because they cannot control them.

Small business financial advisers have always focused on the best interests of their clients. Their business model depends on acting in the best interests of their clients in order to keep their customers—do you know why? If a financial adviser does not provide good service to their client, the client will leave. The client will not continue to access services that are not providing quality. But of course, this is where the Labor Party just gets it wrong: the Labor Party thinks that government, through regulation, can eliminate any issue or any problem. You cannot eliminate issues in the economy just by regulation; you can put safeguards in place, but you should not be shutting down the economy.

What are the changes that we actually made? What are the changes that the Senate now wants to disallow today and that some senators are saying they want to deal with today—and that we are saying should only be dealt with next Thursday as a result of the amendment that I have moved, because the implications of this change have to be properly considered? In those regulations, we removed the requirement for an investor to keep re-signing contracts with their adviser on a regular basis. That is the so-called ‘opt-in’ requirement—which makes us the world champions in financial services red tape. We also said that we wanted to simplify and streamline the additional annual fee disclosure requirement. Instead of imposing that change retrospectively, as the Labor Party ended up doing—which, given all of the legacy systems that are involved here, imposes hundreds of millions of dollars in additional costs on the industry, ultimately borne by consumers, in order to comply with that retrospective change—we said that that should only be a prospective change from 1 July 2013. We also said that we would absolutely keep in place the requirement to act in the best interests of the clients—absolutely intact. The change that we made was to improve certainty around the operation of the best interests duty test—the test that indicates whether or not a financial adviser has discharged that particular obligation. We also felt that it was important that we provide certainty around the provision and availability of scaled advice.
I might just put to the chamber that if you want to go to buy a tyre, you should not be forced to get comprehensive advice on all of the features of the car. If you want to go to buy a tyre, you should be able to agree that you are only going to get advice on the features of the tyre. Now if you want to get financial advice on a particular aspect of your life, you should not be forced to go through a full fact find and to go through a full screen of all of the issues. It is all designed by Labor and by industry funds just to push up the costs so that fewer and fewer people will access advice, and so that more and more people are channelled into industry funds. The Labor Party and industry funds do not want people to access advice, by and large; they want people to stay away from advice—and just to trust industry funds with their money. That is what is behind all this. That is why the Labor Party is fighting so hard to get this up. But this is not the right way to go.

The amendment that I have put forward is eminently sensible. If the Senate is genuinely interested in having a conversation on how our approach can be improved or amended, or if there is a view that the regulatory changes ought to be disallowed, it should not happen today in the way that is envisaged in the motion that was moved by Senator Moore. The Senate should seriously consider supporting my amendment, which would have the effect of dealing with this disallowance motion on 27 November, and dealing with it conclusively on that day, so that there is a proper opportunity to assess all of the implications and all of the consequences of a possible disallowance, and to take corrective action, if and as required in the context of what is proposed. I would have thought that a responsible Senate would take that sort of recommendation on board. What is the rush? Why is it—

Senator Jacinta Collins: You have had so much notice of this. How long has this been on the Notice Paper? Why are you so slow?

Senator Cormann: It has been on the Notice Paper since 10 July, Senator, and it was voted it down. And then it was put on the Notice Paper again on 17 July—and it was voted down. And then for technical reasons, the Senate Standing Committee on Regulations and Ordinances put it on the Notice Paper in order to scrutinise various aspects of it. We provided a satisfactory response, and the regulations and ordinances committee decided to remove the disallowance. And Senator Dastyari, using a procedure of the Senate, moved to give himself a third crack at the same disallowance. This has actually been voted on twice before. The Senate has supported our improvements twice before. There was a reasonable expectation across the Australian community that the law which has been the law for nearly five months now was going to be the law that stands. To change that without any notice like this, in the fashion that is proposed, and without the amendment that I have moved to the motion, would be highly irresponsible. It would be highly reckless. I strongly urge the Senate to support the amendment that I have moved to Senator Moore's motion.

Senator Wong (South Australia—Leader of the Opposition in the Senate) (12:20): I move:

That the question be now put.

The President: The question is that the motion be now put.
The Senate divided. [12:24]
(The President—Senator Parry)

Ayes ...................... 32
Noes ...................... 30
Majority .............. 2

AYES

Bilyk, CL
Cameron, DN
Collins, JMA
Dastyari, S
Ketter, CR
Ludlam, S
Lundy, KA
McEwen, A
Moore, CM
O’Neill, DM
Polley, H
Rice, J
Singh, LM
Urquhart, AE (teller)
Whish-Wilson, PS
Wright, PL

Bullock, J.W.
Carr, KJ
Conroy, SM
D’Aatale, R
Lambie, J
Ludwig, JW
Madigan, JJ
Milne, C
Muir, R
Peris, N
Rhiannon, L
Siewert, R
Sterle, G
Waters, LJ
Wong, P
Xenophon, N

NOES

Back, CJ
Bushby, DC
Cash, MC
Cormann, M
Fawcett, DJ
Fifield, MP
Leyonhjelm, DE
Mason, B
McKenzie, B
O’Sullivan, B (teller)
Payne, MA
Ruston, A
Scullion, NG
Sinodinos, A
Wang, Z

Bernardi, C
Canavan, M.J.
Colbeck, R
Day, R.J.
Fierravanti-Wells, C
Lazarus, GP
Macdonald, ID
McGrath, J
Nash, F
Parry, S
Ronaldson, M
Ryan, SM
Seselja, Z
Smith, D
Williams, JR

PAIRS

Faulkner, J
Gallacher, AM
Hanson-Young, SC
Lines, S
Marshall, GM
McLucas, J

Abetz, E
Edwards, S
Heffernan, W
Brandis, GH
Reynolds, I
Birmingham, SJ

Question agreed to.
The PRESIDENT (12:28): The question now is that the amendment moved by Senator Cormann be agreed to.

The Senate divided. [12:29]

(The President—Senator Parry)

Ayes ....................29
Noes .....................32
Majority ...............3

AYES
Abetz, E
Canavan, M.J.
Colbeck, R
Day, R.J.
Fierravanti-Wells, C
Lazarus, GP
Macdonald, ID
McGrath, J
Nash, F
Parry, S
Ronaldson, M
Ryan, SM
Seselja, Z
Smith, D
Williams, JR
Bushby, DC (teller)
Cash, MC
Cormann, M
Fawcett, DJ
Fifield, MP
Leyonhjelm, DE
Mason, B
McKenzie, B
O’Sullivan, B
Payne, MA
Ruston, A
Scullion, NG
Sinodinos, A
Wang, Z

NOES
Bilyk, CL
Cameron, DN
Collins, JMA
Dastyari, S
Ketter, CR
Ludlam, S
Lundy, KA
McEwen, A
Moore, CM
O’Neill, DM
Polley, H
Rice, J
Singh, LM
Urquhart, AE (teller)
Whish-Wilson, PS
Wright, PL
Bullock, J.W.
Carr, KJ
Conroy, SM
Di Natale, R
Lambie, J
Ludwig, JW
Madigan, JJ
Milne, C
Muir, R
Peris, N
Rhiannon, L
Siewert, R
Sterle, G
Waters, LJ
Wong, P
Xenophon, N

PAIRS
Birmingham, SJ
Brandis, GH
Edwards, S
Heffernan, W
Reynolds, L
McLucas, J
Lines, S
Gallacher, AM
Hanson-Young, SC
Marshall, GM
Question negatived.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (12:32): I move:

That all words after "7.20 pm" in paragraph (4) of the motion moved by Senator Moore be deleted.

The reason that I am moving this amendment on behalf of the coalition is to ensure that this matter is properly considered by the Senate. Let us make no mistake; this has been an issue of some controversy within the community and within this place. On two separate occasions the Senate has voted to keep these regulations in place. Now, as a result of some realignments occurring up the other end of the chamber, there seems to be a stomach to change these regulations.

We as a government accept that that might be the view of the chamber, but surely decent process demands and requires of legislators that there be some consideration given to the impact of those changes. I would recommend to the Senate, and in particular the crossbenchers, the excellent speech given by my colleague Senator Cormann earlier today, in which he set out that there were things in the regulations certain people are seeking to disallow that the Labor Party actually agrees with. This is a classic case of a rush of blood to the head by some legislators willing to throw the baby out with the bathwater and to hell with the consequences. That is the irresponsible attitude that certain people are taking.

The question is: does this disallowance have to be moved and dealt with today? The answer is an unequivocal no. There is no imperative, there is no reason, there is no requirement as to why this regulation needs to be disallowed today. The 15 days will continue to run. If certain senators were willing to take a breath of air and stop the rush of blood to the head and say, 'Can we actually discuss these matters and come to a more sensible landing?', surely that would be within the best interests of all Australians. There are so many Australians who will be impacted by this attempt to get rid of this regulation. Let us be under no misapprehension, the Financial Planning Association of Australia has said today in a press release that the move that is being sought to be undertaken in the Senate today will:

… have a catastrophic effect across the entirety of the financial services industry, one of the largest employers of people in Australia.

It is 'one of the largest employers of people in Australia', which is indicative of the fact that the services sector is a growing sector and a vitally important sector employing a lot of people. Not only does it employ a lot of people it ensures the good conduct of the administration of people's investments. So we are talking about not only the people who are employed but all the people who have invested money with those people that are employed. You would think common decency and common sense would require that this industry, this sector, would be given more than 24 hours notice of a disallowance of this regulation in this place.

We are still to hear why certain senators who have so vehemently supported this regulation on two separate occasions have now decided, apparently overnight, to seek to change their vote and vote down this regulation. This course of action goes against every single tradition of this Senate. I thought this Senate always prided itself on not being reckless in relation to legislation and regulations. This is the place where these matters are duly considered, and not stunts pulled first thing of a morning by the Manager of Opposition Business abusing the numbers in this place to try to ensure that the government's program is derailed. On a day that
is devoted to government business, where tradition has it that government does determine the order of business, the Labor Party and certain crossbenchers have abused their numbers simply to change that. Why? Why could this not have been done next week when we meet again within the time limit for the disallowance of regulations? Nobody in this debate has given that explanation to the Senate, to the financial planners, or to all of those hundreds of thousands of Australians who have money invested with the financial planners.

So, why the hurry? Why the urgency? Why the need for this? I think we know why. Certain crossbenchers have been seduced to change their vote, and those who have been able to get that change of mind are absolutely scared that if these people were allowed for 24 or 48 hours to reconsider their view they may well come to the same landing as they did before when they actually supported these regulations, on two separate occasions.

This matter has been debated twice in four months in this place, and on each occasion these regulations have been upheld. Now what Senator Whish-Wilson and others in this place want to do is turn that around without any notice in circumstances where the industry and the investors have relied on these regulations for, I understand, the past five months, as my colleague Senator Cormann has just confirmed to me.

Any industry needs certainty. I am glad the Senate agrees with that. The financial services sector, the financial planning sector, the biggest employer in Australia, also requires certainty. There was debate and there was uncertainty for many years under the previous Labor government. The Senate finally, in a very mature and considered manner, decided to come to a landing on regulations very ably crafted by the Minister for Finance, Senator Cormann. The Senate voted for them not once but twice in the last four months. As a result, people in the industry and investors had every right to rely on a certainty that the uncertainty of the previous five years had been washed away—a new government, a new landing and a new certainty that would be of benefit to everybody.

Now we have this unseemly haste to try to disallow this regulation, with no reason given and no rationale given as to the urgency. Why can't it wait until next week? Whilst I would normally not entertain interjections, the lack of interjections shows very clearly that nobody in this place can put forward an argument as to why there is an urgency. It has not been ventilated, as one would have hoped, during the previous debate.

The amendment I seek to move is to delete the words: 'unless consideration of the item listed in paragraph (2) has not concluded, in which case the adjournment shall be proposed following the determination of that item.' By deleting those words, paragraph (4) of the motion would read:

The adjournment of the Senate shall be proposed at 7.20 pm.

That would allow for the orderly conduct of the Senate to continue for due consideration to be given to this matter.

Why is it that any legislator would not want due consideration to be given? Why is it that any legislator would be saying to their constituency, 'Look, there is no rush with this. There is time next week to consider this. Why the rush?' I think we know why the rush is on. It is because certain people are scared they will not be able to hold senators who had previously quite rationally, coolly and calmly voted for these regulation—not once but twice—from
coming to a similar landing again once confronted with the consequences of their proposed action.

Make no mistake; these regulations have within them many matters on which I think there is unanimity around the chamber that these things should be changed as they are in this particular regulation. If you throw out the regulation you go back to the five years of uncertainty that this country suffered courtesy of the previous Labor government's regulations.

I can understand that the Labor Party and the Greens have learnt nothing from the election defeat. They still want a carbon tax. They still want a mining tax. They still would not turn back the boats. They have learnt absolutely nothing from the last election. Another lesson they clearly have not learnt from the last election is that people want certainty in this space. For five years the people of Australia had to put up with uncertainty—an unseemly uncertainty, an inappropriate uncertainty—that damaged their industry, their employment prospects and their investments.

What we are saying is: let's have a discussion. If there is a mindedness to change the regulation, that might be able to be done, rather than ambushing the government by just disallowing the regulation on such short notice. Say to the government: 'These are the aspects that concern us. Is there an ability to have a mature discussion about this?' Instead, we have this ludicrous proposition that we will now pursue this matter to a conclusion in this place, where a lot of the good things in the regulatory framework—and there is no dispute about the good things in the regulatory framework—will be thrown out as well. It is a case of throwing out the baby with the bathwater, the sort of thing I might say you might expect in the House of Representatives but not in the Senate, which has prided itself ever since its inception as being the place where legislation and regulations are duly considered.

Debate interrupted.

**STATEMENTS BY SENATORS**

**The PRESIDENT** (12:45): Order! It being 12:45, we move to senators' statements.

**Victorian State Election**

**Senator McKENZIE** (Victoria) (12:45): In 10 days, Victorians will face a choice. They can choose to re-elect a Napthine coalition government which will implement the biggest modernisation plan in Victoria's history or they can choose to elect an Andrews Labor government which will roll out the most militant pro-union agenda in our state's history.

The Hayden royal commission has recently outed Dan's 'Dirty Half Dozen'—six Victorian Labor candidates who are beneficiaries of dirty union slush funds. Labor's member for the Western Metropolitan Region, Cesar Melhem, was found to have set up a clandestine slush fund, Industry 2020, that ripped off honest AWU members and bankrolled his political advancement, the careers of his cronies and a lifestyle of luxury. According to *The Age*, Mr Melhem squandered $40,000 on 'swish international and local restaurants and hotels and on alcohol, electronics and cigars'. Honest Victorian AWU members could only dream of the luxuries enjoyed by Mr Melhem at their expense. On 14 May 2013, Industry 2020 made a $20,000 donation to an association operated by Marlene Kairouz, the Labor member for Kororoit, and Kirsten Psaila, a Labor candidate for the Western Metropolitan Region. On 16 December 2009, a $1,550 cash cheque was written out to a 'fundraising event' to Natalie
Hutchins, an ALP candidate for Keilor. Ms Hutchins now sits on Daniel Andrews's front bench as, disturbingly, the shadow minister for industrial relations. And yet in the face of such damning evidence Mr Andrews continues to support Mr Melhem, who is demonstrably unfit to represent the interests of workers, let alone the Victorian people.

But Mr Melhem is not alone. It has been recently revealed that Labor's shadow Attorney-General, Martin Pakula, received at least $15,622 from a secret slush fund, IR 21, at a 'significant cost' to honest members of the NUW. In 2006, IR 21 paid Mr Pakula's campaign $10,762, and on 11 April 2013 it made a $1,500 donation to Mr Pakula's Lyndhurst SEC. When questioned about these shady transactions, Mr Pakula reached straight for the union playbook and claimed that 'any donations made to me by IR 21 or anyone else were properly disclosed.' The problem is that a $3,400 donation made to his campaign on 9 August 2006 was not in fact disclosed. Counsel Assisting notes that 'there is no explanation as to why this amount was not recorded in the donations part of the general ledger for 2007.' Contrary to his dishonest claims, Mr Pakula kept the 28,000 Victorian NUW members in the dark. To quote Counsel Assisting:

There does not appear to have been any disclosure, let alone adequate disclosure, to NUW members of the existence and function of IR 21.

So much for Mr Pakula's full disclosure. Why doesn't Mr Pakula ask the NUW members in his contested seat of Keysborough what they think about his secret slush fund? These workers are paid an hourly rate of just over $21, barely $3 above their minimum wage.

But it was not just Mr Pakula who profited at the expense of honest NUW members. In 2010, a $2,000 donation was made to the Labor member for Western Victoria, Jaala Pulford, for a luncheon that no-one actually attended, and in April 2010 Ms Kairouz was again the beneficiary of dirty slush fund money, with her own fund, AB Hinc, receiving $4,800 from IR 21. If Mr Pakula and Mr Melhem were willing to rip off their own union members, what will they be willing to do to the Victorian electorate? And a further four candidates have all benefited from these dirty slush funds. If Dan's 'Dirty Half Dozen' had any political integrity, they would return them to the sources from which they were first taken.

But how could we forget the favourite union of Mr Andrews and Labor's shadow planning minister, Brian Tee: the CFMEU? Counsel Assisting has found that the CFMEU engaged in secretly stealing private information of its members, boycotts, cartels, blackmail, extortion and even death threats. The CFMEU, he writes, displays a 'deliberate and disturbing disregard for the rule of law.' Throughout the royal commission, the CFMEU has waged a campaign of smearing whistleblowers who have exposed wrongdoing within the union. According to Counsel Assisting, there is a pervasive and unhealthy culture within the CFMEU under which those who speak out about union wrongdoing are vilified by the union and their reputations become the subject of baseless slurs.'

The CFMEU has such little regard for the law that it even impugned the professionalism and propriety of a senior police commissioner. When Assistant Commissioner of Victoria Police Stephen Fontana gave detailed evidence of specific links between organised crime and union officials, the CFMEU outrageously accused him of engaging in 'cultural warfare' and being 'part of the problem'.

On 30 October, Victorian Secretary John Setka smeared Assistant Commissioner Fontana on his Twitter account. I would like to table a copy of the tweet.
Senator McEwen: Could we have a copy of the document to have a look at it, which is the normal practice before a senator seeks to table it?

Senator McGrath: You sure can.

Leave granted.

Senator McKENZIE: I thank the Senate for allowing me to table the tweet. On the tweet he smeared Assistant Commissioner Fontana on his Twitter account as, 'Abbott and Naphthine's number one soldier.' One would think that the union's crude attack on the assistant commissioner should be reason enough for any decent leader or aspirant to be shamed into taking action.

Given the CFMEU's record of retribution against courageous whistleblowers, I am very concerned at what an Andrews ALP government may have in store for the assistant commissioner at the behest of its favourite union. Why does Mr Andrews continue to support this corrupt union? Is it because the CFMEU is the second-largest union donor to Labor? Or is it because Mr Andrews relies on its factional support to remain in power?

At the 2013 Labor state conference, Mr Andrews shared centre stage with Mr Setka and his lackey, Shaun Reardon. This is the same John Setka who was described as a 'good man' by Mick Gatto. This is the same Shaun Reardon who marched alongside Comancheros Sergeant-at-Arms Norm Meyer. A vote for the Labor Party is a vote for the CFMEU, the Carlton Crew and the Comancheros, who would love nothing more than to have a weak Labor government giving them free reign over Victorian building sites.

Victorian Labor has no moral compass when it comes to union rorts, rackets and rip-offs, even when they extend to clear criminal behaviour. Once upon a time Labor leaders knew where to draw the line. John Cain got a lot of things wrong as Premier. But he had the political integrity to deregister the BLF when it was clearly involved in corrupt behaviour. Mr Cain famously said that he 'removed this rogue organisation from the Victorian industrial scene'. And we thank him. But Mr Andrews would give this union the keys to No. 1 Treasury Place. If Dan really is the man, he needs to man up. No glossy photo-shoot can whitewash the dirty stain of union slush funds from him; and no new haircut or pair of new, hipster glasses can distract Victorians from Dan's 'Dirty Half Dozen'.

Brain Tumours and Brain Cancer

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (12:54): Today I want to speak on a matter that I have spoken on a number of times in this place and I will continue talking on to make sure that we raise awareness of it, and that is the issue of brain tumours and brain cancer.

Brain tumours are a disease which affects thousands of Australian families every year, yet receive very little attention. In 2014, approximately 1,785 Australians are expected to be diagnosed with the malignant form of the disease, brain cancer, with 115 new cases a year among children. In addition, approximately 2,000 benign brain tumours are also diagnosed each year in Australia, and these can lead to permanent disability or death. The disease takes the most terrible toll in young people, as brain cancer is the leading cause of cancer death in people under the age of 40. Tragically, brain cancer, is the leading cause of death for Australian children.
Not many people are aware of these sobering facts, but they should be of great concern to all senators in this place and members in the other place. Unfortunately, the prognosis is not terribly good for those that are diagnosed with the disease. Between 2006 and 2010, people with brain cancer had just a 22 percent chance of surviving for at least five years—just 22 percent. Not too many years ago leukaemia had a similar survival rate. However, with research into the disease finding better treatments and better ways to diagnose, survival rates have improved considerably.

With an increase in funding for research into brain cancer, we could save the lives of hundreds of Australians each year. That is why I applaud the work of International Brain Tumour Alliance, Brain Tumour Alliance Australia, Cure Brain Cancer Foundation, the Cancer Council Australia and all the other organisations and medical professionals who have been working hard to support patients, their families and carers and to rid the world of brain cancer.

The 26th of October to 1 November 2014 marked International Brain Tumour Awareness Week. This was the Eighth International Brain Tumour Awareness Week. It was organised by the International Brain Tumour Alliance, the peak international body of brain tumour awareness and fundraising groups. The International Brain Tumour Alliance was co-founded by an Australian, Denis Strangman, and I am pleased that Australia is once again leading the way in this field.

During the awareness week I was pleased to move a motion in this place, with the support of Senator Ryan, Senator Di Natale and Senator Xenophon, marking the week and bringing to attention the impact that this disease has on Australians each year. I would like to thank all senators in this place for their support of that motion. As co-chair of the Parliamentary Brain Tumour Awareness Group, I am pleased with the number of senators and members who have joined the group. It demonstrates a keen interest in this issue by federal parliamentarians from across the political spectrum. I encourage them and people in the broader community to organise an activity next year which will contribute to increased awareness about brain tumours. I would like to thank the International Brain Tumour Alliance for organising the awareness week for the past eight years, and for their continued efforts to promote awareness of brain tumours around the world.

I am also pleased to inform the Senate, and those listening to the live broadcast, that Tasmania's first Walk4BrainCancer walk was held at Dru Point Bicentennial Park, Margate on Sunday, 2 November. Walk4BrainCancer is a national event which helps raise funds for Cure Brain Cancer Foundation to fund brain cancer research, and I am pleased and proud to have organised the inaugural Tasmanian walk. Over 100 determined people braved the rain and hail of a bitterly cold Tasmanian spring day to show their support and raise funds and awareness for brain cancer. In fact, it was hailing as we were walking. Each one of those people walked for their own reasons: for a friend or a loved one; for someone that is living with brain cancer, or tragically, for someone who has succumbed to the disease.

Some of the stories that I heard that day were extremely powerful, and I will relate a couple of them. I was particularly moved by the story recounted to me by one mother. She carried a small teddy bear with her on the walk. The teddy bear had belonged to her son, Cohen. Tragically, Cohen is no longer with us, having passed away in August aged just seven years old, so his teddy bear did the walk in his place. We made sure that Cohen's teddy had a
registration bib like all the human walkers. It was a very touching and sobering part of this wonderful event. I know that Cohen's family and friends miss him very, very deeply.

Another young lady that I met that day was a 21-year-old medical student named Eliza, who was diagnosed with a grade 2 astrocytoma about 18 months ago. She talked to me on the second half of the walk and she told me that the walk gave her a strong sense of community and of hope in connection with her illness. She felt empowered by the event and inspired to drive change. I am sure that she will do great things and will save the lives of many patients in the future, because she hopes to become an oncologist.

Another of the walkers, Julie Hendy-Cartwright, was particularly passionate about the walk and was involved with me from the very beginning. Julie's husband, Andrew John Cartwright, passed away in July 2013 from glioblastoma multiforme, the most deadly kind of brain cancer. He was loved so, so dearly. While surgery was able to remove 99 per cent of his brain cancer, the remaining one percent could not be removed and continued to develop despite chemotherapy and the best efforts of his doctors. Unfortunately, Andrew and Julie's story is one experienced by many couples across the country. I would like to thank her for her support, assistance and passion to help make the event come to fruition.

I would also like to thank all the other people who made this event happen. The Rotary Club of D'Entrecasteaux Channel, of which I am a member, needs to be thanked for holding a sausage sizzle on that wet, haily day to help raise some extra funds for the Cure Brain Cancer Foundation. I would also like to thank Louise Patterson for all the assistance she provided for the event.

I am very grateful to Barrie Littlefield, from the Cure Brain Cancer Foundation, for travelling from Sydney to Tasmania to join the inaugural event. Barrie is Head of Engagement for the Cure Brain Cancer Foundation, and he is another person whose life has been touched by brain tumours after complaining of blurred vision. She was a playful, kind, caring child with a bright future ahead. She faced the disease bravely, but, despite the best of care from doctors and other medical professionals, she passed away. She was only 10 years old. This sad loss inspired Barrie to join the Cure Brain Cancer Foundation. He now does great work promoting events like the Tasmanian Walk4BrainCancer. I am glad that someone who has such a passion for the cause can be inspired by his own personal tragedy to do such excellent work raising awareness of this issue.

Finally, I would like to thank the many people who participated in the walk and to let them know that this disease will be beaten. We will find cures for brain cancers and improve survival rates—I am sure of that. By raising awareness and funds we can end this disease. I am pleased to say that in total, including online donations and cash registrations, the event, which was organised in just seven weeks, raised $13,346.20, which will all go to the Cure Brain Cancer Foundation. This is an impressive amount for an event held in Tasmania for the very first time.

As I have told this place previously, the Cure Brain Cancer Foundation was founded by Dr Charlie Teo in 2001 and is the largest dedicated fundraiser for brain cancer research in Australia. Its mission is to accelerate new treatments to brain cancer patients and increase five-year survival to 50 per cent within 10 years. The good work that the Cure Brain Cancer Foundation does relies on fundraising, and that is why I am glad that so many Tasmanians
came out to support the inaugural Tasmanian walk. Their incredible support for the walk has inspired me to continue this event on an annual basis. While donations for the Tasmanian walk have closed, people wishing to support the work of the Cure Brain Cancer Foundation can do so by making a donation at curebraincancer.org.au/donations. I encourage everyone in the chamber, and those listening, to do so that we can beat this terrible disease.

I would like to return briefly to the stories of seven-year-old Cohen and 10-year-old Eloise. Cohen's and Eloise's stories are just two among hundreds that highlight for me the tragic consequences of paediatric brain cancer. As I said earlier, brain cancer kills more children in Australia than any other disease. I do not think too many people understand that. I was moved by Senator Xenophon's contribution on the adjournment debate last night, when he told the story of Erin Griffin, a very brave young lady who was diagnosed with brain cancer at the age of 11. Erin took up the cause of raising awareness of childhood brain cancer until her tragic death at the age of 14. I would like to thank Senator Xenophon from the bottom of my heart for sharing her incredible story with us last night.

As I have said in this place before and Senator Xenophon said last night, despite the low survival rate of brain cancer, Australia's competitive grants based funding model for cancer research disadvantages research for rarer but more deadly forms of cancer. This is a shameful situation and it must change. We owe it to children like Erin and Cohen and the hundreds of other children dying from paediatric brain cancer to prioritise funding for brain cancer research, and I intend to take up this fight on their behalf. I hope Senator Xenophon and all in this chamber will join me in this campaign because, if there is one cause worth fighting for, it is making sure that our children do not die unnecessarily. (Time expired)

### Indigenous Disadvantage

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (13:04): I rise to make a senator's statement on overcoming Indigenous disadvantage. In Western Australia, at this stage last week, we heard Premier Barnett talk about his intention to close up to 150 Aboriginal communities. Also, just this week, we heard about the Kimberley Interpreting Service, which is a vital service that provides interpreters to a number of forums in the Kimberley, and in fact beyond the Kimberley. In particular, it plays a very important role in providing interpreting services to the justice system.

We know that it is very important that Aboriginal people have access to those services. The Kimberley Interpreting Service have experts in over 30 languages, and they provide essential services to Aboriginal people as they appear in court. I have met with them on numerous occasions and have, in fact, used their services. I have heard how important their role is in the way that they are able to present information to the court. I have heard of occasions where people have had an adverse outcome because they have not been able to understand what has been going on in the justice system.

It is in this context that I felt that I needed to make a senator's statement about this issue, and today of course we see the release of the Productivity Commission's *Overcoming Indigenous disadvantage: key indicators 2014* report. While we have seen some improvement in life expectancy, young-child mortality—which of course is very important—year 12 attainment, postsecondary achievement and income levels, we cannot take that as being a success when you look at what has not happened. The point is that the gap in life expectancy and those other measures is not going to enable us to meet the target that we have set...
ourselves in closing the gap within a generation. While there has been some slight improvement, we are not—I repeat, not—on track to closing the gap in life expectancy and other areas in our commitment.

The areas that have got worse are mental health, suicide and self-harm, incarceration rates, and access to clean water, power and sewerage. It is 2014 and we have gone backwards in access to clean water, power and sewerage! There has been no change in the reading, writing and numeracy area; disability and chronic disease; and family and community violence. And it is unclear on employment, early childhood education, child abuse and neglect, and obesity and nutrition.

This is despite our efforts to close the gap and our commitment to that. It is quite obvious that we are not meeting our commitments with appropriate programs. Quite frankly, funding in Australia for Aboriginal and Torres Strait Islander programs is in a mess. We have had the government come in and cut over half a billion dollars worth of funding out of programs. But that funding was not done in a, 'Let's have a look at what's working and fund what's working,' way; it was: 'Let's narrow all the programs down, put them into some broadbanded areas and then get everyone to put in and apply for funding. We'll extend some of the funding in the short term while everybody then applies.'

What has happened? I think we have had over 3,400 applications for a limited amount of money. Organisations do not know if their programs are going to continue or not. There is some belief that the good ones will rise to the top and they are the ones that will get funded, rather than looking at whether they are going to fund some into the future. If the government is going to cut half a billion dollars—and in no way do I support that cut; it is appalling to think that we have seen this report that talks about how things are getting worse or how there has been no change or how we do not know what is happening—it actually needs to do it sensibly. You just do not slash in an ad hoc manner.

Of course, we have also seen the cut to legal services. We have appallingly high incarceration rates for Aborigines and Torres Strait Islanders. Not only has that increased for men but, alarmingly, it has increased for women. And there is absolutely appalling overrepresentation of Aboriginal and Torres Strait Islander young people in the youth detention system. We know that engagement in that is likely to lead to further engagement as they become adults.

So what has this government done? Cut legal services. It has this flawed commentary that this is not going to cut front-line services, but everybody knows that it has. Family and community violence has got worse. What has the government done? Cut the funding to those programs. It is a completely flawed approach. Just in Western Australia—others are likely to happen as well—the Barnett government has now indicated that it will cut up to 150 communities. We all know what that dislocation will mean to the people who have to leave those communities: homelessness and the issues associated with homelessness. There are appalling outcomes for people who are living on the outskirts of towns—living in the long grass. We know that. So that is only going to increase the appalling outcomes that we already see. The Barnett government says that is because the federal government is only giving it $90 million to take over responsibility for the services in some of these towns. My question is: why did the Premier sign that in the first place, when he knew very well that those 150 communities were likely to be closed because there was not enough money? The
Commonwealth also is not blameless here in the fact that it was only prepared to offer $90 million. It must have known full well that that would not deliver the sorts of services that people living in these remote communities need.

It is quite clear from this that measures like the intervention have not worked. We have not seen a turnaround here in incarceration rates and access to the sorts of services and supports that Aboriginal communities need. Again, that is a top-down approach that takes control away from communities and control away from people to make decisions over their own lives. Importantly, it has not delivered culturally appropriate, community-driven programs. We need to look carefully at the outcomes of this report to see how we can better invest the money.

All the funding was thrown up for whoever wanted to put in applications, and they were given a very short amount of time. I know from talking to organisations that they just put in a whole lot of applications that covered a whole lot of areas because they did not know what was going to happen as a result of this process. I have also had reports of where they know funding is going to be cut for very good programs. One service in Broome told me that they were extremely concerned about the ongoing future for their program for financial support and counselling, because the money that would normally have been used for one area has now been stretched over a whole region—in other words, a cut to those important financial services.

Emotional and social wellbeing programs that underpin a lot of the work that Aboriginal medical services do are being cut. I have had two Aboriginal medical services in Western Australia talk to me. One thinks it is going to lose about $800,000 and the other thinks it is going to lose about $700,000. That blows an enormous hole in their budgets, which then, of course, undermines the programs they can deliver that address things like chronic disease and disability.

Then there are the issues about employment. What is this government doing? Outsourcing the process on that to a billionaire, in the form of Andrew Forrest. Of course, he would know more than the experts know! And what has he come up with? The brilliant idea about the healthy welfare card when, plainly, income management is not working in the NT. Taking decision making over money and making a so-called cashless society will not address the underlying causes and the fundamental issues that we need to deal with in Aboriginal disadvantage.

This government, when it had the opportunity at the beginning of the year to commit to reduce incarceration rates, muffed it. It did not commit to a justice target. When Aboriginal organisations have been almost begging the government to put in place a justice target for closing the gap, this government did not do it: 'No. We will bring in the populist approach of a target for school attendance,' but the government will not address a justice target. That is a start in addressing incarceration rates.

We need more. This is a terrible report card and Australia needs to do better.
On 14 October, young leaders from across the ACT converged on Parliament House to attend a youth leadership forum. I had the privilege of hosting a diverse group of young leaders at this event, which was as inspirational as it was informative.

The forum had the opportunity to hear from ACT Young Canberra Citizen of the Year 2013, Jarret Anthony. Jarret is an inspirational young leader in the ACT community and was recently announced as an ACT finalist for the Young Australian of the Year. His efforts to develop a Dainere's Rainbow Brain Tumour Research Fund, in conjunction with Sydney Children's Hospital Foundation and Dr David Ziegler, were prompted by the tragic loss of his sister Dainere to a brain tumour. His initiative and leadership is awe-inspiring and a great example to youth in the ACT and across Australia.

The forum then moved to focus on the young leaders that were in attendance: from St Francis Xavier school, we had Alysha Bird, Tegan Norley and David Zeller; from Gungahlin College, Kal Slater; from Burgman Anglican School, Nick Hains, Mia Linden, Munashe Rusamo, Madison Einfalt; from Trinity Christian School, we had Amy Uebergang and Jaye Pollecutt; from Hawker College, Tahirrae Slikker; from Daramalan College, Ben McDonald and Matthew Aldridge; from Australian Christian College, Samuel Suva; from Erindale College, Julian Barrett; from Canberra High School, Ariana Glass and Tessa Minns; from the Canberra Institute of Technology, Haylee Bates; and from St Edmonds College, John-Paul Romano.

This diverse group of young Canberrans had the opportunity to engage in a broad discussion. We touched on environmental and social issues, before moving on to discussing the economy and immigration. The forum was a great way for me to hear the views of youth, whilst at the same time fostering the leadership skills of young Australians. The discussion was engaging and robust, and I can assure everyone gathered here that spirit of democracy is alive and well in the youth of the Australian Capital Territory.

I recently had the pleasure of opening the new Snowy Hydro SouthCare training and administration centre. Since 1 October 1998 Snowy Hydro SouthCare has been primary provider of aero-medical and rescue helicopter services to people in the ACT and south-eastern New South Wales. In the 16 years since its opening, it has completed over 5,500 missions. While the helicopter is based on the Monaro Highway in Canberra, Snowy Hydro SouthCare's primary service area extends east to the coast, south to the Victorian border, west to Hay, and north almost to Sydney. As Snowy Hydro SouthCare completes an average of two missions per day, it is clear that this life-saving service is an important part of our community.

The new Snowy Hydro SouthCare training and administration centre will play a vital role in the timely provision of medical services for both the ACT and surrounding region,
cementing the ACT’s role as a regional services hub. This opening is the culmination of a $1.15 million project that was achieved through the combined financial contributions of the Australian government, South-East New South Wales Aero-Medical Services Ltd and the Master Builders Association. The opening of the centre marks an important milestone in the development and consolidation of this critical service for the ACT and region. It was great to see Snowy Hydro SouthCare’s CEO, Owen Finegan—a former Brumby and Wallaby—there with his staff, who were eagerly waiting to move into their new premises.

On 17 October I had the opportunity to attend the 50th anniversary of the suburb of Curtin in South Canberra. It was in the year 1964 that people first moved into the new suburb of Curtin. To commemorate this occasion, the Curtin community put on a series of events, which culminated fittingly in the heart of the suburb, the local shops. As many of you will be aware, the local shops are often a focal point for communities across Australia. By virtue of the deliberate design of Canberra, each suburb has its own local shops, and these often contain community groups, such as scouts and churches, alongside local businesses. In Curtin, it was these local shops that provided the stage for the day’s celebration.

The display of community spirit was great to see. There were local musicians on show, including talented children from Curtin Primary School. Against this backdrop of local talent was a variety of stalls that were set up by local retailers. Community information stalls conveyed a strong sense of the local history, which was both informative and interesting.

Many Canberra suburbs received their name from prominent political leaders. Canberra’s city is steeped in rich political history and of course we only need to look at a map of Canberra to see this played out in the names of suburbs such as Deakin, Reid, Cook, Bruce, Ford and Chifley. Curtin is of course named after the Rt Hon. John Joseph Curtin, who, as our 14th Prime Minister, led during a turbulent time in our nation’s history.

It was encouraging to see such a strong, diverse and vibrant community celebrating their suburb. I was glad I was able to share this milestone with locals. I would like to particularly congratulate Viola Kalokerinos and Evan Mann and everyone else who helped to organise the event. I should also mention John Kalokerinos who was doing a lot, as he always does, in the local community. I also spotted Malcolm Farr, from the press gallery, who is a Curtin resident, who was there proudly celebrating a wonderful area and a wonderful place to live.

I would also like to make mention today of the JDRF Walk to Cure Diabetes, which I had the privilege of launching recently. This is for the Juvenile Diabetes Research Foundation. They have the Walk to Cure Diabetes, and it was great to so many people out to support such a great cause. The Walk to Cure Diabetes is an important event, not only because it is the biggest fundraiser of the year for the JDRF; but also because it represents hope—hope for a cure. The majority of walkers were there on the day because they have been affected by type 1 diabetes in one way or another. By taking part in the walk, they contributed to critical medical research that will improve lives and ultimately find a cure for those with type 1 diabetes.

ACT and regional development coordinator Mel Eveille presented four Walk-Hero Status awards on the day, to: Kathryn Jeffress from team Walking4Ethan, Ingo Evers from Diabetes Squared, Alexis Bendun from Team Sixela and Katie Coulter from the Bean Team. Corporate committee member Lee Phillips was also recognised on the day for his outstanding volunteer and fundraising efforts for JDRF.
As a father of five children, it is difficult for me to imagine some of the challenges that are faced by families who deal with type 1 diabetes. But, with the help of organisations such as JDRF, and fundraisers such as Walk to Cure Diabetes, we hope that one day we can turn type 1 into type none.

On the back of that, in January next year, I will be taking part in the Ride to Cure Diabetes in the Barossa Valley. It is an 80 kilometre ride and I encourage people to get on the JDRF website if they would like to donate to any of the riders. It is a fantastic cause and it is a major fundraiser for JDRF.

I recently also had the opportunity to address a number of business owners from Tuggeranong about the possibility of development in West Tuggeranong. The Tuggeranong Region Business Forum was formed to lift the profile of Tuggeranong and regional businesses, engage both levels of government and to yield community benefits and sustainable commercial outcomes. The interim convenor, Michael Lindfield, has done a fantastic job of getting local businesses together to discuss ways to further develop Tuggeranong and what opportunities there may be in the future.

I do believe it is important that we explore ways to ensure that Tuggeranong prospers, and growing the population of the local area will help to ensure that better facilities are available in the south of Canberra. If development were to go ahead in West Tuggeranong, I believe that the initial stages would appropriately be just a short distance from the town centre. This is an issue that goes back some time, prior to self-government for the ACT, when the original plan for how to grow the southern part of Canberra, particularly in this case Tuggeranong, was to develop on both sides of the river.

There was a decision taken by the federal government prior to self-government to ban development on the western side of the river. I think that was a significant mistake. I think that was a significant problem and it is, unfortunately, an issue that in the first instance has to be fixed by the federal government. There is a process in place, and I am pleased that Assistant Minister Jamie Briggs has actually taken this up with the NCA. The NCA is going through a process of examining this issue. I think that it is important that we get this right. Sometimes these decisions, in this case taken decades ago, can have long-lasting impacts. They have an impact on the ability to have affordable housing in the south of Canberra, they have an impact on revenues for the ACT government and they have an impact on the facilities for the people of south Canberra and particularly for the people of Tuggeranong. This is an important process and I look forward to engaging in it.

**Broadband**

*Senator URQUHART* (Tasmania—Deputy Opposition Whip in the Senate) (13:24): A recent analysis of the Abbott government's performance undertaken by the *Australian Financial Review* confirmed what we all suspected: this government has broken more promises than it has kept. The principles of honour, trust and keeping your word seem to mean very little to our Prime Minister and to many of his ministers.

Today, I would like to talk about just one of the most serious broken promises for the people of Tasmania—the Liberals pre-election promise to deliver full-fibre NBN. Tasmania is not like the rest of Australia. Our small population and geographic isolation are wonderful assets that support our clean, pristine environment and our incredible way of life. But they
both pose challenges for economic growth and can impact on the services that can be delivered viably.

Labor's NBN offered Tasmanian businesses a real opportunity to bridge this tyranny of distance. It promised to create a real point of difference that would encourage investment in the state and see more jobs created. The NBN brought with it the tantalising possibility that Tasmania could stake out a profitable space for itself in the rapidly-growing digital economy. Under Labor, Tasmania was first cab off the rank for the NBN rollout. Under Labor, Tasmania had the fastest NBN rollout in the country. And under Labor, Tasmania was set to be the first state in the nation to be fully connected to the NBN, with the rollout to around 208,000 homes and businesses scheduled for completion by the end of 2015.

Before the election, the Liberals tried to convince Tasmanians that they were on a unity ticket with Labor on the NBN. Again and again, we heard that the Liberals would honour all Tasmanian NBN contracts, which of course included the master contract for the full-fibre rollout. Minister for Communications, Mr Turnbull, confirmed this on 16 August last year when he said:

This is not just a commitment to honour contracts where construction is under way, but all contracts which have been entered into.

He reiterated this by saying:

We intend to honour existing contracts. The alternative would be to breach them and that is a course we would not countenance.

Liberal Senator David Bushby, on behalf of the federal Liberal team, also went on the record the next day, saying:

We understand that those contracts are in place to roll out right across the state, and if that is the case, we will honour that.

Let us be clear. There was no wriggle room in these statements. Tasmanians were promised the full-fibre NBN as it was contracted by the previous government. The Liberals also told us that under their government the NBN would be delivered 'sooner'. Mr Turnbull proudly touted his plan, saying:

…every household and business to have access to broadband with a download data rate of between 25 and 100 megabits per second by late 2016.

Tasmanians understandably took Mr Turnbull and the Liberals on their word, and I have no doubt this played into their decisions on voting day.

In September 2013 we had a change of government. Since then, the Liberals' earnest promises have disintegrated into thin air, and Tasmania's NBN rollout has ground to a sickening halt. Mr Turnbull tried to pretend that everything was okay in February by assuring Tasmanians that our NBN rollout was 'back on track'.

Well, nothing could be further from the truth. NBN Co's own data on the rollout tells the real story. At the end of first week of May this year, this summary showed that NBN cabling went past 38,338 premises in Tasmania. At the end of the first week of November, just 38,345 premises had been passed. Yes, that is right. A full six months later and the government only managed to extend Tasmania's NBN footprint by seven properties. Seven!

The hard reality is that the NBN rollout in Tasmania has ground to a screeching halt. Not only that, but promises to deliver Labor's superior, contracted full-fibre solution have also
fallen by the wayside, just like so many pre-election promises of this government. Great swathes of the state were removed from NBN's rollout maps overnight, including around 40,000 premises that had rock-solid construction contracts in place.

Senator Bilyk: How many?

Senator URQUHART: Yes, Senator Bilyk, 40,000 premises. Nowhere is there greater uncertainty than in my local community on the north-west coast of Tasmania. Under Labor, NBN work was scheduled to start in Devonport in December last year, with Ulverstone following in February this year and Burnie next month. Under the Liberals these three areas, which are among Tasmania's largest, have dropped off NBN maps entirely—they just disappeared—leaving locals in NBN limbo, unsure what type of broadband they will end up with and when it will finally be delivered. It is no secret that we have some challenges to face in the north-west, but Labor's NBN gave the community real hope that we could stake out our place in the digital economy. This vital digital infrastructure would drive investment that would, in turn, create the needed jobs—something that we desperately need in north-west Tasmania.

People were starting to fear that the people of the north-west would be unable to offer business or families the infrastructure that is becoming an increasingly important part of modern life. No-one in the government is willing to give timetables, and the promises before the election to honour all Tasmanian contracts vanished in a puff of hot air. Last week, however, it looked like the north-west and, indeed, the whole state might finally get a reprieve and the wheels of the Tasmanian NBN rollout might finally start turning again after more than a year of government inaction.

The communications minister, Malcolm Turnbull, was due to visit Devonport for an NBN forum, and he did come. The hope was that he would lay out a plan to finally deliver on his election promise of rolling out full-fibre NBN to our state and to our local community. The local member, Brett Whiteley, went on the record saying that the government needed to do 'much more' on the NBN—so their own members are saying they need to do much more—and that added to the feeling that some good news might be around the corner and that it might be delivered on that day. If the community approached this forum with high hopes, it did not take long to dash them entirely as the minister outlined that the north-west would not get the full-fibre NBN that was promised prior to the last election. He could not even tell us when the rollout would actually start. So people who came along to that forum were not given any commitment about when it would occur—again, broken promises. He confirmed the north-west would be cast away to the digital dark lands, doomed to get a substandard offering delivered up to four years late, with no start date in sight.

Tasmania's north-west NBN was being trashed before our eyes, just like the words spoken by the Liberals before the election. This is an absolute betrayal of the people of the north-west coast and it is, quite simply, reprehensible. Just as the Liberals are determined to create a nation of haves and have-nots with their cruel budget measures, so they plan to split our state into a division of digital haves and have-nots. On one side are the haves that will receive Labor's high-quality, world-class, full-fibre broadband. Those people will see their property prices grow, their leisure options increase and their ability to participate in the digital economy expand. On the other side will be many thousands of Tasmanians who are the digital have-nots. Those people, including those in my community, are being offered a cobbled
together solution of fibre and ageing, disintegrating copper wires. They will see lower property prices and investors more likely to bypass their area in favour of the digitally superior alternatives. And then, when the decades-old copper wires finally give up, the whole thing will have to be done all over again.

Promising people high-speed, full-fibre internet before the election and delivering a substandard solution afterwards shows pure contempt for the Tasmanian people, not to mention the very serious erosion of trust in our democratic processes. Let's do this once and let's do it properly. Let's not shackle future government with the cost of cleaning up a substandard copper-hybrid mess. And let's invest to secure Tasmania's place in the digital economy of the future. Tasmanians do not deserve to be treated so shabbily; they do deserve the full-fibre NBN that they were promised by the Liberal Party prior to the last election. We call on them to deliver that and deliver it now.

**Rice, Mr Jordan**

Senator LAZARUS (Queensland—Leader of the Palmer United Party in the Senate) (13:34): I rise today to fix a wrong and ensure that a brave young Australian is honoured by being awarded a posthumous Cross of Valour. The brave young Australian is Jordan Rice, who sadly died during the 2011 Queensland floods. In early 2011, my home state of Queensland was ravaged by severe weather, culminating in one of the most devastating floods our country has ever seen. Rivers and stormwater drains swelled and dirty water silently crept into yards, houses, cars, sheds, offices, businesses, schools, libraries and buildings, destroying all, leaving behind thick stinking mud. The mud was so thick that it stuck to walls and made its way into everything: cupboards, machinery, roofs, furniture and walls. Rivers destroyed roads, bridges and community spaces and wiped out entire towns. Homes were lost and businesses were brought to their knees and wiped out. Public facilities were decimated. It has taken years for Queensland to recover. Many people are still recovering. Sadly, some may never recover. It is not just the financial impact that hurts but the emotional impact and inability to cope with the horrific loss due to trauma and suffering.

In Toowoomba, our country saw the effects of an inland tsunami which swept through parts of Queensland. The inland tsunami was so severe that it tore through towns and the main street of Toowoomba. It happened quickly and without notice. Walls of water metres high swept through the countryside, taking cars, houses, animals and people with them.

In Toowoomba, a Queensland mother, Donna, was travelling in a car with her two sons, Jordan and Blake, at the time the tsunami hit. The car was swept up in the torrents of water and was smashed around as it was dragged through the violent water. As the car started to fill with water, somehow the terrified family managed to stay calm enough to make a triple 0 call for help. Jordan, only 12 years old at the time, managed to dial triple 0 and beg for someone to come and help them.

Incredibly, rescuers managed to get to the car through the wild torrents of water. When rescuers grabbed Jordan to pull him from the car to drag him to safety, Jordan told the rescuers to take his younger brother, Blake, first. Jordan was a shy boy who did not even know how to swim. He was due to start high school in two weeks. Within seconds of Blake being dragged from the car by rescuers, another wave of water hit the car and the rescuers were unable to return to the car to drag Jordan and his mother to safety. Incredibly, Jordan and his mother managed to climb to the top of the car as it was submerged by the wild water.
As the water raged, both Jordan and his mother were swept from the top of the car and eventually disappeared. Sadly, Jordan and his mother, Donna, were killed in the floods.

While many statements of support have been made for Jordan Rice to receive a posthumous Cross of Valour for his incredible bravery, to date this award has not been given. I have today spoken to the office of Prime Minister Tony Abbott and that of the opposition leader, Hon. Bill Shorten, and both have given me their support to pursue the award of a posthumous Cross of Valour to Jordan Rice. I have also spoken to the office of Senator Claire Moore, a fellow senator from Queensland, who has also championed this issue. Senator Moore is from Toowoomba and understands firsthand the reasons why this award should be granted, and she has also actively called for this award to be given. As former Prime Minister Julia Gillard noted in the House of Representatives:

… the legend of Jordan’s amazing courage will go on—a hero in the purest sense of the word.

To date, as I said, this award has not been given. Red tape and government processes have brought things to a halt. In my eyes, this is unacceptable. No-one should have to fight for an award of this nature to be given. I will be contacting the office of the Governor-General tomorrow to commence the process of ensuring the posthumous Cross of Valour is awarded to Jordan Rice.

The Cross of Valour is Australia's highest civilian award for bravery. It was established in 1975 to replace the British George Cross previously awarded to Australians for bravery. The Cross of Valour is awarded only 'for acts of conspicuous courage in circumstances of extreme peril'. Jordan Rice was a young Australian who made a split-second decision at a time of absolute chaos, in life-threatening circumstances, to put the life of his younger brother ahead of his own. In my eyes and in the eyes of thousands of Australians, Jordan Rice is a hero—a hero who made the ultimate sacrifice to ensure his brother lived.

I cannot imagine the horror and the utter despair that Jordan, his brother and his mother experienced in Toowoomba in early 2011, but what I can do is ensure that the absolutely selfless bravery of Jordan Rice is recognised. I therefore call on all Australians, and I call for bipartisan support in this chamber and in the House of Representatives, to ensure that Jordan Rice is honoured with a posthumous Cross of Valour. This is not a political issue. This is an issue about a significant honour that should be bestowed on a very, very brave young Australian who made the ultimate sacrifice so that his younger brother might live.

Parliamentary Proceedings: Senate

Senator IAN MACDONALD (Queensland) (13:41): Today, in the senators' statements debate, I want to raise two issues which are separate but interrelated. The first, I regret to say, is that I am concerned about the direction in which the Senate is heading. I have been here for quite some time now. I have seen how the Senate operated in days gone by. It has never been a chamber in which there were not robust discussions—but in times past, the Senate concentrated on its proper legislative and regulatory functions, and the protections and enhancements of individuals' rights and obligations. However, increasingly, we see the Senate being used for crass political purposes.

In a parliament, where politics are involved, there is always a bit of political game playing. But I am talking about the sorts of things that are exemplified by the Clive Palmer-initiated Senate committee inquiry into another sovereign government, which just take the whole
process to a new low. If this sort of thing continues, it is really going to diminish what I think is the quite high standing of the Senate. I do not blame Mr Clive Palmer, who wants to pursue a vendetta he has against the Queensland Premier over a business deal that he did not get in Queensland. I am concerned that an outside influence like that can impose a course of action upon a small political party that used to consist of three people. I accept that those people have taken their instructions from an outsider so he can pursue his own interests. I am sorry about that, because I think the people involved are decent Australians. But they are allowing themselves to be used by outside influences and, therefore, they must take the consequences of getting involved in that sort of action. So, that concerns me.

But I am more concerned that the Labor Party in recent times has gone along with these proceedings which really do not bring credit to the Senate. The whole setting-up of that inquiry was a farce. We do have committees that deal with issues that are contentious and which the two major political parties have different views on, but usually committees are set up in a way that gives one side or the other a majority. Usually it is a four-three majority—— you try to make sure that the people on the committee represent the numbers in the Senate—— but for that particular committee it was anything but.

Senators, since I first arrived here, seem to be more rigidly controlled—not on this side, I might say. On the government side, we have a proud tradition of senators who are prepared to exercise their own mind, unlike the Labor Party. Senator Cameron quite clearly told us all a few years ago that the Labor Party were just lobotomised zombies. Remember that? They just sit there to make up the numbers and put up their hands when they are told—a throwback to the union days. On our side there are a number of senators—there are even some in the chamber at the moment—who are prepared to exercise their own views while being loyal to their party; they are never afraid to have a different view to their party where their own conscience or their own constituents take a different view. We have a proud history of this, going back to Senator Ian Woods, who was almost a predecessor of mine, coming from up Mackay way. Senator Robert Hill ended up as a very distinguished leader in this chamber for about 20 years, as Leader of the Government in the Senate later and as opposition leader in the Senate. Mr Barnaby Joyce—now Mr Barnaby Joyce, formerly Senator Barnaby Joyce—never worried about challenging the then Prime Minister about issues. We are allowed to do that because we understand the parliamentary process. But it seems these days, even more rigidly, the Labor Party senators are not allowed to have a view in this chamber.

One of the other things that concerns me on the way the chamber is going is how Senate staff are being put at a disadvantage by the antics of the Labor Party and the Greens and the Palmer United Party with things like the Queensland committee. The Senate staff do a fabulous job, they are very talented people, but they are put in an invidious position by the Labor Party joining with two parties that you might expect it from. The Labor Party join in on these sham committees that then put real pressure on the other party. That is particularly related to the Clive Palmer inquiry, supported by Labor, into the Queensland government.

And that brings me onto the other matter that I wanted to briefly mention. If Mr Palmer or the Labor Party think that the Queensland government has not done a good job, the right place to deal with that is at the Queensland election—it is a democracy—and that is coming up in a few months time. That is where those issues should be, not setting up some sham Queensland committee. I am quite happy to leave it to my fellow Queenslanders at the next election
because I know they will return 'Can Do' Campbell Newman and his team. For those of you who do not know: every time you go to the Brisbane Airport and drive those magnificent tunnels from the airport into the centre of the city, remember that this was Campbell Newman's doing as a lord mayor of Brisbane. That is where he got his nickname of 'Can Do' from.

And he has continued that since he has become premier. I get angry driving around Queensland because everywhere I go roads are under construction. This never happened under Labor. Roads are being built everywhere. The help that Mr Newman and his team have built for farmers is fabulous. The waiting list—have a look at the waiting list. When Campbell Newman took over, the waiting lists were in the tens of thousands to get into hospitals and for operations. I do not have the exact figures, but the most recent I heard for various waiting lists was under 500—down from tens of thousands. They have done a wonderful job there.

Crime and the safety of people in Queensland: you can actually now go to the Gold Coast and not be shot at by a biker. But the Labor Party wanted to support the Finks and the Banditos biker gangs; they wanted them to continue to terrorise the people of Queensland. Now Campbell Newman stood up to them. They took him to court; it was a very expensive court case. Fortunately, the High Court, in its judgement and serious wisdom, agreed that Mr Campbell Newman had done the right thing. And Queenslanders now feel much safer than they did under the Labor Party regimes, when the biker gangs ran riot.

I come from the north and we have a fabulous team of MPs up there. I am quite certain they will be returned on their own merits, but, as members of Campbell Newman's team, they are also certain to get the support of people because we like what they are doing up that way. I mention, just in passing, Mr Jason Costigan, the member for Whitsunday, who, all congratulations to him, was preselected just the other day. There is Ms Rosemary Menkens, from my own electorate of Burdekin; John Hathaway from the electorate of Townsville; Sam Cox, from the electorate of Thuringowa; David Crisafulli, from the electorate of Mundingburra—an excellent Minister for Local Government, Community Recovery and Resilience, and a man who will go far. We have the member for Hinchinbrook, Mr Andrew Cripps, the minister for natural resources, doing a wonderful job in that area; David Kempton, up in Cook, in Cape York and minister for Torres Strait Islands; Gavin King, up in Cairns; and Michael Trout, up in Barron River. They are all exceptionally good members doing what they are supposed to do—that is, looking after the interests of their constituents as well as, in many of the cases that I have mentioned, playing a major role as senior ministers in a government that has done so much for Queensland and a government that is at last addressing Labor's $97 billion debt that it left me and my fellow Queenslanders to pay off.

Prime Minister

Senator POLLEY (Tasmania) (13:51): I rise to speak briefly on a subject that may surprise some. In fact, I am here today to make a concession. It is this: I was wrong about our Prime Minister, Tony Abbott. He is actually a genius. Yes, there it is. I said it. I admit that I was mistaken about this man and that I should rethink various comments that I have made in this chamber. I admit that I was wrong when I said a little under a year ago that Tony Abbott was 'neglecting our younger generations' by repealing the Clean Energy Finance Corporation Act. I should also retract a comment I made during an adjournment speech in May last year when I said that I would vomit if I heard him use the words 'fair dinkum' one more time. The
comment that I really feel bad about occurred in July this year when I was speaking on the repeal of the clean energy legislation. I definitely should not have said:

Our Prime Minister is like the kid in class who not only does not understand what is being taught but feels compelled to convey his ignorance to everyone around him to get attention.

What is worse is that I should not have followed that comment with:

I really wish that, instead of trying to grapple with the fundamentals of climate change policy, he would just sit in the corner and eat Play-Doh and leave this to others—because every time he speaks on climate change everyone in the room listening becomes a little bit dumber.

The reason I am sorry is that I underestimated our Prime Minister—he is actually, as I said, a genius. This only dawned on me over the weekend when I observed the G20 proceedings in Bris Vegas. Only a genius would realise that he could forge closer relations with President Putin by initially threatening to 'shirtfront' him but then sharing a koala cuddle instead. You see, our Prime Minister instinctively knew that President Putin would appreciate some college boy frat house trash talk. He did not follow up with any actual harsh words for Putin about MH17. That was not because he lacked the clout and mettle to do so; it was just because he was engaging in high-level, sophisticated koala diplomacy. It is a new thing, you see.

Likewise, only a genius would realise that he could boost President Obama's standing at home in the United States by allowing him to shine at the G20. You see, our Prime Minister is savvy. He knows that the Democrats have just taken a shellacking in the congressional mid-terms and that the President is facing criticism for being a lame-duck leader. He knew that. That is why he sought to steer proceedings away from commitments to tackling climate change. That is why he refused to promise any contribution to the global climate fund. He knew that President Obama and President Xi Jinping were going to announce a landmark climate change deal setting ambitious new targets. Really, he was just positioning himself so that President Obama could point to another leader on the world stage at the G20 and say, 'You see, this is the sort of guy who refuses action on climate change. Do you want to be like this guy? Didn't think so, so please act now so that we can fight climate change together.' I am sure many Republicans are now reconsidering their stance and moving to cooperate with the President on emissions cuts as we speak.

Similarly, the Prime Minister's bizarre whinge to assembled global leaders about his difficulties in achieving unfair budget cuts was just a ploy. He was just trying to empathise with Japanese Prime Minister Shinzo Abe, who has huge domestic political concerns. Abe has called a snap election to postpone a sales tax rise. It was pure genius from our Prime Minister—a world leader; a statesman; a man of foresight; a tactical mastermind. I am sorry, Prime Minister: in the words of George W Bush—a man whose intellect, insight and diplomatic proficiency you are obviously dedicated to imitating—I underestimated you. One thing I will say is that the Australian people have made up their mind about this Prime Minister. They have also made up their mind about this heartless, harsh budget.

Senator Fifield: They did, at the last election.

Senator POLLEY: Senator Fifield is a man who has no vision for his area of responsibility: aged care. This is a man who came into this chamber on 26 June last year without consulting the aged-care sector and scrapped the dementia supplement. We have been waiting months and months and months for his visionary leadership in aged care. This is why this government is bereft of any ideas, any solutions, any vision for aged care and how we are
going to address both the short term and the longer term issues around staffing. Maybe I will have to wait until 26 June 2015 before he graces the Senate chamber with some sort of announcement. Under the previous Labor government we always had a minister for aged care and ageing. We believe that for the ageing issues confronting this country and the rest of the world it is worth having a dedicated minister who has the vision, the policy and the nous to consult with the sector and show leadership. It is not just me and Mr Neumann in the other place who are talking about these issues. These are real concerns that the aged-care sector have in this country about the lack of vision and the lack of commitment from this government and this minister. Maybe I will be wrong. Maybe when the minister is in Hobart on Friday he will make some sort of announcement and demonstrate that he actually does have some commitment to those of our population who are ageing. In the time I have been in this chamber I have learnt not to expect too much from those on the other side. They are a heartless government.

The PRESIDENT: Order! It being 2pm, the time for senators' statements has concluded.

MINISTERIAL ARRANGEMENTS

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:00): by leave—I indicated by notice to senators that the Minister for Defence might not be available during question time. He clearly is, so I am delighted to confirm that to the Senate. I can also advise that the Attorney-General will be absent from question time today as he is on representational duties in relation to the visit of the President of the French Republic. In his absence, Senator Johnston will represent the Attorney-General in all the portfolio areas that the Attorney-General normally represents.

QUESTIONS WITHOUT NOTICE

Higher Education

Senator KIM CARR (Victoria) (14:00): My question is to the Minister representing the Prime Minister. I refer to the Prime Minister's comments at the G20 over the weekend that: … we have tried to deregulate higher education, universities, and that's going to mean less central government spending and effectively more fees that students will have to pay.

In light of this belated admission, can the minister advise the Senate how much more the government will force students to pay?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:01): The Australian people understand that what the government is on about in this space is getting the best possible value for every single dollar contributed by the Australian taxpayer. The Australian people also understand that, if one has the privilege of a tertiary education, over their lifetime that person is likely to earn an extra $1 million. It therefore stands to reason that the truck drivers and other people in our community who pay taxes on a regular basis should not be subsidising from their lower wages the opportunity for others to learn so much more than they do.

This is about equity. This is about securing the future of our universities. This is about ensuring that they will be internationally competitive in the years ahead. What Minister Pyne has been able to achieve is a mechanism whereby the Australian taxpayer can make a lesser
contribution but which will still increase the overall funding pool available to universities through opening up spaces and, as a result, making universities even more viable with even more money.

With the free trade agreement and growing relationship between Australia and China, I hope that there will be even more international students coming to Australia, making an even greater contribution to the total pool of money available to tertiary institutions in this country. This is about guaranteeing the future of our universities. That is why organisations after organisations have come out to support us.

Senator KIM CARR (Victoria) (14:03): Mr President, I ask a supplementary question. I refer the minister to the Treasurer's comments as reported in the *Australian Financial Review* on 4 November. He said, 'We will find any way we can to take the money out of universities.' Can the minister outline exactly how much more the government plans to rip out of universities and how the Treasurer proposes to do that?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:03): Senator Carr is a great master of giving us quotes in this place. He has done it now for a couple of decades. The quotes are nearly always out of context. So I will look very carefully at the full quote above that which the honourable senator put to us just then.

We have been regaled with examples from Minister Pyne, day after day, in question time telling the Australian people that this university organisation or that university organisation, including regional universities, support this proposal. Why do you think that is? Is it because they are going to get less money overall? Absolutely not. Will there be less money via the long-suffering Australian taxpayer? Possibly so. Will the total haul of money available increase? Yes, it will. *(Time expired)*

Senator KIM CARR (Victoria) (14:05): Mr President, I have a further supplementary question. Can the minister explain how the Prime Minister's and the Treasurer's comments are consistent with the Prime Minister's pre-election commitment that there would be no cuts to education?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:05): I am delighted to talk about consistency. In the 2013-14 budget of the Labor Party, $902.7 million was taken by an efficiency dividend from most grants to universities. There was the removal of the 10 per cent HECS-HELP discount and the five per cent HELP repayment bonus from 1 January 2014—$276 million. There was the conversion of student start-up scholarships to student loans.

The PRESIDENT: Pause the clock.

Senator Moore: Mr President, I have a point of order on direct relevance. Senator Carr's question was specifically about the Prime Minister and this government's promises for no cuts to education. That was the question.

The PRESIDENT: I remind the minister of the question. He has 29 seconds left to answer the question.
Senator ABETZ: Thank you, Mr President, but I am sure you noted that the question was prefaced with the concern for consistency by the honourable senator. That is why I am pointing out to the honourable senator his and the Labor Party's inconsistency—

Opposition senators interjecting—

The PRESIDENT: Pause the clock.

Senator Kim Carr: On a point of order, Mr President: I asked an explicit question about the consistency of the Prime Minister's statements before and after the election. While you are at it, you can tell us how it was that we increased funding for universities by nearly 100 per cent.

Government senators interjecting—

The PRESIDENT: Order, on my right! Senator Carr, on the first part of your point of order—I take note that the second part was not in order; it was debating and adding new material—I did remind the minister of the question that was asked. I remind the minister again that he has 15 seconds left to answer the question.

Senator ABETZ: Seeing that I cannot quote the whole list, it does total $6.655 billion over five Labor budgets. So please do not come in here—

The PRESIDENT: Pause the clock.

Senator MOORE: Mr President, on a point of order: again it is on direct relevance. We drew the attention of the minister to the question, and he just ignored that direction.

Senator ABETZ: So there is no inconsistency with that which the Prime Minister and the Treasurer— (Time expired)

Trade with China

Senator WILLIAMS (New South Wales) (14:08): My question is to the Minister for Finance, Senator Cormann, representing the Minister for Trade and Investment and the Treasurer. Will the minister inform the Senate how the China-Australia Free Trade Agreement will benefit Australian exporters, particularly in the services sector?

Senator CORMANN (Western Australia—Minister for Finance) (14:08): I thank Senator Williams for that question. The China-Australia Free Trade Agreement is, of course, a great win for Australia and it is particularly a great win for our services sector. This is important, because services today constitute about 72 per cent of Australia's economic activity. China is indeed Australia's largest services market, with exports in services in 2013 valued at about $7 billion. China has offered Australia the best-ever services commitments in a free trade agreement—other than China's agreements with its own regions, Hong Kong and Macau.

Mostvaluably, the market opening includes new or significantly improved market access for Australian banks, insurers, securities and futures companies, law firms and professional services suppliers—education services exporters, as well as health, aged care, construction, manufacturing and telecommunications services—to businesses in China. China is already Australia's largest education services export market, worth about $4 billion in 2013. China will list all Commonwealth registered private higher education institutions on its Ministry of Education website, enabling an additional 77 institutions to the existing 105 Australian institutions to increase their profile and marketing across the Chinese markets. This means
more money for Australia; it means more jobs. It is part of our plan to build a stronger, more prosperous economy, where everyone can get ahead.

China will provide new market access for Australian companies to undertake joint construction projects. With Chinese counterparts in Shanghai, Australian companies will be exempted from business restrictions—*(Time expired)*

**Senator WILLIAMS** (New South Wales) (14:10): Mr President, I ask a supplementary question. Can the minister advise the Senate how the China-Australia Free Trade Agreement will assist access by Australian financial services providers to the Chinese market?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:11): Our world-class financial services sector does extremely well under this free trade agreement. China has committed to deliver new or improved market access to Australian financial services providers in the banking, insurance and funds management areas, as I said in response to the primary question. China has allowed overseas trading of China’s currency in Australia for the first time, improving the efficiency of cross-border renminbi transactions. China has also allowed Australia’s funds management industry enhanced access to the Chinese onshore securities market—an area of significant potential growth for Australian businesses.

For the first time in an FTA, China has committed to allow Australian insurance providers access to China’s lucrative statutory third-party-liability motor vehicle insurance market without imposing establishment or equity restrictions. China has agreed to a reduced waiting period for Australian banks to engage in local currency business, from three years to one year, and removed the minimum—*(Time expired)*

**Senator WILLIAMS** (New South Wales) (14:12): Mr President, I ask a further supplementary question. Will the minister inform the Senate how the China-Australia Free Trade Agreement will grow and boost employment in the financial services sector?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:12): I refer Senator Williams to a statement that was released by the Financial Services Council of Australia, where they pointed out:

The agreement builds the architecture Australia needs to export financial services in the Asian century …

I am quoting from their release. They say:

Australia is only the fourth country in the Asian region to be granted an RQFII quota—

that is, the renminbi qualified institution investor quota—

There are only 12 countries with this recognition.

They also say:

The agreements go further than any existing arrangements that China has with other countries which is a testament to the high level of expertise in Australia’s funds management industry …

…… …

China presents an enormous opportunity for the Australian funds management industry, and the Government should be congratulated for negotiating this landmark agreement …

That is what the Financial Services Council said. Not only have we got great deals for specific parts of the financial services sector; we also agreed to establish—*(Time expired)*

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**CHAMBER**
Australian Broadcasting Corporation

Senator McEWEN (South Australia—Opposition Whip in the Senate) (14:13): My question is to the Minister representing the Prime Minister, Senator Abetz. I remind the minister of the Prime Minister's pre-election promise of 'no cuts to the ABC'. Can the minister confirm—

Government senators interjecting—

The PRESIDENT: Order, on my right!

Senator McEWEN: that the Prime Minister has agreed to an additional cut of $207 million to the ABC budget in addition to the already announced cut of $47 million and the axing of the Australia Network? Minister, has the Prime Minister kept his promise?

Senator Abetz: It was indicated to me earlier that we might get a question of this nature, and I will pass it to Senator Fifield to answer.

Senator Wong: Because you can't defend the Prime Minister's broken promise.

The PRESIDENT: Order, on my left!

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:14): The coalition never said that the ABC or SBS would be immune from savings. On this side of the chamber we are very strongly and consistently of the view that every Commonwealth government department and agency—

Opposition senators interjecting—

The PRESIDENT: Pause the clock. Order! Minister, you have the call.

Senator FIFIELD: should seek to be the best possible stewards that they can be of precious taxpayer dollars, which is why Minister Turnbull commissioned the efficiency review. The efficiency review found that there were indeed savings that could be found at the ABC and SBS without impacting on programming, without impacting on quality. Minister Turnbull has announced today that, in view of these findings, the government will reduce funding to the national broadcasters by $308 million over five years. That is $254 million for the ABC and $53.7 million for the SBS. I will give you an important statistic in a moment.

Senator McEWEN (South Australia—Opposition Whip in the Senate) (14:16): Mr President, I ask a supplementary question. I note the Minister representing the Prime Minister was unable to defend the Prime Minister's commitment before the election.

The PRESIDENT: A question, Senator McEwen?

Senator McEWEN: Can either Senator Abetz or the Minister representing the Minister for Communications confirm that, as a result of these cuts to the ABC, Adelaide's ABC studios will be shut, state based 7.30 programs will be axed and up to 500 people could be sacked by Christmas?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:17): I think colleagues know well that decisions regarding which efficiencies will be implemented and when are matters for the SBS and ABC boards, but the statistic that I knew you were waiting to hear from me and which I will share with colleagues is that, over the next five years, the public broadcasters ABC and SBS will receive $6.6 billion of taxpayer funding. I think it is important that I share with you something
from Minister Turnbull's speech today in relation to the issue of programming, which I know frequently comes up. He said:

There is a temptation for management to blame the Government for some of these program changes. That would be cowardly.

The ABC management know that they can meet these savings without reducing the resources available to programming…

We know that and the ABC know that. (Time expired)

**Senator McEWEN** (South Australia—Opposition Whip in the Senate) (14:18): Mr President, I ask a further supplementary question. What other ABC programs, services and jobs, including in regional Australia, will be sacrificed on the altar of the Prime Minister's broken election promise?

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:18): The government cannot direct the ABC what to do with their funding. ABC and SBS management know very well, following the completion of the efficiency process, that they can improve their operations without compromising programming. I think you would know that, if the ABC want to make programming decisions to adjust to viewing and listening trends, to respond to the media cycle, to ensure that they are not overservicing an audience in a particular drama or to shift their resources to target online or mobile content, that is a choice for them. I do not think any of us on this side really believe that ABC programming is set in concrete forever and will never be altered. Of course ABC programming changes; it is always changing. That is a decision for management to ensure that they are honouring the ABC charter, and the taxpayers are giving very generously to the ABC and SBS to see that they can fulfil their obligations. (Time expired)

**Indigenous Affairs**

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (14:19): My question is to the Minister for Indigenous Affairs, Senator Scullion. The *Overcoming Indigenous disadvantage: key indicators 2014 report*, released today, indicates that there has been little if any improvement in the areas of reading, writing, numeracy and family and community violence; things have become worse in areas such as mental health and suicide and self-harm; and there has been an alarming increase in incarceration rates such that the adult imprisonment rate has increased by 57 per cent between 2000 and 2013. My question is: in light of these concerning figures, will the government finally commit to a justice target as part of the Closing the Gap strategy?

**Senator SCULLION** (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:20): No we will not be, and it is not something we have taken lightly. The setting of a target is probably one of the easiest things we do in this place. We can simply set a target. I am not suggesting anyone has just set a target and forgot about it. But it is a very complex area. You would know the statistics that many of the people who are incarcerated are incarcerated because of circumstances invariably involved with alcohol and violence. Tragically, that violence is perpetrated against other Aboriginal people. So we think that, by action rather than targets, we can change that circumstance by changing the circumstances that people find themselves in where they are so disconnected that they self-
medicate, particularly with alcohol, and then lash out at their own families and their own communities. We need to engage them.

If you are school aged, you need to be engaged with school. You know we are trying very hard to engage people in school with our school attendance strategies. I think it is very important that one of the fundamentals of a life of engagement is a job—work—and all the self-esteem that gives you, so we are very much focused on ensuring that we readjust our inherited programs to ensure people are working in purposeful activity so they are in the best position to move into work when they are ready.

Of course, the last of our fundamentals is to provide safer communities. Whilst it is not the complete answer, I certainly think in our investment of some $54 million in the budget—around $3 million of that for police stations, around $3 million for Aboriginal police officers—we have made a number of investments that I think will have a fundamental outcome, particularly relating to the last part of your question about incarceration. But I, like every Australian, share your legitimate concerns about this indicator. It is not only the highlight indicator of people who are incarcerated; it is also the mental health circumstances.

(Time expired)

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:22): Mr President, I ask a supplementary question. I will note that you have changed your opinion on targets since you set the school attendance target earlier in the year. The budget contained significant cuts to spending on Aboriginal programs. In light of these appalling statistics will the government now reverse those cuts to Aboriginal spending?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:23): I have in this place explained what has been put glibly as these 'monstrous cuts'. Sadly, those in the opposition and others always try to paint this without the offsets of those—about the additional investments we have made. Those additional investments are considerable and I will run through them in a moment.

Of everybody in this place, Senator Siewert, I know that you would appreciate that throwing money at this problem continually is not going to solve it. We have had governments with the right will over a long period of time who said, 'We will just keep throwing money.' It is about putting the funds in the right place. It is about making the program settings correct. It is about getting community ownership. It is about ensuring that we can have some synergies. That is why we have employed 570 Aboriginal people in getting people back to school. Those are the things that are going to make a difference, not simply throwing money at the challenge. That has not worked in the past and it will not work in the future.

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:24): Mr President, I ask a further supplementary question. WA Premier Colin Barnett announced this week that they are likely to close up to 150 communities. Again, given the appalling statistics in this report and that closing communities will likely add to that, what action will the federal government take to ensure these communities are not closed?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:24): It is beyond the ken of the Commonwealth government
to dictate to the Western Australian government about whether they close communities or not. But I would make this point.

Senator Siewert interjecting—

Senator SCULLION: They may well blame it on me, and that is not too difficult to do. It is a fact that they are already paid through the financial assistance grants which are indexed against both Indigenous people and against remoteness. The Western Australian government and the South Australian government—every jurisdiction around this country—gets that money already. I am not sure where that money goes in Western Australia and South Australia and other places. It is not reasonable to ask for the Commonwealth government to then further subsidise their payments to white people in leafy suburbs somewhere else when they should be making those payments to the most needy constituents. However, I will always work with the jurisdictions, including a very positive working relationship with the Western Australian government, to ensure that our first Australians get the very best deal they can.

Trade with China

Aged Care

Senator SMITH (Western Australia) (14:25): My question is to the Assistant Minister for Social Services, Senator Fifield. Will the minister inform the Senate of the benefits which will flow to the Australian aged-care services sector from the China-Australia Free Trade Agreement?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:25): I think all colleagues would agree that Monday was a momentous occasion for Australia, with Minister Robb securing a trifecta of free trade agreements with the signing of the FTA with China. I am sure all colleagues would also agree that Andrew Robb has been a phenomenally successful trade minister, with the Japan, South Korea and now China FTAs.

I am pleased to inform the Senate that the government has secured the best ever market access provided to a foreign country by China on services. When it comes to services, as Minister Robb has said:

This is the best ever deal China has done by a country mile.

The FTA has secured the best ever commitment with China agreeing to permit the establishment of wholly Australian owned hospitals and aged-care services in China. This does represent an unprecedented opportunity for Australian health services and aged-care providers to access China's vast and growing market. The Chinese population, like our own, is ageing and China will soon need to significantly increase its aged-care services to ensure that older citizens can enjoy a high quality of life.

The opportunities presented to Australian aged-care providers as a result of this agreement are completely unprecedented. It truly is a once-in-a-generation chance for aged-care providers to enter a new market that will be experiencing significant growth in demand over the coming years and the coming decades. It is almost impossible, I think, to overstate the significance of the opportunities this FTA has heralded for Australian aged-care services. Again, I think we should at a time like this put partisanship aside, give credit where credit is due and acknowledge the incredible work and results that Andrew Robb has secured.
Senator SMITH (Western Australia) (14:27): Mr President, I ask a supplementary question. Can the minister further advise the Senate of the benefits of exporting our expertise in aged care, thanks to the China-Australia Free Trade Agreement?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:28): As I said, Minister Robb has secured a best ever commitment from China for Australian services, including aged care, to operate in their domestic market. Australian aged care is, we all know, world class. We have a world leader in the Australian aged-care industry. Countries such as China, Japan, Vietnam and Sweden have previously sought our advice and expertise on aged care. This is a truly brilliant opportunity to export Australia's world-leading, quality aged-care services and expertise to China and to bring quality care to older people living in China. It will greatly expand the private health and aged-care sectors' wide offering of services throughout the region, and it will reinforce Australia's position as a world leader in health and aged care.

Senator SMITH (Western Australia) (14:29): Mr President, I ask a further supplementary question. Will the minister inform the Senate how opportunities presented by the China-Australia Free Trade Agreement leverage the strengths this government has fostered in the Australian aged-care services sector?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:29): On 1 July this year you would be aware of some changes that came into effect around how aged care is funded in Australia. As I outlined in a speech to CEDA last week, there is still unfinished business. In particular, there is more red tape to get rid off and there is more to do to move closer to a consumer-directed care model. But the 1 July changes are having an impact as private dollars are converging in the aged-care market, leading one stockbroking firm to state that there is a veritable 'smorgasbord of opportunities in Australia's domestic aged-care market'. The chair of Estia Health and former Ramsay CEO, Pat Grier, has compared the aged-care sector now to where the private hospital sector was 20 years ago as 'on the brink of a new era filled with possibilities and new business opportunities and challenges'.

Add to this the opportunities presented to Australian aged-care providers through the opening up of China through the FTA, and it is indeed a great time to be in the sector. (Time expired)

BUSINESS
Rearrangement

Senator MOORE (Queensland) (14:31): Pursuant to contingent notice, and at the request of the Leader of the Opposition in the Senate, I move:

That so much of the standing orders be suspended as would prevent me moving a motion relating to the consideration of a matter, namely a motion to give precedence to a motion to alter the hours of meeting and routine of business for today to provide for the consideration of a disallowance motion.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:31): Is this not a classic example of the Australian Labor Party having failed in its question time tactics? Here we are as a government, with the Minister for Defence having beaten a hasty retreat from Sydney to ensure that he is here to be able to answer any questions that the opposition might
have in relation to the defence needs of our nation, not to be asked a single question by those opposite because they are seeking, yet again, to abuse the standing orders of this place by ensuring that question time will be subverted in a manner which will deny Family First Senator Bob Day the question that I understand he may have had for today.

Senator Kim Carr interjecting—

Senator ABETZ: And Senator Carr interjects with ‘good’. I am glad that is now on the Hansard. Thank you, Senator Carr—

Senator Sterle interjecting—

Senator ABETZ: and Senator Sterle. The Labor Party speak, Senator Day. Make no mistake about where they stand in relation to your position in this place.

What the Labor Party are seeking to do is to force through the disallowance of a regulation because they are scared that the numbers will not stick in the event that the senators who have changed their minds might change them back again to where they were, not once but twice over a four-month period in this place—senators who had supported the regulations on the basis that they were sound, on the basis that they got the right balance, on the basis that they looked after a sector which employs the most Australians and looks after a huge number of Australian investors, getting the balance right after five years of uncertainty presided over by the Australian Labor Party and Greens government. For five years there was uncertainty, and Senator Cormann, to his great credit, as Minister for Finance, was able to bring that uncertainty to a conclusion and come to a result which provided balance—a balance that was being sought by the financial planners of this country and by the investors of this country.

On this regulation that is being sought to be disallowed by the Australian Labor Party today, I ask: why the urgency? Where is the urgency? This matter could be dealt with next week in the normal course of events. So why the urgency? It is very obvious. Labor and the Greens are concerned, no doubt, that the two senators who wisely supported the amendments previously may no longer be of the view that these regulations should be disallowed. I say to those two crossbenchers in particular that the regulations that you are seeking to disallow have in them very detailed requirements and regulations that the Labor Party actually agrees with and I think everybody in this chamber agrees with. Why is that? It is because Senator Cormann did such a marvellous job at crafting those regulations to ensure that these things were to the benefit of the Australian people.

Senator Conroy interjecting—

Senator Kim Carr interjecting—

The PRESIDENT: Order on my left!

Senator ABETZ: Senators Conroy and Carr always think that decibels somehow obviate the need for intellectual robustness in these debates. But they do not; I can assure you.

Senator Cormann was able to bring the five years of absolute uncertainty to a conclusion which included in the regulations matters on which everybody in this place, I understand, was agreed. By disallowing this regulation, you will be throwing out the baby with the bathwater. That is what you will be doing. Honourable senators should be alert to that proposition and to that possibility. That is why we say: if you were to be mature and considered legislators, you
would say, 'Can we come to a conclusion in relation to these matters and have discussions with the Minister for Finance to ascertain whether or not to put things'— (Time expired)

Senator Ian Macdonald: Mr President, I raise a point of order. I did not want to interrupt the leader, but I should have raised the point of order. I would ask you to reject the motion on the basis that the effect of this motion has already been dealt with by the Senate in a motion earlier today. That was my amendment to get rid of question time, which the Labor Party voted against. Now they are getting rid of question time by this motion.

The PRESIDENT: There is no point of order, Senator Macdonald. A separate point of order, Senator Fifield?

Senator Fifield: This is more of a clarification than a point of order, Mr President. I do not believe that the motion which Senator Moore is seeking to move, if standing orders are suspended, has been circulated. So it is very difficult for the chamber actually to consider whether standing orders should be suspended if the chamber has not had the benefit of the motion that Senator Moore is seeking to suspend standing orders to enable the moving of.

The PRESIDENT: Order! The motion that we are currently dealing with is a suspension of standing orders. Senator Moore, on a point of clarification: could you advise the chamber if the motion has been circulated?

Senator Moore: It is being circulated, Mr President.

The PRESIDENT: The debate can continue on the basis that it is being circulated. Senator Dastyari.

Senator DASTYARI (New South Wales) (14:37): This is a matter of urgency that needs to be dealt with by the Australian Senate. Today we have heard victims and we have heard from different groups. We have in the building today the Council on the Ageing, National Seniors, Choice and different victims' groups. I am urging senators to use the opportunity that is available to them today as part of this debate as it unfolds to make sure they meet with and speak to some of these groups, and that they come to the same understanding that a lot of us in this chamber have about just how important this is.

I also believe that it is a matter of urgency that needs to be dealt with today. This simple argument that it is going to create some kind of chaos and some kind of a problem within the sector if it is implemented, or if the regulations get rejected today, is completely and utterly false. I quote no-one other than the former assistant minister who was responsible for this portfolio, Senator Sinodinos—my good friend from New South Wales, who we hope will be back as a minister soon—who said:

And so what I think ASIC have done is what they have done before: try to provide some certainty to people about the impact of this changing legislative terrain around them and I think in that sense it is reasonable to do.

What was he referring to? He was referring to what ASIC is able to do, which is called a 'facilitative approach'. He was referring to a press statement on Friday 20 December which demonstrated unequivocally that ASIC has the power—either if asked to do so by the government, or of their own accord—to create a facilitative approach to make sure that when regulations get changed, when new laws are proposed and when there is a parliamentary debate that there is a level of certainty out there within the sector and within business.
I just want to reject this argument against urgency that some have raised, that somehow this is going to create chaos in this sector and that is why we cannot deal with it today. That is thoroughly untrue. ASIC is unequivocally clear on this; the former minister is unequivocally clear on this. Let me be clear: the minister has the opportunity to write to ASIC today to get them to produce what is called a 'facilitative approach' and allow them to have an implementation grace period. It has been done by the previous government and it has been done by this government in the past. It will allow a proper approach and implementation.

This is a matter of urgency. This is a matter that needs to be dealt with today. While we are sitting here speaking there are thousands of families and people who are the victims of financial crime and who for too long have had their voices silenced; for too long they have not been able to be heard on these issues. Frankly, I hope we will have an opportunity—and this is the reason I believe this is urgent—to get to the substantive debate at some point today and tell some of the stories from some of the victims. These are some of the people who have been ripped off, who have been conned and who have been cheated, and who rely on those of us in a place like this who have the opportunity that we have available to us to make sure that we provide them with some level of protection and some level of standard of care. Frankly, these regulations go too far and it is an urgent matter for the Senate to deal with these matters today.

I urge the senators and the Senate to take this matter seriously. I urge the Senate to realise that there are so many victims, there are so many stories and there are so many families out there. I urge the Senate to realise that, yes, while we can all play games and try to spend as much time as we want just talking about procedure there is an important substantive issue here that should be dealt with and which has a right to be dealt with. I accept that there are people in this chamber who will have a different view to mine on the substantive points. I respect the fact that good people can come to a different point of view. But I believe this matter should be dealt with as a matter of urgency today so that we can have this debate and so that people can actually stand up and speak about their different views. That is why I will support this urgency motion today. I will support this suspension of standing orders to allow us to be able to have this debate so that we can hear the many different voices and the many different views on what I believe it is a very important issue. (Time expired)

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:42): Senator Dastyari said, 'Well, we can all play games.' Well, let him speak for himself because on this side of the chamber we are not playing games. We are seeking to defend robust policy development and certainty for an important sector of the Australian economy. This coalition made clear two years ago what its position was in relation to FoFA. All we have sought to do since we came into government, through the efforts of Minister Cormann four months ago, was to seek to give effect to our election commitment.

The opposition has been doing nothing but playing games all day. This morning, in abrogation of the accepted protocols in this place, the opposition sought to take away government business time. Three hours of government business time was taken up by the debate put forward by those opposite to seek to bring on the FoFA disallowance. It is the accepted principle in this place that government business time should be there for the government to determine those things that are transacted. The opposition sought to deny us
that opportunity. But I did say this morning—and I think the words bear repeating—that what we are witnessing here is nothing more than Senator Dastyari's vanity project.

This pursuit of this disallowance motion is his big attempt to demonstrate to his peers and to this chamber that he is more than just a backroom boy from New South Wales. This is his attempt to try to demonstrate to his colleagues and to this chamber that he is a serious policy guy. But he is nothing of the sort. He is a wrecker. He is seeking to cause grief and concern to an important sector of the Australian economy. I know he dresses it up as though he is just chasing the big banks, chasing the big financial institutions. Mr President, let me tell you who he is, in fact, seeking to cause damage and harm to: it is the thousands upon thousands of small business operators. Many of them are sole operators who are in the financial services advice business. That is who Senator Dastyari is really targeting. I think it is important for the chamber to recognise that.

We have also seen something a little unusual today. Usually an opposition are chomping at the bit to get every possible question they can in question time. But, no, not even on the day that Malcolm Turnbull has made a significant announcement in relation to funding of the ABC and SBS can they bring themselves to form enough questions to pursue those particular issues. Senator Dastyari's vanity project takes precedence over all these things. That is really what the suspension of standing orders seeks to do. It is to let Senator Dastyari's vanity take precedence over all other Senate business. Well, we on this side of the chamber actually do not think that is a reasonable proposition. We do not think that Senator Dastyari has, indeed, made a case as to why standing orders should be suspended. It is actually a very significant decision for the Senate chamber to take to suspend standing orders. We do not think that that case has been made.

We actually think that question time is an important accountability mechanism, which is why in these additional three Senate sitting days that were put in place this week, as we knew that we were here for the three speeches by heads of government in the other place, we thought it important that we actually did some work while we were here. The Australian Labor Party, of course, opposed the three extra sitting days, because we know that they work to rule. They do not want to work any extra hours beyond the usual. But we thought that it was important, with the three extra sitting days, to make sure there was a question time because we think that when the Senate sits there should be a question time. We are a government and we should be held accountable. This is one of the great accountability mechanisms of the Westminster system.

I say to those opposite: abandon this suspension motion and do your job. Ask us questions, hold us accountable. I say to the crossbench senators: you should vote against this suspension motion because you and those opposite have a duty to keep us accountable. That is what you are elected to do. That is what being on that side of the chamber means your job is. Ask us questions, hold us accountable, stop playing games and stop causing grief and uncertainty to an important sector of the Australian economy.

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:47): I want to indicate that the Greens will be supporting this suspension.

Government senators interjecting—

The PRESIDENT: Order on my right. Senator Siewert, you have the call.
Senator SIEWERT: Normally we would not support suspending question time, because we have been in this place staunchly defending question time repeatedly.

Government senators interjecting—

The PRESIDENT: Order on my right. Just a moment, Senator Siewert. Order! Senator Siewert, you have the call.

Senator SIEWERT: In fact, this government have done it in the past when they have called extra sitting days on Fridays and have consistently refused to have question time despite us, every single time, asking for question time. Given the filibustering that went on this morning, including the farcical situation of Senator Bernardi getting up, supposedly congratulating Senator Moore and saying that he was going to lose senator statement time, yet I notice that he did not appear on the senator statement list. That is clearly a misuse of the Senate. These are important issues. We are holding the government accountable on their farcical and poor financial laws, so we will be supporting this suspension.

Senator CORMANN (Western Australia—Minister for Finance) (14:49): Let there be no doubt, this has nothing to do with advancing the interests of consumers. This has everything to do with the Labor Party advancing the commercial interests of the union movement. Under the period of the previous government, the then Minister Shorten did special deals to seek to advance the commercial interests of the union dominated industry funds.

I will explain why, because I had some journalists seize upon comments that I made this morning and ask me to substantiate how it is that I can assert that the then Minister Shorten did this. I will give you just one example. Minister Shorten, at the behest of industry super, has forced clients of small business financial advisers to re-sign contracts with them on a regular basis. Guess who is exempted from that requirement? Industry super funds. Industry super funds providing general or personal advice do not have to get their clients to re-sign contracts.

There is another example. Under FOFA a change that we support is to improve transparency of fee arrangements. We said that we should do it prospectively rather than retrospectively because, given the system changes required to impose the change retrospectively, it is a massive expense which ultimately has to be borne by people across Australia saving for their retirement. The Labor Party ignored it without doing a proper regulatory impact assessment and imposed that cost, completely ignoring the impact that that particular change, retrospectively imposed, would have on retirement savings of people across Australia. But guess who is exempted from disclosing the fees they charge their clients? Guess who is exempted from that particular requirement? Industry super funds. There is an explicit exemption for industry super funds.

Industry super funds can charge a fee across their membership irrespective of whether or not advice is accessed. It is collectively imposed across the membership as a whole. It is not disclosed and is going to be paid by the client irrespective of whether or not they access that advice. Of course there is no requirement for industry funds to re-sign contracts with their clients on a regular basis. That is the hypocrisy that we are dealing with here. The industry super network has worked flat out and has egged on the Labor Party. The Labor Party has coordinated a campaign to ensure that the commercial interests of industry super at the expense of small business financial advisers are pressed ahead.
People talk about victims of financial advisers. Guess what—the requirement to force clients to re-sign contracts with their adviser on a regular basis does not protect anyone from becoming such a victim. The requirement to impose additional fee disclosures retrospectively does not protect anyone from bad financial advice. What protects people from bad financial advice is the requirement to act in the best interests of the client. That requirement and the ban on conflicted remuneration are things that we support and that continue to be in place today. To make this change today in this way would be reckless, unnecessarily disruptive and irresponsible, and it would reflect very badly on the Labor Party on a number of levels but in particular in terms of the process that the Labor Party has chosen to follow.

This is a reform that has been supported by the Senate on two occasions—one in the middle of July and once in early October. Businesses and financial advice plans across Australia had a reasonable expectation that this change to the law would stand, because it had been supported by the parliament as a whole, including the Senate, on two occasions. To proceed in this way is reckless and it is irresponsible. The Senate should pause and give itself time to deal with this matter in an orderly and methodical fashion. There is no reason whatsoever—other than the reason that Senator Abetz has indicated, that the Labor Party is worried that they might lose their precarious majority between now and next week—why this should be rushed. In the ordinary course of events this issue would have to be dealt with conclusively by next Thursday anyway. That would be the proper way to deal with it. This is a significant industry and if the Senate goes down this path it will have a significant impact on people across Australia accessing banking and financial advice services. This is not the way to proceed and I urge the Senate to reject this approach and let the Senate deal with this matter in an orderly and methodical fashion by Thursday next week.

Senator DAY (South Australia) (14:54): I oppose this motion. Crossbenchers only get one question a fortnight. There are 25 on the opposition side and there is only one of me.

Opposition senators interjecting—

The PRESIDENT: Order on my left. Order! Pause the clock. Order on both sides. I call Senator Day.

Senator DAY: Question time is very important to crossbenchers and I appeal to my crossbench colleagues: do not let them get away with this, because where is it going to lead? It would not matter which side it was—we know the major parties run the show and here we are, we get one question a fortnight and we might lose that. I was not even aware that question time could be suspended. The opposition was aware that I wanted to ask my one question for the fortnight about bracket creep and families paying too much tax. Is that too much to ask, to get our one question? We have been discussing this for quite some time—how many questions do we get and what are we going to ask? Is one a fortnight too much to ask? This is pretty poor form. Again, I appeal to my crossbench colleagues to vote against this motion. Please, let me have my question—my one question for the fortnight.

Senator BACK (Western Australia) (14:56): This is a total and utter abuse of process. Senator Macdonald suggested earlier in the day that we let question time go so this matter could be debated, and those on the other side all said no. I have to say to those who said on national television this morning that they would not allow a gag, this is a very disappointing situation—Senator Xenophon, on three occasions. I am interested to hear what Senator Whish-Wilson will have to say about this and what Senator Xenophon, Senator Lambie and
Senator Muir will have to say about it. Only in the last few minutes have we learnt from Senator Cormann what the reality of this whole situation is. We all knew that these new conditions were going to be imposed on the big banks, yes, and on the small financial advisers, but did we know it was Mr Shorten's intention that the industry super funds be exempted from this? We did not. Nobody wants to avoid a full debate on this question. That is exactly what those opposite want. Each and every one of us wants to speak in full on this question. Those opposite should not think for a minute that they have some mortgage on the interests of small investors or others. They have not.

Senator Cameron interjecting—

Senator BACK: Senator Cameron does not have such a mortgage, and neither does anyone else in this place. This afternoon we are being told that we cannot defer this matter until Thursday of next week. Senator Wong is the Leader of the Opposition in the Senate and she should be standing up and saying, 'I agree that every member of the Senate should have the opportunity to debate the issue.' Those opposite are going to stop that this afternoon. Now we have heard why Senator Xenophon and his merry band want this rushed through today. There could have been an opportunity for everybody to have their say on it by next Thursday—something that Senator Cormann tried to move in this place but it was gagged, it was knocked down; something that Senator Macdonald today tried to bring before this chamber, that we would forgo question time, but, no, we were told we could not do that— but all of a sudden, right in the middle of it all, Saint Clair—I mean Senator Moore, who I thought was the subject of great credit this morning from Senator Bernardi, arises halfway through question time, denying Senator Day his opportunity to ask his question—

Opposition senators: Oh!

Senator BACK: Don't 'Oh' about it—these are important principles and rights. When this motion comes to a vote, I urge those who have changed their position to reflect on their decision and to vote no. We have the right, and we should have the opportunity—all of us—to have our say on these matters. If the legislation is inconclusive, if it is not yet adequate, if it needs amendment, if it needs improvement, let us all have the opportunity both to hear the arguments and to contribute to that debate. But let us not have this hypocrisy where this person over here tries to claim the moral high ground—

Senator Cameron interjecting—

Senator BACK: I will argue any time you like, Senator Cameron, but I want that opportunity. I want the opportunity to argue it. I do not want to be gagged as we have been gagged again and again today. I am against the motion.

Senator BERNARDI (South Australia) (15:00): I will not revisit the arguments of this morning—we have already canvassed those in depth—but I would like to make one point. There is such a thing as natural justice and it should occur in this chamber as well. I think that natural justice is being denied to people like Senator Day from Family First. He gets one question a fortnight. It is an opportunity for him to represent his concerns in this chamber and to get answers from ministers. That is being denied—denied by the Greens and denied by other crossbenchers. How would any of us feel if the boot were on the other foot? How would we feel if leave were denied just to produce some petty political result? Why are we doing this? Why is Senator Moore undoing all the good work?
The PRESIDENT: Order! The time allotted for this debate has expired. The question is that Senator Moore's motion to suspend standing orders be agreed to.

The Senate divided. [15:06]

(The President—Senator Parry)

Ayes ..................... 33
Noes ..................... 31
Majority ................. 2

AYES

Bilyk, CL
Bullock, J.W.
Carr, KJ
Conroy, SM
Di Natale, R
Ketter, CR
Ludlam, S
Lundy, KA
McEwen, A (teller)
Muir, R
Peris, N
Rhiannon, L
Siewert, R
Sterle, G
Waters, LJ
Wong, P
Xenophon, N

NOES

Abetz, E
Bernardi, C
Canavan, M.J.
Colbeck, R
Day, R.J.
Fierravanti-Wells, C
Johnston, D
Leyonhjelm, DE
Mason, B
McKenzie, B
O'Sullivan, B
Payne, MA
Ruston, A
Scullion, NG
Sinodinos, A
Wang, Z

PAIRS

Gallacher, AM
Hanson-Young, SC
Lines, S

Edwards, S
Heffernan, W
Brandis, GH
Question agreed to.

Senator MOORE (Queensland) (15:08): I move:

That a motion relating to the hours of meeting and routine of business for today may be moved immediately and determined without amendment or debate.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (15:08): Yet again we have an example where the Australian Labor Party and others are wanting a proposition to be put to this place, and I hope everybody heard the words at the very end: 'be put without debate'.

An opposition senator interjecting—

Senator ABETZ: Yes. And it is a matter of concern that things of this nature are simply being denied in this place in a manner that has now been described a number of times. We on this side, as a responsible government, will continue to describe it as it is. This is the Australian Labor Party in particular negotiating and doing the dirty work for the big industry superannuation funds that we know are controlled very much by the trade union movement. That is the sad reality. What they are trying to do is to put out of business the thousands—indeed tens of thousands—of independent financial advisers right around the country. Many of them are sole practitioners—a one-man or one-woman band in regional towns. I wonder what the financial advisers in regional Victoria, or indeed in my home state of Tasmania, would be thinking about the senators from their states who might be voting to support big industry, big union super funds, against individual financial practitioners. That is a matter of great concern. These advisers had to live with uncertainty for five years, courtesy of Labor and the Greens. This uncertainty has been removed from the financial landscape, courtesy of the regulations so ably crafted by Senator Mathias Cormann—very, very ably crafted—dealing with a lot of issues that a lot of the people on both sides of this chamber agree were necessary. It was agreed that those changes were necessary, yet they will throw all those changes out—all the good changes as well. Why? To assist the big trade union super funds against the individual practitioners—the men and women who run their own businesses, who are providing tailored services to the people within their communities, who understand their community, who understand the people, who have a personal relationship with their clients— unlike the really big funds.

Why is it that they are championing these industry super funds? We have started to see, courtesy of the royal commission, some of the things that these industry super funds get up to. Cbus, of course, is just one example—that is the one related to the CFMEU. That is the one related to the would-be Premier of Victoria in a fortnight's time, Mr Dan Andrews, who is unable or unwilling to condemn the leaking of names and private details from Cbus to the CFMEU. I wonder why that is! Because it is the CFMEU that is bankrolling the Labor Party's Victorian state election campaign. And that is why there is this urgency—make no mistake about it. That is the urgency of it—that this is undoubtedly, one would assume, a quid pro quo
for the ongoing relationship that certain things have to be delivered. So who do you get to deliver it? None other than the backroom man from New South Wales, Senator Dastyari.

Senator Wong: What is your relationship with financial advisers?

Senator ABETZ: I am more than pleased that Senator Wong has interjected and asked me: 'What is your relationship with financial advisers?' Regrettably, I do not have much money to warrant the need for a financial adviser, other than my good wife, who does a fantastic job. But I know many, many financial advisers in my home state of Tasmania—individual men and women who run great practices but who struggle to compete against the big industry super funds that have laws in their favour, courtesy of the previous Labor-Green government and the manipulations undertaken by Mr Bill Shorten, who is now Leader of the Opposition. But he is somebody who had a lot of influence in the previous government in the manipulation of these matters in this area.

The Labor Party have now already forfeited question time. If they were genuinely concerned, why didn't they use question time to ask questions and ventilate the issues and see if there was a possibility of dealing with this matter with the government?

Senator Conroy: No!

Senator ABETZ: Senator Conroy comes in right on cue to say, 'No,' because the Labor Party are not in the game of trying to negotiate to come to a sensible landing. Senator Cormann was able to come to a sensible landing, speaking with many people to achieve the regulations of which we speak today. If we get rid of them we revert to that which was before: uncertainty, chaos and a complete repudiation of the small business sector in this area of superannuation and financial advice. I make no apology that all of us on this side, if we have a choice between huge, big business or small business, will always seek to champion the cause of small business. We will champion the cause of the individual entrepreneur. We will support and champion the cause of the individual men and women and their partnerships that provide financial advisory services to hundreds of thousands of Australians right around this great nation. But what is happening today is an abuse of process—trying to ram something through this Senate to favour big industry super funds.

Senator Cormann: Labor's friends.

Senator ABETZ: Labor's friends, as Senator Cormann so rightly interjects. They are the ones that provide information to the trade union movement against, it would appear, the laws of the land, and when you ask the Labor Party: 'Do you condemn that behaviour?'—when Mr Dan Andrews, the Leader of the Opposition in Victoria, was asked the question: 'Do you condemn this behaviour? Do you condemn Mr Setka of the CFMEU?'—there was a stony silence.

Senator Conroy: You are on a roll.

Senator ABETZ: Senator Conroy interjects and says, 'You are on a roll.' That indicates the immaturity of mind of the would-be Deputy Leader of the Government in the event that there were to be a change of government. I am sure the galleries and anybody that might be listening in would be horrified at that prospect. The man who ruined the NBN, the man who has no idea about the Defence needs of this country, the man who sought to ridicule men in uniform at Senate estimates, making the most hideous accusations against them using coward's castle, then makes those sorts of mindless interjections.
I just wish more Australians sometimes could watch the goings on in this parliament because they would never vote Labor again. But in a few days time the people of Victoria have a very stark choice, and this is part and parcel of that stark choice. Will they be electing a state government that is in lockstep with the CFMEU which is in lockstep with an industry super fund which has now come under such heavy scrutiny in a royal commission.

These are matters of great moment: the financial security of literally hundreds of thousands of Australians. Here we are talking about the security of thousands of professionals. Indeed, the financial services sector is now the biggest employer in this country and, without so much as a warning, the Australian Labor Party, in cahoots with a few others in this place, are now seeking to throw that sector into complete and utter uncertainty.

I have asked a number of times, rhetorically, as have my colleagues: what is the rush to get this through the Senate today? There is never an answer given. We know that this regulation can be considered in due course under the appropriate timeslot next week, right through next week, right up until close of business on Thursday. But, no, it has got to be done on a separate, special sitting day that the Senate voted for to deal with government business on the basis of the need for senators to come to Canberra to listen to those excellent speeches that we heard from the President of China and the Prime Minister of India.

Those extra days that were set aside to deal with government business have now been subverted, courtesy of the Australian Labor Party, to run this motion of disallowance, a motion of disallowance which will overturn a decision of the Senate that was voted on once in July of this year and another time in October of this year. They are regulations which stop the uncertainty under which, especially, the small business sector had to survive. They were relieved that the uncertainty had gone. Then, after the first victory, they had it come up again four months later. Once again, they were relieved that the Senate had the good sense to keep and endorse the regulations that Senator Cormann so ably crafted and put together.

Now here we are, with no notice, being asked to sweep away this regulation in circumstances where there is no rush, in circumstances where there is no hurry. So the question has to be asked: could it have anything to do with the fact that two senators, in a manner—and we still have not really heard an explanation as to why they have changed their mind—

Senator Conroy: They think your policy stinks.

Senator ABETZ: And we get the silly interjection from Senator Conroy: 'Because your policy stinks.' It sounds as though he is in the schoolyard still. But if these senators actually believe our policy—to quote the intellectual, Conroy—'stinks', they thought it smelt okay in July of this year, they thought it smelt okay in October of this year and they actually, positively voted for these regulations. Are they saying they did not have the intellectual aptitude? Are they saying that they did not understand what they were voting for? What are they saying in relation to this matter?

I think the people of Australia are entitled to a full explanation and one would have thought that, if there is to be an ongoing relationship, and I am sure there will be a good ongoing relationship, if you want to do business, the way to do it would be to approach the government and say, 'You know those regulations I voted for? I have a bit of a concern about some aspects of those regulations.' That would have been the right way to go about it. That is
the right way that a mature legislator would go about these matters, rather than running under the umbrella of the Australian Labor Party and being swept along in an exercise which is only designed to support the trade union movement super funds against the small businessmen and women out in the Australian community who provide exceptionally good financial advice to literally hundreds of thousands of people.

I have no doubt that the senators who sometimes come in here saying they have received wonderful emails on certain issues will, chances are, not tell us about the messages of concern they may have received about a potential vote on this issue. And because I am sure these two senators in particular are open-minded and are willing to listen, I simply say to them, 'What's the urgency to do this today? Why not open yourself up to the financial practitioners in your state, the small businessmen and women, and allow them to explain the consequences of your potential vote in this space?'

Senator Cameron: The big banks and the AMP! It's not small business.

Senator ABETZ: Senator Cameron says, 'It's not small business.' Oh, what ignorance Senator Cameron displays, sometimes not on a daily basis; he brings it to us on an hourly or minute-by-minute basis and he has just excelled himself again. The simple fact is that there are huge numbers of men and women, financial practitioners, dotted right around this country—especially in rural and regional communities—who are providing a fantastic service and who will find it even more difficult to compete against these monsters of funds run by the trade union movement.

I do say that the senators who are thinking of changing their minds should come to the government and express exactly the detail of their concern because it is agreed in this chamber that a vast, or a substantial, part of these regulations are in fact good regulations and should remain, but they will all be swept away by a disallowance motion being carried today. So why not come to the government and say, 'We are genuinely casting an independent mind over these matters. We are seeking to make certain changes, to keep the good regulations but change those with which we have some difficulty'?

We can come to agreement. It has been shown in the past we can and I have no doubt, with Senator Cormann's skills, we will be able to do so again in the future. I would invite those senators who I am sure are genuine and sincere in their concerns about the regulations to consider the consequences. If you do defer this issue until next week, nothing is lost but everything is to be gained by allowing you to have the benefit of Senator Cormann's interaction and, more importantly, the men and women from your electorate who practice in this area, who are good, honest, decent Australians earning an honest living assisting people with their financial issues. So I say to honourable senators, please be exceptionally careful in voting for this part motion. I will now move an amendment to the machinery motion before the chair:

That we omit 'determined without amendment or debate'.

In moving that amendment, I believe it is appropriate to highlight the importance of such an amendment because it will enable us to consider any amendments and it will allow us to further debate this issue. When people run away from a debate on a vexed issue such as this, it usually means that they do not have the arguments, or they do not have the reasons or they are very concerned that the numbers might not hold over a particular weekend. That may well be the reason, because if these senators are able to get back to their electorates to hear the views
of their community, to hear the views of the small businessmen and women in their community, they may well change their minds and realise that, when they voted for these regulations, not once but twice, they actually did the right thing for their constituents, especially the small businessmen and women who both of them, I understand, seek to champion. I commend the amendment to the Senate.

Senator CONRO Y (Victoria—Deputy Leader of the Opposition in the Senate) (15:28): I move:
That the motion be put.

The PRESIDENT: The question is that the motion moved by Senator Conroy, that the question now be put, be agreed to.

The Senate divided. [15:33]

(The President—Senator Parry)

Ayes ......................33
Noes ......................31
Majority .............2

AYES

Bilyk, CL (teller) Brown, CL
Bullock, J.W. Cameron, DN
Carr, KJ Collins, JMA
Conroy, SM Dastyari, S
Di Natale, R Faulkner, J
Ketter, CR Lambie, J
Ludlam, S Ludwig, JW
Lundy, KA Madigan, J
McEwen, A Moore, CM
Muir, R O'Neil, DM
Peris, N Polley, H
Rhiannon, L Rice, J
Siewert, R Singh, LM
Sterle, G Urquhart, AE
Waters, LJ Whish-Wilson, PS
Wong, P Wright, PL
Xenophon, N

NOES

Abetz, E Bernardi, C
Bushby, DC (teller) Canavan, M.J.
Cash, MC Colbeck, R
Cormann, M Duy, R.J.
Fawcett, DJ Fierravanti-Wells, C
Fifield, MP Johnston, D
Lazarus, GP Leyonhjelm, DE
Macdonald, ID Mason, B
McGrath, J McKenzie, B
Nash, F O'Sullivan, B
Parry, S Payne, MA
Ronaldson, M Ruston, A
Ryan, SM Scullion, NG

CHAMBER
Question agreed to.

The PRESIDENT (15:35): The question is that the amendment moved by Senator Abetz be agreed to.

The Senate divided. [15:36]

(The President—Senator Parry)

Ayes ......................31
Noes ......................33
Majority ..............2

AYES
Abetz, E
Bushby, DC (teller)
Cash, MC
Cormann, M
Fawcett, DJ
Fifield, MP
Lazarus, GP
Macdonald, ID
McGrath, J
Nash, F
Parry, S
Ronaldson, M
Ryan, SM
Seselja, Z
Smith, D
Williams, JR

NOES
Bilyk, CL (teller)
Bullock, J.W.
Carr, KJ
Conroy, SM
Di Natale, R
Ketter, CR
Ludlam, S
Lundy, KA
McEwen, A
Question negatived.

The PRESIDENT: Senator Ronaldson.

Senator Wong: Excuse me, Mr President—

The PRESIDENT: Senator Ronaldson, is this a point of order?

Senator Ronaldson: No, it's not, Mr President.

The PRESIDENT: The call will go on seniority.

Senator Ronaldson: I'm on my feet and you called me. I move an amendment—

The PRESIDENT: Senator Ronaldson, both you and Senator Wong rose to your feet at the same time. I thought you may have been raising a point of order. You are not; you clarified that. The call is going to Senator Wong.

Senator Cormann: Mr President, on a point of order: I am just seeking guidance here. I believe that Senator Wong participated in the debate and as such is not able—

The PRESIDENT: That is a valid point of clarification, Senator Cormann, but that is not the case. I am giving the call to Senator Wong.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:41): I move:

That the question be now put.
The PRESIDENT: The question is that the motion moved by Senator Moore, that has not been amended, be now put.

A division having been called and the bells being rung—

Senator Fifield: Mr President, I raise a point of order or clarification. Some people may have left between the last vote and this vote, so I wonder whether it should be a four-minute division.

The PRESIDENT: Senator Fifield, if there is no intervening debate, a one-minute division can be called. What I am happy to do—and I am sure the Senate would concur with me—is that if we feel there has been an injustice in relation to the division I am happy for it to be put again.

Honourable senators interjecting—

The PRESIDENT: No, we are ringing them for only one minute. But if we feel as though an injustice has been caused by a one-minute division I am sure the Senate would concur with recommitting the vote.

Senator Ian Macdonald: Mr President, I do feel an injustice—

The PRESIDENT: I am sorry, Senator Macdonald. Let’s wait and see what the division result is. If anyone left the chamber I would be very surprised.

The Senate divided. [15:42]

Ayes ......................33
Noes ......................31
Majority ...............2

AYES
Bilyk, CL (teller)
Bulloch, J.W.
Carr, KJ
Conroy, SM
Di Natale, R
Ketter, CR
Ludlam, S
Lundy, KA
McEwen, A
Muir, R
Peris, N
Rhiannon, L
Siewert, R
Sterle, G
Waters, LJ
Wong, P
Xenophon, N

NOES
Abetz, E
Bushby, DC (teller)
Cash, MC

CHAMBER
Question agreed to.

The PRESIDENT (15:45): Just so we are all absolutely clear, the motion now that has been moved by Senator Moore is that a motion relating to the hours of meeting and routine of business today may be moved immediately and determined without amendment or debate. It is the precedence question that is before the chair.

The Senate divided. [15:47]

(The President—Senator Parry)

Ayes .....................33
Noes .....................31
Majority ...............2

AYES

Bilyk, CL (teller) .................. Brown, CL
Bullock, J.W. ....................... Cameron, DN
Carr, KJ ......................... Collins, JMA
Conroy, SM ...................... Dastyari, S
Di Natale, R ..................... Faulkner, J
Ketter, CR ....................... Lambie, J
Ludlam, S ....................... Ludwig, JW
Lundy, KA .................... Madigan, JJ
McEwen, A ....................... Moore, CM
Muir, R ......................... O’Neill, DM
Peris, N ......................... Polley, H
Rhiannon, L .................... Rice, J
Siewert, R ....................... Singh, LM
Sterle, G ....................... Urquhart, AE
Wednesday, 19 November 2014

AYES

Waters, LJ
Wong, P
Xenophon, N

Whish-Wilson, PS
Wright, PL

NOES

Abetz, E
Bushby, DC (teller)
Cash, MC
Cormann, M
Fawcett, DJ
Fifield, MP
Lazarus, GP
Macdonald, ID
McGrath, J
Nash, F
Parry, S
Ronalson, M
Ryan, SM
Seselja, Z
Smith, D
Williams, JR

Bernardi, C
Canavan, M.J.
Colbeck, R
Dwy, R.J.
Fierravanti-Wells, C
Johnston, D
Leyonhjelm, DE
Mason, B
McKenzie, B
O'Sullivan, B
Payne, MA
Ruston, A
Scullion, NG
Sinodinos, A
Wang, Z

PAIRS

Gallacher, AM
Hanson-Young, SC
Lines, S
Marshall, GM
McLucas, J

Edwards, S
Heffernan, W
Brandis, GH
Reynolds, L
Birmingham, SJ

Question agreed to.

Senator MOORE (Queensland) (15:49): I move the motion circulated in the chamber:

That on Wednesday, 19 November 2014:

(1) the hours of meeting shall be 9.30 am to adjournment;
(2) Business of the Senate Notice of Motion No. 1 set down for 27 November 2014, relating to the disallowance of the Corporations Amendment (Streamlining Future of Financial Advice) Regulations 2014 shall be called on immediately and have precedence over all other business until determined;
(3) the routine of business shall be as follows:
   (a) the item listed in paragraph (2),
   (b) Notices of motions;
(4) The adjournment of the Senate shall be proposed after it has considered the items listed in paragraph (3).

The PRESIDENT (15:49): The question is that the motion in relation to the routine of business today be agreed to.
The Senate divided. [15:50]
(The President—Senator Parry)

Ayes ......................33
Noes ......................31
Majority ...............2

AYES

Bilyk, CL (teller)  
Bullock, J.W.  
Carr, KJ  
Conroy, SM  
Di Natale, R  
Ketter, CR  
Ludlam, S  
Lundy, KA  
McEwen, A  
Muir, R  
Peris, N  
Rhiannon, L  
Siewert, R  
Sterle, G  
Waters, LJ  
Wong, P  
Xenophon, N

NOES

Abetz, E  
Bushby, DC (teller)  
Cash, MC  
Cormann, M  
Fawcett, DJ  
Fifield, MP  
Lazarus, GP  
Macdonald, ID  
McGrath, J  
Nash, F  
Parry, S  
Ronaldson, M  
Ryan, SM  
Seselja, Z  
Smith, D  
Williams, JR

PAIRS

Gallacher, AM  
Hanson-Young, SC  
Lines, S  
Marshall, GM  
McLucas, J

Edwards, S  
Heffernan, W  
Brandis, GH  
Reynolds, L  
Birmingham, SJ

Question agreed to.
REGULATIONS AND DETERMINATIONS

Corporations Amendment (Streamlining Future of Financial Advice) Regulation 2014

Disallowance

Senator DASTYARI (New South Wales) (15:53): I, and also on behalf of Senators Xenophon, Muir, Lambie, Whish-Wilson and Madigan, move:

That the Corporations Amendment (Streamlining Future of Financial Advice) Regulations 2014 be disallowed.

I note that this is not a decision or a disallowance that has been taken lightly. The reasons to disallow these regulations are manifest. There are three particular reasons that I want to draw the Senate's attention to. Firstly, the parliamentary process has not been properly treated here. Secondly, there has been a policy overreach. Finally, there are clear problems within the industry that need to be addressed. I do this noting that there are thousands of victims of financial crime out there who deserve to have proper, strong protections in place. What these regulations have done is weaken a set of laws that were designed to make sure we had the maximum level of protection.

Firstly, I want to note that there has been a whole team of senators that has come together to make today a reality. I acknowledge the incredible work of Senator Xenophon, Senator Muir, Senator Lambie, Senator Whish-Wilson and—

Senator DASTYARI: Starting the debate, I do want to acknowledge there are different people with different views, and people in this chamber are entitled to disagree and to have different views on substantive pieces of legislation. But I want to put forward the case as to why I believe this is a disallowance that is necessary and these are regulations that need to be removed.

This first big issue I have has been the entire process that has been undertaken. The minister would be well aware that the regulations we are discussing pre-empt legislation which is currently before the parliament. Almost every substantive measure in the government's FoFA wind-back bill was put into regulations on 30 June and took effect less than 24 hours later on 1 July. Let's be clear about this: on 30 June, the day before they needed to come into effect, these were rammed through—a series of regulations that were rammed through. The changes to regulations made to the operation of part 7 of the Corporations Act were not routine and were not uncontroversial. Rather, they were sweeping in their effect, and they fundamentally changed the operation of the law.

I have no issue with a minister being prepared to bring legislation into this place to change the law. As a minister of an elected government, the minister has a right to do that. But proper changes and proper process required a proper parliamentary debate where senators would have had the opportunity to move their amendments, to participate and to put forward different views. The minister's strategy was to make his changes to financial advice laws with a stroke of a pen and to then ask the parliament to fall into line, lest the industry be disrupted. It was an audacious strategy but was without principle and without respect for due process.
The Senate's own Standing Committee on Regulations and Ordinances has forensically examined the process here and found the minister himself has gone too far. The Senate's own regulations and ordinances committee found that he minister had offended scrutiny principles by making regulations which are so far removed from the law they should be done through a substantive legislative process. The committee also found that the minister even exceeded the regulation-making powers in the Corporations Act by, in effect, 'suspending the operation of duly made law'. Finally, the Senate's own regulations and ordinances committee found that allowing the regulations to stand was creating a precedent where the government of the day might seek to implement its policy agenda without the full scrutiny of parliament. Indeed, the seriousness of these matters is reflected in the fact that this disallowance we are debating today was originally actually initiated by the chair of the Senate committee himself, Senator Williams.

My second big issue in why I believe this needs to be disallowed is there has been a massive policy overreach here. Turning to the substantive details of the regulation, there can be no doubt that they constitute significant policy change, deliberately and dramatically changing the operation of the law in respect of financial advice. The regulations make substantive changes to the character and operation of the best interest duty—a duty which is at the heart of ensuring consumers' interests are always put first. The regulations gut the duty by removing the only element, the only requirement, for an adviser to exercise judgement, care and objectivity—the so-called s961B(2)(g) clause. Further, the regulations allow an adviser to agree to limit the scope of advice without even having to take into consideration the client's own best interests.

The second substantive change is that the regulations permit the payment of conflicted remuneration—or kickbacks—from products provided by financial advisers. Let's be clear what it does: the law itself says that you cannot have conflicted remuneration. Then it says that secret sales advice and kickbacks will not be treated or dealt with as conflicted remuneration.

Perhaps worst of all is the return of commissions on income stream products, despite the minister claiming repeatedly that he will not bring back commissions. I urge those senators here to track down the fantastic interview by Alan Jones of Senator Cormann on this matter—actually, I previously tried to table it in the chamber and was not given leave—where he outlined and went through the detail and the falsehoods that have been presented when it comes to these laws. I want to draw the Senate's attention to this issue of bringing back commissions. Let us be clear: while the language in the law itself says that these kinds of commissions cannot come back into being, it creates loopholes and exemptions in a manner that a system identical to a commissions structure could develop. Nothing is clearer than that. I reject the notion that a secret sales bonus and a sales commission are somehow two mind-blowingly different things. They are not. They are the same thing, structured and argued in a different way.

There is a reason why not a single consumer, advocate or representative of those out there who have suffered from financial crime supports the regulations that have been imposed on this place—not CHOICE, not National Seniors Australia, not the Council on the Ageing and not the many victims groups whose voices for too long have been silenced in this debate. Every single one of them opposes this. I note Senator Lambie is in the chamber, and I also
acknowledge the work that the veterans groups have been doing in this area, noting that veterans are some of the people most susceptible, unfortunately, to being taken advantage of. Why? When they return from duty and are sitting on a small pile of money they were perhaps fortunate enough to be able to save while they were overseas representing us and in combat, they become a prime target for the sharks, the criminals and the con men who try to take advantage of such people.

Let us be clear: our point is not that the entire sector is bad; that is not the case. Most of the financial advice industry is made up of incredibly fantastic people who are trying to do the right thing. The problem is that a handful of crooks, criminals and con men have given the industry as a whole a bad name. We have a responsibility in this chamber to ensure that the highest standard is set not only to protect consumers but also to help protect those in the industry who are trying to do the right thing.

Let us be clear about who supports the government's position on this: four big banks and AMP. That is where their support in this debate rests, not with the consumers groups or the advocacy groups. In fact, repeatedly we have seen different groups within the financial planning industry themselves coming out about this. The Financial Services Council is run by John Brogden, a former state Liberal leader. He is not some kind of socialist who has been running a Labor Party line, as Senator Cormann will argue. This is a former Liberal Party leader who has put his hand up and said: 'We have massive problems in this industry. The industry is incapable of self-regulation and we need to make sure a higher standard is set.'

When the industry itself is saying there are problems, it is time to sit up and listen.

There are a series of major problems in this industry. This is an industry which, unfortunately, has been tainted by the behaviour of a handful of people. I want to tell the chamber about the Holt-Norman victims, the victims we heard from during the Timbercorp collapse and what has been going on down there in Melbourne. Last week, we had a series of Senate hearings, including in Melbourne, where we heard some harrowing stories and tales about people who have been conned, cheated and ripped off. Those victims actually came here today to speak to senators to tell their stories about how bad financial advice, poor practice within the sector and industry, and pre-FoFA conditions allowed for behaviours and activities that, frankly, we as a society have gotten together and deemed as so reprehensible that they should never be allowed to happen again. What happened to most of those victims would not be allowed under the current laws as they stand. What could happen is that those same con men and cheaters could restructure how they give those victims bad advice. That could happen. That is the issue here. That is the concern that people like me have.

We are in a privileged place here in the Australian Senate. We all have a voice; we are all able to be heard. The reality is that there are a lot of people out there who do not have the privilege that we have and do not have the opportunity that we have. They, unfortunately, do not have the same access to the sorts of resources that a lot of us have about financial advice. Our responsibility is to establish the highest standards, rules and protections to make sure that people are not being hurt and abused.

Today Senator Cormann has repeatedly made reference to the fact that there are elements within the regulations, which we propose to disallow today, that those on my side of politics and other sides of politics have said in the past are reasonable compromises. That remains the case. We urge the minister: if these regulations are disallowed, come to the table, sit down
and initiate a consultation process over the substantive legislative framework. Allow the senators in this place to have a debate, express their different views and discuss the different amendments that I know many senators in this place wish to put forward.

I also want to reject a falsehood that has been presented, and that is that somehow the financial advice industry is going to fall apart if these changes are made through a disallowance today. Nothing could be further from the truth. The words of the former minister responsible for this, Senator Sinodinos, were crystal clear: there is a facilitative process available to ASIC—

**Senator Cormann:** So I assume you support that?

**The PRESIDENT:** Order on my right!

**Senator DASTYARI:** I will get to the substantive—

**The PRESIDENT:** Ignore the interjections.

**Senator DASTYARI:** A facilitative process is available to ASIC for the process of implementation to allow these matters. I would urge the minister and the government to make sure of this in their discussions with ASIC. There are those on this side of the chamber who are very reasonable about this matter and acknowledge and recognise the fact that the allowing of this disallowance will mean a facilitative approach will need to be initiated and entered into with ASIC. I think that is a reasonable thing to do.

It is reasonable to say that, when there have been changes, there needs to be a facilitative approach. I note that people like myself have spoken to ASIC about this specifically. I also note that ASIC have actually done this in the past. They did this during previous Labor and Liberal governments, where they said to industry, 'Let's be clear about this: there are going to be some changes and there are going to be new laws. We are going to work with you and with business for implementation.' So I reject the notion that somehow the industry is going to fall apart overnight.

I do believe that we have to be setting a higher standard. We have to be setting a higher bar. I and others in this place believe that the FoFA regulations that were brought in by Senator Cormann in the dead of the night, moments before they were to come into effect, not through legislation but through regulation, have created a situation where the only opportunity available to us is to reject them all. I urge the minister to bring forward legislation, allow us to be part of the debate and engage with the crossbenchers and the Labor Party and say—

**Senator Cormann:** We tried that. We did that.

**Senator DASTYARI:** There are parts of the legislation that people here are prepared to support—and you touched on them earlier—and there are parts that we are not. But that is how this place should be run. These are bad regulations. These are bad laws. They exceed their power. They go too far. They fundamentally change the nature of financial advice laws in this country, and they need to be rejected.

I reject the notion from the minister that this is somehow about industry super and that that is the only thing that this is about. It is not about that at all. There are thousands of victims of financial crime out there. We are going through a Senate process at the moment, and I want to put on the record that, while there will be disagreement—and there is a disagreement in this place at this point in time—as to the nature of dealing with the issue, there has been an
incredible amount of cross-party support in trying to get to the bottom of a lot of these matters. I acknowledge that the former chair of the Senate Economics Legislation Committee and the deputy chair of the references committee are here with us. Senator Heffernan, Senator Williams and others have all agreed about how horrible some of these crimes have been, though there is a difference of opinion as to what is the best way of dealing with that. So I want to get on the record—

Senator Bushby interjecting—

Senator DASTYARI: There is a legitimate policy disagreement about the best way of tackling and approaching this. I know there were a few comments earlier from Senator Back—though I do not think he meant them as seriously as he said them—but no-one here is trying to claim that they are the only ones who care about this issue. There is a legitimate disagreement, and we are entitled in this place to have legitimate disagreements on what the best policy response is. My belief, and the belief of many other senators, is that the best policy response is to make sure we have a very, very high standard. Unfortunately, there are elements of these regulations that I and others believe water down these regulations—that weaken them—and allow a handful of crooks, criminals and con men to take us back to the bad old days of financial planning where a handful of financial planners were able to give the entire industry a bad name.

This is bad law. There has been a bad process and it is bad policy. Frankly, the government should be forced to go back to the drawing board, bring their legislation before the chamber and allow a debate where the many different views of different senators in this place can be put forward—and I know there is a series of different amendments that senators will be moving as part of that legislative process. Allow us to have this debate properly. Bringing in the dead of the night these regulations that have fundamentally changed how financial advice laws in this country operate was not the right thing to do. It was not the right process, Minister. I think it is important that we use the opportunity that we have now, if these are disallowed, to go back to the drawing board and bring forward legislation and allow an open, honest and serious debate.

Yes, Minister, people like myself and others on this side of the chamber very reasonably respect the fact that there will have to be a facilitative approach to allow for the implementation of the law that we will be returning to. I think that is a reasonable and sensible thing to do, and it is how things have operated in the past. If the minister and ASIC were prepared to bring forward a reasonable facilitative approach and process, I think you would find that there would be a lot of support—though I do not want to speak on behalf of other senators—for that form of implementation process. These are bad laws. This has been a bad process. I urge the Senate and all senators to support this disallowance motion.

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (16:13): For those who are listening in this chamber and listening elsewhere, we have just had 20 minutes of complete and utter weasel words—softly spoken but complete and utter weasel words. Senator Dastyari and others have had probably 12 months to come up with some solution to this issue—but, no, they have not. This is a disallowance without a fix. This is a disallowance that is completely duplicitious. We know exactly what this is all about. This is about you supporting your mates in the union movement and using what has happened with people in
the past to pursue your cheap, philosophical view of life and your support for the Australian Labor Party. I am old enough to remember a song by AC/DC, Dirty Deeds Done Dirt Cheap. This is a dirty trick, a dirty deed, but it has not been done dirt cheap. This is a dirty trick paid for by the CFMEU and other union leaders, and Senator Dastyari sits there, wrings his hands and his voice softens and he says, 'No fix for this disallowance.'

Not only that but we saw today the most disgraceful intervention in the due process of this Senate that I have seen in the 10 years that I have been here. Senate question time is the opportunity for this government to be questioned and for it to respond accordingly. Halfway through Senate question time today, question time was completely finished. It disenfranchised Senator Day and disenfranchised those that should have had the opportunity to have their voice heard. But it goes further than that. The wringing hands—and I am concerned about this—from Senator Dastyari mark his utter duplicity, and the duplicity of the Australian Labor Party. Guess who has had their voice taken away today with this stunt?

Senator Whish-Wilson: Big banks.

Senator RONALDSON: Well, you would know a lot about them, old boy. I reckon you have probably had your fair share of them as well. What has happened today is that those people who should have had the opportunity to have some input into this have lost that right to do so. Everyone in this chamber knows full well that, if there were matters that were to be put to the government, we had until next Thursday for that to be done. This matter did not need to be disposed of today. There can be only one reason for that. It is crocodile tears for those who have been affected, it is crocodile tears for those who should be protected, and it is only about the cheap motives of the Australian Labor Party.

There are some crossbenchers in this place who have not been here for long, and I am prepared to excuse them for what happened today during question time. But I am not prepared to excuse the Australian Greens and the Australian Labor Party and some crossbenchers who have been here for some time who have cried crocodile tears for due process. They are opposed to gags, which are spoken about by the Australian Greens particularly and they have done that since I have been in this place. Well, today, they simply lost any credibility. I can assure the Australian Greens and the Australian Labor Party that every time you put this up we are going to cite your deplorable behaviour today, because you stand utterly condemned for your behaviour today.

It is quite obvious to me that most of the Australian Labor Party have a pathological hatred of the small business sector, and they always have, because the small business sector does not support the Labor Party's philosophical view, which is about big unions and big business. The small business man or woman just gets thrown out. I say to the crossbenchers who have voted the way they have today: you have let down a group of people who were looking to you to provide them with a voice. You have taken away from them, with your behaviour today, the opportunity to have their voice heard. They do not expect the Australian Greens to hear their voice, because they never have. The Australian Greens hate small business. The Australian Labor Party hate small business. That we all know; that is a given. What I had hoped was not a given was that some of the crossbenchers here today who were clearly put into this place on the back of small business men and women would let them down, but they have, in a manner those men and women will never forgive.
What about the employees of a multitude of small financial planning businesses across Australia? Where has their voice been heard today? I say to the crossbenchers: how are you going to look them in the eye tomorrow and say, 'I had the opportunity to discuss this matter up until Thursday of next week and I decided I was not prepared to do so; I was going to back the Australian Labor Party because of their complete and utter ownership by the trade union movement, complete and utter ownership by the industry unions? We on this side all know what the ramifications of that will be.

If the outcome of the Victorian state election Saturday week is that the CFMEU runs the state of Victoria, then the ramifications of that will be felt for a generation. Of course, it will be lauded by the Australian Labor Party. At nine o'clock on Sunday morning, if the results are known—and I do not think it will go this way, but if it does—guess who will be knocking on the door of Daniel Andrews's office? The CFMEU. What will they be saying to Daniel Andrews? 'Time to cough up, brother. Time to pay back.' The dirty deed has been done but it has not been dirt cheap. There have been tens of thousands of dollars of union money going into the Australian Labor Party, and guess who is the one that is the collector? Who is the big collector of the big bucks? Who is the collector of big favours from a change of government, if there is one? The CFMEU are the big collectors. They are the big-buck deliverers and they will get every single thing that they asked for. I say to the people of Victoria: if you want the CFMEU knocking on Daniel Andrews' door on Sunday morning, you should be acutely aware of what the ramifications of that will be. I do not think the Victorian people are going to let someone like the CFMEU, through their wholly-owned subsidiary, Daniel Andrews, run the state of Victoria.

I come back to this disallowance motion. I say to the crossbenchers: what are you going to say tomorrow when those small firms dotted around the country—decent men and women running decent businesses and employing decent Australians—ring up and say, 'Why wasn't my voice heard yesterday; why did you gag debate; why did you not let the Australian Senate have until next Thursday to see if we could get some resolution?' Oh no, it had to be knocked off today—we had to disenfranchise those people. I will tell you where a lot of them are from. They are from regional and rural Australia; they are dotted in small towns around this country and providing advice to a multitude of people. Those people they are providing advice to might be the farmers or they might be the tradespeople—they might be the plumbers, they might be the electricians or they might be the butchers or the employees on farms. But, oh no, apparently their voice was not worth hearing. Apparently their voice runs second to that of the trade union movement. I say to the crossbenchers that they have been duped by the Australian Labor Party. Do not think for one minute that the handwringing and the duplicitous language used by people like Senator Dastyari in any way mean that what happened today should be countenanced by anyone.

I say to those small business people and their employees who are listening to this or who will read this debate: there is only one group in this parliament who was prepared to support you, who was prepared to have your voice heard, who was prepared to sit down with the Australian Labor Party and others and see if we could have a resolution to this by next Thursday. But this disallowance motion did not include one word about fixing things. It did not include one word about trying to resolve this issue. It is just a dirty political trick to support the trade union movement, who we know completely owns the Australian Labor
Party. I am bitterly disappointed on behalf of tens of thousands of Australians that some on the crossbench have allowed the voice of those people who supported them to be completely subsumed by the Australian Labor Party and big unions. What a seriously sad day it is for this chamber when we see question time cut off at the knees; when we see an Independent senator denied his right to ask a question; when we see debate gagged when this government said we had until next Thursday to reach some resolution of this matter so let us have the debate over that period and see if we can get somewhere. That was a perfectly reasonable offer. There is no mention from Senator Dastyari about that; no mention about the fact that on the table was the ability for this Senate to have a long and sensible debate about a resolution. There was no word of that—just the handwringing and the duplicitious language.

This is an opportunity lost for this chamber. This chamber had the opportunity today to send out a very clear message that we believe in people having the right to have their voices expressed through this chamber. We abrogated our responsibility to those people today in the most shameful of ways. Tomorrow morning, when the papers come out and people realise what has happened, it will be too late—but I hope there will be cause for reflection by many in this chamber.

Senator Cameron: They’ll be cheering!

Senator RONALDSON: Only someone completely and utterly owned by the trade union movement, such as Senator Cameron, could say they will all be cheering. What a remarkable comment from someone who simply does not understand and who has never understood small business, does not want to understand small business and does not want to see the due processes of this place followed. A really silly interjection like that adds nothing to the debate.

When an opposition are given at least six months, and probably 12 months, to have some constructive input into a policy and they refuse, then they have abrogated their right to be included in the debate. But they should not, through their duplicitious language and handwringing, have abrogated the right of those on the crossbench to discuss this matter further. This is a really sad day for this place. I intend reminding each and every one of you who have destroyed some of our fundamental rights, such as the right to ask questions during question time, about this for as long as I am in this place. The Australian Greens and the Labor Party cannot ever come into this place bleating about due process again, because today they denied themselves the right to a place at the discussion table in relation to due process. They destroyed that right and today they have collectively destroyed the good governance of the Senate of Australia.

Senator LAMBIE (Tasmania) (16:29): In rising to support the motion before the Senate to disallow the Corporations Amendment (Streamlining of Future of Financial Advice) Regulation 2014, I would firstly like to apologize to my Tasmanians, especially those who have reached the stage in life when, having worked hard and saved every cent, they have created a nest egg that they would like to invest for their future and their family’s future. I have let you down and I am sorry. In the past, my vote in the Senate helped create the situation where today the laws of our country do not provide proper protection for investment funds.

After much consultation with Tasmanians, peak bodies like the National Seniors and consumer advocates like Choice, I have changed my view and now acknowledge that the laws
of Australia as they stand do not guarantee that the best interests of investors are put before the profits of the big end of town. A Choice briefing on the Liberal government's FoFA laws says:

The Bill and associated Regulation will result in a significant reduction of protections for consumers seeking financial advice. Conflicted or poor advice, much of this linked to ongoing financial advice scandals, have caused consumers significant detriment with many losing life-savings and homes.

Today Choice released a statement which said:

We applaud the stand of Senators who have decided to put the interests of consumers ahead of the interests of big business.

The current regulations leave mum-and-dad investors open to being ripped off by unscrupulous financial advisers who, we all know, receive kickbacks and secret commissions to sell unsound and risky financial products or schemes. This is not a hypothetical or made-up allegation. Unfortunately, successive Australian governments have failed to protect our investors. Ordinary Australians, like members of our ADF, nurses, police officers, public servants and small business owners, will benefit from a successful disallowance motion today.

Today I am proud to say that I am going to vote with like-minded senators—the coalition of common sense—to fix an injustice that I helped create just a few months ago. Today, now fully aware of the facts, I will vote according to my conscience and in the best interests of my Tasmanians. I will not this time be dictated to or bullied into voting to protect the big end of town. Today abusive threats to kick me out of the Palmer United Party will not interfere with my free and fair performance as a member of this parliament.

When average Australians seek financial advice from the big financial institutions, it becomes a David and Goliath battle—and in this battle David is no longer armed with even a slingshot. All I am doing today is arming the average Australian investor with rights under the law to give them a fair chance in that unfair battle with Australia's financial Goliaths.

At the heart of this FoFA battle is a case of human rights—the right of the weak to be treated fairly by the powerful. The history of humankind has been characterised by battles between the weak and the powerful—and more often than not we get the predictable outcome of the powerful winning. AC Grayling, the noted British academic, sums up the human situation in his book *Towards the Light*, in which he writes:

... for the strong do what they can and the weak must suffer what they must.

That is not the Australian way, that is not the Tasmanian way and that is not my way. Our nation, our culture, has evolved to take care of the weak, the sick and the elderly. Australian back the underdog in a fight. We fight—and I fight—for what is right and just, not for what is powerful. While it is not a sin to be powerful, it is a sin to be powerful and to abuse that power. It is a sin to pander and suck up to power. It is a sin to turn a blind eye to power's abuse. It is a sin to be an accomplice to power's abuse. That is what is at stake in this matter, this motion to disallow the government's FoFA regulations. The big end of town, the billionaires, the rich and powerful, have been allowed by successive governments to abuse their powers.

There are many victims of bad financial advice. There are many victims of dodgy investment schemes peddled and facilitated by Australia's rich and powerful financial institutions. The voices of those victims will be heard in this chamber and those voices will be
given equal weight, and will be considered to have equal merit, as those of the rich and powerful.

I want to briefly address the sly, personal attack that the Leader of the Palmer United Party has waged against me in public in recent times. I understand that he is under pressure because of bad political decisions and legal action that has been taken against him. However, that does not give him the right to spread hurtful rumours about me in an effort to intimidate—or to interfere with the free and fair performance of a member of this Senate who represents Tasmania. Putting aside the personal hurt these actions cause, these continual outbursts have become a distraction that takes the focus away from the real issues, the issues Tasmanians care about.

Tasmanians care about a fair pay deal for the men and women of the Australian Defence Force and about better national security. They care about protection for investors from dodgy financial advisers, who—if the Liberal government have their way and get to keep these lax FoFA regulations—will still be able to receive secret kickbacks from the big end of town. Tasmanians care about protection for the 10,000 direct and indirect Tasmanian jobs at risk from the unfair mainland RET scheme—which is nothing more than a hidden tax and which, for no good reason, increases the cost of living for our pensioners, families and businesses. I will always vote as my conscience dictates and in the best interests of all Tasmanians. I will not be told how to vote by anyone. My only boss is the people of Tasmania. It is their approval I seek; it is their opinion that counts for me.

I will vote for the disallowance of the FoFA regulations. This action will protect the weak—ordinary Australian investors—against the powerful—Australia's big banks and large investment companies, who have a proven record of recklessness and irresponsible behaviour. I will not allow the Liberal Party and their supporters to wind back consumer protection when it has been shown that the financial advice industry currently acts in a scandalous manner.

Senator CAMERON (New South Wales) (16:37): I stand to support the disallowance motion by Senator Dastyari, and I do that because this is an issue of some significant national importance. This is an issue that I have been involved in for some time as a senator during my period of serving on the Economics Legislation Committee and the Economics References Committee. What I have seen reported to that committee in its various inquiries and through the estimates process leaves me very concerned that ordinary Australians are not getting a fair go. I am extremely concerned that the coalition is putting the big banks, big money and big donations before the interests of the Australian community. That is the reality of what we are facing here.

We have heard the coalition argue about red tape. I have said it before: one person's red tape is another person's protection. And the protection that we are putting in place—that the Labor Party put in place previously—is protection to ensure that the rip-off merchants do not get into the bank balances of ordinary Australians and do not end up destroying the lives of ordinary Australians who have worked hard their whole lives to put together, in many cases, a very modest bank balance to invest for their future. Yet we have this cavalier approach from the coalition that simply argues that this is about the CFMEU. Give us a break! This is about the people who have lost their homes. This is about the people who have suffered nervous breakdowns. This is about the people who have lost their health. This is about the people
whose families have been ripped apart because there were not adequate protections in place prior to the FoFA regulations and legislation.

That is the issue that we should be talking about. I have heard some pretty poor contributions in my time in this place, but Senator Ronaldson's contribution almost takes the cake. Senator Ronaldson was roaring away, bellowing away, but I never heard him mention any of the issues that we are debating here. He mentioned none of the issues about proper regulation, proper legislation and proper controls to protect the Australian public against the rip-off merchants out there in the financial sector making themselves rich, driving around in their Mercs, driving around in their Bentleys, out there on Sydney Harbour in their big boats—those are the protections that are in place here. That is what is going on here. And it is clear that the arguments that are being put up, that this is going to affect all these small businesses, are so much nonsense. The reality is that 80 per cent plus of financial planners are linked to the four big banks and to the AMP. That is the reality. This is not about small business; this is about big business. This is about big banks who have allowed, under their name, some of the most egregious rip-offs of ordinary Australians ever in this country. It is about ensuring that the big banks take some responsibility to bring about a proper course of conduct in the financial planning industry. It is about trying to make sure there are no more Storm Financials. It is about trying to make sure that there are no more Trios, no more Timbercorps, no more Commbank finance problems and no more Macquarie Private Wealth rip-offs. These are the issues, and all the bellowing and all the ideology and all the nonsense you hear from Senator Ronaldson will not make any difference to that.

It is clear that this Senate has considered the issues and that the crossbenchers have considered the pleas from individual Australians to be protected against the rip-off merchants. They have listened to Choice. They have listened to the other pensioners associations, to the Council on the Ageing and to National Seniors. They have listened to their concerns about what is happening to the consumers in this industry. And they are arguing that you cannot let the market rip when it comes to the finance sector—there have to be checks and balances. There have to be controls. There has to be a government that looks after the interests of everyone in this country who is investing through the big banks and their financial advisers.

The problem we have—and we have seen it in New South Wales—is that big business and the big banks have huge influence on the coalition—a massive influence. You have just seen what happened in Newcastle, where the rich businesspeople drive up in their Bentley, the coalition politician jumps into the passenger seat and the rich driver of the Bentley hands over the brown paper bag full of money to get influence with the politician. That is what is happening with this mob now. That is exactly what is happening over here. It is the big banks, it is AMP and it is the big business controlling the coalition, because there is no-one else in this Senate supporting the position that has been adopted by the coalition.

When the crossbenchers have had a chance to go back to Tasmania, Victoria and New South Wales and listen to what people are saying about the problems associated with the rip-off merchants in the finance sector, they have come back and changed their view. They are entitled to listen to the community. They are entitled to listen to age pensioners who are being ripped off. They are entitled to take a position that says, 'We must fix this terrible position that the coalition have brought about where the checks and balances and controls that are in place are no longer there.' This goes back some time. This goes back a long way.
I heard, again, Senator Dastyari being attacked. It just seems to me that Senator Dastyari is doing a good job, because every day you get personal attacks on Senator Dastyari—attacks on how he looks, attacks on what he is doing. That is not how we should be dealing with the issues in here. I think the way the Leader of the Government in the Senate engaged in those personal attacks on Senator Dastyari yesterday demonstrated that Senator Dastyari has really exposed the coalition. He has exposed the coalition on the basis of their support for the banks over the community. That is what he has done. That is why you hear the roaring and bellowing of senators like Senator Ronaldson, with absolutely no intellectual underpinning to the argument—just these arguments about the CFMEU, arguments about industry funds and arguments about unions. I have been involved in this debate now for some years and these have never been the issues that have been raised anywhere in any of the inquiries into this problem. The issues that have been raised have been the lack of controls on the big banks, the lack of controls on financial planners and the lack of controls that saw Trio rip off people all over this country.

Labor took that into account and Labor set about trying to deal with it. When Labor put up the Corporations Amendment (Future of Financial Advice) Bill 2012, there were two FoFA measures. One was a requirement for providers of financial advice to obtain client agreement to ongoing advice fees every two years and enhanced annual disclosure fees and services associated with the ongoing fees. We said: 'If you are going to take money off people, you have to disclose what you are doing. You have to advise them every two years why you are being paid.' What is the problem with that? We said that we should enhance the ability of ASIC to supervise the financial services industry through changes to its licensing and banning powers.

One of the most excruciating times I have ever had in this place was watching Senator Williams, a coalition senator, who was a bit of a pit bull—if I can use that word nicely—against the excesses of the financial sector in this country. He took up a position to expose the problems that people were having with these companies and these big banks and these financial advisers. During an estimates where I was a member of the committee with Senator Williams, I thought ASIC treated Senator Williams with contempt, and I did not think that was the right and proper thing for ASIC to do. I went down to the estimates hearing and I went after ASIC and I put 16 questions on notice to ASIC. Then I had a discussion with Senator Williams and I recommended to Senator Williams that he should go and seek the support of the Treasurer at the time to get an inquiry going into these financial planners and into ASIC. Senator Williams did that.

It is unfortunate that Senator Williams has gone from being a pit bull to a bit of a poodle on this issue, because he has been shirt fronted—to use that word—by the Liberal leadership on this issue because it is exposing the banks, it is exposing the financial planners and it is exposing AMP. So Senator Williams will probably come in here, if he is involved in the debate, and tell you it is not really about all the issues he was concerned about in the past; it is now about vertical integration; and if you fix vertical integration everything is going to be okay. That is not the case. Unless you have proper regulation, unless ASIC are out there dealing with these issues and looking after ordinary Australians, unless ASIC have a proper approach and the powers to deal with these people, it will not go away. Senator Williams has been very good on this issue and you could certainly look at—
Senator O'Sullivan: Till now.

Senator CAMERON: Senator O'Sullivan says Senator Williams has been good up until now. They have got Senator Williams under control. The Liberals have got Senator Williams under control, as they always do with the National Party—the doormats of the coalition, who get stood upon, who the Liberals wipe their feet on day in, day out in this place.

We heard this argument about all the small businesses in the bush. Let me tell you about some of the people who have been ripped off in the bush, ripped off in rural and regional Australia, by people acting for and on behalf of the big banks. They are the people who have lost their house. They are the people who are in hospital because they are crook and sick because their house is being ripped from them. They are the people who have lost every cent they have put together over the years. And the National Party, through Senator Williams, were on the case, but, as the National Party do all the time, they are all talk when they are back in their electorates and when they come back here they do nothing. They are all talk and no action—that is the National Party. They are the absolute doormats of the coalition.

We need to be in a position where we can get back to some proper checks and balances and we can get over this nonsense that we will hear from Senator Cormann about timing, the nonsense we will hear from Senator Cormann about red tape and the nonsense we will hear about unions. This is about ordinary Australians being protected by their government. The people who know what is happening out there—the pensioner groups, the seniors groups—are saying, 'We need protection from these rip-off merchants,' and that is what we have done. We put that in place and when the coalition came in and their political backers and financiers, the banks, sat them down and said, 'This is not on; you must change it,' then Senator Williams was pushed to the side, the Nationals were pushed to the side and the Liberals put their financial backers before the pensioners and the retirees of this country. That is the bottom line. That is what has happened here.

Senator Bushby was on the inquiry. He went there some of the time and heard some of the evidence, but when you have one of the biggest reports ever from a committee of inquiry, which lays out all the problems in the finance sector which have to be dealt with, Senator Bushby does six pages of waffle, six pages of nonsense, six pages of capitulation to the banks and the AMP. So, if you see Senator Bushby on his feet, you know that he had an opportunity to do something about this and failed miserably. He failed absolutely miserably to do anything about it. This is about ensuring that we have proper checks and balances; it is not about red tape and it is certainly not about the CFMEU.

Senator Seselja: Yes, it is.

Senator CAMERON: You guys across there—mostly guys; there are no women there again. These blokes over there, who are capitulating to the big banks and to the AMP, just do not get it. They will be okay. They are living off a big, fat salary. They are doing all right. They have never had to worry about putting food on the table. They have never had to worry about how they pay the mortgage. These are people of absolute privilege over here, and what they are doing is looking after the people of privilege in this country. They are looking after the banks, they are looking after AMP and they are allowing a rip-off of pensioners in this country.
We decided to do something about it, and the Senate is now determined to overcome and to overturn your cushy little deal with the banks, because the Senate is going to put the interests of retirees and investors in this country before the interests of the big banks. And do not fall for the argument that it is all about us attacking small business and not understanding small business. This is not about small business. As I said before, over 80 per cent of the financial planners are associated in one way or another with the four big banks and the AMP.

So this is not about small business; it is about ensuring that, if people invest their hard-earned savings after years of work and toil, it is protected to the best we can provide, that the government protects it and that we make sure the rip-off merchants are not in there carving up these poor people and leaving them destitute, with mental health problems, sick, with no home and having their family broken up. This is not good and this is why the coalition are more and more on the nose in this country—because they put their ideology and they put their financial backers before what is good policy in this country. It is reprehensible.

Senator SESELJA (Australian Capital Territory) (16:57): After hearing from Senator Cameron and Senator Lambie, the last two speakers, I think I have now heard it all. I have heard Senator Cameron talking about corruption, dodgy deals and sweetheart deals. The factional backer of New South Wales's Ian Macdonald is here lecturing about cushy deals. We know about cushy deals and Senator Cameron, because he backed Ian Macdonald, one of the most corrupt politicians in the history of New South Wales.

Senator Cameron: Madam Acting Deputy President, I rise on a point of order. Senator Seselja should read the decision and the outcome of ICAC. And I have to say to you: if you have any backbone, get out and say that outside! See whether you have any backbone and whether you will say those things outside, you coward!

The ACTING DEPUTY PRESIDENT (Senator O'Neill): Senator Cameron, resume your seat.

Senator SESELJA: We know how sensitive Senator Cameron is on this, but he should withdraw that and he should not be making spurious points of order.

An opposition senator interjecting—

Senator SESELJA: Which am I to withdraw—that he is a factional backer?

The ACTING DEPUTY PRESIDENT: Senator Seselja, take your seat please.

Senator Cameron: I will not withdraw. I repeat: if you want to make these accusations, step outside and do it! Make the accusations in the public and we will see whether you have any backbone. I am not touchy; I am just not going to get this from you, you coward!

The ACTING DEPUTY PRESIDENT: Senator Cameron, we can take the temperature down, and you can continue with your remarks, Senator Seselja.

Senator SESELJA: Madam Acting Deputy President, I am seeking your ruling as to whether that is parliamentary language and whether you will allow that to stand or whether you will ask the senator to withdraw.

The ACTING DEPUTY PRESIDENT: Having taken some advice from the Clerk, I think, in the interest of the ongoing robust debate that is part of the chamber, you may take personal offence at the terms that were used—and I am sure that the senator on this side also

CHAMBER
was very impacted by the comment that you made—but the language that the senator used was not unparliamentary and you should continue your remarks.

Senator SESELJA: Thank you for your ruling, Acting Deputy President. That is fine. That is interesting. It is interesting how sensitive Senator Cameron is—that he does spew out these terms.

The ACTING DEPUTY PRESIDENT: It would assist the chamber if the senator could move on to some of the substantive matters that deserve debate.

Senator SESELJA: I am moving on to the substantive matters. I have not even been able to get started.

Senator Fifield: He is allowed to respond to the interjection.

Senator SESELJA: And I will respond. He was a factional backer of Ian Macdonald. That is on the record. He looked after people like Ian Macdonald. He can try and walk away from that—

Senator Wong: Can't you say anything? Are you so embarrassed about your position—

Senator SESELJA: and he is very sensitive—and Senator Wong is very sensitive about it as well. We see the sensitivity. We cannot get two words out without being shouted down—

Senator Wong: Go on! Defend Mathias!

Senator SESELJA: Here it is—without being shouted down because of the sensitivity there. One mention!

Senator Whish-Wilson: I rise on a point of order, Acting Deputy President, in relation to relevance. Perhaps if Senator Seselja actually gets back to what we are debating here and moves on, then we might all benefit from some of his wisdom on the subject at hand.

The ACTING DEPUTY PRESIDENT: Thank you for your point of order on relevance. I repeat: it will assist the chamber if Senator Seselja can go to the substantive remarks on the debate that is before the chair.

Senator SESELJA: I have barely gotten to my feet, and we were subjected to Senator Cameron talking about doormats and all sorts of things, which we have put up with. An honourable senator interjecting—

Senator SESELJA: I will, and I am. In fact, this is highly relevant to the issue. May I resume?

The ACTING DEPUTY PRESIDENT: Continue your remarks.

Senator SESELJA: Thank you. I will continue. They are sensitive on the CFMEU links. That is why Senator Cameron spent so much time defending them. That is why he spent so much of his speech defending them, because the CFMEU links are critical to this, because the industry super funds here get a special deal. That is what we are talking about. We are talking about a sweetheart deal for the industry super funds, who leak information to the likes of the CFMEU, who hand over information to the likes of the CFMEU, as we have heard at the royal commission.

I will go to the facts of the type of sweetheart deal we are talking about. Senator Cameron said in his speech: 'What's wrong with having to opt in every two years? What's wrong with that? What's wrong with actually asking people to opt in every two years?' I will tell you. The
industry super funds who provide this type of advice are not required to ensure people opt in every two years. In fact, people may not know that they are paying these kinds of fees to the industry super funds. So you can have nondisclosure, if you are an industry super fund, and you can have a situation with those industry super funds where there is no opt-in. So what we are talking about is an absolute sweetheart deal for their mates. That is why we see the sensitivity. That is why we see Senator Cameron shouting across the chamber. That is why we see Senator Wong shouting across the chamber. We have been watching this royal commission and seeing how close some of these industry super funds are to these unions.

Senator Wong: Ha, ha! Look at you!

Senator SESELJA: Senator Wong laughs. We saw a Cbus super fund coordinator sacked after lying to the royal commission about leaking confidential information to the CFMEU.

Senator Wong: You cannot defend the policy, can you?

Senator SESELJA: I am defending the policy, because we are talking about the sweetheart deal.

Senator Wong: You cannot defend the policy.

Senator SESELJA: Here it is. They cannot listen. They are very, very sensitive. Senator Wong will continue to yell across the chamber.

Senator Williams: I rise on a point of order, Mr Acting Deputy President. This is a very interesting speech being presented by Senator Seselja and I ask you for those on your left, especially Senator Wong, to remain quiet while he is presenting his speech to this parliament.

The ACTING DEPUTY PRESIDENT (Senator Sterle): There is no point of order, but, senators, I would ask that we let the senators get their contributions out. But I remind senators to be relevant to the debate.

Senator SESELJA: I will. I will come back to that, but I did talk at the beginning of my speech about how I had heard it all. We talked about Ian Macdonald. Previously we heard from Senator Lambie, who is now, she says, on this issue leading a coalition of common sense. A coalition of common sense led by Senator Lambie! I would say to senators who are contemplating voting with Senator Lambie that a coalition of common sense led by Senator Lambie you have to be somewhat sceptical about.

I will mention in passing that I have a lot of time for Senator Madigan and Senator Xenophon but I think that their decision today, as crossbenchers, to vote to deny another crossbencher a question in question time was pretty disappointing, to say the least. It was pretty disappointing, because I am very sympathetic when I hear from the likes of Senator Madigan about how little time crossbenchers and Independents, in particular, get either for questions or for the debate of their legislation. For them to vote to deny one of their fellow crossbenchers today was very disappointing. If you look at it in the context of some of the discussions we have about giving them more time, it was particularly disappointing.

But let us go to what we are dealing with here in terms of certainty. What we have had is the Senate twice voting to approve these FoFA regulations, twice voting down the disallowance motions that have been moved by the Labor Party and by Senator Dastyari. The uncertainty that is caused by this sudden about-face and by this reneging on a deal by Senator Muir and by Senator Lambie is a particular concern to the coalition and I am sure will be a
particular concern to many in the community, who will see that, even when a regulation is backed, it may not be backed in two months, or three months or six months. The very same regulation, with the very same composition of the Senate, on any given day—based on what we are hearing today from Senator Lambie and from Senator Muir—could be overturned. That creates a high degree of uncertainty.

Let's be clear about what this is. It is reneging on a deal. Senator Lambie and Senator Muir did a deal. Senator Muir, in fact, actually got some concessions for the deal that he made. On behalf of the Motoring Enthusiast Party he asked for some concessions, and these were agreed to by the government. The government was asked to give concessions in order to gain the support of Senator Lambie, Senator Muir and others to get the regulations through. The government honoured its part of the deal, and Senator Muir and Senator Lambie cannot be trusted to honour their part of the deal. They walk away. What is their word worth? What is a handshake worth from Senator Muir and Senator Lambie? I will be interested to hear from Senator Muir later on in the debate, because Senator Muir in particular asked for certain things to be done in return for his vote on this issue. They were done and, notwithstanding that, he is now flipping around. So I would be keen, I am sure other senators would be keen and I am sure that many in the community would be keen to know what exactly made him change his view.

It is interesting to look at one of the main claims made by the Labor Party and others in relation to this legislation—Senator Lambie talked about it, but Senator Cameron did not touch on any of the detail of what we are talking about here today—because, when it actually gets subjected to scrutiny, it is found to be false. I would not necessarily call the ABC's Fact Check an organisation that leans to the right. I would not say that Fact Check from the ABC is more likely to back the position of the coalition. I think that would be a stretch. The Fact Check from the ABC looked at some of the very claims we are debating today. The claim was—it was Chris Bowen saying it—that the government's changes to financial advice laws will bring back the type of commissions that encourage financial advisers to recommend risky investments. And the verdict of the Fact Check? Scaremongering was the verdict. The ABC Fact Check looked at these claims that we have been hearing from the Labor Party today and that we have been hearing from Senator Lambie—presumably backed by the likes of Senator Xenophon and others. The verdict on the claim that the government's proposed changes to financial advice laws will bring back the types of commissions that encourage financial advisers to recommend risky investments was that they will apply only to some forms of general advice. They do not bring back old-style commissions. The overall verdict is that this is scaremongering.

Let's be clear about what we are talking about. We are talking about scaremongering. Under the government's legislation, significant safeguards are in place—safeguards which have been outlined many times by Minister Cormann and others. We are hearing that the reason for the shift today by Senator Lambie—and by Senator Muir, presumably, although we do not know exactly why he is shifting—is these claims that even the ABC's Fact Check has found to be scaremongering. The safeguards are there. Let's go through some of those safeguards. The requirement for a financial adviser to act in the best interests of his or her client is enshrined in section 961B(1) of the Corporations Act. That remains in place and unchanged. There is no amendment. The current section 961B(2) outlines the steps an adviser
may go through to show that he or she has satisfied the duty to act in the best interests of his or her client. The first six steps effectively remain unchanged. Let's go through those. They have to identify the subject matter of the advice sought, whether explicitly or implicitly. They have to identify the objectives, the financial situation and the needs of the client that would reasonably be considered as relevant to the advice sought on that subject matter.

They have to identify the objectives, the financial situation and the needs of the client that are disclosed to the adviser by the client; where it was reasonably apparent that information relating to the client’s relevant circumstances was incomplete or inaccurate, they have to make reasonable inquiries to obtain complete and accurate information. They need to assess whether he or she has the expertise required to provide the client advice on the subject matter sought and, if not, they must decline to provide the advice. If, in considering the subject matter of the advice sought, it would be reasonable to consider recommending a financial product, they need to conduct a reasonable investigation into the financial products that might achieve the objectives and meet the needs of the client that would reasonably be considered as relevant to advice on that subject matter. They need to assess the information gathered in the investigation and base all judgements in advising the client on the client’s relevant circumstances.

This is a comprehensive set of steps. If anyone claims—as Chris Bowen has, as Sam Dastyari has and as others on the crossbench have—that the government's changes will bring back the type of commissions that encourage financial advisers to recommend risky investments, the ABC's fact checker and many others say that is absolutely not true. It is scaremongering. There is a long list of safeguards there for people who are seeking financial advice. This is not about safeguards. This is about a special deal for one sector. It is about a special deal for industry super funds. Senator Wong can sigh all she likes, but those are the facts, because industry super funds get a different deal. Senator Cameron said in his contribution, 'What is wrong with having to opt in every couple of years?' What is wrong with it for industry super funds?

That is fundamental to this debate.

Senator Cormann interjecting—

Senator SESELJA: That is right. Clients of industry super funds do not get those protections that Senator Cameron is arguing for. What apparently would be too much red tape for industry super funds is okay for small businesses. That is fundamental to this argument. It is fundamental to why they have made this judgement. They are not seeking to do what is in the best interests of clients. We have seen and heard just how comprehensive the set of safeguards is. What they are seeking to do is leave that competitive advantage for their mates.

We know why. I do need to respond to some of what was said earlier in the debate by Senator Cameron—and others—when he claimed it is about donations. If it is about donations, I think we should be looking to the other side: the CFMEU that funds the Labor Party and that funds the Greens—it is not just the Labor Party that receives significant funds from—

Senator Whish-Wilson: Are you sure about that? What's your evidence on that?

Senator SESELJA: What's my evidence! Senator Whish-Wilson said, 'What's your evidence that the CFMEU funds the Greens?' It is on the public record. I will share a little bit
of it. I know that just here, at the Senate election in the ACT, the national CFMEU spent $50,000 backing the Greens. That is $50,000 just here in the ACT. You are asking for the evidence of where the CFMEU backs the Greens. I have given you one example.

**Senator Whish-Wilson:** That's funding us, is it?

**Senator SESELJA:** There are countless examples around the country.

**Senator Whish-Wilson:** That's not what you said.

**The ACTING DEPUTY PRESIDENT (Senator Sterle):** Senator Whish-Wilson! Senator Seselja, ignore the interjections.

**Senator SESELJA:** I certainly will do my best to ignore the interjections. Senator Whish-Wilson would like to claim some sort of distinction that the Greens are not funded by the CFMEU, even though they receive money from the CFMEU—even though they receive significant funds from the CFMEU. I do not know what he determines is 'funding'. I do not know what he understands by funding.

I would have thought that a $50,000 donation just here in the ACT, presumably much more—I think Adam Bandt receives a significant amount of funding from the CFMEU, but I stand to be corrected; I do not have those documents in front of me. If I am wrong on that, I will withdraw. Certainly we know one example here, and right around the country the CFMEU funds the Greens—as well as the Labor Party, of course, and people like Daniel Andrews.

On the relevance of that and in responding to Senator Cameron's earlier claims that on our side it is somehow about donations, let us be clear. When we talk about donations, let us talk about the special deal that Labor wants to do, and has done, for the industry super funds that are close to the big unions—like the CFMEU—and those very unions that fund Labor Party and Greens election campaigns. If you are looking for a conflict of interest as to what might be at the heart of this, perhaps look over to the Labor Party and the Greens and their sources of funding on this issue.

It is clear on any measure, as we look at the facts, that what has been claimed at the heart of this by Senator Dastyari and others, on what this FoFA legislation actually does, is false. It is wrong. It is scaremongering. In the words of ABC Fact Check, it is scaremongering and it is dishonest to make those claims. People like Senator Dastyari, Chris Bowen and others in the Labor Party—and on the crossbench—should know better. They must know. They must have looked at this and decided they could somehow scare people into agreeing with them on this issue.

I go back to the issue of the flip-flopping from some on the crossbench and the unfortunate nature in the way they have done that. They made a deal to vote on it twice—twice this was considered—and the likes of Senator Lambie and Senator Muir voted with the government. They looked at this issue and voted with the government. Industry proceeds on that basis—believing that the parliament has made a judgement. Nothing changes other than, apparently, a fight within the Palmer United Party. That seems to be all that has changed since the last time we considered this legislation. That is not a good basis for a change in public policy—because Jacqui Lambie does not like Clive Palmer anymore. That is not a good reason.

The 'coalition of common sense' that Jacqui Lambie now claims to be leading is going to lead us to outcomes where important legislation like this gets chopped and changed. What is
to stop it being different in two or three months time, if Senator Lambie and Clive Palmer kiss and make up? What is to stop it changing again? This is the farce it will become if we go down this path. This disallowance motion should not be supported.

Senator WILLIAMS (New South Wales) (17:20): I rise to make a contribution to this debate. There are many important issues in this debate, but there is one very important issue. We had a grandfathering clause in the change brought forward by Senator Cormann, who is sitting here in the chamber. What that grandfathering clause meant was that, when you had a financial advice business prior to 1 July 2013, you may well have been receiving commissions. There was nothing wrong with that. It was totally within the law.

When the FoFA started on 1 July 2013, that removed those commissions from these businesses, especially small businesses, that had a cash flow and had done everything right by the book. I will give you an analogy. It is a bit like exporting live cattle out of Darwin and having the government ban live export. You have lost your cash flow, you have lost the value of your property, you cannot sell what you grow on it and it destroys you financially. This is no different.

What Senator Dastyari and others have done here with this disallowance—if successful—will wipe out that grandfathering income for those small businesses. Mr Acting Deputy President Sterle, it would be like you buying a truck and signing a five-year contract, a good contract with a cash flow. Three years into it they just tear it up, and you walk away. You have lease payments on your rig and repairs to do—and your truck has lost its value and you have lost your contract. This is what is going to happen if this disallowance gets through.

I know people like Senator Cameron do not care about small business or their value—do not give a hoot about that.

I want say to people like Senator Xenophon—and Senator Xenophon, I hope you are listening in your office—Senator Lambie; Senator Madigan, and I am glad he is here, he comes from small business, a hardworking blacksmith; and Senator Ricky Muir, a timber cutter from small business: if you do not amend and reinstate part 28, 29, 31, 32, 33, 34 and 35 of those regulations to protect small businesses, you are going to destroy the value of those small businesses that have built that value through hard work and playing by the rules.

I believe that, when the former Labor government brought these FoFA rules in, they realised afterwards that they had it wrong; that they went too far. I believe there was a bipartisan verbal agreement to fix this—the grandfathering clauses—to protect the value and cash flow of those small businesses. However, we know the previous government lost government.

So now we have got Senator Dastyari backed up by those senators I mentioned—Senator Xenophon is from small business as a legal professional; as I said, Senator Madigan, a hardworking blacksmith—you would not get much tougher jobs than that; Senator Muir from the timber industry and a tough industry, especially with the Greens trying to strangle it at every post; and Senator Lambie. If you support this disallowance that has been put up in this way, you will destroy the value of those small businesses. You will destroy their cash flow, and they did it all legally.

I would hope that you will come forward, Senator Madigan, with amendments and you will talk to Senator Xenophon and the others. I would hope that those amendments would be
supported by Senator Wong and those on the other side. I know many of them do not care about small business, but this is vital. If we make decisions in this place that destroy the cash flow and value of small business, then we should hang our heads in shame—that is the first point I want to make.

When it came to the regulation changes by our government, the scaremongering that went on to say the best interest test will be removed was simply wrong. Section 961B and 961J clearly stated that. We altered and tinkered with the catch-all clause 961B(2)(g) to prevent people from being sued everywhere.

The opt-in—of course the original inquiry chaired by Bernie Ripoll MP—was the suggestion of industry super funds. I see today out there in the corridors Robbie Campo and David Whitely from industry super funds with grins on their faces like a cat out of a dairy; they are very pleased that they have rounded up the troops to support their cause.

I want to read from Judith Sloan's story here: 'Links with industry super funds are worth probing.'

**Senator Wong interjecting—**

**Senator WILLIAMS:** Senator Wong perhaps does not want me to read this.

**Senator Wong:** No, it's just Judith Sloan—we all know.

**Senator WILLIAMS:** But let me quote—Senator Wong obviously does not send Judith Sloan Christmas cards.

**Senator Wong:** No, you're right.

**Senator WILLIAMS:** No wonder Australia Post is in trouble. Judith Sloan said:

A few weeks ago, former NSW Labor politician and unionist Michael Costa made some very interesting remarks.

'The royal commission (into trade union governance and corruption) has exposed some massive problems … I think the most important is the governance of industry (superannuation) funds,' he said.

'There’s billions of dollars in these funds and they are badly managed in terms of corporate governance. The rorts that are going on there are horrific and they need to be dealt with.'

They were the words of former New South Wales Labor minister and politician Michael Costa.

Judith Sloan goes on to say:

For an outsider, it is difficult to come to grips with the workings of industry super funds. Their annual reports are generally a combination of pictures of happy workers, random charts and effusive copy about the benefits of compulsory superannuation and industry funds. The consolidated financial statements tell you little, and, with few exceptions, it has not been possible to establish the remuneration of the executives or trustees.

She goes on to say:

The first serious inkling I had about the dubious practices of industry super funds came in 2010, when failed Labor candidate for the seat of Melbourne Cath Bowtell was conveniently given the job of chief executive of the Australian Government Employees Superannuation Trust.

At the time, opposition finance spokesman Andrew Robb queried the appointment.

We will go on to see what Senator Wong said:
The finance minister, Penny Wong, hit back, claiming that Bowtell (who had once worked for the ACTU) had been a superannuation trustee for more than 10 years—a trustee—so what? 

and a member of the AGEST board for five years. 

So what?

But the truth is that being a trustee and being a chief executive of a superannuation fund are very different tasks. 

As I said, if this disallowance goes through, we will have the opt-in back in place for more costs, and those planners and advisers will charge more and the consumer will pay for it. 

After the recent ASIC inquiry, we have only one in five Australians on average seeking financial advice. Sure there is a lot to do for the industry to improve it. However, when it comes to these sorts of things and industry super funds, it is just amazing. 

I questioned ASIC at Senate estimates about The New Daily. I was interested to read a story recently—The New Daily is an online newspaper. It said:

General news website The New Daily has raised a further $3 million in capital from Australia's industry super funds, less than six months after launching. 

They kicked off with $3 million; now they have kicked the can for another $3 million and there could be another $3 million on the way—they set up a newspaper to send information to their members. They have got our email addresses. Why can't they put a monthly report together? They do not spend $6 million and then look for another $3 million. 

A source at Cbus also confirmed the super fund was re-examining its investment in The New Daily after less than 12 months. 

—it is already re-examining it. 

The New Daily has been marketed to the more than five million Australians who are members of not-for-profit, or industry, funds. But Nielsen figures show the site had a unique audience of 124,000 in June, and 106,000 in May, putting it just outside the top 100 news sites. 

The $6 million kicked in the can was your money, Mr Acting Deputy President Sterle and mine. I do not want my Australian super funds going into some crazy newspaper, but some bright spark thought this would be a great idea. 

It went on:

Its directors are industry funds stalwart Garry Weaven, AustralianSuper director Alison Terry, Media Super chairman Gerard Noonan and former Fairfax executive Glenn Thompson. Mr Weaven told last year: "I'm the first one to understand that it is somewhat speculative. The market is moving all the time. But, on the numbers we've done, it can be justified as a commercial investment." 

A commercial investment—$3 million from the Australian Super funds, then kick the can for another three million. This is just in 12 months! 'Oh, it is a great commercial investment.' What is it all about? I would like to know. As I said to ASIC, it should be canned. 

I will follow this closely. I want to say this, Mr Acting Deputy President and I am going to be very frank, as you are whenever you speak: the previous Labor government's FoFA did not address the big problem, and our changes have still not addressed the big problem. The big problem in financial advice is what is called vertical integration. Imagine if I was a salesman for a Ford dealer, and you came in with your wife and six children and said, 'I need to buy a vehicle'—and I had the obligation to sell you the vehicle that is in your best interests. I might
not have that product, but I would try to sell you something for Ford, because I work for Ford. Mr Acting Deputy President, I would not say to you: ‘Go down to Toyota. They have got a Tarago; it seats eight, it is a good safe vehicle, it is economical. That would be the best vehicle for you.’ I am working for Ford: they pay my way; I am going to try to sell you a Ford.

That is what happens in the financial planning industry. The big six—the big four banks, Macquarie Private Wealth and AMP—basically run the industry: their planners work for them. And it is likewise in the financial industry when you wish to invest your money or your self-managed super fund or whatever. They are going to tell you to invest in one of their products—but it may not be the best product in your case or in your circumstances. This is the problem that I am highlighting in this chamber now with vertical integration, and no FoFA regulations have ever addressed it. It should be torn down and rebuilt. I do not know for sure, but I believe that if you are a financial planner in the UK, you cannot be linked to any company. You are actually fully independent. It is a bit like politics—if you are an Independent, vote where you like; if you are in a party such as yours, you vote where you are told. So here is the problem we are facing—and FoFA has never addressed this.

I just want to say this—and I have highlighted this—to Senator Xenophon and Senator Lambie, and Senator Muir and Senator Madigan: if you do not bring these amendments in to save the value of those small businesses, we will highlight it to those businesses—we will go right around Australia saying: ‘The value of your business has just gone down by 90 per cent. Your cash flow has gone. You built a business that you were allowed to build under the regulations and under the rules.’ And with what has come here before us today, you are going to destroy the value of those businesses. That to me is totally unacceptable. And I hope that those amendments do come through, no matter what happens today.

We have done a lot of work on financial planning and on getting things together. The crazy system where you can do an eight-day crash course to become a financial planner—we even found, in a recent inquiry, a one-hour course online: it will cost you nothing, you pass the test and you are a financial planner! It is called RG 146, Regulatory Guide 146. It is a farce. After our ASIC inquiry, the recommendation of the committee was to have the Parliamentary Joint Committee on Corporations and Financial Services look at those standards—and that is exactly what we are doing now, under the good chairmanship of Senator Fawcett. Hopefully we will soon have a recommendation to make sure that when you are a financial planner, you are actually an expert; that you have a degree, that you have had training, that you have the right attitude—that you are not someone who walks out of a shearing shed, does a one-hour crash course on the internet, and then tells people how to invest their hard-earned money.

The next thing we need to do is for the parliamentary joint committee to have an inquiry into financial products. I see in a listing just recently that since 2005, $37 billion of money invested in Australia was either frozen or the companies went belly up. We could take it back to the analogy of the cars—I sell you a Ford: ‘This is the best vehicle for you’. You head off down the road, but the car I sold you did not have any brakes. You go down the hill, you hit a truck—no brakes; you end up in a mess. We have financial products out there that are shonky—they are dangerous; they are like cars with no brakes. That is the next inquiry we should look at, to see what we can do so that where people invest their money in this country—their hard-earned money, or the money that their parents may have worked hard for,
or from their parents' house when they have passed on—their money is not put at risk. With some of the financial products we have seen, you might as well put your money on a favourite in the Melbourne Cup, for all the good the product was! It is pretty lucky to pick the winner in that—even though my chief of staff did pick me the winner this year.

We brought in these FoFA regulations, under Senator Cormann, to save the costs, to roll back the red tape, to make it better for people to seek advice—and to protect and grandfather the small businesses, with their investments, their hard work and their cash flow. And I want everyone in this chamber to realise that. Senator Whish-Wilson, you have a business brain—if you vote under the current disallowance, you will destroy the value of those businesses. It would be like us saying to you now, 'From tomorrow, all wine is banned from being sold in Australia'. Senator Whish-Wilson would say, 'Hang on a minute, I have spent a lot of money and done a lot of work to build a winery'—and we have just destroyed your business. This is no different whatsoever. So if you do not at least retain those grandfathering measures in this legislation, hundreds and hundreds of small businesses out there are going to be destroyed financially. And what does that lead to? I will tell you, Mr Acting Deputy President: financial pressure; disputes in the family; no mon, no fun; marriage break-ups; and sometimes, unfortunately, suicide. So, Senator Xenophon, Senator Lambie and Senator Muir—I know that Senator Madigan has listened to me—you are the ones that are the big players in this game. I hope that you see that those small businesses are protected in this country. That is the most important thing I ask for.

As time goes on, I hope that we can also clean up the standards of the financial planners—and I do respect those financial planners. Many of them have done the right thing and put their clients first, and they have given them the best products—safe products. I do apologise if we have damaged their reputations—because some in that field have been terrible; some of them at Commonwealth Financial Planning; some of them at Macquarie Private Wealth. They have all been highlighted and put out there in the media, but those bad eggs have destroyed the reputations of many good people in this profession. It is a most important industry. We have some $600 billion now in self-managed super funds. We want to grow that super. We want those people to retire with a good nest egg, so they are not a burden on the taxpayer of Australia. You know how the population of baby boomers is coming on and how big the population of elderly people is going to grow in the next 10 years. This is a very important issue. I repeat: Labor's FoFA and our amendments have never addressed the big issue, and the big issue is vertical integration. When we fix that problem, people will get put into the best financial products in their interest. At that, I once again call on those crossbench senators to make sure that they do not destroy the financial value and the livelihood of those small financial planning businesses who have worked so hard.

Senator BACK (Western Australia) (17:37): I rise to contribute to this debate, as disappointing as it is that we have to conduct it.

Senator Wong interjecting—

Senator BACK: In answer to Senator Wong's question, no. Earlier, I simply spoke on a procedural motion. I want to examine a number of things this afternoon. The first, of course, is the motivation of the Labor Party in trying to bring forward this disallowance. I want to comment on the good order of the parliament and the opportunity for the full Senate complement to debate the issue. I want to comment a little bit on ASIC provisions and on
commitments that were given to Senator Muir and to the members of the Palmer United Party at that time. I also want to comment on the coalition’s contribution.

Through you, Acting Deputy President, I make this comment to Senator Muir: this all goes back to 2012–13, when a review was undertaken of industry super and superannuation generally. Following that, the then minister decided that he would go well beyond the recommendations of what we already regarded as a very biased report. Through you, Mr Acting Deputy President, to Senator Muir, one of those outcomes was that legislation was introduced so that, under the Fair Work Commission process, industry super funds would become the default funds. In other words, if someone did not make a declaration at all as to what their preference was for superannuation, they were immediately to go into an industry super fund or, in the case of the public sector, to a public sector super fund. We violently objected to that because we thought that there should be the opportunity for competition and for the investor—the employee or worker—to actually be involved in that decision-making process. Once we came into government, we reversed it.

What was the motivation attending that legislation? I am glad that Senator Dastyari is in the chamber; the main incentive was to boost the industry and public sector superannuation funds. Senator Muir, I am not aware of whether or not you realise that, in terms of the decision you have made to actually change your position on the regulation that is before us, which Minister Cormann introduced and which had passed twice in this place.

This today, colleagues, is not about the small investor. It is not about the small investor, Senator Madigan—through you, Acting Deputy President. This is about protecting the interests of the industry and public sector superannuation funds. Senator Cameron made a comment about the big banks. Let me make this point: it was through the coalition government that Mr David Murray—obviously an eminent person in the banking and financial sector—was asked to undertake an inquiry into aberrations and failures of the banking system as it relates to advice to investors et cetera. That inquiry is about to be presented. We are eagerly awaiting the outcome of that inquiry, which, of course, has been the subject of an enormous amount of speculation. So the distraction, which Senator Cameron brought to this place this afternoon, about the big banks is totally irrelevant.

In the few moments of my earlier contribution during what should have still been question time—when Senator Day and others from the crossbench should have had their opportunity—I was able to draw to the Senate's attention the gross anomaly and hypocrisy that has gone on in this place. What is that to do with? One of the provisions that are now being argued by Senator Dastyari and others is the opt-in provision—the provision that financial advisers, be they big banks or whoever, should have to ensure that their investors opt in on a regular basis. Only now have we come to the understanding that the one group who are exempted from the need for the opt-in provisions are the industry and public sector superannuation funds. 'Who is that protecting?' I ask Senator Muir. Is that protecting the small investor? No, it is certainly not.

The second point that is of interest is fee disclosure. Financial advisers must disclose fees; the big banks, as providers of financial advice, must disclose their fees. I ask: what about the industry and public sector superannuation funds? Do they have to disclose their fees to their members? The answer to the rhetorical question is: no, they do not have to do that.
The third point is that industry super fund managers alone can change fees whenever they like, without consulting their members, and can actually charge for advice whether given or not. That is what we are talking about here: whether given or not. If time permits, I intend to come back in this discussion to some of the other anomalies that I see in the industry and public sector superannuation funds. I do not want to get into the controversy or the argument that went earlier when Senator Seselja was making his contribution—Senator Cameron was inviting him to make his comments outside and Senator Wong was objecting. All I want to do is to actually get to information that is not in dispute regarding industry and public sector superannuation funds.

In the meantime—through you, to Senator Muir—what I want to do now is move on to the question of the good order of the running of this parliament and, particularly, the running of this Senate. As Senator Cormann has said, on two occasions already this matter has been dealt with by this chamber and it has been passed. Senator Muir, when he makes his contribution, can contradict me if he wants to, but it is my understanding—as a result of the dialogue between the minister, Senator Cormann, and Senator Muir—that whatever requests were made were met. I understand that there was a particular request that there be established a register of financial advisers; that has been done. If I am wrong, I am sure that Senator Cormann will correct me. Not only has it been done but it has been done at a cost to the advisers on a per-transaction basis. It is my further understanding that commitments that were made to the Palmer United Party have been met in the activities that Senator Cormann has brought.

I will not belabour the point as to why we have to have this debate this afternoon. The matter could be dealt with on Thursday next week. We have until that time. There would be opportunity for all 76 of us to contribute. Those who are not here this week because they have made other arrangements, because we had not planned to meet this week, will be denied the opportunity to contribute. I can think of Senator Reynolds, Senator Birmingham and Senator Edwards on our side, and I know there are others. All of us would want to make a contribution to this critically important debate. All of us have the interests of small investors, ourselves, our families and our friends in mind. Which of us do not have the interests of ourselves, our families, our associates and our constituents in mind? Which one of us is not looking after the interests of each of these people?

No-one has a mortgage on an interest in probity, ethics and honesty when it comes to the small investor. Senator Williams made the point—and I will agree with Senator Cameron—that the small investor must be protected. But this motion is not about the small investor, as I have already commented. Senator Cameron believes it is about the big banks. I have addressed the question of the big banks and financial advice. I believe that this is an extension, through Senator Dastyari and his motion, of protecting the large super funds, who are uniquely exempted in so many areas. Let me remind senators that, as of March 2013, the industry and public sector super funds were holding about one-third, about $350 billion, of the superannuation pool.

One of my colleagues gave me an assurance that ASIC has the power to introduce what I will call a patch for a period of up to six months to allow the industry to make an adjustment. If that is the case, if ASIC has that power, then what is the reason for us not allowing all senators to contribute to this debate?
Senator Whish-Wilson interjecting—

Senator BACK: If indeed ASIC can introduce that—to Senator Whish-Wilson through you, Mr Acting Deputy President Sterle—where is the problem associated with allowing a full debate by the Senate, so that all of us have the opportunity for input? Senator Xenophon mentioned the coalition of common sense. I say let us have the common sense of full opportunity. Let us have the coalition of full democracy as it relates to this place.

Mr Acting Deputy President, your associate Bernie Ripoll, from the other place, a person for whom I have high regard, chaired an inquiry following the Storm Financial collapse. The recommendations of that inquiry had unanimous support. But in introducing its legislation the former Labor government went well beyond the recommendations of the Ripoll inquiry, particularly in relation to opt-in provisions. I do not know who can tell me how a small investor's interests, security or safety are protected by an opt-in provision. I do not know. It is not something I understand. But if an opt-in provision is so valuable, colleagues—through you Mr Acting Deputy President to Senator Dastyari—if it is so important for the protection of small investors, why have the industry and public sector superannuation funds been exempted from it? Are they the only ones who do not need to be protected? Is that the rationale? There isn't any rationale. There is no logic. If the opt-in provision protects small investors then why are the industry funds, which represent one-third of the pool, exempted? I cannot understand the logic of it.

Somebody in discussion across the chamber this afternoon, or perhaps this morning, made the observation that people are at risk of losing their homes. Nothing I have seen in what we are debating in any way affects whether a person might or might not lose their home. Mr Acting Deputy President Sterle, we have all had harrowing representations from people who have lost money through crooks and criminals in the managed investment schemes which you and I have some knowledge of in the agricultural sector, but nothing that Senator Cormann has proposed or that Senator Dastyari is trying to disallow has any impact at all on that matter. They are dealt with in different forums.

What is of interest, of course, is a comment that was made to an inquiry by Mr Greg Medcraft, from ASIC. He said that only about one in five Australians are seeking financial advice at the moment. He said that is dangerous and inadequate, and that we should be aiming for one in two. So what will happen if this regulation is disallowed? Where will we find the small investor? Senator Cormann told us this morning about the estimate that the red-tape he has attempted to eliminate by way of his legislation will cost some $750 million up-front, if my record is correct, with additional compliance costs of $375 million.

Senator Whish-Wilson interjecting—

Senator BACK: As Senator Whish-Wilson and I both know, having been consultants and advisers and having provided services to people, those costs are paid for not by Father Christmas and not by the Easter Bunny, but by whom? They are paid for by the investor. They flow down to the small investor.

The big banks? They will be able to pick up these administrative costs. No problem. But what about the small financial advisers. One, from Rockingham, just near HMAS Stirling, wrote to me. I have known the person for many years. In fact, I know he has written to several of our colleagues telling us that his 36-year business is now at risk, as are the jobs of the
people he employs. Many of his clients are Navy personnel from HMAS Stirling, both present and those who have stayed with him as they have moved on. He objects violently—through you, Acting Deputy President, to Senator Dastyari, if he is there, who I think chose his words in a very callous and cruel way. This fellow has actually repeated them. He says: 'I am not a crook and do not deserve to be treated as one by my national parliament. I object to Labor’s solution to controlling a few poor advisers, because it treats all of us as criminals, undermines our capacity to continue doing good work for our clients and communities, and risks our capacities to support our families and those of our employees.’ That is what we are about here—‘those of our employees’.

We know that when the then Labor government introduced the legislation, they did something that used to be most unusual prior to Labor being in government—that is, the Prime Minister excused them from undertaking a regulatory impact statement, which would have required a cost-benefit analysis, when the opt-in and other legislation was brought into place. The simple fact of the matter is that the reason for not doing a cost-benefit analysis is that I think they had a fairly good idea that the costs would far outweigh the benefits.

With respect, Senator Lambie, Senator Muir and Senator Madigan, through you Acting Deputy President, I think you have been duped in this area, because nothing that is being proposed today is going to improve or increase protection to small investors. What it is going to do is put at risk the small financial advisers. It is going to do nothing to improve the lot of small investors. As has been put as a result of the Ripoll inquiry, the coalition made it clear prior to July, when Senator Cormann brought this matter into this place, that we supported sensible financial advice reforms that increase access to affordable, high-quality advice, as well as transparency, consumer choice and competition.

Secondly, we explicitly supported the introduction of a statutory best-interest duty for financial advisers, and the ban on conflicted remuneration or commissions that distort investment advice. That is in there. And we expressed our concern that investors receiving financial advice would face more red tape, increased costs and reduced choice. As Senator Bushby said so often in the discussion this morning whilst we were going through the procedural motions, all this is doing is removing equality in the sense that large investors will be able to afford the advice that will be required under those red tape provisions. It is the small investor, who so often desperately needs that advice, who will be funded and costed out of the process.

So I ask you to give some thought and consideration to what are the obvious motives, in my belief, of Senator Dastyari in moving this disallowance motion. Through you Acting Deputy President, if it was a level playing field, Senator Madigan, Senator Xenophon, Senator Whish-Wilson, Senator Lambie and Senator Muir, if all of them were on the same level playing field, I would have a little bit of interest in it. But when one player, representing a third of the size of the oval, has a significant advantage—they do not have to comply with opt-in, or worry about advising fees, and do not have to comply with corporate law in relation to a majority of independent directors, and have only just recently had to declare what fees are paid to their directors and executives, only as a result of a few weeks ago—I am saying to you that this is not a level playing field. I am saying to you that there are players in this game who are getting an advantage, and I have to say that, unfortunately, I think you have been taken
advantage of. You need to give that some careful thought. We can debate this with the full Senate by next Thursday.

**Senator MUIR (Victoria) (17:57):** I would like to note that this is not my first speech. I rise to speak briefly in support of this motion to disallow the Corporations Amendment (Streamlining Future of Financial Advice) Regulation 2014. This motion is about ensuring that significant legislative change is made in a way that is consistent with proper parliamentary and democratic process.

Since announcing my decision this morning to support the disallowance of the corporations amendment regulation I have been repeatedly accused of backflipping on my previous decision to support the regulation. I can accept the pretences that this is based on. However, I would like to make it clear that in the first sitting period after 1 July all the new senators were bombarded with a very large amount of legislation to negotiate, without the ability to speak with constituents and stakeholders in a timely manner. Decisions made in this time were made with the best available information. However, I find it an important part of my job, especially as an independent senator, to listen to all information, including information I may learn as time goes on. If this information leads to me changing my mind, it is not an attack on anybody; it is about keeping to my Senate commitment to make informed decisions.

The regulations make significant changes to the operation of the Corporations Act and by doing so prevent parliamentary scrutiny, which would normally occur. Consumer groups such as Choice, National Seniors and the Council on the Ageing have all voiced significant concerns about the changes. I have heard the concerns of many consumers and investors who have lost everything. We have an opportunity to re-address the bill and to debate the legislation further, hopefully with an outcome that will suit investors and financial planners, especially the small businesses.

The Senate Standing Committee on Regulations and Ordinances scrutinised the regulations and at page 10 of its report stated:

The appropriateness, desirability and cost-benefit implications of particular measures for regulating a specific industry are not matters which go to the substance of the key concern raised by this (and the Scrutiny of Bills) committee, which is that the regulation makes fundamental legislative change that may be more appropriate for parliamentary enactment (that is, via primary rather than delegated legislation).

I am also of the understanding that the government can work with ASIC to create a transitional period for financial planners and suggest they consider it.

I have heard both sides of the story about the changes to FoFA, but I would like to be clear about one thing. I am not interested in hearing about whether the government thinks this is all about the industry super funds and the union movement, nor am I interested in hearing about whether the opposition think this all about keeping the big banks happy. What I am interested in is protecting consumers and protecting my constituents. This disallowance motion ensures that any proposed changes to financial advice laws that impact on consumers are properly scrutinised by the parliament.

**Senator WHISH-WILSON (Tasmania) (18:01):** Senator Muir, and Senator Lambie, to her credit, said what is important here tonight—that is, what is in the public interest. Whatever you think of this FoFA debate, the major consumer group in this country Choice and the two major groups that represent seniors are arguably those who have been most...
impacted by financial scandals and they are not happy with the government's amendments to FoFA. That is a fact and nothing is going to change that—they are not happy. So it is very important to note that in line with what Senator Muir is going to talk about with the advice from the committee on the regulations, which I will not go into myself, these regulations were rushed through prior to 30 June and they would not have passed this place if they had been put in the form of legislation, and that is because we have significant concerns with the changes and the watering down of financial advice laws in this country. I would like to put it in my words, in layman's terms, why FoFA and why the FoFA laws are important.

They were designed to send a very clear message to consumers who need to get financial advice. Let us all be clear: the more Australians who get good, independent financial advice the better because it helps them manage for their future and has all sorts of flow-through effects on the economy. It was designed to get good financial advice to as many people as possible. And that needed trust, the glue that would bring the Australian people into the offices of financial planners, be they big financial planners or small financial planners. That glue was missing because of the large financial scandals, which we cannot ignore are a reality. They occurred around the world in the GFC and of course they have occurred here with a number of very high profile blow-ups.

These laws were designed after four or five years of consultation—and I have to hand it to Labor; they championed these laws—and they were designed to send a big message. Perhaps in some people's view that message was overkill, that maybe financial planners had to do more paperwork, that it might have impacted on their cost of doing business. From my point of view, that cost was outweighed by the potential cost of a person or a family losing their life savings because of the risks from poor financial advice.

One of the key risks from poor financial advice was advisers selling products to people that were not necessarily in their financial interest. I would argue against Senator Cormann that that has not really been changed in his regulations or in his attempt to actually change the FoFA legislation or the amendments. I argue that that incentive is still fundamentally in place. Although we can argue about what is a commission and what is not a commission, a sales-based culture still exists in a number of the large financial services companies.

I would like to address the issue of small business very quickly. Unlike a lot of the senators who have spoken tonight about the impact on small business, I have met with dozens of small financial planners during the FoFA legislation and I listened to what they had to say. It actually informed my view and the Greens dissenting report. I can tell you that amongst all the financial planners I met, some had their licences through big financial services companies and some were genuinely independent, they all disagreed on various aspects of FoFA, whether it was opt-in, a catch-all phrase or what was conflicted remuneration—they all had different views. Some were okay with the FoFA laws as they stood; others wanted different things changed. I know that their association has put out a media release today saying all sorts of negative things about what we are discussing here today. But I know that I can sleep well tonight because I have spoken to these businesses.

I have also worked in a large bank. I have been part of a sales-based culture. I have a lot of friends still working in banks and I do not think that sales-based culture has changed. There is nothing necessarily wrong with a sales-based culture but there is something wrong with a
culture that still has inbuilt conflicts of interest, where it is in an adviser's interest to recommend a product. That is still in place.

Senator Ian Macdonald: Why aren't the industry super funds involved?

Senator WHISH-WILSON: I do not want to get into the industry super fund thing. I think it is a distraction—

Senator Ian Macdonald: Why are the rules different?

The ACTING DEPUTY PRESIDENT (Senator Sterle): Order!

Senator WHISH-WILSON: I come at this as someone who has worked in a bank, understands financial planning and has grave issues about consumers of financial products. Also, I have seen firsthand the disasters that have been wreaked by a cultural problem in the financial services industry—and it is in the big end of the financial services industry. I do not necessarily see that issue amongst smaller independent financial planners. I have also met with smaller financial planners who had their licences through big firms, and I will say that lot of them are good people. They provide good service—good advice. If we have their interests at heart, if we have small businesses' interests at heart, what we have to do here tonight is disallow these motions, bring the legislation back, get it right for all stakeholders and send a message, through our legislation, that we do have tough laws in this country to provide the right financial advice for people and to provide the confidence that Australians need to go and see their financial planners. That is good for financial planners. That is good for the growth of their industry. They want more Australians to go and seek advice. Australians want to feel confident. They want to know who is an independent financial planner. They want to know that they can trust their financial planners. I accept the blow-ups and this whole debate that we have had in parliament have impacted the reputation of their industry. That is absolutely the reason why it is crucial for those small businesses, as well as for the customer who is seeking financial advice, that we actually get this legislation right.

Let me reiterate again that, whatever you say and whatever your argument, the fact remains that the key consumer group in this country and the key groups representing hundreds of thousands of pensioners do not agree, Senator Cormann—through you, Acting Deputy President—with the government's amendments to FoFA. They wanted to see a strong message sent. Let me also say this: on the so-called costs—this idea that we need to get the balance right and that somehow the provision of financial services is going to price out of the market financial services to a lot of people—those numbers were provided by the banking industry. They have not been tested. This legislation is only just coming into effect.

The Greens sensibly suggested that we have a five-year period where the full FoFA reforms were put through—but we will look at amendments—and where we then have an evidence-based approach for an independent assessment of the costs of financial services. I am sorry, but sometimes—while I am primarily focused on the public interest in this debate—
special interests are not the same as public interests. I am very concerned that the banking sector lobbied—and we have all the evidence we need on this—very hard, it is no surprise, to get these changes to FoFA, and to get them through before 30 June. We have that evidence from the Senate inquiry. They lobbied very hard and Senator Cormann delivered for them. I am not bashing the banks; I have worked for one. I understand the financial system; I taught international finance for years at university. What I am concerned about is that special interests are not the same thing as the public's interest. We need to get this legislation right for the public, for the small businesses and for the reputation of the entire industry, which includes the banking industry.

The last thing that I would like to address is the idea of Fact Check—the ABC Fact Check. I noticed Senator Cormann—through you, Acting Deputy President—very deftly, in his interview with Alan Jones recently, avoided quite an important question by quoting Fact Check, and I have seen Senator Cormann do it in the chamber several times. No-one is disputing that commissions have been taken off the sale or the provision of individual products. That is not the issue here. The issue is that, in aggregate, we still have a volume-based incentive in place. That cannot be denied. In fact, I have the exact quote from your own legislation on the regulations, Senator Cormann, that actually talks about this. It is on page 27 of your own explanatory memorandum. It says:

... the Government intends to introduce a targeted 'general advice provision' that specifies that monetary benefits paid in relation to general advice are not conflicted remuneration as long as certain conditions are met.

And then it adds:

It is important to note that neither the no commissions limb, nor the general advice provision, prevents the payment of a salary or a performance benefit (such as a performance bonus paid subject to a balanced scorecard).

That is clearly the provision for a volume-based sales incentive program. And I will repeat it: you can call it commissions, you can call it a bonus, you can call it whatever you want, but I like to use the word 'incentive', because that word 'incentive' goes to the heart of conflicted remuneration. While there are incentives in place for financial advisers to recommend a product—because, whether it is on that individual product or whether it is at the end of the month or at the end of the year, they get a bonus based on the number of products they sell—that is still conflicted remuneration in anyone's language.

I will reiterate what I got told by an employee at one of the major banks recently. He said to me that his job was at risk because he had not met his sales targets. When his boss had talked to him about this, he said, 'I haven't necessarily felt that these products were the right things for the people I have been meeting,' and he was told in no uncertain terms his job was to make money for the bank. I was only told that in the last few weeks. Having worked at a bank, and having seen, through the Senate inquiry, what caused the Commonwealth Bank financial planning scandal, I know it was not just a culture at the financial planning level in these big vertically integrated organisations; it was up through the management, because they all benefited when their advisers are riding lots of business. That is why they covered up this scandal for so long, because while the music was playing they were all dancing, and they did not want to stop. They were all doing very well out of it, thank you very much.
I hope the Murray financial services inquiry will be looking at these types of issues. Why did we rush through these regulations before the Murray inquiry has released its findings? It is the government’s own inquiry and it is critical to this debate. So let’s get the legislation back. We know through ASIC that there will be no chaos, as we heard from Senator Abetz and others today. There is a grace period. We can go back to the FOFA—which, by the way, the banks were preparing for anyway, as were the financial planners. They were preparing for this for years. The idea that somehow they are all going to go out of business is just plain fearmongering.

I will finish with this. If we want to look after the small businesses and Australians who need financial advice, and even the reputation of the big banks—and let us not doubt that ANZ is under the pump with what we are discovering at the moment around the Timbercorp collapse; and there is a lot more stuff to come out, particularly if we get a royal commission up on banks—and if they want to do the right thing by their reputation, they should accept a strong set of laws and put their own self-interest, with unfounded estimates of cost blow-outs, aside and give it a chance to work. Give the Australian people the confidence they need to get financial planning advice and let’s see if it works. Let’s assess how many more people get financial planning advice, assess what it costs and do that properly. Let’s not just take the word of the big banks that somehow this is going to blow out their costs or kill small business. Let’s give it a go. We cannot do that until we disallow these regulations and get a proper set of legislative measures in place that satisfy all stakeholders. That reputational damage will not be removed till the key consumer groups in this country and the key stakeholders are satisfied. That is what we need to be doing as parliamentarians and that is what the Australian people expect.

Senator CANAVAN (Queensland) (18:16): Following on from Senator Whish-Wilson, I too have met with businesses to discuss this issue. Only a month ago, I was in Stanthorpe, which is south-west of Brisbane. I went to dinner there and I was expecting to talk about 457 visas for growers, wine equalisation tax issues and tourist issues, but there was a small business man there who has a financial advice business in Stanthorpe, with offices in Warwick. He thanked me, but he was really thanking Minister Cormann for the work he has done to take a huge regulatory burden off his business. It is a small business in a small town of only a few thousand people, and these changes that Labor introduced a few years ago had a massive impact on his business. Every two years, he has to ask his clients to sign back up with him. Imagine that if you were in any other business. Imagine if you were in any other business, you had an ongoing relationship with your clients and your customers, and you had to go back to them every two years and re-sign a contract. It is an unreasonable, unfair and unbalanced requirement on the small businesses of this nation that provide financial advice in our towns.

I heard Senator Whish-Wilson talk about how we want to encourage Australians to seek financial advice, and I agree completely, but people in regional areas who will rely on small businesses particularly to provide that advice will have more limited opportunities if we disallow these regulations today, because this regulatory burden will be put back on those businesses.

I took note of Senator Muir’s contribution as well. I congratulate and commend him on the fine words in his first contribution—I think it was his first contribution—to this place. I
particularly took note, Senator Muir, of your statement that we should make sure we have sufficient parliamentary scrutiny of measures that go before this place, and I absolutely agree, but why, then, are we rushing this debate today? Why are we putting this through today when we could have another week to look at it? What was the urgency of having to announce this overnight in a deal done between different parties behind the scenes and, as you admit, Senator Muir, to break a commitment you made with the government? Why can't we have sufficient parliamentary scrutiny to assess the implications of these changes? We all know the reason for that. As you said, Senator Muir, you were worried about other people talking to you about the other implications of what might happen. Why shouldn't we wait for that? Why shouldn't you make the time and have the respect for this place to wait for this to come before the parliament?

I want to say something that bears on the point that you made, Senator Muir, that we need scrutiny of regulatory and legislative changes. We absolutely do, but what you may not realise is that, when the former government put these reforms in place, they did not get the scrutiny they were meant to have. They got no scrutiny from the proper regulatory impact statement processes that both sides of politics have signed up to. Both sides of politics agree that major regulations have to go through a process before they go to cabinet and definitely before they come to this place. That is to make sure that, when we place these imposts on small businesses like those in Stanthorpe, there is not an undue regulatory burden placed on them. There is a good reason we have those processes. But, in this case, when there were major changes proposed to the financial advice regulatory landscape in this country, no regulatory impact statement was prepared. The regulatory cost of these changes was around $750 million up-front for the businesses all around the country. The ongoing cost is expected to be $350 million a year—not an insubstantial amount of money—but no regulatory impact statement was done by the former government.

The reason they did not do that was that they knew the answer they would get. In government, there is a solid rule: you do not ask a question if you do not know what the answer is going to be—but they knew what the answer was going to be. They knew that, if a regulatory impact statement was done on these changes, it would come back negative, for the reasons that Senator Back and Minister Cormann have outlined: this is an undue impost on small businesses. It is also unfair in that these two-yearly opt-in provisions that I discussed earlier are a requirement for private businesses or those providing individual advice but not a requirement for those who are involved in providing advice through an industry superannuation fund. Intrafund advice under the laws is exempt, and there is no good reason for that at all. On this side, we believe in fee disclosure. We believe that people providing advice should have to disclose their fees, but industry super funds are exempt under these laws from disclosing their fees to their clients. Why should they be exempt? Why shouldn't the clients of industry super funds have the same access to information as clients of a different type of financial advice? There is no good reason and there has not been one provided in this debate. The issue has been ignored—and ignored for good reason by those on the other side.

I also say to Senator Muir: there has been parliamentary scrutiny of these changes that the government has put forward. There have been two Senate economics committee reports on these changes, both of which have recommended that they be enacted. There have been submissions taken by those inquiries and hearings conducted. There has been lots of scrutiny.
The other thing is that the people have been able to scrutinise these changes, too, because the policy of the coalition has remained consistent for years now—right from the start when Labor introduced these reforms and we knew they had not done a regulatory impact statement. I saw Senator Cormann develop the government's position in opposition when it was his portfolio responsibility and I have seen Senator Sinodinos, when it was his responsibility, and, of course, now we have Minister Cormann conducting this—and it has been consistent the whole way through. The people voted on this last year. It was put to a vote and the government received a mandate on these changes. It was assessed by the people. So we have now had parliamentary scrutiny and we have had the democratic scrutiny we have through elections, but apparently that is still not enough. Why is it not enough?

I believe what has happened in this chamber today is extremely regrettable. We have decided to make a change overnight to what the landscape was and to what the regulations in our country were. And we all know why we are doing this. I believe we are going to do this because individual members of the Palmer United Party want to split with their party and cause division. That is going to have a multimillion dollar impact on small business—all for the interests of a minor party in this chamber.

Senator Xenophon: Mr Acting Deputy President, I rise on a point of order. The honourable senator is impugning the motives of another senator, basically saying that they are going down a path to vote for legislation for motives that appear to be malicious. That seems to be quite improper.

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson): That is not a point of order, Senator Xenophon.

Senator CANAVAN: As I was saying, Senator Xenophon, we all know why this deal has been done. We know it and you know it.

Senator Xenophon: Mr Acting Deputy President, I rise on a point of order. Unless Senator Canavan is a psychic, he does not know unless I have said so.

The ACTING DEPUTY PRESIDENT: Senator Xenophon, that is a debating point; it is not a point of order.

Senator CANAVAN: Let's be clear: we are putting a multimillion dollar impost on small businesses because certain PUPs and the Australian Motoring Enthusiast Party want to unleash the dogs of war in this chamber. That is why we are doing this. We are doing this to satisfy the personal and sectional interests of particular senators.

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT: Sorry, Senator Canavan, can I just get you to clarify that word. I thought you said 'sexual'.

Senator CANAVAN: I said 'sectional', as in a section or a part. When I got here a few months ago, we all as new senators were imbued with a lot of pride and honour. I made the point at the time—and someone told me this, because I did not know it—that this was the third largest intake of new senators in our nation's history after an election. There was a lot of talk of having a new set of crossbenchers to provide new clarity and scrutiny of the government—which I believe. I believe in this chamber. I believe in its right to exist. I believe in the merits of having a review mechanism. I said at the time, 'Well, maybe we will get a new culture. Perhaps we can make a difference.'
I believe that the country got sick and tired of what happened in the previous parliament. They got sick and tired of those overnight deals that were done, where you wake up the next morning and you have a different PM, you wake up the next morning and suddenly you have a carbon tax and you wake up the next morning and you have a major change to the EPBC Act—all because there were deals done behind the scenes without parliamentary scrutiny. So I was hopeful that perhaps that would change and that perhaps we would have proper committees and have legislation go through in a methodical way—exactly how the government has progressed with these changes through the committee process. But, unfortunately, some senators have not decided to go down that route; they are still continuing the dirty deals that were done in the former parliament—the dirty deals that were done by a former government and crossbenchers—which so dirtied this place, and the Australian people rejected it overwhelmingly last year.

I also said, 'If we do not change things as new senators, the Australian people will kick us out too, just like they did the last mob.' That is what they will do. They will get tired of us very quickly if we continue to behave in this way. Yesterday we were not going to disallow the financial advice reforms and today we are. What changed overnight? What changed in this country overnight? Was the temperature different? Did the water change? No, no; we just woke up and decided we were going to do a different thing. How does it give people out there any confidence in this place if every day we just decide to do different things, if we get out of a different side of the bed and we decide to change our laws? I think we should have more consistency than that. I recognise, Senator Muir, that it is hard; that there are lots of things that go through this place. But I also note that crossbenchers are given more advisers to help them, and we all have processes and ways of trying to assess these things. But to every day change our positions on things is the kind of culture—

The ACTING DEPUTY PRESIDENT: Senator Canavan, I would just remind you to direct your comments through the chair, please.

Senator CANAVAN: Thank you, Mr Acting Deputy President. I take that admonition. We have to provide more consistency as a parliament, because people expect that. I was at a dinner with some businesspeople the other night and they were bemoaning the fact that when they go overseas and they are talking to people in China or in Asia they have to spend ages talking about the Australian Senate, how it works and the risks of it.

Senator McEwen interjecting—

Senator CANAVAN: Sorry, Senator McEwen, but that is exactly what they said. Maybe they were lying to me, but they said they had an hour meeting with a major investor in China recently and they spent 30 minutes talking about the Australian Senate—30 minutes of that hour talking about it. That is because of us. We have contributed to that. We have all contributed to that, and we are all continuing to contribute to that with our behaviour today.

I had hoped that we would have a different future. I had hoped that, with the change, things would be different—and I think for the last few months they have been. The Palmer United Party and others have taken a different approach and we have passed legislation. It has taken us a long time. We had to sit late the other night, but we got it done. But, today, we are going back to that different approach which is ad hoc and which means that we wear a different colour shirt every day depending on who we are talking to. I hope that can change in the future.
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I want to finish by commending the work that Minister Cormann has done in the last few years in prosecuting this issue. He has remained consistent. I do hope that we can find a different way to remove this multimillion dollar regulatory burden on the small businesses of this country, for those businesses that provide financial advice that are not involved in big companies. Minister Cormann made a very good point earlier in this debate—that is, that it is not the big businesses in this country that have to worry about the changes that we are making today; it is the small businesses. They are the people who cannot do this. They must be pulling their hair out right now, thinking they have just got a new framework, it has been put in place and it had the confidence of this parliament—it was voted on by this place—and now, today, we are going to change it all for them.

Who have they got to help them? Who have they got to help them provide their advice? I know that we complain that we do not have enough advisers. It is hard for us. Who do they have? Who do they have to provide advice for them on the changes that we are going to make now? They are going to have to do it all themselves. They are going to have to stay back this weekend and get across it in more detail. They are going to have to spend less time with their kids because of the things we have done in this place. I know that I am not going to change what is going to happen tonight, but I want to put on record that what we are doing is hurting small businesses in this nation. It has to stop and we have to have a different approach.

Senator IAN MACDONALD (Queensland) (18:30): I do not want to keep the chamber very long. I think it is important that we try to, at least, give some certainty about what is happening here. I want to make a couple of points. I see that Senator Williams has joined us in the chamber, and I heard some of the Labor speakers, or perhaps it was Senator Muir, talking about the big banks and the government bending over to them. The government and government senators have been, perhaps, the most assiduous in chasing the big banks and making sure that they do the right thing. Senator Williams, I want to congratulate you on the work you have done in that regard.

Right from the beginning I have been involved in this through friends, very often, and colleagues, or people I know who were impacted by Storm Financial, which I am embarrassed to say emanated out of Townsville, the place where I have my office. I have spoken to hundreds of people. I have spoken at public meetings. In fact, in one of the early public meetings before other senators even became aware of this, I remember speaking to 500 people, who were in various stages of great distress, about what happened with Storm. I remember saying publicly then, 'Banks like the Commonwealth Bank need to look at this, because in the global financial crisis it was the government, that is, the Australian taxpayer, who gave them the guarantees that allowed them to continue.'

At that time it was pretty touch and go that some of the Australian banks might have been in some trouble. The taxpayers, through the government at the time, came in and helped them out. I made a public statement to any bank that was listening, 'We helped you, and now is the time for you to repay the taxpayers by not standing on the letter of the law but by helping people out.' Over a period of time, thanks to many people—and again I mention Senator Williams, and Senator Cormann in a different capacity—some of the banks have done, partly, the right thing. I just want to raise that to refute the suggestion that this is a government that is beholden to the big banks.
I want to say to those two senators, who looked at this very carefully over the period of time when these measures were being very closely looked at, that I assume those senators understood what was being put to them. As I understood it those senators said: 'Look, we think you're generally on the right track, but we want this done, we want this done and we want this done, and we're prepared to sign our names to that. If you do these things that we want you to do, we'll support you.' So, Senator Cormann, as I understand it, did not what Senator Muir and Senator Lambie asked of him. That was the deal. Senator Lambie and Senator Muir said: 'We don't like this, we don't like this and we don't like this. If you fix those up we'll support this.' So, Senator Cormann went out believing that these people were honourable people and actually did that. It cost, I think, a bit of money and a bit of rearrangement of things. Senator Cormann performed his part of the deal.

If I could say to those two senators: it would be like this—and this is a hypothetical if one senator were making her mark in the world because of the alleged maltreatment of the pay of Defence Force personnel—if I were the Prime Minister and went up to that person and said, 'Look, I understand your issue. I promise you we will double their salaries, but I want you to vote for our legislation to do that.' So, that senator said, 'Okay, I'll vote for this legislation today, that legislation tomorrow and that legislation the next day,' and then voted for all the government legislation. Then the government said, 'Oh, well, look, I know we promised we'd double the money, but we have a different view on life now. I know we made that solemn promise with you, but, sorry, you've done your part of the deal, you voted with this. We're fine. Now we've just decided that we're not going to bother about doing what we promised we'd do for you.' How would any senator here feel if that happened? They would not be very happy at all, because you deal with governments and you deal with senators on the basis that they are honourable people. It was not just a deal, and I do not like using the word 'deal', it was a discussion that said, 'We're almost there with you, but we don't like this, this and this.' Then the government goes away and fixes this, this and this, which costs money. So the government would well expect then that the other party would do their part of the deal.

Here, today, for reasons which we can only guess about, it is not happening. It is not too late. I would appeal to the honour of those senators involved to stick by the agreement, because the government has done its deal with you. Can I repeat, if we say: 'We're going to double the pay of the Army, and we know that you're vitally interested in that. We know that you're totally committed to that.' The senators say: 'Okay, you've won us. We're going to do it.' So you immediately start voting with the government on everything, even things you do not agree with. But do you do it and then in six months' time when the issue comes up the government says, 'Ah, sorry, we've changed our mind.' How would any senator feel?

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson): Senator Macdonald, you have been here a lot longer than me but please address your comments through the chair.

Senator IAN MACDONALD: Thank you, Mr Acting Deputy President—I am not talking to anyone, but how would you feel, how would any senator feel, if this deal had been made? I have had my challenges with Senator Lazarus. I think he is a good guy—I like the man—and I hate being nasty to him in committees but I again say that he got himself into this. He got himself into that Palmer inquiry in Queensland. I know he did not want it, I know he knew nothing about it, but he was told to do it by someone else. Senator Lambie might
well appreciate that. While I am on the subject, perhaps you will now vote with us to get rid of that committee.

**The ACTING DEPUTY PRESIDENT:** Through the chair, Senator Macdonald.

**Senator IAN MACDONALD:** Thank you, Mr Acting Deputy President—you are quite right. I take the members of the Palmer United Party and Senator Muir as honourable people. I do not agree with them on some things but I think they are honourable people. I am appealing to them to stick by the deal. It will come back to bite them if they get a reputation for not being able to be trusted.

I want to raise again the matter that Senator Back so forcefully and eloquently raised today, and I think it was also touched on by Senator Cormann and Senator Canavan. Why are the industry super funds being excluded from this? If what is being proposed by Labor and the Greens is good for part of the industry, why is this other part of the industry not being included? Can anyone tell me? Could it possibly be that those industry super funds are creations of the union movement? Could it be that they are closely associated with the union movement? Could it be that Senator Cameron, when he was a union heavy, when he was a union boss, was on the board of one of those industry super funds? He has never told me what he got as a salary as a director of those funds—I guess one day he will tell us about that.

**Senator Smith:** I don't think it was charity.

**Senator IAN MACDONALD:** I am sure it was not charity, Senator Smith—you are quite right there. Forgetting the political implications, can anyone tell me why it is that part of the financial advice industry is going to be subject to these rules but another part is not? If anyone can give me a reasonable explanation of that I would be very keen to hear it. That is why I am very much supportive of the regulation as it has been proposed and oppose this disallowance motion.

Finally, can I indicate to all of those literally hundreds of small businessmen who have approached me about this issue over a long time that I am sorry if this goes through today. I know what it will do to your small business; I know the impact it will have on you. I cannot honestly tell you why you are being treated differently from the union industry super funds. I am sorry if it costs your employees' jobs—that should not be happening. Senator Cormann has worked very hard to get the right balance here, to make sure there are protections for these Storm-like victims. He has done that assiduously. I think the arrangements that were in place had that nice balance between the need for regulation and oversight and not imposing undue demands on small businessmen.

I am still hopeful that honourable senators may rethink the position they have taken so far in the debate and stick by the deal done. Those two senators will be here for another 5½ years at least, and they need to ensure they do not get a reputation for not being able to stand by their commitments. These are not just commitments that they have made; they are commitments that they almost bought by asking the government to do certain things, which the government then went out and did. The government did them. The government did what you wanted. The government did not want to do those things but they did, on the basis that you would support them and maintain certainty in the industry. That is why they did it, only to find that, having played their part in the deal, suddenly you, for reasons best known to yourselves, reneged. That is very, very, very unfortunate and I appeal to the senators involved
to stick by the arrangements they made, which would provide a better regime that is fair to consumers and fair to the small businesses involved.

Senator CORMANN (Western Australia—Minister for Finance) (18:43): What is happening in this chamber today is very sad. It is not sad for any one of us individually, because probably none of us in this chamber are going to be impacted personally by this. To the extent that what is happening here today will push up the cost of advice, we will be able to afford it. But many people across Australia who need access to high quality advice will see the cost of that advice being pushed up and they will find it harder to access advice, so for them this is a very sad development. We have a responsibility in this chamber to act in the public interest. We have a responsibility to very carefully consider public interest considerations, and that is very much what the government has done.

We are not having this debate today because of any change to policy settings. Nothing has changed since the Senate twice voted to support the reforms the government has put forward, reforms aimed at creating a better and more appropriate balance between consumer protection and ensuring access to high-quality and affordable advice. The only thing that has changed since then is that there is now, clearly and manifestly, a split inside the Palmer United Party—and a split between the Palmer United Party and the Australian Motoring Enthusiast Party. That is why we are now, for the third time in four months, having this debate about disallowing a regulation that the Senate has previously supported.

In his contribution, Senator Muir suggested that he was not really interested in whether this would help industry funds or whether it was targeted against banks. But he does not have the luxury of saying he is not interested—because industry funds do have clients. If the Senate has the view that the clients of advisers working for banks need to have protection which forces them to re-sign contracts with their adviser on a regular basis, why should the same protection not be available to clients of industry super funds? That is an absolutely valid policy question.

The overwhelming majority of people across Australia—the silent majority, the forgotten people—are not part of organised labour and are not represented by Choice. Choice is not representative of the overwhelming majority of people across Australia. They have always run a left-wing policy agenda. That is what Choice is all about. Choice is not representative of mainstream consumer interests. When people come into this chamber and say that what Choice says somehow provides justification for what is happening here, I completely reject that.

The truth of the matter is that the changes the previous government made went too far. The reasons have been well articulated in this chamber all day today. They went too far because the then minister, Bill Shorten, wanted to look after his friends in the union movement. He sought to impose additional burdens on small business financial advisers and their clients that did not apply to industry funds and their clients. I flag here that if the Senate is of the view that those burdens ought to be imposed on small business advisers and their clients then, in the interests of competitive neutrality, the government will consider moving amendments to the legislation to ensure that these requirements are extended across the board.

Right now, industry funds charge all of their clients a fee, a fee which is not disclosed. It is a charge for what Bill Shorten has fancily described as 'intrafund advice' but which, in effect, is personal advice or general advice. Industry funds charge their clients that undisclosed fee
for that advice whether it is accessed by the client or not—and the client of an industry fund does not even have the capacity to opt out of that ongoing fee arrangement. That is not to mention that industry funds are not subject to the requirement to re-sign their clients to ongoing fee arrangements every two years. The government will explore whether, in the interests of competitive neutrality, we can make some relevant changes.

Let us go back to the basics. The government reached an agreement with the Palmer United Party on some very important policy matters. There was a key moment in all of this—and I am sure Mr Palmer will not mind me saying so. You might recall that in early July Mr Palmer was making public comments that the Palmer United Party would vote against our changes to the Future of Financial Advice legislation. That was because he then believed—he had assumed—that the assertions being made by Labor about the effects of our changes were true. Labor, through the shadow Treasurer, the shadow minister for financial services and others, had been out there dishonestly asserting that the government was abolishing the 'best interests' duty, that somehow we were removing the requirement in the Corporations Act for advisers to act in the best interests of their client. That was not true. That requirement remains in the Corporations Act. We did not touch it at all. When I was able to point that out to Mr Palmer, that persuaded him to engage in an ongoing and constructive conversation about how our streamlining measures could be further improved.

Labor also asserted, dishonestly and inaccurately, that we were bringing back commissions for financial advisers. That was also untrue. I think it was you, Mr Acting Deputy President Whish-Wilson, who were suggesting—it might have been somebody else, but somebody in the debate was suggesting it—that it did not mean anything that the ABC Fact Check had concluded that Labor's claims were wrong. But it does mean something. The ABC Fact Check said that Labor's claim that the government was bringing back commissions for financial advisers through these FoFA changes, that we were bringing back conflicted remuneration, was inaccurate and that it was scaremongering. The ABC's fact checkers are hardly apologists for the coalition!

Senator Whish-Wilson then said, 'Yes, but you are still allowing incentive payments to continue in the context of general advice and you are still allowing incentive payments through balanced scorecard arrangements.' But that was not our measure. As far as that goes, our regulation implements Mr Shorten's own legislation. I have said this before. The previous government had been quite explicit in saying that their FoFA changes were not about abolishing or prohibiting incentive payments in all circumstances. The previous Labor government indeed themselves envisaged circumstances where incentive payments to advisers were not conflicted remuneration and would be allowed. For example, Bill Shorten, in his second reading speech introducing the FoFA bills, said:

If … a particular stream of income does not conflict advice, then these reforms do not prevent them from receiving that income.

Further, his explanatory memorandum to the bill said:

… if … the remuneration could not reasonably be expected to influence the choice of financial product recommended, or the financial product advice given … the remuneration is not conflicted and is not banned.

Performance pay is a very important part of lifting performance in workplaces right across Australia. But performance pay in this industry needs to be structured so that it does not
conflict with the advice given. For example, it should be able to encourage compliance with
the law; it should be able to encourage more training; it should be able to encourage better
attitudes towards customers; it should be able to encourage better engagement with
stakeholders and a whole range of other things. And, in a very small way that does not
conflict with the advice given, it should be able to encourage performance in terms of
providing advice in relation to products. But commissions have been explicitly banned, and
we have made that ban even more explicit. I refer to a particular section in the regulations that
the Senate is considering the disallowance about. The explicit prohibition that we have
introduced in our regulations prohibits:

- Any payment made solely because a financial product of a class in relation to which the general
  advice was given has been issued or sold to the client; and
- Any recurring payment made because the person has given the general advice.

This prohibition comes on top of requirements that:

- The person providing the general advice has to be an employee of the financial product
  provider and be transparently operating under the name, trademark or business name of the product provider ...

So the person accessing general advice in those circumstances has to be told and has to be
aware of who he is dealing with. Then it is up to the client to make an informed judgement as
to whether they want to continue that conversation.

We did reach an agreement with the Palmer United Party and an agreement also with
Senator Ricky Muir. We promised to do certain things, to make certain improvements, and in
return the Palmer United Party senators and Senator Muir promised that they would not
support the disallowance and that they would support the passage of the FoFA legislation
when it came up. I guess the problem from the government's point of view is that these sorts
of processes can take a while, so we delivered on our side of the bargain. But then certain
senators decided to change their tune—to not deliver on their side of the bargain. What I
would say to Senators Muir and Lambie—through you, Mr Acting Deputy President—is that
the key currency in this business is trust. If you want to be able to deal with each other, if you
want to be able to reach agreements on common ground and on sensible public policy ways
forward, then you have to be able to trust that any agreement will stick. That is the basic
foundation for the way things work here.

I remind the chamber that here we have Labor asserting—inaccurately, I say again. This is
an area which is highly technical, where people with a vested commercial interest or a vested
political interest can easily mislead people. Mr Palmer initially was misled because he
assumed that Labor was telling the truth. When I explained to him what we were actually
doing, he realised he had been misled and he worked with us on behalf of the Palmer United
Party and the Australian Motoring Enthusiast Party on working up some sensible further
improvements. Labor said we were getting rid of the best interests duty—not true. In our
agreement with Palmer United we made a provision that there ought to be a requirement in
the Corporations Act that certain things are explicitly listed in the statement of advice
provided by financial advisers to their client, and signed off by both. No, I was that the
adviser is required to act in the best interest of their client and to prioritise their client's
interest ahead of their own, consistent with the requirements in sections 961B and 961J of the
Corporations Act. Indeed, we have circulated amendments in the chamber to the substantive
legislation to give effect to that part of the agreement.
We have also agreed that any fees be disclosed and that the adviser will provide a fee disclosure statement annually if the client enters into, or has entered into, an ongoing fee arrangement after 1 July 2013. This is already required under our amended financial advice laws, of course. Labor wants this to be imposed retrospectively. Imposing such a requirement retrospectively adds nothing at all to consumer protection. All it does is impose massive additional cost of implementation, which means that it will significantly push up the cost of advice for clients of small business financial advisers. So do not tell me this is about additional consumer protection; this is a bloody-minded change made in a way that imposes additional cost without actually protecting consumers in any additional way.

But I say again that, if Labor thinks that this is required, in the interests of competitive neutrality such a retrospective change ought to be imposed across the industry as a whole. So the government will consider very carefully not only whether we should impose additional fee disclosure requirements moving forward on industry funds in relation to the currently undisclosed fees that they charge to their clients for intra-fund advice, general advice and personal advice, but also whether that should be imposed retrospectively in relation to fees charged for advice that may or may not have been provided prior to 1 July 2013. I assume that, if the Senate takes the view that clients of small business financial advisers ought to be protected that way, then clients of industry funds ought to be protected the same way, because what is good for the goose is good for the gander. If, in the judgement of the Senate, small business financial advisers have to incur the costs which they then have to pass on to their clients in order to comply with this sort of onerous and inappropriate retrospective change, then that same change should be imposed across the board.

In our agreement we also agreed that a client has the right to return financial products under a 14-day cooling-off period, in accordance with relevant requirements in the Corporations Act. We agreed to various other bits and pieces but, importantly, at the specific request of Senator Muir we agreed to set up an enhanced public register of financial advisers, including employee advisers—and this is all covered in the letter that was tabled previously in the Senate. In good faith, within two days of signing that agreement and giving effect by supporting the regulation change in the chamber here at that time, we started a process of consulting on that change. I announced a couple of weeks ago now that this register will be established and it will be fully operational from March 2015. Indeed, every single financial adviser, as a result of this change, will be charged an additional $5 when they renew or register their licence.

So we thought that was okay because we were going to deliver $190 million in efficiencies by not imposing unnecessary and costly red tape, which was just pushing up the cost of advice without actually improving consumer protections. We were actually making a genuine and sensible change through this public register, providing more transparent information to investors across Australia wanting to access financial advice, empowering them to access the register and check out the adviser that they might be considering accessing advice from. They can then make a more informed decision on whether it is sensible to access advice from that particular adviser because the information included would be about their status in the industry, their qualifications, their history in terms of whether there have been any issues, any complaints or disciplinary issues in the past and who they are working for. All that sort of information is going to be on that register.
I delivered on my side of the bargain. Now that it comes time for Senator Muir to deliver on his side of the bargain as a result of an explicit agreement that he was a party to, he says: ‘Thank you very much for doing your side of the bargain. I'm now going to leave and I'm not going to follow through on my side of the bargain.’ Not only that, the first time that he had the decency of having a conversation with me about this was this morning. So here we are: I, in good faith, not only entered into a deal and into an agreement with the Palmer United Party and the Australian Motoring Enthusiast Party, I also acted on all of the requirements in that agreement, and when the time came for Senator Muir and Senator Lambie to honour their side of the agreement they walked away as if nothing ever happened, without any notice, without any conversation. If they had had genuine and legitimate concerns you would have thought that they would have given the government the courtesy and treated these things with the decency that those sorts of circumstances require, which is to have a proper conversation with us rather than to essentially ambush the government with this move today, as the Labor Party has initiated.

Senator Dastyari and Senator Muir have both suggested that there is no problem with abolishing this law today because you can just put in a transitional period through ASIC. I have taken that on board, Senator Dastyari and Senator Muir. I have spoken to ASIC, given that, without any other action, the disallowance would have the effect of reintroducing laws which have never previously reached their hard implementation date. Indeed, the government regulations took effect on 1 July 2014. Over the past five months, new arrangements consistent with the government's policy commitments made in the lead-up to the last election have been the applicable law of the land. To provide certainty to the market, to the financial services industry and to investors, I have asked ASIC to go back to a facilitative approach until 1 July 2015. In the circumstances that we are facing, I have asked ASIC to take a practical and measured approach to administering the law as it will stand following the disallowance of the regulations.

In the meantime, the parliament will have the opportunity to deal with the substantive legislation. In practice, nothing will actually change as a result of that. Particular issues will, of course, arise which will need to be addressed, in particular in relation to retrospective fee disclosure for statements for the period pre 1 July 2013, which were not required under the law that was in place for the last five months, so it would not be appropriate to now expect companies to comply with that sort of requirement as of tomorrow. So there will be a transitional period to 1 July 2015 in effect to which ASIC has agreed. I see Senator Dastyari nodding, indicating his agreement. Hansard does not pick up Senator Dastyari nods, so I will just put it in.

Senator MADIGAN (Victoria) (19:03): I have listened long and hard about this tonight and today, and I acknowledge the contributions of Senator Cameron, Senator Cormann, Senator Abetz, Senator Williams, Senator Canavan, Senator Muir and many others. Let me assure Senator Abetz, Senator Cormann and others that I am all for a level playing field—that rules that apply to one should apply to all without fear or favour, that the same disclosure and fees et cetera should apply to all so that you have a true level playing field. I am all for comparing apples with apples, in effect. Whether they be industry super funds or non-industry super funds, there are discrepancies there, and I note the contributions of people pointing out some of those discrepancies. They need to be addressed without fear or favour.
Earlier this afternoon, in response to Senator Day’s frustration at losing his question today—I can appreciate how he feels—I and Senator Xenophon approached the ALP and asked them would they be prepared to give Senator Day a question next week. If not, both Senator Xenophon and I are prepared to give up either of our next questions to Senator Day to make up for that. But I would ask it of the ALP, as they did one other time in this place where question time was taken away and I lost my question and the ALP gave me my question. Mr President, I think that that would be the fair thing to do.

In light of all my remarks thus far, I am unable to ignore the thousands of Australians who have had their lives ruined by poor financial advice, and I would like to acknowledge the heartfelt work that I know that Senator Williams has put into this area. These regulations, I fear, have not been given proper scrutiny. These regulations are an abuse of process because they pre-empt the parliament. These regulations are not minor changes to the law. I believe they fundamentally change the operation of part 7 of the Corporations Act. The minister, I believe, has been caught out on these regulations by the Senate’s own Regulations and Ordinances Committee. I do not say this to have a go at Senator Cormann personally, but, in the words of the committee, these regulations, in effect, suspend the law.

Senator Cormann: I rise on a point of order. Given what Senator Madigan has just said, it is very important for the chamber to be aware that the Regulations and Ordinances Committee decided to withdraw the notice of disallowance. So they responded to my advice.

The PRESIDENT: That is not a point of order; it is a debating point.

Senator MADIGAN: Minister, if I have that wrong, I am happy to withdraw it, but I am happy to have this discussion with you. You are, Minister, of course, entitled to bring proposals for change to the parliament through legislation, but this is a controversial law with, what I believe, is the stroke of a pen and then you expect the Senate, the parliament to fall into line. I believe in so doing that you put the cart before the horse. I am concerned about the policy detail of these regulations and, in the interests of brevity, I specifically addressed item 7. I believe the best interests duty in these regulations removes the only component that clearly requires an adviser to act in a client’s best interests, the so-called catch-all.

Senator Cormann, Senator Williams, Senator Canavan and Senator Macdonald, I note your concern and I share your concern about the small business operators, the majority of whom act honourably and honestly. And this is no reflection on those people. Those people need surety, as do the people who have lost their life savings, to whom Senator Williams has referred. We need transparency, accountability, creditable deterrence and, if the law is broken, it must be applied without fear or favour. We have a duty of care to all Australians, not to individual vested interests. Time and time again I have had people come into my office, both here and at home, who have told me of the shocking advice, the poor advice they have received from some, and I have heard the same names come up time and time again of some dodgy advisers.

I note many of the issues which have been raised here tonight by the minister, by Senator Macdonald, by Senator Canavan and by Senator Williams and I note all of your concerns, seriously. I also note the serious concerns of people in the ALP from their point of view, but at the end of the day, we have to get past this, ‘He said, you said, she said,’ and we have to act in the interests of all Australians and clean up this mess. I note the comments made by the
government and the minister that there are large anomalies in what was proposed by the former government. We need to address those anomalies. We need to get on and do it.

I also acknowledge the government's frustration with where we are at, but to be fair, if we are going to play the blame game, we are never going to sort this mess out and I, for one, want to sort this out, as I said in the best interests of all Australians in a fair, equitable and transparent manner.

**Senator XENOPHON** (South Australia) (19:10): I commend Senator Madigan on his contribution—thoughtful, considered and balanced. I hope I take the same tone as Senator Madigan. This is a mess. We do need to sort it out and we can sort it out with goodwill. I want to address a couple of preliminary matters.

In respect of advice and industry superannuation funds, I know Senator Cormann has spoken on that. That is an issue I take very seriously. I note a commentary in *Crikey*—I am not sure how that is characterised but Senator Cormann characterises it as a left-wing publication—

**Senator Cormann:** They would characterise themselves that way.

**Senator XENOPHON:** I am sure. I think labelling people is not helpful. A report by Bernard Keane on 9 July makes reference to comments Senator Cormann told *The Financial Review* journalist Nassim Khadem—I think this helps clarify or at least puts into context the issue of industry super funds. Senator Cormann is quoted as saying to *The Financial Review*:

> What I will do, if the Senate is indeed of the view for example that opt-in and retrospective fee disclosure requirements should stay in place for small business financial advisers, is consider whether in the interest of competition neutrality, those requirements should apply equally across the financial services sector, including to all advice provided through industry funds.

That to me is the nub of the issue and I have some sympathy for the issue. It is interesting that Mr Keane gave credit to Senator Cormann, stating:

Cormann—who to his credit is about the only Coalition minister who genuinely engages with people on social media, despite the personal abuse he receives—and I had something of a running battle on Twitter … as I tried to get him to explain what he actually meant … Industry Super Australia, the industry peak body, joined in—

and the debate went down the path as to 'intrafund advice', which is, as Mr Keane points out, standard advice given by funds to clients about matters relating to their existing accounts.

**Senator Cormann:** It isn't; it's general or personal advice.

**Senator XENOPHON:** Yes. The minister, to be fair to him, says it is general or personal advice. I want to give the flavour of this because this is an important issue and I think it needs to be dealt with. Mr Keane makes reference to:

A good example is the advice thousands of people would have been given during the financial crisis, when the share market was in freefall and they rang their funds asking if they could switch into cash. So the view taken by *Crikey* is that it asserts that Senator Cormann was talking about 'intrafund advice' and the rebuttal from *Crikey* was that:

The Association of Superannuation Funds—which covers the whole super sector and isn't aligned with industry, retail or SMSF—described intrafund advice this way last month:

Intrafund advice is not new—Superannuation providers have been providing advice to members as part of their general service offering to members for some time. …
The intrafund advice regime did not flow out of the recommendations of the Parliamentary Joint Committee on Corporations and Financial Services inquiry (Ripoll review) as it was in place well before the inquiry process.

**Senator Cormann:** Small business financial advisers are not new either.

**Senator Xenophon:** Yes, and notwithstanding those comments, I think there is a legitimate and genuine debate. There are some broader issues which the opposition may not like being discussed at this stage, even though it is not relevant to this particular debate—that is, whether the composition of the boards of industry super funds ought to be changed, whether they should be opened up. It is something Senator Sinodinos has commented on for some time. I think there ought to be a legitimate debate about that.

I also think all industry super funds ought to have a quasi annual general meeting so that their investors can actually turn up and ask questions of the board in a way similar to a shareholders' annual general meeting. I think they are the sorts of reforms that we need to look at and I commend the debate that Senator Cormann and Senator Sinodinos, when he was Assistant Treasurer, raised in respect of this. These are legitimate issues that I think need to be discussed.

I also want to pay tribute to Senator John Williams for the work that he has done on this issue. The point of disagreement I have with him is that I have a genuine concern that these regulations actually weaken consumer protections.

Before I go any further, I want to take this opportunity to set the record straight in relation to the issue of gags or otherwise. During this debate, I have been accused of supporting motions that would have the effect of gagging debate. Indeed, some of my coalition colleagues got quite exercised about it, quite angry, as they are entitled to, but I am afraid it is water off a duck's back in relation to that. That is part of the job. I am sorry if I make my colleagues angry in relation to this, but I want to put this in context because I think there is some misapprehension on their part as to what the facts are.

I take exception to the view that was put to me in cross-chamber talk and the criticisms that have been levelled at me. They are not justified. I have always been very clear. I have never and will never support a motion that gags debate on a substantive issue, as opposed to a machinery motion, which we all know is so often used to avoid the debate and ultimately a vote on a substantive matter. I think, in their heart of hearts, my colleagues from the coalition would understand that what was happening today was an attempt to avoid a debate on the substantive issue, whether it is a piece of legislation or an amendment. They are quite disingenuous to suggest otherwise.

I have in the past supported motions to allow certain legislation or other matters to take precedence over other business, which is what I have done today. I have supported motions to have the question before the chair put, which may have the effect of ending a procedural debate but does not impact on any debate on the substantive issues in question and may indeed provide more time to deal with a substantive matter. To suggest otherwise is disingenuous at best. Let us make that very clear. I hope it is nothing more than a misunderstanding, in this case, by some members of the coalition. I believe my comments will have clarified the situation.

I will be voting to disallow these regulations in respect of financial advice because it is quite simply the right thing to do, for a number of reasons. All interested parties need to acknowledge that there are serious, legitimate concerns raised by many credible interested
parties regarding the current regulations. I accept that the former government's approach was not without its flaws, but now the pendulum has swung too far away from consumers. These regulations have given comfort to a small minority of financial advisers who could use them as protection against unscrupulous advice or activities. I am sure that is not what the government attended. Disallowing these regulations today will in practical terms mean we are back to the regulations that were in place prior to 1 July. This is by no means ideal but it is preferable to the alternative.

I do not think it is unfair to suggest that the government's regulations should have, given their scope and significance, been dealt with as part of a bill rather than subordinate legislation. Indeed, I remind my colleagues of the concerns raised by the Regulations and Ordinances Committee and the Scrutiny of Bills Committees in relation to this matter. In particular, the Regulations and Ordinances Committee wrote, in their most recent delegated legislation monitor of 29 October 2014:

... the minister's response has not satisfactorily addressed the key scrutiny concern raised by both the Scrutiny of Bills committee and this committee—namely, that the regulation makes fundamental legislative change that may be more appropriate for parliamentary enactment (that is, via primary rather than delegated legislation). While the minister cites both the need for 'swift action' and the estimated savings or benefit to industry, the minister has not addressed the committee's concern that such imperatives may not amount to sufficient justification for effecting significant policy change via regulation (and therefore without the full scrutiny and approval of the parliament).

The committee also raised concerns about the potential for such regulations to create a precedent for using delegated legislation over primary legislation because of its convenience. The committee concluded:

The committee considers that the potential for this approach, in this and future cases, to 'permit a temporary mechanism to turn into a permanent legislative artefact', or to continue in operation despite the clearly expressed will of the Parliament (for example, if the bill were passed with an amendment to remove one of the measures in the regulation), is critical to the assessment of whether the legislative approach offends the committee's scrutiny principle …

It is also important to note what significant consumer groups have said in support of this disallowance and in opposition to the regulations. I know the minister has characterised Choice as a left-wing organisation, but can I assure the minister and Mr President that I will get advice whether it is from a left-wing or a right-wing organisation. Indeed, there are times when I think the Institute of Public Affairs make sense on some issues—not often but—

Senator Kim Carr: You've got to draw the line somewhere!

Senator XENOPHON: Senator Carr says you've got to draw the line! But on some issues—in terms of government accountability, data retention and those issues—I think that they have hit the mark. So I will take my advice where I think there is some substance in what people are saying, despite whatever their politics may be. Indeed, I even listen to Senator Di Natale at times, on health issues!

Choice, in their letter to the Senate Standing Committees on Economics of 15 September 2014 made a number of very salient points in respect of this: CHOICE's concerns include changes to the obligation to act in the client's best interest, scoping of advice, conflicted remuneration, opt-in arrangements and annual statements.
The Bill makes several amendments to the definition and scope of the best interests duty. These changes leave only a 'tick-a-box' checklist of procedural steps to assess if an adviser has acted in a client's best interest.

Choice goes on to set out in relative detail what these concerns are. For instance:

CHOICE is concerned some information now required will be misinterpreted by consumers. For example, the statement that "the provider of the advice genuinely believes that the advice given is in the best interests of the client, given the client's relevant circumstances (within the meaning of section 961B)" could lead a reasonable consumer to conclude that an adviser will act in their best interests. This simple conclusion is easy to reach without a thorough understanding of how s961B restricts and adds loopholes to the obligation for an adviser to act in a client's best interest.

I am a mere suburban lawyer who specialises in personal injuries claims, but the lawyer in me tells me that there is an issue here in terms of drafting. I see it as something that is particularly open to misinterpretation and that could be seen as a loophole in some circumstances.

I think it is worth reflecting on a very good opinion piece by Peter Martin that appeared in The Age of 24 June 2014, in which he questioned the constitutional validity of these regulations. He said, 'regulations are meant to support the aims of laws, not negate them'. I think there is an argument as to the constitutionality of these regulations. I also think it is worth quoting an excerpt of Mr Martin's column because it goes to the nub of these issues. I know that Senator Whish-Wilson has referred to this particular tragic case. I quote:

Recently, the ABC's 4 Corners program told the story of Noel Stevens. When Stevens was phoned by his local branch of the Commonwealth Bank and asked to switch his life insurance policy from Westpac to the Commonwealth he didn't know that the teller received a referral fee of $444.60. The bank-employed financial planner received almost twice as much plus an ongoing commission.

When Stevens was diagnosed with pancreatic cancer and given six months to live the bank refused to pay. It said he had a pre-existing condition.

A judge later found the planner did not act in Stevens' best interests. Commissions and kickbacks might have influenced the advice. Commissions will continue under the changes the Coalition is planning to sneak through. So long as the commissions are part of a 'balanced score card' of rewards and so long as the tellers are not making 'recommendations' the banks will be in the clear. But it's easy to get confused.

Mr Martin refers to an interview on the ABC's 7.30 with Steven Munchenberg, the chief executive of the Australian Bankers' Association—someone who I think is a particularly good bloke to deal with, but, with his views on this, I think he is defending the indefensible in some respects. When Mr Munchenberg was quoted in an interview with Greg Hoy, he slipped up and said something about banks recommending, and then he wanted to rephrase it, because it was legally incorrect. I think it goes to show the level of confusion that exists as to how these regulations would operate and that is a real concern. CHOICE released the following statement in response to the motion to disallow:

CHOICE says that if the regulation is disallowed, consumers will be able to feel more confident that they are getting impartial financial advice they can trust.

If this disallowance motion passes, consumers will notice practical benefits:

Financial advisers will have a clear and strong obligation to act in a client's best interests.

The advice received will not be clouded by financial incentives that reward advisers based on how much of a particular product they sell.
Advisers will be required to disclose the fees on a regular basis and will have to make contact with their clients from time to time, to make sure they are happy to keep paying fees.

In June this year, Ian Yates, the CEO of COTA and a South Australian whom I know quite well—I am not sure whether COTA is known as a left-wing organisation—issued a media release with the following statement:

To be very clear, COTA is not siding with any special interests in this debate and resents any such suggestion—we are acting on strong legal advice about the impact of these reforms and deep concern expressed by members, and we would oppose the FoFA changes whether proposed by the government or Labor.

Mr Yates's statement continued:

COTA will be advising older Australians to be very cautious of the financial advice they receive from banks and financial advisers if this legislation goes through—people will not be able to be assured that their best interests are always being put first.

Retirees simply can't afford bad or conflicted financial advice. They have no opportunity to recoup lost investments or assets and they need the best possible advice to maximise their retirement income.

These are only two of the many organisations that have spoken out against these regulations and the winding back of consumer protection reforms.

Members of the government have asked repeatedly why we are moving this motion today, why we are seeking to suspend standing orders, and why this is so urgent. The politician's answer to that is to ask why the minister felt that the changes made by these regulations—changes that wind back significant consumer protections—were so urgent that they had to be made through regulation and not primary legislation and, therefore, would not be subject to the parliamentary scrutiny that a bill would be subject to. But a humanist would answer with an example like this one. In 2000, Naomi Halpern received advice from her financial planner that she should invest in a number of managed investment schemes, including Timbercorp. The adviser also advised her on margin lending and borrowing against her home to make further investments. Eight years later, after the collapse of each of the seven managed investment schemes in which she had been advised to invest, she was left with $650,000 of debt and only $11,000 in superannuation. Since then, she has re-mortgaged her home twice in an attempt to keep up repayments on loans she did not know she had. She is not sure when, or even if, she will ever be financially secure enough to retire.

John McDonald was also advised to invest money in Timbercorp. At the direction of his financial adviser, he signed what he thought were buy-in forms but were actually loan applications. When Timbercorp collapsed, John owed them $240,000. Since then, that figure has almost doubled. Bernard Kelly and Meredith Byrne are in similar situations. We know these names because these brave people gave evidence at the Senate Economics References Committee hearing into managed investment schemes last Wednesday in Melbourne—just one week ago today. But there are hundreds, even thousands more people whose names we do not know. And to the government I say: that is why we are pushing this disallowance today. That is why it is urgent and that is why we will vote to disallow these regulations. We are not talking about abstracts here. We are talking about people. Too often we forget in this place, as we argue back and forth about standing orders, procedure and votes, that real people—people like us and like our parents and spouses and children and friends—are the ones who are paying the cost for the lack of protection in the financial services sector.
I want to thank Naomi, John, Bernard and Meredith for sharing their stories and those of people who have been similarly affected. It is not an easy thing to do, but it is an incredibly important thing to do. The evidence they provided to the committee was vitally important and has truly illustrated the human cost of poor regulation.

Mr President, I am supporting this disallowance because I believe it is the right thing to do. There are far more arguments against supporting these regulations than there are arguments for supporting them, and the cost of allowing them to remain in place is simply too great. I hope the government will take this opportunity to rework the relevant legislation, in consultation with the relevant interest groups and opposition and crossbench representatives. There is a genuine opportunity here to work in good faith to create a better scheme that provides appropriate protections for consumers and that requires financial advisers to live up to the trust we place in them. Many already do that, but we need to ensure that those 'bad eggs' in the financial services sector are subject to the safeguards that are essential to protecting consumers.

Senator DASTYARI (New South Wales) (19:29): I am going to be fairly brief because we heard some very powerful words there from Senator Xenophon and from Senator Madigan before him. It is important not to forget why we have come to the situation we are in here today. I want to dispel a couple of the falsehoods that have been put as part of this debate. Firstly, I was disappointed that during the course of this debate some speakers claimed a number of provisions in the original FoFA laws did not apply to some sections of the industry, specifically the opt-in provisions. This is wrong and those members opposite who have said so know better. The opt-in provisions apply for all new clients who seek personal financial advice when ongoing fee arrangements are put in place—no exception.

Senator Cormann: That is not true.

Senator DASTYARI: No. Industry super funds along with retail funds and public sector funds can provide information to their members about their interest in the fund via intrafund advice. This is paid for from the general administrative fee for the fund. The Cooper review found it cost members less than 2c a week. Whether they are an industry fund, a retail fund or a public sector fund, it is actually the same. There is no special arrangement and all super funds are treated the same.

I want to go back to why we are having this debate and why we are here today. Minister, I believe the process that got us here is the wrong process. Is this the best way to deal with this issue? Unfortunately, it is not, but it is the situation we have arrived at. Frankly, the process where regulations were put in hours before they were to be enacted at the end of June this year was the wrong way to proceed and it left us with no other option than to go through a disallowance process.

I note the minister is also of the view that there should be some kind of a facilitative approach and a facilitation process as part of this. I think he commented that I had nodded. I certainly agree. A sensible and reasonable way of approaching this is by making sure that there is a grace and transition period. I think everyone in this place would believe that that is a reasonable approach. I reject the notion, however, that there is no difference in that happening. ASIC has been very clear about this in the past: the difference is about intent, about whether people are intentionally going out of their way.
I want to thank everybody who has participated in this debate. I want to thank the many speakers and the many contributions they have made. Minister, I urge you as part of this process to talk to the opposition and the crossbenchers, and when you are looking at the legislative approach that you make sure there is a good representation of the wide-ranging views that have been outlined here today.

**The President:** The question now is that the Corporations Amendment (Streamlining Future of Financial Advice) Regulations 2014 be disallowed.

The Senate divided. [19:37]

(The President—Senator Parry)

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AYES

Bilyk, CL  
Bullock, J.W.  
Carr, KJ  
Conroy, SM  
Di Natale, R  
Lambie, J  
Ludwig, JW  
Madigan, JJ  
Moore, CM  
O’Neill, DM  
Polley, H  
Rice, J  
Singh, LM  
Urquhart, AE (teller)  
Whish-Wilson, PS  
Wright, PL

NOES

Abetz, E  
Bernardi, C  
Bushby, DC (teller)  
Cash, MC  
Day, R.J.  
Fierravanti-Wells, C  
Lazarus, GP  
Macdonald, ID  
McGrath, J  
Nash, F  
Parry, S  
Ronaldson, M  
Scullion, NG  
Sinodinos, A  
Wang, Z  
Back, CJ  
Brandis, GH  
Bushby, DC (teller)  
Cash, MC  
Day, R.J.  
Fierravanti-Wells, C  
Lazarus, GP  
Macdonald, ID  
McGrath, J  
Nash, F  
Parry, S  
Ronaldson, M  
Scullion, NG  
Sinodinos, A  
Wang, Z

Question agreed to.
The PRESIDENT (19:39): This means that the Corporations Amendment (Streamlining Future of Financial Advice) Regulations 2014 have been disallowed and cease to have effect immediately.

NOTICES

Withdrawal


Presentation

Senator Siewert to move:

That the Senate—

(a) acknowledges that the gap between life expectancy, health outcomes and incarceration rates of Aboriginal to non-Aboriginal people remains unacceptable;

(b) notes:

(i) the release of the Overcoming Indigenous disadvantage report on 19 November 2014 which finds:

(a) the adult imprisonment rate increased 57 per cent between 2000 and 2013,

(b) juvenile detention rates increased sharply between 2000-01 and 2007-08, and have fluctuated since at around 24 times the rate for non-Indigenous youth, and

(c) Aboriginal and Torres Strait Islander Australians make up only 2.3 per cent of the adult population, but as of 30 June 2013 made up over a quarter (27.4 per cent) of the adult prison population, and

(ii) that peak Aboriginal organisations have been calling for justice targets to address the unacceptably high incarceration rates of Aboriginal people; and

(c) calls on the Government to take leadership on this issue and introduce a national justice target.

Senator Ludlam to move:

That the Senate—

(a) notes that:

(i) the Attorney-General’s Department is reported to have contracted PricewaterhouseCoopers to conduct a financial study into the cost of the Government’s data retention policy, and

(ii) the Government has not stated what the cost to the Australian public and to the telecommunications industry of its data retention policy will be; and

(b) orders that there be laid on the table by the Attorney-General (Senator Brandis), no later than noon on Tuesday, 25 November 2014 the:

(i) terms of reference for the PricewaterhouseCoopers study, and

(ii) any report provided by PricewaterhouseCoopers in the calendar year 2014 to the Government concerning the cost of data retention.
Senator Waters to move:
That the Senate—
(a) notes that:
(i) the Queensland Premier, Mr Campbell Newman, has announced that he will use public money from the sale, or long-term lease, of public assets to build a coal railway for mining magnates,
(ii) Premier Newman has already announced that public money will be used to pay for dredging in the Great Barrier Reef World Heritage Area and dumping on the nationally-significant Caley Valley wetlands near Abbot Point, and
(iii) Queensland’s existing industries, our safety, our environment, including the Great Barrier Reef, and our very way of life are at risk from climate change which is driven by burning fossil fuels; and
(b) calls on the Federal Government to rule out allowing federal public funds to be used to pay for coal mines, railways or coal ports associated with the Galilee Basin.

Senator O’Sullivan to move:
That the Senate notes the statements by the new Australian Live Exporters Chair, Mr Simon Crean, that the newly-announced free trade agreement with China will make our nation more competitive against the likes of other live dairy cattle export nations, such as New Zealand, and will help stimulate further growth in the dairy trade.

BUSINESS

Leave of Absence

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (19:40): by leave—I move:
That leave of absence be granted to Senator Lines for the duration of the day, for personal reasons.
Question agreed to.

Senator SIEWERT (Western Australia—Australian Greens Whip) (19:41): by leave—I move:
That leave of absence be granted to Senator Hanson-Young for the period 17 to 19 November 2014, for portfolio business.
Question agreed to.

COMMITTEES

Regulations and Ordinances Committee
Delegated Legislation Monitor


Scrutiny of Bills Committee
Report

Ordered that the report be printed.
Legal and Constitutional Affairs Legislation Committee

Membership

The PRESIDENT (19:42): Order! I have received a letter from a party leader seeking a variation to the membership of a committee.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (19:42): by leave—I move:

That, on Thursday, 20 November 2014—

(a) Senator Fawcett replace Senator Reynolds on the Legal and Constitutional Affairs Legislation Committee, from 9 am to 5 pm; and

(b) Senator McGrath replace Senator Reynolds on the Legal and Constitutional Affairs Legislation Committee, from 5 pm to 11 pm.

Question agreed to.

ADJOURNMENT

The PRESIDENT (19:42): Order! I propose the question:

That the Senate do now adjourn.

Religious Freedom

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (19:43): In my maiden speech in this place, I talked about democracy, the value of democracy, what we should be doing and what are democratic behaviours. I quoted an ancient philosopher, Aristotle, who indicated that democratic behaviour is doing those things that protect and defend democracy and the values that it represents. In Australia, one of the great values that we have is freedom. We have freedom of speech, we have freedom of the media and we have freedom of religion. Article 18 of the Universal Declaration of Human Rights points to the fact that every person should have the freedom of their own religion, belief or conscience and, in fact, the freedom to not have a religion at all or the freedom to change a religion if they wish to.

Here in Australia, the working out of those freedoms we see every day. As a member of parliament, you often get invited to community events—whether that be by members of the Buddhist community or the Hindu community. Just recently, we had the National Mosque Open Day here in Australia, where people could interact with members of a different religious group. Not all the world, though, enjoys that freedom, and that does have its impact on Australians. I have spoken here before about John Short, a South Australian who has lived and worked in Asia for many years and was arrested at the start of this year in North Korea, purely on the basis of his faith—not to mention the hundreds of thousands of people who are incarcerated in North Korea purely on the basis of their faith. Graham Staines, an Australian who had worked for decades in India with lepers and the poor, was burned alive with his sons in 1999 purely because of his faith. More recently, we see in northern Iraq and Syria, particularly in places like Mosul in June-July this year, that Christians, Shabaks, Turkmen, Yazidi, Shiah and others have been murdered through crucifixion and beheading, have been expelled from their homes and have been subjected to violence because of their faith.

The extreme of this we see in a case like ISIL or Daesh in northern Iraq, but, where societies have not worked actively to preserve the freedoms that things like article 18 give, we
see the long-term impacts. A lady called Asia Bibi is a current case in Pakistan. She is in her mid-40s. Working in a field, she chose to have a drink of water from a bucket. She happens to be a Christian; the other women who were there said that, by her dipping her cup into that water, she had made it unclean. They got into a debate about faith and, because she defended her position as a Christian, they accused her of breaking their blasphemy law. That law makes it a crime to in any way speak against Islam or the Prophet Mohammed. She has been in jail for some time now and, just recently, the highest court upheld her death sentence. So she is now due to be executed by hanging for no other crime but her faith and the fact that she dared to speak out in defence of her faith. She was hauled into court, in fact quite violently at the time, by people in her community. That has been upheld by their legal system.

One of the problems that people in Pakistan face, and there are many others in this situation, is that, once that freedom is let go of and once you start getting laws like blasphemy laws and groups who seek to impose their solitary view of the world as being the only right view, you start getting pressures that extend beyond the legitimate government of the day. One of the problems that advocates in Pakistan have, whether they are human rights advocates, defenders of a particular faith, members of parliament or members of the judiciary, is that they find themselves under threat. In the case of this lady, a member of parliament who stood up for her was executed. Somebody walked into his office and shot him. You often see judges in courts that release people who have been accused of blasphemy then physically attacked and threatened because of that. The whole role of advocacy becomes quite difficult for those people because it is not just that the law of the land applies but that people in the community feel empowered to take it into their own hands.

So it is incumbent on the international community in those cases to step up, shine a light onto that and start advocating with the authorities in those countries to preserve what nearly all nations have signed up to in theory, which is article 18 of the Universal Declaration of Human Rights.

In June this year, I was privileged to go to the United Kingdom for the inaugural meeting of a group known as the international parliamentary panel for freedom of religion, belief and conscience. This was put together by two core groups. The UK parliament, just as we have ‘friends of’ groups—friends of the defence industry, friends of Israel, friends of mining et cetera—have all-party groups and there is an all-party group there for freedom of religion and belief. In the United States there is a US commission, which is a formal government body whose charter is to work with, support, encourage and engage in dialogue with other nations as well as to inform the congress, the Senate and the executive about issues around religious freedom. These two groups have brought together this international parliamentary panel. We had the initial meeting in the middle of this year and, just a weekend ago, in Oslo, we had the formal launch of the group and the charter that goes along with that. Some 30 parliamentarians from around the world—from Argentina, Brazil, Burma, Canada, Costa Rica, the Dominican Republic, Germany, Italy, Malaysia, Nepal, Norway, Pakistan, South Africa, Sri Lanka, Turkey, the United Kingdom and Uruguay—were there in Norway at the Nobel Peace Center for the formal launch of the IPP and the signing of the declaration.

The intent of this group, being a parliamentary group as opposed to an arm of government, is that, rather than having to seek governments’ permission to speak up—because governments often have to deal with the broader diplomatic issues and sensitivities—these
parliamentarians are working to an agreed, coordinated agenda to raise awareness in their own countries but, importantly, also to coordinate in writing to ambassadors and, indeed, to heads of nations to raise concern where they see an issue in their nation. To date, since Oslo, letters have been sent to Burma about issues faced by the Rohingya people on the basis of their religion, as well as letters to the Prime Minister in Pakistan raising concerns about the blasphemy laws and the lack of freedom of religion and belief in that country.

I welcome the fact that people from the parliaments of so many diverse nations have chosen to participate. There are a range of people who do not have a particular religion and those who come from the Islamic religion as well as Christians who are members of this panel. I recognise that, for people from countries such as Australia, where we enjoy freedoms of religion, it is not an imposition—it is not a threat to us to go to those things; it is an opportunity to contribute. But, for some people who attend and dare to challenge the norms in their countries that a citizen there should be free to choose to change their religion or to not have a religion, it is literally a matter of life and death.

As we become more aware of those situations overseas, I think it is important not only that we advocate where we can to support them and to bring that civil society, that civility, to all nations, but also, more importantly, that this spurs us on every day to look for those things that are the important elements of the freedoms we enjoy here in Australia that underpin our plural, liberal, secular form of government that gives all Australians the freedoms to belong and to participate and to make sure that we defend those.

### Violence Against Women

**Senator CAROL BROWN** (Tasmania) (19:52): I rise to speak tonight on a crisis that faces our nation. This is a real crisis which can only be addressed through cultural, behavioural and attitudinal change. This is the crisis of violence against women in this nation. I raise this issue in this place ahead of a very important day next week. Next Tuesday is National White Ribbon Day—a day which highlights the campaign to stop violence against women.

Violence against women is a serious problem in Australia and around the world. On Monday, in Sydney's south west, a man was arrested after the death of a 49-year-old woman. Police said the suspected murder was a domestic violence incident. This is an all too common story in our nation. One woman is killed almost every week in Australia as a result of domestic violence. One woman is hospitalised every three hours across Australia because of domestic violence. According to the World Health Organisation, intimate partner violence is the most common type of violence against women and affects 30 per cent of women worldwide. That is almost one in three women worldwide who are affected by domestic violence. One in four children is also exposed to domestic violence. These are frightening statistics.

As alarming are the latest results of the National Community Attitudes Survey on Violence Against Women. The survey results, released in September, show that a sizeable number of Australians still believe there are circumstances in which violence against women can be excused. Writing in the *Conversation*, two people involved in the most recent survey, Kim Webster and Kristin Diemer, said:

Most measures of community understanding and attitudes on violence against women have not improved in Australia in almost 20 years.
In some areas, they've worsened.

Sadly, violence against women in Australia, over their lifetime, is not declining.

Two out of every five women experience some form of physical or sexual abuse.

And nearly half have experienced sexual harassment since the age of 15.

Few Australians openly support violence against women but many others subtly endorse it by trivialising and excusing acts of abuse.

While there are some encouraging results, these are dwarfed by some startling findings.

The survey found that one in five people believe that there are circumstances in which women bear some responsibility for violence. It is shocking that this type of victim blaming is still so pervasive in our community. More than half of those surveyed believed women fabricated cases of domestic violence to improve their prospects in family law cases. Whilst nearly eight in 10 agreed that it is hard to understand why women stay in a violent relationship, more than half agreed that—and I quote—‘women could leave a violent relationship if they really wanted to.’

As the Tasmanian Women's Council chair, Lindy O'Neil, has said, the findings of this survey should be an important wake-up call. Ms O'Neill said:

It is worrying that, while we have come so far as society in relation to this issue, we still see a large number of Australians who believe that violence and rape against women can be excused.

What is clear is that, in spite of the work under the National Plan to Prevent Violence Against Women and their Children and initiatives such as the Foundation and OurWatch, harmful misconceptions about the causes and impacts of violence against women prevail. If we are ever to make a change, we must elevate the crisis of violence against women to the centre of national debate. This is a crisis that confronts women and girls across every state and territory. It is a crisis that pervades families and communities from any postcode. It is a national shame. We cannot merely pay lip-service to the issue. We cannot ignore it because it is difficult to talk about.

High-profile cases, such as the murder of Allison Bayden-Clay in Queensland, have shone the media spotlight on the issue of violence against women. Earlier this year to mark International Women's Day, the Sydney Morning Herald launched a year-long campaign to show the impact of domestic violence. In an editorial published in the Sydney Morning Herald on 8 March this year, the paper said:

Domestic violence ruins lives.

For every high-profile case, more victims die shrouded in silence and countless others endure the daily torture of not knowing when it will happen again.

Far too often we as neighbours, family, friends and fellow Australians fail to see it.

Even worse, we turn a blind eye.

It is time to Shine a Light on domestic violence.

It is our responsibility and the responsibility of all in our community to take up this challenge and shine a light on this national crisis. We know that we must bring it out in the open and change people's views on stereotyping women and trivialising violence against women. We must encourage women to speak out against family violence. As we mark White Ribbon Day next Tuesday, we must tell men that violence against women is not acceptable. We must tell women that there is no excuse—it is a crime. We must stop women living in fear.
I would like to pay tribute to the enormous courage of domestic violence campaigner Rosie Batty who was recently named Victorian of the Year. Earlier this year, her 11-year-old son Luke was murdered by his father when he was at cricket practice. When she won her Victorian award the National Australia Day Council said that Rosie Batty had given 'voice to many thousands of victims of domestic violence who had until then remained unheard.' The council went on:

Her incredible strength and selfless efforts are an inspiration to many other victims of domestic violence, while her courage and willingness to speak out will make Australia a far better place.

Speaking with the strength and wisdom we have come to know Rosie Batty for, she said:

… I'm here because one in three women is affected by family violence, one in four children, and one woman a week dies.

It's really important that we all understand it's no longer a subject that stays behind closed doors.

My commitment is I will continue to push this message, and I accept this award for all victims of violence who have no-one and [for whom] it's unsafe to speak.

After a New South Wales farmer killed his wife and three children in September this year, The Guardian Australia sought the views of police commissioners on what needs to be done to reduce family violence. They agreed that changing the behaviour of men is the only way to tackle a crime that kills one woman every week. The police commissioners referred to 'vulgar and violent attitudes towards women.' They said that the high rates of violence would not stop until men's attitudes change, and they urged victims of domestic violence to report assaults to police. Victoria's Chief Commissioner Ken Lay said:

I place family violence in a wider culture where vulgar and violent attitudes to women are common. These attitudes show that we perceive women differently than men and by differently I mean we perceive them as less valuable. In order to stop a problem we have to tackle the cause.

Tasmania's Police Commissioner, Darren Hine, agreed that our culture must change. Commissioner Hine said cultural change can begin with people of influence such as sportsmen, businessman, actors and other personalities standing up to condemn violence against women and children. Commissioner Hine said:

And it continues at footy games, BBQs, cricket matches, school, college, university, at work, the pub; we are all in a position to make a positive influence when we see unacceptable behaviour or attitudes.

I commend the Tasmanian Police Commissioner, who with fellow White Ribbon ambassadors and other Tasmanians will be leading the charge in raising awareness of the issue of violence against women. On White Ribbon Day, Commissioner Hine will lead a walk through Hobart to Parliament House lawns where he will host a breakfast and discuss ways to consider the cultural change that is so desperately needed to end violence against women.

We know that our culture must change. If we are ever to combat this national crisis we must all speak up to stop violence against women. To stop violence against our sisters, our daughters, our mothers, our neighbours and our friends we must not stay silent.

**Conscription**

Senator RHIANNON (New South Wales) (20:02): As commemorations of First World War events are being rolled out we should also remember that many courageous people took a stand for world peace and did not support this war. Some became conscientious objectors. The words of the last Anzac are a reminder that we should remember and honour these
people. The last Anzac—the last Anzac for the whole world—lived in Tasmania, and he said on his deathbed:

For god's sake, don't glorify Gallipoli—it was a terrible fiasco, a total failure and best forgotten.

I do pay tribute to Jonathan King, Alec Campbell's biographer, for documenting so much of Alec's extraordinary life.

The First World War was a fraught time for Australians, not just for those engaged in the war but for those in Australia. In November 1916 Prime Minister Hughes wrote to all state premiers setting out that state police should take the lead in arresting civilians for offences against the Defence Act, which targeted anti-conscriptionist activities. Queensland Premier Ryan reportedly refused this request and on 19 November he spoke at a public meeting in Brisbane where he voiced his opposition to conscription. Publication of this speech was subsequently censored, but, to the great credit of the then Premier, he repeated the censored comments in parliament, where they were recorded in Hansard. He then directed that 10,000 copies of his speech be made available to members of the public in pamphlet form, orchestrated by the Australian Worker organisation. Prime Minister Hughes, in his capacity as Attorney-General, then directly intervened and demanded that all copies of the parliamentary debates containing Premier Ryan's censored remarks—and the related pamphlets—be seized. Premier Ryan became a hero for many people in Australia. There was a famous event in the Domain which saw 120,000 coming out in support of Premier Ryan.

We all know about the two referendums that rejected conscription. It is interesting to look at how those referendums were conducted. The second one was under the Hughes federal government. That government attempted to disenfranchise segments of the population. For example, the electoral roll for the plebiscite was closed only two days after the ballot was announced. This affected regional voters, many of whom only received news of the plebiscite after the rolls had closed. The poll was also held on a Thursday, which made it difficult for many workers to vote—it is well known that the union movement was very active in the anti-conscription struggle—so that was another aspect of the referendum with a cloud over it. The government had also determined that, if British subjects or their fathers had been born in an enemy country, they were unable to vote unless more than half the sons in the family aged 18 to 45 had either enlisted or been rejected from enlistment. There were also reported instances of polling booth scrutineers intrusively questioning voters with foreign names prior to issuing them with a ballot. Many of these details are set out in some very interesting books and pamphlets about this era. There is one by Bertha Walker, called How to Defeat Conscription, that I found particularly informative.

I want to acknowledge the outstanding work that so many unions played in the anti-conscription campaign. One of the earliest recorded instances of labour union opposition to conscription occurred on 25 July 1915. This was the Amalgamated Miners Association in Broken Hill. They met at the trades hall to pass a resolution against conscription. The movement amongst unions very quickly became huge. In May 1916, the All-Australian Trades Union Congress, representing 97 organisations and encompassing half the country's unionised workforce, was held in Melbourne and several anti-conscription resolutions were passed. The Australian Railways Union deserves special mention. Fortunately, as we know, our forebears had great wisdom and established a wonderful rail network. The workers on that
rail network distributed anti-conscription literature across Australia during the plebiscite campaigns.

Another very important organisation that at times gets lost in history, but which we certainly need to remember, is the Australian Women's Peace Army. It was a pacifist organisation which campaigned against the war in general and participated in the anti-conscription campaigns of 1916 and 1917. One of its slogans was 'We war against war'. Their flag took the feminist colours of purple, green and white. Their most well-known members were their president, Vida Goldstein, as well as Cecilia John and Adela Pankhurst. They supported the election campaigns of peace candidates, put in petitions to members of parliament and offered practical help to those disadvantaged by war. It was really a very inspiring organisation.

There were so many organisations involved in the anti-conscription movement. One that was very prominent, and which has a family connection for me, was the Industrial Workers of the World, also known as 'the wobblies'. Their paper was Direct Action. Many of their members were arrested. Tom Barker was the first arrested in Sydney and he was sentenced to 12 months in prison in March 1916. Many of their members were sent to jail. There were 12 members who were arrested and charged with conspiracy. Some were given very long sentences. Some were deported to Chile.

Where there is a family connection for me is that my grandad Benjamin Centennial Lewis was a member of the IWW. He was not part of the group that was initially jailed, but he was subsequently jailed for raising money for the campaign to have these people released. Interestingly, somebody doing research about our family came across a police document about my grandad. This is from the Metropolitan Superintendent's Office, Sydney, 27 November 1918. The title is 'Application for summons against Ben Lewis for using abusive language in the Domain'. My grandad was the chairman of a meeting that the police described as 'release and defence committee'. On the day that they say that my grandad used what they call abusive language, there were 2,000 people in the crowd. They particularly took objection to grandad because in speaking he selected two mythical policemen as the subject of his abuse. It is quite entertaining to read it these days, but it shows how extensively the different arms of the government were used against people who were engaging in legitimate activities to object to what was a very controversial war that many saw as a war where the colonial powers were literally dividing the world up.

I started by mentioning Jonathan King, and I again wanted to return to some of his comments, because he has raised concerns about how some of the commemorations for the First World War are being undertaken and whether they are becoming too commercialised. I do respect the commemorations. I think it is very important to honour and remember people who have died in war. But I think we also need to recognise that there were people who objected to that war. Jonathan has set out the case very strongly. Considering that so much attention is given to Gallipoli, I would like to just quote from his comments about the Western Front:

The Western Front was many times more significant than Gallipoli. Five times as many Australians fought there: 250,000 not 50,000. They fought five times more battles, many of which they helped win, and well over five times as many were killed. As Australia's last Gallipoli Anzac ... stressed—
and then he repeated a comment that I gave at the beginning of this talk. This is from Alec Campbell:

Gallipoli was a failure, but tell ‘em we won the fighting on the Western Front.

I pay tribute to Mr Campbell, all those people who died in the First World War and all those people who protested and were successful in winning those two referendums against conscription.

**Australian Broadcasting Corporation and Special Broadcasting Service**

**Senator McEwen** (South Australia—Opposition Whip in the Senate) (20:12): This afternoon the Minister for Communications, Malcolm Turnbull, was in Adelaide, and he made an announcement that the Prime Minister has well and truly broken his pre-election commitment of no cuts to the ABC and no cuts to the SBS. We already knew that the promise was about to be broken, and we had it confirmed today. Now we know as well the size of the cuts—the cuts that the Prime Minister solemnly swore before the last federal election would not happen. Now we know that the ABC will lose more than $250 million over the next five years, a 4.6 per cent reduction in its budget, and the SBS will lose $54 million, a cut of 3.7 per cent in its budget. However, the SBS is able to make up a bit of the funding shortfall by increasing its advertising—I am sure that will be very popular!

We will hear from the ABC, I understand, next week about what the definitive impact of those savage budget cuts will be on its staffing and its production. We know that, in South Australia, at risk are 100 local jobs in production in the ABC at Collinswood in my home state. As well as jobs, South Australia and other states are likely to lose their state based 7.30 reports. We in South Australia will again be hostage to the eastern states for our news services. We know that South Australian stories are unlikely to get a good run in news and other services from the ABC produced in the eastern states. That is particularly devastating for rural and regional South Australians, who absolutely rely on the ABC to provide local news content and local stories.

What are South Australians doing about this savage attack on the ABC, particularly in my home state of South Australia? The unions, of course, have already organised a great campaign addressing this issue, and there will be a rally in my home state of South Australia tomorrow at 12:30 pm at the ABC studios at Collinswood. If I were able to be home, you could be sure I would be there. I know that lots of South Australians will be there supporting their ABC. The campaign is also supported by all Labor senators and members in South Australia. I know that those of them who are home tomorrow will certainly be going along to it.

What are the Liberal senators and members in South Australia doing about it? What is Mr Christopher Pyne, the member for Sturt, doing about this savage attack on the ABC in South Australia? A cabinet minister of the Abbott government, and what is he doing? He has set up an online petition on change.org. He has put it on his web site and he says, ‘Sign this petition, because I am standing up for jobs in South Australia.’ The hypocrisy is breathtaking. Here is a cabinet minister of a government that is slashing money from the ABC, forcing the ABC to cut jobs and cut production, and what does he do about it? Does he pick up the phone to Malcolm Turnbull and say, ‘Oy, what about the $254 million for the ABC? What about the 100 jobs that are going to be lost in South Australia?’ No, he does not do that. Does he argue
for it in cabinet? Not as far as we know. What does he do about it? He sets up a petition online. It is worth going to that petition on change.org. His web site is pyneonline.com.au, if you want to have a look at it. Have a look at the blog that follows the petition. Have a look at what South Australians are saying about this disgraceful representative—this cabinet minister of the Abbott government. There is comment after comment about the hypocrisy of this minister of the Abbott government, who purports to represent the people of South Australia and the people of Sturt. I urge you and all South Australians to have a look at this pathetic attempt by this minister of this government to defend the savage attacks on the ABC, and particularly on the ABC in my home state of South Australia.

Senate adjourned at 20:17

DOCUMENTS

Tabling

The following government documents were tabled: