



46th Parliament

Senate Journals

No. 66: Thursday, 3 September 2020

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1 Meeting of Senate

The Senate met at 9.30 am. The President (Senator the Honourable Scott Ryan) took the chair, read prayers and made an acknowledgement of country.

2 Documents

The Clerk tabled the following documents pursuant to statute:

[Legislative instruments are identified by a Federal Register of Legislation (FRL) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

Acts Interpretation Act 1901—Subsection 34C(6)—Statement relating to extension of time for presentation of a periodic report—Aboriginal Hostels Limited—Report for 2019-20.

Biosecurity Act 2015—Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements for Cruise Ships) Amendment (No. 1) Determination 2020 [F2020L01114].

Sydney Airport Demand Management Act 1997—Minister's Direction to the Slot Manager 2020 (No. 3).

Veterans' Entitlements Act 1986—Amendment Statements of Principles concerning trochanteric bursitis and gluteal tendinopathy—

No. 68 of 2020 [F2020L01115].

No. 69 of 2020 [F2020L01116].

The Clerk tabled the following documents pursuant to the order of the Senate of 20 June 2001, as amended:

Entity contracts for 2019-20—Letters of advice—Industry, Science, Energy and Resources portfolio [2].

3 Committees—Leave to meet during sitting

Committees were authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, as follows:

Administration of Sports Grants—Select Committee—from midday.

Economics Legislation and References Committees—from 3.30 pm.

4 Electoral Legislation Amendment (Miscellaneous Measures) Bill 2020

Order of the day read for the further consideration of the bill in committee of the whole.

In the committee

Consideration resumed of the bill, as amended.

The Leader of the Australian Greens in the Senate (Senator Waters) moved the following amendment:

Page 45 (after line 20), at the end of the bill, add:

Schedule 3—Banning dirty donations

Commonwealth Electoral Act 1918

1 Subsection 287(1) (definition of *gift*)

Repeal the definition, substitute:

gift has the meaning given by section 287AAA.

2 After section 287

Insert:

287AAA Meaning of *gift*

- (1) A gift includes the following:
 - (a) any disposition of property made by a person to another person, being a disposition made without consideration in money or money's worth or with inadequate consideration;
 - (b) the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration;
 - (c) an amount paid by a person as a contribution, entry fee or other payment to entitle that or any other person to participate in or otherwise obtain any benefit from a fundraising venture or function if the amount forms part of the proceeds of the venture or function;
 - (d) an annual or other subscription paid to a registered political party, to a State branch or a division of a State branch of a political party, unless the subscription is for membership of the registered political party and the amount paid is less than \$1,000 per year;
 - (e) an annual or other subscription paid to an associated entity, unless the subscription is for membership of the associated entity and the amount paid is less than \$1,000 per year;
 - (f) an annual or other subscription paid to a political campaigner, unless the subscription is for membership of the entity and the amount paid is less than \$1,000 per year;
 - (g) uncharged interest on a loan to a political entity, being the additional amount that would have been payable by the political entity if:
 - (i) the loan had been made on terms requiring the payment of interest at the generally prevailing interest rate for a loan of that kind; and
 - (ii) any interest payable had not been waived; and
 - (iii) any interest payments were not capitalised.
- (2) Each of the following is taken not to be a gift:
 - (a) a payment under Division 3;
 - (b) any visit, experience or activity provided for the purposes of a political exchange program.

3 After Division 5A of Part XX

Insert:

Division 5B—Prohibited donations**314AH Simplified outline of this Division**

This Division sets out the various types of business entities which are prohibited donors. It is unlawful for a prohibited donor to make a political donation. A political donation includes a gift or loan made to or for the benefit of a political entity, a member of the Commonwealth Parliament, an associated entity or a political campaigner.

Unlawful political donations may be recovered by the Commonwealth as a debt due to the Commonwealth.

314AI Definitions

In this Division:

close associate of a corporation means each of the following:

- (a) a director or officer of the corporation or the spouse of such a director or officer;
- (b) a related body corporate of the corporation;
- (c) a person whose voting power in the corporation or a related body corporate of the corporation is greater than 20%, or the spouse of such a person;
- (d) if the corporation or a related body corporate of the corporation is a stapled entity in relation to a stapled security—the other stapled entity in relation to that stapled security;
- (e) if the corporation is a trustee, manager or responsible entity in relation to a trust—a person who holds more than 20% of the units in the trust (in the case of a unit trust) or is a beneficiary of the trust (in the case of a discretionary trust).

defence industry entity means:

- (a) a corporation engaged in a business undertaking that involves the development or provision of goods and services intended for the purposes of defence; or
- (b) a person who is a close associate of a corporation referred to in paragraph (a).

electoral expenditure has the same meaning as in Division 5.

financial institution means:

- (a) an entity which carries on a business that consists of, or includes, the provision of financial services or financial products and which is:
 - (i) a bank; or
 - (ii) a credit union; or
 - (iii) a building society; or
 - (iv) any other entity registered under the Australian Financial Institutions Commission Codes as a special service provider; or
- (b) a person who is a close associate of an entity referred to in paragraph (a).

Note: See section 111AZB of the *Corporations Act 2001* for the Australian Financial Institutions Commission Codes.

liquor or gambling industry business entity means:

- (a) a corporation engaged in a business undertaking that involves either or both of the following, but only if it is for the ultimate purpose of making a profit:
 - (i) the manufacture or sale of liquor products;
 - (ii) wagering, betting or other gambling (including the manufacture of machines used primarily for that purpose); or
- (b) a person who is a close associate of a corporation referred to in paragraph (a).

mineral resources or fossil fuel extraction industry business entity means:

- (a) a corporation engaged in a business undertaking that involves the exploration, prospecting, discovery, development or extraction of mineral resources or fossil fuels; or
- (b) a person who is a close associate of a corporation referred to in paragraph (a).

officer, in relation to a corporation, has the same meaning as in the *Corporations Act 2001*.

pharmaceutical entity means:

- (a) a corporation engaged in a business undertaking that involves any of the following activities for the ultimate purpose of making a profit:
 - (i) research into and testing of pharmaceutical products;
 - (ii) manufacture of pharmaceutical products;
 - (iii) sale, marketing or distribution of pharmaceutical products; or
- (b) a person who is a close associate of a corporation referred to in paragraph (a).

political donation has the meaning given by section 314AJ.

prohibited donor means:

- (a) a property developer; or
- (b) a financial institution; or
- (c) a tobacco industry business entity; or
- (d) a liquor or gambling industry business entity; or
- (e) a mineral resources or fossil fuel extraction industry business entity; or
- (f) a defence industry entity; or
- (g) a pharmaceutical entity; or
- (h) an industry representative organisation, if the majority of the organisation's members are prohibited donors referred to in any of paragraphs (a) to (g).

property developer means:

- (a) a corporation engaged in a business that involves the making of planning applications (however described) under State or Territory laws, by or on behalf of the corporation, in connection with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit; or
- (b) a person who is a close associate of a corporation referred to in paragraph (a).

Any activity engaged in by a corporation for the dominant purpose of providing commercial premises at which the corporation or a related body corporate of the corporation will carry on business is to be disregarded for the purpose of determining whether the corporation is a property developer, unless that business involves the sale or leasing of a substantial part of the premises.

related body corporate has the same meaning as in the *Corporations Act 2001*.

spouse of a person includes a de facto partner of that person.

Note: For ***de facto partner***, see section 21 of the *Acts Interpretation Act 1901*.

stapled entity means an entity the interests in which are traded along with the interests in another entity as stapled securities and (in the case of a stapled entity that is a trust) includes any trustee, manager or responsible entity in relation to the trust.

State branch includes a division of a State branch.

tobacco industry business entity means:

- (a) a corporation engaged in a business undertaking that involves the manufacture or sale of tobacco or inhaled nicotine products; or
- (b) a person who is a close associate of a corporation referred to in paragraph (a).

voting power has the same meaning as in the *Corporations Act 2001*.

314AJ Meaning of *political donation*

- (1) For the purposes of this Division, a *political donation* is:
 - (a) a gift made to or for the benefit of a political party or a State branch of a political party; or
 - (b) a gift made to or for the benefit of a member of the Commonwealth Parliament; or
 - (c) a gift made to or for the benefit of a candidate (including a member of a group); or
 - (d) a gift made to or for the benefit of an associated entity of a registered political party; or
 - (e) a gift made to or for the benefit of a political campaigner; or
 - (f) a gift made to or for the benefit of an entity or other person (not being a party, elected member, group or candidate), the whole or part of which was used or is intended to be used by the entity or person:
 - (i) to enable the entity or person to make, directly or indirectly, a political donation or to incur electoral expenditure in relation to an election; or
 - (ii) to reimburse the entity or person for making, directly or indirectly, a political donation or incurring electoral expenditure in relation to an election; or
 - (g) a loan:
 - (i) that, if it had been a gift, would have been a political donation under this section; and
 - (ii) that was not made by a financial institution (within the meaning of section 306A).
- (2) The following are not political donations:
 - (a) a gift to an individual that was made in a private capacity to the individual for his or her personal use and that the individual has not used, and does not intend to use, solely or substantially for a purpose related to an election or to his or her duties as an elected member;
 - (b) a payment under Division 3 (election funding).
- (3) However, if any part of a gift referred to in paragraph (5)(a) is subsequently used to incur electoral expenditure in relation to an election, that part of the gift is taken to be (and to always have been) a political donation.

314AK Political donations by prohibited donors unlawful

- (1) It is unlawful for a prohibited donor to make a political donation.
- (2) It is unlawful for a person to make a political donation on behalf of a prohibited donor.
- (3) It is unlawful for a person to accept a political donation that was made (wholly or partly) by a prohibited donor or by a person on behalf of a prohibited donor.
- (4) It is unlawful for a prohibited donor to solicit another person to make a political donation.
- (5) It is unlawful for a person to solicit another person on behalf of a prohibited donor to make a political donation.

- (6) If a person receives a gift that, under this section, it is unlawful for the person to receive, an amount equal to the amount or value of the gift is payable by that person to the Commonwealth and may be recovered by the Commonwealth as a debt due to the Commonwealth by action, in a court of competent jurisdiction, against:
- (a) in the case of a gift to or for the benefit of a political party or a State branch of a political party:
 - (i) if the party or branch, as the case may be is a body corporate—the party or branch, as the case may be; or
 - (ii) in any other case—the agent of the party or branch, as the case may be; or
 - (b) in any other case—the candidate or a member of the group or the agent of the candidate or of the group, as the case may be.

314AL Offences—political donations

- (1) A person (the *defendant*) commits an offence if:
- (a) the defendant is a prohibited donor; and
 - (b) the defendant makes a gift; and
 - (c) the gift is a political donation.
- Penalty: Imprisonment for 2 years or 400 penalty units, or both.
- (2) A person (the *defendant*) commits an offence if:
- (a) the defendant makes a gift on behalf of another person; and
 - (b) the gift is a political donation; and
 - (c) the other person is a prohibited donor.
- Penalty: Imprisonment for 2 years or 400 penalty units, or both.
- (3) A person (the *defendant*) commits an offence if:
- (a) the defendant accepts a gift; and
 - (b) the gift is a political donation; and
 - (c) the gift was given (wholly or partly) by, or by a person on behalf of, a prohibited donor.

Penalty: Imprisonment for 2 years or 400 penalty units, or both.

- (4) A person (the *defendant*) commits an offence if:
- (a) the defendant is a prohibited donor; and
 - (b) the defendant solicits another person to make a gift; and
 - (c) the gift is, or would be, a political donation.
- Penalty: Imprisonment for 2 years or 400 penalty units, or both.
- (5) A person (the *defendant*) commits an offence if:
- (a) the defendant solicits another person to make a gift; and
 - (b) the defendant does so on behalf of another person (the *donor*); and
 - (c) the donor is a prohibited donor; and
 - (d) the gift is, or would be, a political donation.

Penalty: Imprisonment for 2 years or 400 penalty units, or both.

Fault element

- (6) The fault element for the following paragraphs is knowledge by the defendant:
- (a) paragraphs (1)(a) and (c);
 - (b) paragraphs (2)(b) and (c);
 - (c) paragraphs (3)(b) and (c);
 - (d) paragraphs (4)(a) and (c);
 - (e) paragraphs (5)(c) and (d).

Civil penalty

- (7) A person is liable to a civil penalty in the person contravenes subsections (1) to (5).

Civil penalty:

The higher of the following amounts:

- (a) 200 penalty units;
- (b) if there is sufficient evidence for the court to determine the amount or value, or an estimate of the amount of value, of the gift at the time the gift is made—3 times that amount or value.

314AM Offence—scheme to circumvent prohibitions

- (1) A person commits an offence if the person enters into or carries out a scheme (whether alone or with others) for the purpose of circumventing a prohibition or requirement of this Division.

Penalty: Imprisonment for 2 years.

- (2) It does not matter whether the person also enters into or carries out the scheme for other purposes.
- (3) In this section:

scheme includes an arrangement, an understanding or a course of conduct.

314AN Electoral Commission may determine that a person is presumed not to be a prohibited donor

- (1) The Electoral Commission may determine, in writing, that a person (the *donor*) is presumed not to be a prohibited donor for the purposes of this Division if:
- (a) a donor or another person (the *applicant*) applies to the Commission for the determination to be made; and
 - (b) the Commission is satisfied that it is more likely than not that the donor is not a prohibited donor.
- (2) The Electoral Commission is to decide whether or not to make a determination under subsection (1) solely on the basis of information provided by the applicant.
- (3) A determination under subsection (1) remains in force for 12 months after it is made, unless it is revoked earlier.
- (4) The Electoral Commission may, by written notice to the applicant, revoke a determination under subsection (1) if the Commission is no longer satisfied of the matter in paragraph (1)(b). Subsection (2) does not apply to a decision of whether or not to revoke a determination under this subsection.

Effect of presumption

- (5) If a person is, under a determination made under subsection (1), presumed not to be a prohibited donor, then sections 314AK, 314AL and 314AM do not apply in relation to a gift made by or on behalf of the person.
- (6) However, subsection (5) does not apply to a person who knows that information provided to the Electoral Commission in connection with the making of the determination was false or misleading in a material particular.
- (7) The onus of proving that a person is not presumed not to be a prohibited donor under a determination made under subsection (1) is born by:
- (a) in proceedings under section 314AK—the Commonwealth; or
 - (b) in proceedings for an offence against section 314AL or 314AM—the prosecution.

Register of determinations

- (8) The Electoral Commission must maintain, and publish on the Commission's website, a register of determinations made under subsection (1).

Determination is not a legislative instrument

- (9) A determination made under subsection (1) is not a legislative instrument.

Division 5C—Capping donations**314AO Simplified outline of this Division**

This Division places a cap on political donations of \$3,000 within a donation period. Political donations to the same registered political party, member of the Commonwealth Parliament, candidate (including a member of a group), political campaigner or associated entity are aggregated together for the purpose of calculating the donation cap.

Political donations are also attributed to the relevant registered political party for the purpose of aggregating political donations.

It is unlawful for a registered political party, member of the Commonwealth Parliament, candidate, group, associated entity or political campaigner to accept a political donation if the donation would exceed the donation cap individually or when aggregated with other relevant donations.

Unlawful political donations may be recovered by the Commonwealth as a debt due to the Commonwealth.

314AP Definitions

In this Division:

donation cap means \$3,000.

donation period: the donation period begins on the day after the polling day for a general election and ends on the polling day of the next general election.

small contribution means an amount less than \$50.

State branch includes a division of a State branch.

314AQ Capping of political donations

A political donation made to, or for the benefit of, any of the following:

- (a) a political party or a State branch of a political party;
- (b) a member of the Commonwealth Parliament;
- (b) a candidate (including a member of a group);
- (c) a political campaigner;
- (d) an associated entity;

must not exceed the donation cap for each donation period.

314AR Aggregating political donations

- (1) This section applies to the dollar amount mentioned in the definition of ***donation cap*** in section 314AP.

Aggregation of donations

- (2) A political donation made by a donor of an amount equal to or less than the donation cap is to be treated as a political donation that exceeds the donation cap if that political donation and other separate political donations made by that donor within the donation period to the same:
- (a) registered political party; or
 - (b) member of the Commonwealth Parliament; or

- (c) candidate (including a member of a group); or
- (d) political campaigner; or
- (e) associated entity;

would exceed the donation cap if aggregated together.

- (3) For the avoidance of doubt, political donations made to the same person in their capacity as a member of the Commonwealth Parliament or in their capacity as a candidate in an election are to be aggregated for the purpose of calculating the donation cap.

Attribution of donations

- (4) A political donation made to:
 - (a) a member of the Commonwealth Parliament; or
 - (b) a candidate (including a member of a group); or
 - (c) a group that is endorsed by a registered political party; or
 - (d) a State branch of a political party; or
 - (e) an associated entity;

must also be included as a donation to the relevant registered political party for the purpose of aggregating political donations.

- (5) A political donation to a candidate or a member of a group must also be included as a donation to the group for the purpose of aggregating political donations.

Excluded donations

- (6) For the purpose of aggregating political donations, the following amounts are excluded from the calculation:
 - (a) a gift that is accepted by an associated entity or political campaigner for a purpose that does not involve election expenditure;
 - (b) any small contribution, unless the small contribution is made in contravention of section 314AM.

314AS Exceeding donation cap unlawful

- (1) Except as provided in this section, it is unlawful for a registered political party, member of the Commonwealth Parliament, candidate, group, associated entity or political campaigner to accept a political donation if:
 - (a) the political donation; or
 - (b) the political donation when aggregated in accordance with section 314AR;
 would exceed the donation cap during a donation period.
- (2) It is not unlawful for a registered political party, member of the Commonwealth Parliament, candidate, group, associated entity or political campaigner to accept a political donation if:
 - (a) the political donation would exceed the donation cap only if aggregated with other political donations from the donor in the donation period; and
 - (b) the registered political party, member of the Commonwealth Parliament, candidate, group, associated entity or political campaigner did not know and could not reasonably have known of the other political donation included in the aggregation; and
 - (c) an amount equal to the amount by which the aggregated political donation exceeded the donation cap was returned by the recipient of the political donation to the donor within 5 business days of the recipient discovering the donation exceeded the donation cap.

- (3) If a person receives a political donation that, under this section, it is unlawful for the person to receive, an amount equal to the amount or value of the political donation is payable by that person to the Commonwealth and may be recovered by the Commonwealth as a debt due to the Commonwealth by action, in a court of competent jurisdiction, against:
- (a) in the case of a political donation to or for the benefit of a political party or a State branch of a political party:
 - (i) if the party or branch, as the case may be is a body corporate—the party or branch, as the case may be; or
 - (ii) in any other case—the agent of the party or branch, as the case may be; or
 - (b) in the case of a political donation to or for the benefit of an associated entity or political campaigner:
 - (i) if the associated entity or political campaigner, as the case may be is a body corporate—the associated entity or political campaigner; or
 - (ii) in any other case—the agent of the associated entity or political campaigner, as the case may be; or
 - (c) in any other case—the candidate or a member of the group or the agent of the candidate or of the group, as the case may be.

4 Subsection 315A(1)

After “or subsection 301(3)”, insert “314AK(6) or 314AS(3)”.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 7

Senators—

Faruqi
Griff

Hanson-Young
Lambie

McKim
Patrick

Siewert*

NOES, 30

Senators—

Antic
Askew
Ayres
Bilyk
Bragg
Brockman
Chandler
Colbeck

Cormann
Duniam
Farrell
Fawcett
Fierravanti-Wells
Henderson
Hughes
Keneally

McGrath
McLachlan
McMahon
Molan
O'Neill
O'Sullivan
Paterson

Payne
Polley*
Pratt
Rennick
Scarr
Smith, Dean
Van

* Tellers

Question negatived.

Bill agreed to and reported with amendments.

On the motion of the Minister for Finance (Senator Cormann) the report from the committee was adopted.

Senator Cormann moved—That this bill be now read a third time.

Question put.

The Senate divided—

AYES, 30

Senators—

Antic	Cormann	Keneally	Paterson
Askew	Duniam	Lambie	Patrick
Ayres	Farrell	McGrath*	Payne
Bilyk	Fawcett	McLachlan	Rennick
Bragg	Fierravanti-Wells	McMahon	Scarr
Brockman	Gallagher	Molan	Smith, Dean
Chandler	Griff	O'Sullivan	Van
Colbeck	Henderson		

NOES, 4

Senators—

Faruqi	Hanson-Young	McKim	Siewert*
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* Tellers

Question agreed to.

Bill read a third time.

5 **Australian Citizenship Amendment (Citizenship Cessation) Bill 2020— Proposed consideration**

Leave refused: Senator Keneally sought leave to move a motion relating to the consideration of the Australian Citizenship Amendment (Citizenship Cessation) Bill 2020. An objection was raised and leave was not granted.

Proposed suspension of standing orders: Senator Keneally, at the request of the Leader of the Opposition in the Senate (Senator Wong) and pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent her moving a motion to provide for the consideration of a matter, namely a motion to give precedence to a motion to relating to the consideration of the Australian Citizenship Amendment (Citizenship Cessation) Bill 2020.

Debate ensued.

Question put.

The Senate divided—

AYES, 11

Senators—

Carr	Gallagher	McAllister	Urquhart
Chisholm	Keneally	McCarthy*	Watt
Farrell	Lambie	O'Neill	

NOES, 33

Senators—

Antic	Duniam	McGrath*	Rennick
Askew	Faruqi	McKim	Ruston
Birmingham	Fawcett	McLachlan	Ryan
Bragg	Fierravanti-Wells	McMahon	Scarr
Brockman	Griff	Molan	Seselja
Cash	Hanson-Young	O'Sullivan	Siewert
Chandler	Henderson	Patrick	Smith, Dean
Colbeck	Hume	Payne	Van
Cormann			

* Tellers

Question negatived.

6 **Payment Times Reporting Bill 2020**

Payment Times Reporting (Consequential Amendments) Bill 2020

Order of the day read for the adjourned debate on the motion of the Minister for Trade, Tourism and Investment (Senator Birmingham)—That these bills be now read a second time.

Debate resumed.

Question put and passed.

Bills read a second time.

The Senate resolved itself into committee for the consideration of the bills.

In the committee

Bills taken together and as a whole by leave.

Explanatory memoranda: The Minister for Employment, Skills, Small and Family Business (Senator Cash) tabled the following documents:

Payment Times Reporting Bill 2020—Supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

Payment Times Reporting Bill 2020 and the Payment Times Reporting (Consequential Amendments) Bill 2020—Addendum to the explanatory memorandum.

Senator Cash moved the following amendments together by leave:

Payment Times Reporting Bill 2020

Clause 5, page 3 (after line 14), before the definition of *Australia*, insert:

ABN has the same meaning as in the *A New Tax System (Australian Business Number) Act 1999*.

Clause 5, page 3 (after line 20), after the definition of *authorised officer*, insert:

Business Industry Codes means the Business Industry Codes published by the Australian Taxation Office, as in force or existing from time to time.

Note: The Business Industry Codes could in 2020 be viewed on the Australian Taxation Office's website (<https://www.ato.gov.au>).

Clause 5, page 3 (after line 24), after the definition of *civil penalty provision*, insert:

commencement day means the day this Act commences.

Clause 5, page 5 (after line 25), after the definition of *payment times report*, insert:

Payment Times Small Business Identification Tool has the meaning prescribed by the rules.

Clause 5, page 7 (line 2), omit the definition of *small business*, substitute:

small business means an entity described as a small business in the Payment Times Small Business Identification Tool.

Note: An entity will be described as a small business in the Payment Times Small Business Identification Tool during an income year for the entity if it carries on an enterprise in Australia and its annual turnover (within the meaning of the *Income Tax Assessment Act 1997*) was less than \$10 million for the most recent income year.

Clause 14, page 13 (lines 4 to 30), omit subclause (1), substitute:

Content requirements

- (1) The report must:
 - (a) state the entity's name; and
 - (b) if the entity has an ABN—state the ABN; and
 - (c) include a description of the entity's main business activity in accordance with the Business Industry Codes; and
 - (d) state the reporting period to which the report relates; and
 - (e) include a statement on the standard payment periods for the entity at the start of the reporting period, including in relation to the shortest and longest standard payment periods for the entity; and
 - (f) include details and an explanation of any changes to the standard payment periods for the entity during the reporting period, including in relation to the shortest and longest payment periods for the entity; and
 - (g) state the proportion, determined by total number and total value, of small business invoices paid by the entity during the reporting period that were paid in accordance with each of the following subparagraphs:
 - (i) within 20 days after the day (the *issue day*) the relevant small business invoice was issued;
 - (ii) between 21 and 30 days after the issue day;
 - (iii) between 31 and 60 days after the issue day;
 - (iv) between 61 and 90 days after the issue day;
 - (v) between 91 and 120 days after the issue day;
 - (vi) more than 120 days after the issue day; and
 - (h) state the proportion, determined by total value, of all procurement by the entity during the reporting period that was procurement from small business suppliers; and
 - (i) include the details of the principal governing body of the entity; and
 - (j) if the entity is a member of a controlling corporation's group—identify the controlling corporation; and
 - (k) include a declaration by a responsible member of the entity that the report will be provided to the principal governing body of the entity; and
 - (l) state the name of the responsible member who signed the report under subsection (5) and the date it was signed; and
 - (m) state the name and contact details of the individual giving the report to the Regulator; and
 - (n) if a notifiable event has occurred since the last payment times report (if any) for the

entity was given to the Regulator—include details of the notifiable event; and
 (o) include any other information or documents prescribed by the rules.

Clause 14, page 13 (line 32), omit “paragraph (1)(d)”, substitute “paragraph (1)(g)”.

Clause 14, page 14 (line 1), omit “paragraph (1)(i)”, substitute “paragraph (1)(o)”.

Clause 14, page 14 (after line 20), at the end of the clause, add:

Form and manner for giving report

- (6) The report must be given in a form and manner (if any) approved in an instrument under subsection (7).
- (7) The Regulator may, by notifiable instrument, approve a form or manner for the purposes of subsection (6).

Clause 27, page 21 (after line 19), after paragraph (3)(b), insert:

(ba) subsection 14(7) (approval of a form or manner for giving payment times reports);

Clause 28, page 22 (line 17), omit “18 months”, substitute “12 months”.

Clause 37, page 33 (line 6), omit “18 months”, substitute “12 months”.

Clause 47, page 38 (lines 4 to 6), omit the paragraph beginning “This Part deals”, substitute:

This Part deals with miscellaneous matters, such as the review of decisions, the continuation of certain obligations for former reporting entities, annual reporting, a statutory review and the power to make rules.

Clause 47, page 38 (after line 8), after the paragraph beginning “This Part also provides”, insert:

In addition, this Part provides that certain entities are taken to have become reporting entities before the commencement day, with their first reporting periods starting on or after the commencement day. It also provides for further time after the commencement day for entities to voluntarily elect to become reporting entities.

Page 45 (after line 1), before clause 55, insert:

54A Application—certain entities taken to have become reporting entities before commencement day

- (1) This section applies if:
 - (a) an income year (the *relevant income year*) for a constitutionally covered entity started 6 months or less before the commencement day; and
 - (b) the entity would have been covered by subsection 7(2) at the start of the relevant income year had this Act been in force at that time.
- (2) The entity is taken to have become a reporting entity at the start of the relevant income year.

Note: The entity continues to be a reporting entity until it ceases to be a reporting entity under subsection 7(3) or (4).

- (3) Despite paragraph 8(a), the first 6 months of the relevant income year is not a reporting period for the entity.

54B Application—further time after commencement day for voluntary election to become reporting entity

- (1) This section applies if:
 - (a) an income year (the *relevant income year*) for a constitutionally covered entity started:
 - (i) 6 months or less before the commencement day; or

- (ii) within the period of 2 months starting on the commencement day; and
 - (b) the entity gives the Regulator notice in writing that the entity elects to become a reporting entity; and
 - (c) the notice is given after the start of the relevant income year but within the period of 2 months starting on the commencement day.
- (2) The election is taken to have been made under paragraph 7(1)(b), and the entity is taken to have become a reporting entity at the start of the relevant income year.
- Note 1: An entity that is only a reporting entity because of an election under paragraph 7(1)(b) is a volunteering entity: see section 5.
- Note 2: The entity continues to be a reporting entity until it ceases to be a reporting entity under subsection 7(3) or (4).
- (3) If the relevant income year started before the commencement day, then, despite paragraph 8(a), the first 6 months of the relevant income year is not a reporting period for the entity.

Page 46 (after line 9), after clause 57, insert:

57A Review of operation of this Act

- (1) The Minister must cause an independent review of the operation of this Act to be conducted within 6 months after the second anniversary of the commencement day.
- Note: The reference to this Act includes the rules: see the definition of *this Act* in section 5.
- (2) The persons who conduct the review must give the Minister a written report of the review.
 - (3) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.

Clause 58, page 46 (line 27), omit “*small business*”, substitute “*Payment Times Small Business Identification Tool*”.

At 11.45 am: The committee reported progress.

7 Notices

Senator Rennick: To move on the next day of sitting—That the Senate—

- (a) acknowledges:
 - (i) the lack of appropriate disposal mechanisms and technology for much of the toxic waste from solar panels, wind turbines and other renewable products in many states and territories, and
 - (ii) the significant environmental consequences the improper disposal of renewable energy waste products has on the environment; and
- (b) calls on state governments to collect environmental bonds on entities which control these assets, similar to those charged on oil and mining companies, to fund the development of appropriate waste disposal mechanisms for renewable energy waste. (*general business notice of motion no. 796*)

Senator Roberts: To move on the next day of sitting—That there be laid on the table, by the Minister representing the Minister for Industry, Science and Technology, by no later than 10 am on 8 October 2020, the following documents:

- (a) a letter from Dr Larry Marshall, Chief Executive of the Commonwealth Scientific and Industrial Research Organisation to the former Minister for Industry, Innovation and Science, former Senator Sinodinos, dated 9 August 2017; and
- (b) the attachment to that letter titled ‘Response to issues raised with references at the 26 July 2017 briefing’ in full and without any redactions. (*general business notice of motion no. 797*)

Senators Canavan, McKenzie, Davey, McDonald and McMahon: To move on the next day of sitting—That the Senate—

- (a) commends the role that Australian manufacturers have had in responding to the COVID-19 pandemic through the increased production of medical equipment;
- (b) notes:
 - (i) the importance of manufacturing in regional areas, particularly where industry is strong as a result of access to reliable and affordable energy sources such as coal and gas, and
 - (ii) that Australian manufacturing is disadvantaged by protectionist policies overseas and comparatively higher energy costs;
- (c) expresses its desire for an expanding manufacturing sector in Australia that increases employment in regional Australia and guarantees the protection of essential supply chains;
- (d) further notes that an expansion of Australian manufacturing depends on:
 - (i) local procurement policies,
 - (ii) investment in reliable and affordable energy, and
 - (iii) financial incentives such as instant tax write-offs that encourage investment;
- (e) acknowledges the work of the National COVID-19 Coordination Commission’s manufacturing taskforce for engaging with industry to develop a plan to strengthen Australian manufacturing; and
- (f) commends the Liberals and Nationals in government for supporting manufacturing through the Manufacturing Modernisation Fund, instant asset write-offs, increasing local procurement and investigating the feasibility of reliable and affordable energy sources. (*general business notice of motion no. 798*)

Senator Rice: To move on the next day of sitting—That there be laid on the table, by the Minister for Youth and Sport, by no later than 10 am on 8 October 2020:

- (a) a copy of the talking points prepared by the former Minister for Sport’s office concerning the expansion of funding for the Community Sports Infrastructure Grants program, ahead of her meeting with the Prime Minister on 28 November 2018;
- (b) any records of that 28 November 2018 meeting;
- (c) the subsequent exchange of letters referring to that meeting as a basis for expanding funding for the Community Sport Infrastructure Grants program; and
- (d) any evidence the Government is able to provide for the Minister’s legal authority to be the decision maker in the Community Sport Infrastructure Grants program. (*general business notice of motion no. 799*)

Senator McKim: To move on the next day of sitting—That the Senate opposes bringing forward the start date of the already legislated personal income tax cuts. (*general business notice of motion no. 800*)

Senator Siewert: To move on the next day of sitting—That the Senate—

- (a) acknowledges that Australia is in recession for the first time in 30 years;
- (b) notes that the Government is actively considering bringing forward \$48 billion worth of personal income tax cuts in the October Budget that will give even more cash to millionaires and the super wealthy;
- (c) recognises that the Government is cutting the Coronavirus Supplement to the JobSeeker Payment by \$300 a fortnight on 25 September 2020 and refuses to confirm that the rate of JobSeeker will not return to \$40 a day in December; and
- (d) calls on the Government to drop planned tax cuts to the wealthy and invest in those on income support and on low incomes. (*general business notice of motion no. 801*)

The Leader of the Australian Greens in the Senate (Senator Waters): To move on the next day of sitting—That the Senate—

- (a) notes that:
 - (i) 9 September 2020 marked one year since the Senate passed the Australian Greens' National Integrity Commission Bill 2018 (No. 2) to establish a Federal corruption watchdog with broad remit to investigate allegations of corruption and misconduct, and to ensure strong, independent oversight of the actions of parliamentarians,
 - (ii) polls consistently show that the majority of Australians support the establishment of a strong national anti-corruption body,
 - (iii) the Government has not brought the Greens' bill on for debate in the House of Representatives, and
 - (iv) despite public consultation ending more than 18 months ago, and statements that final legislation was 'imminent', the Government has yet to introduce legislation to establish an integrity commission; and
- (b) calls on the Government to:
 - (i) introduce a bill to establish a strong, independent national integrity commission, and
 - (ii) ensure that the 2020-21 Budget allocates adequate funding for the establishment and operation of a national integrity commission. (*general business notice of motion no. 802*)

8 Selection of Bills—Standing Committee—Report no. 8 of 2020

The Chair of the Selection of Bills Committee (Senator Dean Smith) tabled the following report:

SELECTION OF BILLS COMMITTEE

REPORT NO. 8 OF 2020

1. The committee met in private session on Wednesday, 2 September 2020 at 7.30 pm.

2. The committee recommends that—

- (a) contingent upon introduction in the House of Representatives, the **provisions** of the Australia's Foreign Relations (State and Territory Arrangements) Bill 2020 and the Australia's Foreign Relations (State and Territory Arrangements) (Consequential Amendments) Bill 2020 be **referred immediately** to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 5 November 2020;
- (b) the **provisions** of the Civil Aviation (Unmanned Aircraft Levy) Bill 2020 and the Civil Aviation Amendment (Unmanned Aircraft Levy Collection and Payment) Bill 2020 be **referred immediately** to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 4 November 2020;
- (c) the **provisions** of the Clean Energy Finance Corporation Amendment (Grid Reliability Fund) Bill 2020 be **referred immediately** to the Environment and Communications Legislation Committee for inquiry and report by 4 November 2020;
- (d) the **provisions** of the Crimes Legislation Amendment (Economic Disruption) Bill 2020 be **referred immediately** to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 10 November 2020;
- (e) the **provisions** of the National Commissioner for Defence and Veteran Suicide Prevention Bill 2020 and the National Commissioner for Defence and Veteran Suicide Prevention (Consequential Amendments) Bill 2020 be **referred immediately** to the Foreign Affairs, Defence and Trade Legislation Committee **but was unable to reach agreement on a reporting date**;
- (f) the **provisions** of the Radiocommunications Legislation Amendment (Reform and Modernisation) Bill 2020, the Radiocommunications (Receiver Licence Tax) Amendment Bill 2020 and the Radiocommunications (Transmitter Licence Tax) Amendment Bill 2020 be **referred immediately** to the Environment and Communications Legislation Committee for inquiry and report by 4 November 2020;
- (g) the **provisions** of the Recycling and Waste Reduction Bill 2020, the Recycling and Waste Reduction (Consequential and Transitional Provisions) Bill 2020, the Recycling and Waste Reduction Charges (General) Bill 2020, the Recycling and Waste Reduction Charges (Customs) Bill 2020 and the Recycling and Waste Reduction Charges (Excise) Bill 2020 be **referred immediately** to the Environment and Communications Legislation Committee for inquiry and report by 30 September 2020; and
- (h) the Treasury Laws Amendment (Self Managed Superannuation Funds) Bill 2020 be **referred immediately** to the Economics Legislation Committee for inquiry and report by 4 November 2020.

3. The committee recommends that the following bills **not** be referred to committees:
 Family Law Amendment (Risk Screening Protections) Bill 2020
 Franchising Laws Amendment (Fairness in Franchising) Bill 2020.
4. The committee deferred consideration of the following bills to its next meeting:
 Aged Care Legislation Amendment (Improved Home Care Payment Administration No. 1) Bill 2020
 Air Services Amendment Bill 2018
 Australian Education Legislation Amendment (Prohibiting the Indoctrination of Children) Bill 2020
 Constitution Alteration (Freedom of Expression and Freedom of the Press) 2019
 Counter-Terrorism Legislation Amendment (High Risk Terrorist Offenders) Bill 2020
 Customs Amendment (Safer Cladding) Bill 2019
 Defence Legislation Amendment (Enhancement of Defence Force Response to Emergencies) Bill 2020
 Discrimination Free Schools Bill 2018
 Fair Work Amendment (Improving Unpaid Parental Leave for Parents of Stillborn Babies and Other Measures) Bill 2020
 Governor-General Amendment (Cessation of Allowances in the Public Interest) Bill 2019
 Great Australian Bight Environment Protection Bill 2019
 Health Insurance Amendment (Administration) Bill 2020
 Higher Education Legislation Amendment (Provider Category Standards and Other Measures) Bill 2020
 Interactive Gambling Amendment (Prohibition on Credit Card Use) Bill 2020
 National Disability Insurance Scheme Amendment (Strengthening Banning Orders) Bill 2020
 Regional Forest Agreements Legislation (Repeal) Bill 2017
 Social Services Legislation Amendment (Better Targeting Student Payments) Bill 2019
 Social Services Legislation Amendment (Payment Integrity) Bill 2019
 Sport Integrity Australia Amendment (World Anti-Doping Code Review) Bill 2020.
5. The committee considered the following bills but was unable to reach agreement:
 Environment Protection and Biodiversity Conservation Amendment (Streamlining Environmental Approvals) Bill 2020
 Higher Education Support Amendment (Job-Ready Graduates and Supporting Regional and Remote Students) Bill 2020.

Dean Smith

Chair

2 September 2020.

Senator Dean Smith moved—That the report be adopted.

The Assistant Minister for Forestry and Fisheries (Senator Duniam) moved the following amendment:

At the end of the motion, add “and, in respect of the provisions of the National Commissioner for Defence and Veteran Suicide Prevention Bill 2020 and a related bill, the Foreign Affairs, Defence and Trade Legislation Committee report on 30 November 2020”.

Senator Lambie moved the following amendment to Senator Duniam’s proposed amendment:

Omit “30 November 2020”, substitute “24 April 2021”.

Debate ensued.

Question—That the amendment moved by Senator Lambie be agreed to—put.

The Senate divided—

AYES, 25

Senators—

Ayres	Green	McCarthy	Sheldon
Bilyk	Griff	McKim	Siewert
Carr	Hanson-Young	O’Neill	Urquhart*
Chisholm	Lambie	Patrick	Walsh
Farrell	Lines	Polley	Watt
Faruqi	McAllister	Pratt	Wong
Gallagher			

NOES, 25

Senators—

Antic	Colbeck	Hume	O’Sullivan
Askew	Cormann	McGrath	Ruston
Birmingham	Davey	McKenzie	Ryan
Bragg	Duniam	McLachlan	Scarr
Brockman	Fierravanti-Wells	McMahon	Seselja
Cash	Hughes	Molan	Smith, Dean*
Chandler			

* Tellers

The ayes and noes were equal and so the question was negated.

Debate continued.

Question—That the amendment moved by Senator Duniam be agreed to—put.

The Senate divided—

AYES, 25

Senators—

Birmingham	Fierravanti-Wells	McMahon	Ruston
Bragg	Henderson	Molan	Ryan
Cash	Hughes	O’Sullivan	Seselja
Colbeck	Hume	Payne	Smith, Dean*
Cormann	McGrath	Rennick	Stoker
Davey	McKenzie	Reynolds	Van
Duniam			

NOES, 25

Senators—

Ayres	Green	McCarthy	Sheldon
Bilyk	Griff	McKim	Siewert
Carr	Hanson-Young	O'Neill	Urquhart*
Chisholm	Lambie	Patrick	Walsh
Farrell	Lines	Polley	Watt
Faruqi	McAllister	Pratt	Wong
Gallagher			

* Tellers

The ayes and noes were equal and so the question was negated.

The Minister for Families and Social Services (Senator Ruston) moved the following amendment:

At the end of the motion, add “and, in respect of the Higher Education Support Amendment (Job-Ready Graduates and Supporting Regional and Remote Students) Bill 2020, the bill be referred to the Education and Employment Legislation Committee for inquiry and report by 25 September 2020”.

Senator Gallagher moved the following amendment to Senator Ruston’s proposed amendment:

Omit “25 September 2020”, substitute “30 November 2020”.

Debate ensued.

Question—That the amendment moved by Senator Gallagher be agreed to—put and negated. All Opposition and Australian Greens senators, by leave, recorded their votes for the ayes.

Question—That the amendment moved by Senator Ruston be agreed to—put and passed.

Senator Hanson-Young moved the following amendment:

At the end of the motion, add “and, in respect of the Environment Protection and Biodiversity Conservation Amendment (Streamlining Environmental Approvals) Bill 2020, the provisions of the bill be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 11 November 2020”.

Question—That the amendment moved by Senator Hanson-Young be agreed to—put.

The Senate divided—

AYES, 25

Senators—

Ayres	Green	McCarthy	Sheldon
Bilyk	Griff	McKim	Siewert
Carr	Hanson-Young	O'Neill	Urquhart*
Chisholm	Lambie	Patrick	Walsh
Farrell	Lines	Polley	Watt
Faruqi	McAllister	Pratt	Wong
Gallagher			

NOES, 25

Senators—

Antic	Davey	Hume	Rennick
Askew	Duniam	McGrath	Ruston
Birmingham	Fawcett	McKenzie	Ryan
Brockman	Fierravanti-Wells	McLachlan	Seselja
Cash	Henderson	O'Sullivan	Smith, Dean*
Colbeck	Hughes	Payne	Stoker
Cormann			

* Tellers

The ayes and noes were equal and so the question was negatived.

Main question, as amended, put and passed.

9 Order of business—Rearrangement

The Assistant Minister for Forestry and Fisheries (Senator Duniam) moved—That—

- (a) the following government business orders of the day be considered from 12.45 pm today:
 - No. 4 Aboriginal Land Rights (Northern Territory) Amendment (Jabiru) Bill 2020
 - Broadcasting Services Amendment (Regional Commercial Radio and Other Measures) Bill 2020;
- (b) government business be called on after consideration of the bills listed in paragraph (a) and considered till not later than 2 pm today; and
- (c) general business notice of motion no. 782 standing in the name of Senator Patrick relating to the National Cabinet and order of the day no. 56 (Aged Care Legislation Amendment (Financial Transparency) Bill 2020) be considered during general business today.

Question put and passed.

10 Postponements

Business was postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator O'Neill for today, proposing the disallowance of the Corporations Amendment (Litigation Funding) Regulations 2020, postponed till 6 October 2020.

Business of the Senate notice of motion no. 3 standing in the name of Senator Hanson-Young for today, proposing a reference to the Environment and Communications References Committee, postponed till 6 October 2020.

General business notice of motion no. 787 standing in the name of Senator Urquhart for today, proposing an order for the production of documents by the Minister representing the Minister for Health, postponed till the next day of sitting.

11 Committee—Extension of time to report

The time for the presentation of the report of the Finance and Public Administration Legislation Committee on its inquiry into the Commonwealth Electoral Amendment (Donation Reform and Other Measures) Bill 2020 was extended from 25 September to 3 December 2020.

12 **Censure motion—Minister for Aged Care and Senior Australians (Senator Colbeck)**

The Leader of the Opposition in the Senate (Senator Wong), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 776—
That the Senate—

- (a) notes that:
 - (i) the Australian Government funds and regulates residential aged care,
 - (ii) the Morrison Government failed to protect aged care residents from COVID-19 by ignoring:
 - (A) the interim report of the Aged Care Royal Commission,
 - (B) the warnings from experts and unions, and
 - (C) the warnings of Dorothy Henderson Lodge and Newmarch House,
 - (iii) the Australian Government has not produced a COVID-19 plan for aged care,
 - (iv) more than 450 aged care residents have died from COVID-19, and
 - (v) the Aged Care Royal Commission has said that if the Australian Government had acted upon previous reviews of aged care the suffering of many people could have been avoided; and
- (b) censures the Minister for Aged Care and Senior Australians for:
 - (i) failing to recall the most basic and tragic facts about aged care residents,
 - (ii) describing his management of aged care as a ‘high water mark’,
 - (iii) dismissing deaths as a ‘function’ of aged care, and
 - (iv) failing to take responsibility for the devastating crisis in the aged care sector, which has caused death, grief and untold trauma for vulnerable Australians and their families.

Statements by leave: Senator Wong and the Leader of the Government in the Senate (Senator Cormann), by leave, made statements relating to the motion.

Question put.

The Senate divided—

AYES, 25

Senators—

Ayres	Green	McCarthy	Sheldon
Bilyk	Griff	McKim	Siewert
Carr	Hanson-Young	O'Neill	Urquhart*
Chisholm	Lambie	Patrick	Walsh
Farrell	Lines	Polley	Watt
Faruqi	McAllister	Pratt	Wong
Gallagher			

NOES, 21

Senators—

Antic
 Askew
 Birmingham
 Cash
 Colbeck
 Cormann

Duniam
 Fawcett
 Henderson
 Hughes
 Hume

McGrath
 McKenzie
 McLachlan
 McMahon
 Payne

Reynolds
 Ruston
 Ryan
 Seselja
 Smith, Dean*

* Tellers

Question agreed to.

13 Postponement

Senator Lambie, by leave, postponed business of the Senate notice of motion no. 2 standing in her name for today, proposing a reference to the Foreign Affairs, Defence and Trade Legislation Committee, till the next day of sitting.

14 Procedure—Standing Committee—Reference—COVID-19 and the Senate

The Leader of the Government in the Senate (Senator Cormann), also on behalf of the Leader of the Opposition in the Senate (Senator Wong), pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 4—That the Senate, in the spirit of mutual respect and working with other institutions, agencies and officials managing the COVID-19 pandemic:

- (a) notes that:
 - (i) the law of parliamentary privilege is intended to protect the ability of legislative houses, their members and committees, to exercise their authority and perform their duties without undue external interference, and
 - (ii) the powers and immunities that enable and secure the work of the two Commonwealth houses belong to the houses themselves by constitutional design – a design which ensures that the Senate, in particular, can undertake its functions with an appropriate degree of independence;
- (b) recognises the statement by the President of Monday, 24 August 2020 regarding the risk of COVID-19 measures constraining the ability of senators to undertake their duties;
- (c) affirms the right of the Senate to determine its own meetings, and in particular the sessions for the remainder of 2020 and the scheduled Budget Estimates hearings;
- (d) maintains the right of senators to attend parliamentary proceedings whether directly or by remote participation (if available);
- (e) calls on the executives and executive agencies of the Commonwealth, states and territories to have appropriate regard to these matters in devising and implementing public health measures and, wherever possible, to do so in consultation with representatives of the Senate; and
- (f) refers to the Procedure Committee for report to the Senate no later than 8 October 2020 any consequential matters arising from the above.

Question put and passed.

**15 Finance and Public Administration Legislation Committee—
Reference—Operation and management of the Department of
Parliamentary Services**

Senator Urquhart, at the request of Senator Kitching and pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 5—That the following matter be referred to the Finance and Public Administration Legislation Committee for inquiry and report by 8 December 2020:

The operation and management of the Department of Parliamentary Services, with particular reference to:

- (a) recruitment;
- (b) workplace culture;
- (c) building and asset management;
- (d) contract and procurement management;
- (e) general operations and management;
- (f) business continuity arrangements;
- (g) security arrangements;
- (h) services to parliamentarians;
- (i) the Parliamentary Library;
- (j) implementation of recommendations from past inquiries; and
- (k) any related matters.

Question put and passed.

16 Consideration of legislation

The Assistant Minister for Forestry and Fisheries (Senator Duniam), pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 1—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Australian Citizenship Amendment (Citizenship Cessation) Bill 2019

Broadcasting Services Amendment (Regional Commercial Radio and Other Measures) Bill 2020.

Question put and passed. All Australian Greens senators, by leave, recorded their votes for the noes.

17 Government Grants—Proposed select committee

Senator Siewert, at the request of Senators Waters and Rice and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 718—

- (1) That a select committee, to be known as the Select Committee on Allocation of Government Grants, be established to inquire into and report on the administration of government grant programs during and after election campaigns, including but not limited to the Community Development Grants, Urban Congestion – Commuter Car Park Fund, Environmental Restoration Grants, and Small and Medium Enterprises (SME) Export Hubs and Drought Communities Fund, with particular reference to:
 - (a) program design and guidelines, including eligibility criteria;
 - (b) management and assessment processes;
 - (c) the use of closed grant programs which are not open to public applications, but require nomination by a Minister;
 - (d) adherence to published assessment processes and program criteria, including the *Public Governance, Performance and Accountability Act 2013* and the Commonwealth Grant Rules and Guidelines;
 - (e) the relationship between election commitments and grant allocations;
 - (f) demonstration of value for money;
 - (g) efforts to influence votes through grant allocation;
 - (h) the role of Ministers in determining awards of grants;
 - (i) measures to manage the risk of politicisation of funding outcomes and announcements; and
 - (j) any related programs or matters.
- (2) That the committee present its final report on or before 30 August 2021.
- (3) That the committee consist of 6 senators, as follows:
 - (a) 2 nominated by the Leader of the Government in the Senate;
 - (b) 2 nominated by the Leader of the Opposition in the Senate;
 - (c) 1 nominated by the Leader of the Australian Greens in the Senate; and
 - (d) 1 nominated by a minority party or independent Senator.
- (4) That:
 - (a) participating members may be appointed to the committee on the nomination of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate or any minority party or independent senator;
 - (b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee; and
 - (c) a participating member shall be taken to be a member of a committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.

- (5) That the committee may proceed to the dispatch of business notwithstanding that not all members have been duly nominated and appointed and notwithstanding any vacancy.
- (6) That the committee elect as chair the member nominated by the Leader of the Australian Greens in the Senate and as deputy chair one of the members nominated by the Leader of the Opposition in the Senate.
- (7) That the deputy chair shall act as chair when the chair is absent from a meeting of the committee or the position of chair is temporarily vacant.
- (8) That, in the event of an equality of voting, the chair, or the deputy chair when acting as chair, have a casting vote.
- (9) That the committee have power to appoint subcommittees consisting of 3 or more of its members, and to refer to any such subcommittee any of the matters which the committee is empowered to consider.
- (10) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.
- (11) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.
- (12) That the committee be empowered to print from day to day such papers and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Question put.

The Senate divided—

AYES, 24

Senators—

Ayres	Gallagher	McAllister	Pratt
Bilyk	Green	McCarthy	Sheldon
Carr	Griff	McKim	Siewert
Chisholm	Hanson-Young	O'Neill	Urquhart*
Farrell	Lambie	Patrick	Walsh
Faruqi	Lines	Polley	Watt

NOES, 24

Senators—

Antic	Duniam	McKenzie	Reynolds
Askew	Fawcett	McLachlan	Ruston
Cash	Henderson	McMahon	Ryan
Colbeck	Hughes	O'Sullivan	Scarr
Cormann	Hume	Payne	Seselja
Davey	McGrath	Rennick	Smith, Dean*

* Tellers

The ayes and noes were equal and so the question was negatived.

18 Defence—Collins Class submarines

Senator Patrick, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 781—That the Senate—

- (a) notes that:
 - (i) Australia's Collins Class submarines provide vital capability for the Australian Defence Force, yet in June 2011 not one could go to sea,
 - (ii) over half a decade later and after significant investment, the current sustainment model, with short term maintenance activities in Western Australia (WA) and full-cycle dockings in South Australia (SA), is achieving world benchmarks,
 - (iii) ASC South Australia sends experts to WA to resolve complex maintenance issues,
 - (iv) there is a proposal before Government to move full-cycle dockings from SA to WA, which would result in:
 - (A) a loss of corporate knowledge,
 - (B) negative impact on the sustainment model, and potential reduction of submarine availability, and
 - (C) at best, only similar outcomes would be achieved, thus the cost of the move cannot represent value for money, and
 - (v) the response to COVID-19 has:
 - (A) introduced levels of concern and stress on Australian workers, and
 - (B) is disrupting state economies; and
- (b) calls on the Federal Government to:
 - (i) recognise the success of the current sustainment model, and
 - (ii) provide stability for the employees of ASC and the South Australian economy by retaining all Collins Class submarine full-cycle docking activities in SA.

Leave refused: The Minister for Finance (Senator Cormann) sought leave to move an amendment to the motion. An objection was raised and leave was not granted.

Suspension of standing orders: Senator Cormann, pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent him moving an amendment to the motion.

Question—That the motion to suspend standing orders be agreed to—put.

The Senate divided—

AYES, 44

Senators—

Antic	Farrell	McCarthy	Reynolds
Askew	Faruqi	McGrath	Ruston
Ayres	Fawcett	McKenzie	Ryan
Bilyk	Gallagher	McKim	Scarr
Carr	Green	McLachlan	Seselja
Cash	Hanson-Young	McMahon	Sheldon
Chandler	Henderson	O'Sullivan	Siewert
Colbeck	Hughes	Payne	Smith, Dean*
Cormann	Hume	Polley	Urquhart
Davey	Lines	Pratt	Walsh
Duniam	McAllister	Rennick	Watt

NOES, 3

Senators—

Griff	Lambie	Patrick
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* Tellers

Question agreed to.

On the motion of Senator Cormann the following amendment was agreed to:

Omit all paragraphs after paragraph (a)(ii), substitute:

- (iii) recognises the demonstrated skills and expertise of the existing Collins Class submarine sustainment workforce,
- (iv) notes the Government's statement that a decision on future full cycle docking arrangements is yet to be made and that it will be made in the national interest; and
- (b) agrees that future full cycle docking arrangements for Collins Class submarines must best guarantee optimal ongoing availability of our nation's submarine capability throughout the transition to the fleet of twelve new Attack Class submarines.

Statement by leave: Senator Patrick, by leave, made a statement relating to the motion, as amended.

Main question, as amended, put and passed.

After 12.45 pm—

19 **Community Sports Infrastructure Grants program—Proposed order for production of documents**

Leave refused: Senator Siewert sought leave to move a motion proposing an order for the production of documents concerning the Community Sports Infrastructure Grants program. An objection was raised and leave was not granted.

Proposed suspension of standing orders: Senator Siewert, pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent her moving a motion to provide for the consideration of a matter, namely a motion to give precedence to a motion proposing an order for the production of documents concerning the Community Sports Infrastructure Grants program.

Debate ensued.

Question put.

The Senate divided—

AYES, 20

Senators—

Ayres	Gallagher	McCarthy*	Sheldon
Bilyk	Green	McKim	Siewert
Carr	Hanson-Young	O'Neill	Urquhart
Chisholm	Lines	Polley	Walsh
Farrell	McAllister	Pratt	Watt

NOES, 25

Senators—

Antic	Davey	McMahon	Ryan
Bragg	Duniam	O'Sullivan	Scarr
Canavan	Fawcett	Patrick	Seselja
Cash	Hughes	Payne	Smith, Dean*
Chandler	McKenzie	Rennick	Stoker
Colbeck	McLachlan	Ruston	Van
Cormann			

* Tellers

Question negated.

20 **Aboriginal Land Rights (Northern Territory) Amendment (Jabiru) Bill 2020**

Order of the day read for the adjourned debate on the motion of the Assistant Minister for Finance, Charities and Electoral Matters (Senator Seselja)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Assistant Minister for Finance, Charities and Electoral Matters (Senator Seselja) the bill was read a third time.

21 **Payment Times Reporting Bill 2020** **Payment Times Reporting (Consequential Amendments) Bill 2020**

Order of the day read for the further consideration of the bills in committee of the whole.

In the committee

Consideration resumed of the bills—and the amendments moved by the Minister for *Employment, Skills, Small and Family Business (Senator Cash)* (see entry no. 6).

Debate resumed.

Question—That the amendments be agreed to—put and passed.

On the motion of the Leader of Pauline Hanson's One Nation (Senator Hanson) the following amendment was debated and agreed to:

Payment Times Reporting Bill 2020

Page 46 (before line 10), before clause 58, insert:

57B Requirements for review

- (1) Without limiting section 57A, the review must consider the following:
 - (a) whether the operation of this Act is meeting the objects set out in section 3;
 - (b) whether related government policies, including policies relating to electronic invoicing, have improved the payment terms and practices of reporting entities in relation to their small business suppliers;
 - (c) whether other measures such as mandating one or more maximum periods (the *mandated maximum payment periods*) for the payment of small business invoices by reporting entities would be more effective in improving those payment terms and practices.
- (2) In considering mandated maximum payment periods, the review must consider the following:
 - (a) how mandated maximum payment periods could best be implemented, taking into account:
 - (i) potential regulatory burdens on reporting entities; and
 - (ii) the need to avoid unintended consequences for small businesses;
 - (b) the mandated maximum payment periods that would be appropriate to improve payment terms and practices, including:
 - (i) whether mandated maximum payment periods of 30 days, 20 days, or 10 days or less would be appropriate; and
 - (ii) whether mandated maximum payment periods of 5 days would be appropriate if electronic invoicing were used;
 - (c) the impact of sector or industry-specific differences, including how mandated maximum payment periods could be imposed on sectors and industries with differing payment terms and practices;
 - (d) the compliance or enforcement arrangements that would be appropriate to support mandated maximum payment periods, including whether a penalty regime should be established for the following purposes:
 - (i) to require a reporting entity to pay small business invoices issued to the entity within a specified period, if the entity has a median payment period for small business invoices issued to the entity that is longer than the mandated maximum payment period;
 - (ii) to require a reporting entity that has failed to pay a small business invoice issued to the entity within the period specified in the terms of the relevant contract to pay interest on that payment.

Senator Lambie moved the following amendments together by leave:

Payment Times Reporting Bill 2020

Clause 1, page 1 (line 8), after “*Reporting*”, insert “*and Enforcement*”.

Clause 3, page 2 (after line 23), at the end of the clause, add:

; and (c) to enforce the payment of small business invoices by a reporting entity within 21 days of issue.

Clause 4, page 3 (after line 9), after the paragraph beginning “A reporting entity”, insert:

A reporting entity must pay a small business invoice within 21 days of the issue of the invoice.

Page 21 (after line 26), after Part 3, insert:

Part 3A—Enforcing payments

Division 1—Introduction

27A Simplified outline of this Part

This Part imposes an obligation on a reporting entity to pay a small business invoice within 21 days of the issue of the invoice.

A civil penalty applies to a reporting entity that fails to do so.

If a reporting entity is ordered to pay a pecuniary penalty, the Regulator must pay to the issuer of the invoice an amount equal to the penalty.

A small business supplier may request the Regulator to apply to a court for the imposition of a civil penalty under this Part.

Division 2—Payment of small business invoices

27B Reporting entities must pay small business invoices within 21 days

- (1) A reporting entity must pay a small business invoice in full before the end of the period of 21 days beginning on the day the invoice was issued.

Civil penalty

- (2) A reporting entity is liable to a civil penalty if:
 - (a) the entity is required to pay a small business invoice; and
 - (b) the entity fails to comply with the requirement in subsection (1); and
 - (c) the entity is not a volunteering entity.

Civil penalty: 200 penalty units.

- (3) For the purposes of subsection (2), the reference in paragraph 82(5)(a) of the Regulatory Powers Act to 5 times the pecuniary penalty specified for the civil penalty provision has effect as if it were a reference to an amount equal to the lesser of:

- (a) either:
 - (i) if the invoice is paid in full before the day that the order to pay the penalty is made—5% of the total amount of the small business invoice multiplied by the number of days in the period beginning on the 22nd day after the invoice was issued and ending on the day the invoice was paid in full; or
 - (ii) if the invoice is not paid in full before the day that the order to pay the penalty is made—5% of the total amount of the small business invoice multiplied by the number of days in the period beginning on the 22nd day after the invoice was issued and ending on the day the order is made; or

- (b) 0.2% of the total income for the person for the income year in which the contravention occurred.

Note: This subsection modifies the maximum pecuniary penalty that a body corporate can be ordered to pay for a contravention of subsection (2).

- (4) If an order is made for the reporting entity to pay a pecuniary penalty for the contravention of subsection (2) in relation to a particular small business invoice or particular small business invoices, the Regulator must pay an amount to the small business supplier that issued the invoice or invoices that is equal to the amount of the penalty.
- (5) Amounts payable under subsection (4) are to be paid from money appropriated by the Parliament for the purposes of this section.

27C Requests for Regulator to apply to court for the imposition of a civil penalty

- (1) A small business supplier may request the Regulator to apply to a court for the imposition of a civil penalty under section 27B.
- (2) A request under subsection (1) must be in such form and be accompanied by such information as is required by the Regulator.
- (3) Subject to subsection (4), if the Regulator is satisfied that the reporting entity has failed to comply with the requirement in subsection 27B(1), the Regulator must either:
- (a) notify the reporting entity of its obligations under this Part and its liability for a penalty (*issue a warning*); or
 - (b) apply to a court for the imposition of a civil penalty under subsection 27B(2).
- (4) If the Regulator has already issued a warning to the reporting entity on 3 separate occasions in the 3 years preceding the request, the Regulator must apply to a court for the imposition of a civil penalty under section 27B.

Note: The Regulator may apply to a court for the imposition of a civil penalty even if the Regulator has not already issued a warning to the reporting entity on 3 separate occasions over a period of 3 years.

- (5) The Regulator must notify the small business supplier of the action that the Regulator has decided to take as soon as practicable, but in any case by not longer than 4 weeks after the request is made.

Question—That the amendments be agreed to—put and negatived.

Senator Farrell moved the following amendments together by leave:

Payment Times Reporting Bill 2020

No. 1—Clause 3, page 2 (line 23), after “practices”, insert “, including paying small business suppliers in less than 30 days”.

No. 2—Clause 5, page 5 (after line 23), after the definition of *notifiable event*, insert:

payment time, for an invoice, means the number of days in the period beginning on the day a small business supplier issued the invoice to the reporting entity and ending on the day that the invoice was paid in full.

No. 3—Clause 5, page 6 (after line 3), after the definition of *protected information*, insert:

recalcitrant reporting entity means a reporting entity declared under subsection 37B(5) to be a recalcitrant reporting entity.

No. 4—Clause 5, page 7 (after line 10), after the definition of *subsidiary*, insert:

supply chain financing arrangement means an arrangement under which a reporting entity undertakes to pay an invoice before the end of the relevant supply payment period if the supplier agrees to accept a discount on the payment or to incur an additional cost.

supply payment period means a period within which a payment under a contract is required to be made in relation to a supply of goods or services.

No. 5—Clause 14, page 13 (after line 11), after paragraph (1)(c), insert:

- (da) state the median payment time for all small business invoices paid by the entity during the reporting period; and
- (db) state the average payment time for all small business invoices paid by the entity during the reporting period; and

No. 6—Clause 14, page 13 (after line 28), after paragraph (1)(h), insert:

- (ha) include information and documents about any supply chain financing arrangement entered into by the entity in relation to a small business supplier; and

No. 7—Clause 17, page 16 (line 6), after “without charge”, insert “and in a machine-readable format”.

No. 8—Page 25 (after line 15), at the end of Division 2 of Part 4, add:

30A Role of the Australian Small Business and Family Enterprise Ombudsman

- (1) To avoid doubt, nothing in section 30 limits the operation of the *Australian Small Business and Family Enterprise Ombudsman Act 2015*.
- (2) The Ombudsman may inform the Regulator of an alleged contravention of this Act by a reporting entity either:
 - (a) at the request of a small business supplier; or
 - (b) if the Ombudsman has otherwise become aware of an alleged contravention.
- (3) Within 30 days of being informed of an alleged contravention under subsection (2), the Regulator must respond to the Ombudsman to advise:
 - (a) if the Regulator decides to take action in relation to the alleged contravention—of the Regulator’s findings in relation to the alleged contravention and the action that the Regulator intends to take; or
 - (b) if the Regulator decides not to take action in relation to the alleged contravention—of the Regulator’s findings in relation to the alleged contravention and the reasons that the Regulator has decided not to take action; or
 - (c) that the Regulator has required the reporting entity to appoint an auditor to carry out an audit in relation to the entity’s compliance with this Act under subsection 30(2) but:
 - (i) the entity has not yet given the Regulator a written report setting out the results of the audit; or
 - (ii) the Regulator has otherwise not yet made a decision on what action the Regulator intends to take in relation to the alleged contravention; or
 - (d) that the Regulator is using or has used:
 - (i) the Regulator’s monitoring powers under Part 2 of the Regulatory Powers Act; or
 - (ii) the Regulator’s investigatory powers under Part 3 of the Regulatory Powers Act;
 in relation to the alleged contravention but has not yet made a decision on what action the Regulator intends to take; or
 - (e) that the Regulator has otherwise not yet made a decision on what action the Regulator intends to take and the reason that the Regulator has not yet made a decision.

- (4) If the Regulator responds to the Ombudsman under paragraph 30A(3)(c) or (d) the Regulator must also inform the Ombudsman, as soon as practicable after the Regulator decides to take, or not to take, action in relation to the alleged contravention, of the Regulator's findings in relation to the alleged contravention and:
 - (a) if the Regulator decides to take action—the action that the Regulator intends to take; or
 - (b) if the Regulator decides not to take action—the reasons that the Regulator has decided not to take action.
- (5) If the Regulator advises the Ombudsman under paragraph 30A(3)(e) that the Regulator has not yet made a decision on what action the Regulator intends to take, the Regulator must inform the Ombudsman, at intervals of no longer than 30 days until the Regulator has responded to the Ombudsman under any of paragraphs 30A(3)(a) to (d), of the reason that the Regulator has still not made a decision.
- (6) In this section, *Ombudsman* means the Australian Small Business and Family Enterprise Ombudsman established under the *Australian Small Business and Family Enterprise Ombudsman Act 2015*.

No. 9—Page 33 (after line 23), after Part 4, insert:

Part 4A—Payment times failsafe mechanism

Division 1—Introduction

37A Simplified outline of this Part

This Part creates a payment times failsafe mechanism that is intended to provide an incentive for reporting entities to collectively improve their payment practices or run the risk of more stringent regulation.

The Regulator is required to report to the Minister after each reporting period after the first 3 reporting periods on the median and average times taken by all reporting entities to pay small business invoices.

The payment times failsafe mechanism is triggered if, after the first 6 reporting periods, the median of the median times reported by all reporting entities to pay small business invoices for a reporting period is more than 30 days. The Regulator must report this fact to the Minister.

Once the payment times failsafe mechanism has been triggered the Regulator must declare any reporting entity that has a median payment time for small business invoices of more than 30 days during a reporting period to be a recalcitrant reporting entity.

A recalcitrant reporting entity is required to pay all small business invoices within 30 days and is liable to a civil penalty if it fails to do so. The rules may provide for exemptions from this requirement.

Division 2—Late payment penalty

37B Payment times failsafe mechanism

Report on median and average payment times

- (1) As soon as practicable after the end of 3 reporting periods after the commencement of this Act and, subsequently, after the end of each reporting period, the Regulator must give the Minister a report that states:
 - (a) the reporting period or reporting periods to which it relates; and
 - (b) the number of reporting entities that submitted a payment times report or payment times reports to the Regulator relating to the reporting period or reporting periods; and

- (c) the median of the median payment times reported by all reporting entities that submitted a payment times report or payments times reports to the Regulator relating to the reporting period or reporting periods; and
 - (d) the average payment time for all reporting entities that submitted a payment times report or payment times reports to the Regulator relating to the reporting period or reporting periods.
- (2) The Minister must cause a copy of a report to be tabled in each House of the Parliament within 5 sitting days of receiving it.

When the payment times failsafe mechanism is triggered

- (3) The **payment times failsafe mechanism is triggered** if, after the end of 6 reporting periods after the commencement of this Act, the median of the median payment times under paragraph (1)(c) for a reporting period is more than 30 days.
- (4) The report given to the Minister by the Regulator under subsection (1) in relation to the reporting period in which the payment failsafe mechanism was triggered, and each subsequent report given to the Minister in relation to subsequent reporting periods, must contain a statement that the payment times failsafe mechanism has been triggered.

Declaration that a reporting entity is a recalcitrant reporting entity

- (5) If the payment times failsafe mechanism has been triggered, the Regulator must declare that a reporting entity is a recalcitrant reporting entity if:
- (a) the entity is not a volunteering entity; and
 - (b) the entity's median payment time was more than 30 days during:
 - (i) the reporting period in which the payment times failsafe mechanism was triggered; or
 - (ii) any subsequent reporting period.
- (6) The Regulator must write to a recalcitrant reporting entity as soon as practicable after the Regulator has made a declaration under subsection (5) in relation to the entity to inform the entity of the declaration and of the entity's obligations under subsection (8).
- (7) A declaration by the Regulator under subsection (5):
- (a) is not a legislative instrument; and
 - (b) has effect for a period of 2 years beginning on the day the declaration is made.

Recalcitrant reporting entities to pay small business invoices within 30 days

- (8) A recalcitrant reporting entity must pay a small business invoice in full before the end of the period of 30 days beginning on the day the invoice is issued.
- (9) Subject to subsection (10), the rules may provide that the requirement in subsection (8) does not apply in relation to a specified entity or specified entities either generally or in specified circumstances.

Note: An entity that wishes to rely on an exemption in the rules in relation to a contravention of a civil penalty provision bears an evidential burden (see section 96 of the Regulatory Powers Act).

- (10) Rules may only be made for the purposes of subsection (9) after the payment times failsafe mechanism has been triggered.

Civil penalty

- (11) A reporting entity is liable to a civil penalty if:
- (a) the entity is a recalcitrant reporting entity; and
 - (b) the entity fails to comply with the requirement in subsection (8); and
 - (c) the entity has not been exempted from the requirement in subsection (8).

Civil penalty: 350 penalty units.

- (12) For the purposes of subsection (11), the reference in paragraph 82(5)(a) of the Regulatory Powers Act to 5 times the pecuniary penalty specified for the civil penalty provision has effect as if it were a reference to 0.6% of the total income for the person for the income year in which the contravention occurred.

Note: This subsection modifies the maximum pecuniary penalty that a body corporate can be ordered to pay for a contravention of subsection (11).

Senator Lambie moved the following amendments to Senator Farrell’s proposed amendment no. 9 together by leave:

Section 37A, omit “after the first 3 reporting periods”.

Section 37A, omit “after the first 6 reporting periods”, substitute “after the first 3 reporting periods”.

Subsection 37B(1), omit “after the end of 3 reporting periods after the commencement of this Act and, subsequently,”.

Subsection 37B(3), omit “after the end of 6 reporting periods”, substitute “after the end of 3 reporting periods”.

Debate ensued.

Question—That the amendments moved by Senator Lambie to Senator Farrell’s proposed amendment no. 9 be agreed to—put and negatived.

Question—That the amendments moved by Senator Farrell be agreed to—put.

The committee divided—

AYES, 23

Senators—

Ayres	Gallagher	McCarthy	Sheldon
Bilyk	Hanson-Young	McKim	Siewert
Carr	Keneally	O’Neill	Urquhart*
Chisholm	Lambie	Patrick	Walsh
Farrell	Lines	Polley	Watt
Faruqi	McAllister	Pratt	

NOES, 24

Senators—

Antic	Colbeck	McGrath	Rennick
Askew	Davey	McLachlan	Ruston
Brockman*	Duniam	McMahon	Ryan
Canavan	Fierravanti-Wells	Molan	Scarr
Cash	Henderson	O’Sullivan	Smith, Dean
Chandler	Hughes	Payne	Stoker

* Tellers

Question negatived.

The Payment Times Reporting Bill 2020 reported with amendments and the Payment Times Reporting (Consequential Amendments) Bill 2020 reported without amendment.

On the motion of Senator Cash the report from the committee was adopted and the bills read a third time.

22 **Australian Citizenship Amendment (Citizenship Cessation) Bill 2020**

A message from the House of Representatives was reported transmitting for the concurrence of the Senate the following bill:

Message no. 247, dated 2 September 2020—A Bill for an Act to amend the *Australian Citizenship Act 2007*, and for related purposes.

The Minister for Families and Social Services (Senator Ruston) moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

Senator Ruston moved—That this bill be now read a second time.

Explanatory memorandum: Senator Ruston tabled a revised explanatory memorandum relating to the bill.

Debate ensued.

At 2 pm: Debate was interrupted while Senator Keneally was speaking.

23 **Committees—Leave to meet during sitting**

The Chair of the Education and Employment Legislation Committee (Senator McGrath), by leave, moved—That the Education and Employment Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 3 pm.

Question put and passed.

24 **Questions**

Questions without notice were answered.

25 **Parliament House—Remote participation by senators—Electronic access systems—Statements by President**

The President made a statement relating to arrangements for the operation of the Senate in response to the coronavirus disease (COVID-19) pandemic and concerning the remote participation of senators.

The President also made a statement relating to electronic access systems and security arrangements in Parliament House.

The Chair of the Standing Committee of Privileges (Senator O'Neill), by leave and also on behalf of the Deputy Chair (Senator Abetz) made a statement relating to the matter.

26 **Routine of Business—Variation**

The Minister for Finance (Senator Cormann), by leave, moved— That—

- (a) The routine of business from not later than 3.30 pm shall be consideration of the following bills only:

Australian Citizenship Amendment (Citizenship Cessation) Bill 2020

Primary Industries (Customs) Charges Amendment (Dairy Cattle Export Charge) Bill 2020;

- (b) at 4.30 pm, the questions on all remaining stages shall be put without debate;

- (c) paragraph (b) of this order shall operate as a limitation of debate under standing order 142;
- (d) divisions may take place after 4.30 pm for the purposes of the bills only; and
- (e) following the conclusion of consideration of the bills, the Senate shall return to the routine of business.

Closure: Senator Cormann moved—That the question be now put.

Question:—That the question be now put—put and passed.

Main question put and passed. All Australian Greens, by leave, recorded their votes for the noes.

27 **Aboriginal Flag—Select Committee—Appointment**

Senator Gallagher, by leave and at the request of Senator McCarthy, amended general business notice of motion no. 792 and, moved—

- (1) That a select committee, to be known as the Select Committee on the Aboriginal Flag, be established to inquire into and report on current and former copyright and licensing arrangements for the Aboriginal flag design, with particular reference to:
 - (a) who benefits from payments for the use of the Aboriginal Flag design and the impact on Aboriginal organisations, Aboriginal communities and the broader Australian community of the current copyright and licensing arrangements;
 - (b) options available to the Government to enable the Aboriginal Flag design to be freely used by the Australian community, including:
 - (i) negotiated outcomes with licence and/or copyright holders;
 - (ii) the compulsory acquisition of licences and/or copyright,
 - (iii) ways to protect the rights and interests of the flag's legally recognised creator Mr Harold Thomas; and
 - (c) any other matters relevant to the enduring and fair use of the Aboriginal Flag design by the Aboriginal and Australian community.
- (2) That the committee present its final report on or before 13 October 2020.
- (3) That the committee consist of seven senators, as follows:
 - (a) four nominated by the Leader of the Government in the Senate;
 - (b) two nominated by the Leader of the Opposition in the Senate; and
 - (c) one nominated by minor party and independent senators.
- (4) That:
 - (a) participating members may be appointed to the committee on the nomination of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate or any minority party or independent senator;
 - (b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee; and
 - (c) a participating member shall be taken to be a member of a committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.

- (5) That two members of the committee constitute a quorum of the committee, where one member present was appointed to the committee on the nomination of the Leader of the Government in the Senate and one member present was appointed to the committee on the nomination of the Leader of the Opposition in the Senate.
- (6) That the committee may proceed to the dispatch of business notwithstanding that not all members have been duly nominated and appointed and notwithstanding any vacancy.
- (7) That the committee elect as chair one of the members nominated by the Leader of the Opposition in the Senate and as deputy chair one of the members nominated by the Leader of the Government in the Senate.
- (8) That the deputy chair shall act as chair when the chair is absent from a meeting of the committee or the position of chair is temporarily vacant.
- (9) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.
- (10) That the committee have power to appoint subcommittees consisting of 3 or more of its members, and to refer to any such subcommittee any of the matters which the committee is empowered to consider.
- (11) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.
- (12) That the committee be empowered to print from day to day such papers and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Debate ensued.

Question put and passed.

28 **Motions to take note of answers**

Senator Polley moved—That the Senate take note of the answers given by the Minister for Families and Social Services (Senator Ruston) to questions without notice asked by Senators Gallagher and McAllister today relating to the JobSeeker program.

Debate ensued.

Question put and passed.

At 3.30 pm—

29 **Australian Citizenship Amendment (Citizenship Cessation) Bill 2020**

Order of the day read for the adjourned debate on the motion of the Minister for Families and Social Services (Senator Ruston)—That this bill be now read a second time.

Debate resumed.

Question put.

The Senate divided—

AYES, 35

Senators—

Antic	Cormann	McKenzie	Rennick
Askew	Davey*	McLachlan	Reynolds
Ayres	Fawcett	McMahon	Ruston
Bragg	Griff	Molan	Scarr
Brockman	Henderson	O'Sullivan	Sheldon
Canavan	Hughes	Paterson	Stoker
Cash	Hume	Patrick	Van
Chandler	Keneally	Polley	Wong
Colbeck	McGrath	Pratt	

NOES, 4

Senators—

Faruqi	Hanson-Young	McKim	Siewert*
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* Tellers

Question agreed to.

Bill read a second time.

The Senate resolved itself into committee for the consideration of the bill.

In the committee

Bill taken as a whole by leave.

Senator Patrick moved the following amendments together by leave:

Schedule 1, page 19 (after line 25), after the heading specifying *Intelligence Services Act 2001*, insert:

14A Paragraph 29(1)(a)

After “to review the”, insert “activities,”.

Schedule 1, Part 1, page 20 (after line 2), at the end of the Part, add:

15A Subsections 29(3) and (4)

Repeal the subsections, substitute:

- (3) The functions of the Committee do not include:
 - (a) reviewing information provided by, or by an agency of, a foreign government where that government does not consent to the disclosure of the information; or
 - (b) conducting inquiries into individual complaints about the activities of ASIO, ASIS, AGO, DIO, ASD, ONI, AFP or the Immigration and Border Protection Department.

15B After section 29

Insert:

29A Ceasing or suspending review of agency activities

- (1) If:
 - (a) the Committee undertakes a review under section 29 of an activity by ASIO, ASIS, AGO, DIO, ASD or ONI; and
 - (b) the relevant responsible Minister is of the opinion that:
 - (i) the activity is an ongoing operation; and

- (ii) the review would interfere with the proper performance by the relevant body of its functions or otherwise prejudice Australia's national security or the conduct of Australia's foreign relations;

the Minister may give to the Committee a certificate in relation to the matter stating the Minister's opinion and the reasons for it.

- (2) A decision of the Minister under subsection (1) must not be questioned in any court or tribunal.
- (3) Where the Minister gives a certificate under subsection (1) in relation to a review, the Committee must cease or suspend the review.
- (4) If the Minister:
- (a) becomes aware that the activity is no longer ongoing; or
 - (b) is no longer of the opinion that the review would interfere with the proper performance by the relevant body of its functions or otherwise prejudice Australia's national security or the conduct of Australia's foreign relations;
- the Minister must, within 28 days after becoming aware of the fact or forming the view:
- (c) revoke the certificate; and
 - (d) inform the Committee in writing.
- (5) If the Minister revokes a certificate in accordance with subsection (4), the Committee may proceed with the review, or commence a new review into the activity.

Debate ensued.

Limitation of debate: The time allotted for the consideration of the bill expired.

Question—That the amendments be agreed to—put.

The Senate divided—

AYES, 7

Senators—

Faruqi
Griff

Hanson-Young
Lambie

McKim
Patrick

Siewert*

NOES, 31

Senators—

Antic
Askew
Bilyk
Bragg
Canavan
Cash
Chandler
Colbeck

Cormann
Davey
Farrell
Henderson
Hughes
Hume
Keneally
McCarthy*

McLachlan
McMahon
Molan
Paterson
Polley
Pratt
Rennick
Reynolds

Ruston
Scarr
Sheldon
Smith, Dean
Stoker
Van
Walsh

* *Tellers*

Question negatived.

Pursuant to order, the committee reported progress.

Question—That the remaining stages of the bill be agreed to and the bill now be passed—put and passed.

Bill read a third time.

30 **Primary Industries (Customs) Charges Amendment (Dairy Cattle Export Charge) Bill 2020**

Limitation of debate: The time allotted for the consideration of the bill expired.

Question—That the amendment moved by Senator Faruqi (*see entry no. 25, 27 August 2020*) be agreed to—put.

The Senate divided—

AYES, 7

Senators—

Faruqi
Griff

Hanson-Young
Lambie

McKim
Patrick

Siewert*

NOES, 27

Senators—

Antic
Askew
Bragg
Canavan
Cash
Chandler
Colbeck

Cormann
Davey
Farrell
Henderson
Hughes
Hume
Keneally

McCarthy*
McLachlan
McMahon
Molan
Pratt
Rennick
Reynolds

Ruston
Scarr
Smith, Dean
Stoker
Van
Walsh

* *Tellers*

Question negatived.

Main question put.

The Senate divided—

AYES, 30

Senators—

Antic
Askew
Bragg
Canavan
Cash
Chandler
Colbeck
Cormann

Davey*
Farrell
Griff
Henderson
Hughes
Hume
Keneally
Lambie

McCarthy
McLachlan
McMahon
Molan
Patrick
Pratt
Rennick

Reynolds
Ruston
Scarr
Smith, Dean
Stoker
Van
Walsh

NOES, 4

Senators—

Faruqi

Hanson-Young

McKim

Siewert*

* *Tellers*

Question agreed to.

Bill read a second time.

Question—That the remaining stages of the bill be agreed to and the bill now be passed—put and passed. All Australian Greens, by leave, recorded their votes for the noes.

Bill read a third time.

31 **Committee reports and government responses—Tabling and consideration**

Senator Davey, on behalf of the Joint Standing Committee on Electoral Matters, tabled the following document:

Electoral Matters—Joint Standing Committee—Advisory report—Electoral Legislation Amendment (Miscellaneous Measures) Bill 2020—Corrigendum.

The Chair of the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity (Senator Scarr) tabled the following report and documents:

Australian Commission for Law Enforcement Integrity—Joint Statutory Committee—Examination of the annual report of the Integrity Commissioner 2018-19—Report, dated September 2020, Hansard record of proceedings and additional information.

Senator Bilyk moved—That the Senate take note of the report.

Debate adjourned till the next day of sitting, Senator Scarr in continuation.

The Chair of the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity (Senator Scarr) tabled the following report:

Australian Commission for Law Enforcement Integrity—Joint Statutory Committee—Visit to New Zealand and Vanuatu, December 2019—Report.

Senator Scarr moved—That the Senate take note of the report.

Debate ensued.

Debate adjourned till the next day of sitting, Senator Bilyk in continuation.

32 **Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2020**

A message from the House of Representatives was reported transmitting for the concurrence of the Senate the following bill:

Message no. 246, dated 2 September 2020—A Bill for an Act to amend the *Migration Act 1958*, and for related purposes.

The Assistant Minister for Superannuation, Financial Services and Financial Technology (Senator Hume) moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

Senator Hume moved—That this bill be now read a second time.

Consideration of legislation: Pursuant to order, the debate was adjourned till the first day in the next period of sittings, 6 October 2020.

33 **Committee membership**

A message from the House of Representatives was reported informing the Senate of a change in the membership of the Joint Standing Committee on the National Disability Insurance Scheme, as follows:

Message no. 245, dated 2 September 2020—Mr Georganas in place of Ms Payne.

34 **Documents—Orders of the day—Consideration**

The following orders of the day relating to documents were considered:

Education and Employment References Committee—Report—The people behind 000: mental health of our first responders—Order of 4 December 2019—Letter to the President of the Senate from the Minister for Employment, Skills, Small and Family Business (Senator Cash) responding to the order, and attachment. Motion of Senator McCarthy to take note of documents called on. Debate adjourned till Thursday.

President's report to the Senate on the status of government responses to parliamentary committee reports as at 31 December 2019. Motion of Senator Urquhart to take note of document called on. Debate adjourned till Thursday.

Aged Care Legislation Amendment (Emergency Leave) Bill 2020—Answer to question—Letter to the President of the Senate from the Minister for Aged Care and Senior Australians (Senator Colbeck) providing information concerning a question asked by Senator Siewert on 14 May 2020 during debate on the bill. Motion of Senator Urquhart to take note of document called on. Debate adjourned till Thursday.

Cabinet briefings by the Chief Medical Officer—Answer to question—Letter to the President of the Senate from the Minister for Finance (Senator Cormann), providing information concerning a question without notice asked by Senator Wong on 14 May 2020. Motion of Senator Urquhart to take note of document agreed to.

Death of Work for the Dole participant—Order of 22 March 2017—Letter to the President of the Senate from the Minister for Employment, Skills, Small and Family Business (Senator Cash), responding to the order, and attachment. Motion of Senator Urquhart to take note of document agreed to.

Community development grants—Order of 15 June 2020—Letter to the President of the Senate from the Minister for Employment, Skills, Small and Family Business (Senator Cash), dated 26 June 2020, responding to the order, and attachments. Motion of Senator McCarthy to take note of document agreed to.

JobKeeper recipient data—Order of 11 June 2020—Letter to the President of the Senate from the Minister for Finance (Senator Cormann), responding to the order, and attachment. Motion of Senator McCarthy to take note of document called on. Debate adjourned till Thursday.

Australian Education Act 2013—National School Resourcing Board—Review of the loading for students with disability—Final report. Motion of Senator McCarthy to take note of document agreed to.

Australian Institute of Health and Welfare—Seventeenth biennial report—Australia's health 2020 . Motion of Senator Siewert to take note of document agreed to.

Minister's guidelines in relation to the performance by the Australian Security Intelligence Organisation of its functions and the exercise of its powers. Motion of Senator McCarthy to take note of document agreed to.

Northern Land Council—Report for 2018-19. Motion of Senator McCarthy to take note of document agreed to.

President's report to the Senate on the status of government responses to parliamentary committee reports as at 30 June 2020. Motion of Senator McCarthy to take note of document called on. Debate adjourned till Thursday.

Migration Act 1958—Section 486O—Assessment of detention arrangements—Commonwealth Ombudsman's reports—Reports nos 23 to 27 of 2020 and government responses. Motion of Senator McKim to take note of documents agreed to.

35 Committee reports and government responses—Orders of the day—Consideration

The following orders of the day relating to committee reports and government responses were considered:

Foreign Affairs, Defence and Trade—Joint Standing Committee—Inquiry into PFAS remediation in and around Defence bases (second progress report)—Report. Motion of Senator Faruqi to take note of report debated. Debate adjourned till the next day of sitting.

Community Affairs References Committee—Centrelink's compliance program—Second interim report. Motion of the chair of the committee (Senator Siewert) to take note of report called on. Debate adjourned till the next day of sitting.

Financial Technology and Regulatory Technology—Select Committee—Interim report. Motion of the chair of the committee (Senator Bragg) to take note of report agreed to.

Scrutiny of Bills—Standing Committee—Scrutiny digest 11 of 2020. Motion of Senator Ayres to take note of report agreed to.

Community Affairs References Committee—Centrelink's compliance program—Third interim report. Motion of the chair of the committee (Senator Siewert) to take note of report called on. Debate adjourned till the next day of sitting.

Intelligence and Security—Parliamentary Joint Committee—Australian Citizenship Amendment (Citizenship Cessation) Bill 2019—Advisory report. Motion of Senator Keneally to take note of report agreed to.

Intelligence and Security—Parliamentary Joint Committee—Inquiry into the impact of the exercise of law enforcement and intelligence powers on the freedom of the press—Report. Motion of Senator McGrath to take note of report debated and agreed to.

Foreign Affairs, Defence and Trade References Committee—Opportunities for strengthening Australia's relations with the Republic of France—Report. Motion of Senator Urquhart to take note of report agreed to.

Electoral Matters—Joint Standing Committee—Electoral Legislation Amendment (Miscellaneous Measures) Bill 2020—Advisory report. Motion of Senator McKim to take note of report agreed to.

Community Affairs References Committee—Report—Effectiveness of the Aged Care Quality Assessment and accreditation framework for protecting residents from abuse and poor practices, and ensuring proper clinical and medical care standards are maintained and practised—Government response. Motion of Senator Urquhart to take note of document agreed to.

Road Safety—Joint Select Committee—Improving road safety in Australia—Interim report. Motion of Senator Rice to take note of report agreed to.

Education and Employment References Committee—Report—Jobactive: failing those it is intended to serve—Government response. Motion of Senator Ciccone to take note of document called on. Debate adjourned till the next day of sitting.

Community Affairs References Committee—Adequacy of Newstart and related payments and alternative mechanisms to determine the level of income support payments in Australia—Report. Motion of Senator Siewert to take note of report agreed to.

National Disability Insurance Scheme—Joint Standing Committee—Supported independent living—Report. Motion of Senator Ciccone to take note of report called on. Debate adjourned till the next day of sitting.

Education and Employment References Committee—Report—The people behind 000: mental health of our first responders—Government response. Motion of Senator Watt to take note of document agreed to.

Jobs for the Future in Regional Areas—Select Committee—Report. Motion of Senator McDonald to take note of report debated. Debate adjourned till the next day of sitting.

National Disability Insurance Scheme—Joint Standing Committee—NDIS planning—Interim report. Motion of Senator Brown to take note of report agreed to.

36 Auditor-General's reports—Orders of the day—Consideration

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 23 of 2019-20—Performance audit—Award of funding under the Community Sport Infrastructure Program—Australian Sports Commission. Motion of Senator Urquhart to take note of document called on. Debate adjourned till the next day of sitting.

Auditor-General—Audit report no. 25 of 2019-20—Performance audit—Aboriginal and Torres Strait Islander participation targets in major procurements—Across entities. Motion of Senator Siewert to take note of document called on. Debate adjourned till the next day of sitting.

Auditor-General—Audit report no. 48 of 2019-20—Performance audit—Management of the Australian Government's Lobbying Code of Conduct – Follow-up audit: Attorney-General's Department. Motion of Senator Waters to take note of document agreed to.

37 Committee membership

The Acting Deputy President (Senator Walsh) informed the Senate that the President had received letters nominating senators as members of a committee.

The Assistant Minister for Superannuation, Financial Services and Financial Technology (Senator Hume), by leave, moved—That senators be appointed to Select Committee on the Aboriginal Flag as follows:

Senators Bragg, Davey, Dodson, McCarthy, O’Sullivan, Stoker and Thorpe (contingent upon being chosen as a senator to fill the vacancy in the representation of Victoria)

Participating members: Senators Abetz, Antic, Askew, Ayres, Bilyk, Brockman, Brown, Carr, Canavan, Chandler, Chisholm, Ciccone, Farrell, Fawcett, Fierravanti-Wells, Gallacher, Gallagher, Green, Henderson, Hughes, Keneally, Kitching, Lines, McAllister, McDonald, McGrath, McKenzie, McLachlan, McMahon, Molan, O’Neill, Paterson, Polley, Pratt, Rennick, Scarr, Siewert, Sheldon, Dean Smith, Marielle Smith, Sterle, Urquhart, Van, Walsh, Watt and Wong.

Question put and passed.

38 ***MV Al Kuwait*—Order for production of documents—Documents**

The Assistant Minister for Superannuation, Financial Services and Financial Technology (Senator Hume) tabled the following documents:

MV Al Kuwait—Order of 31 August 2020 (758)—Letter to the President of the Senate from the Minister for Families and Social Services (Senator Ruston), dated 3 September 2020, responding to the order, and attachments.

39 ***MV Al Kuwait*—Independent Observer report—Order for production of documents—Documents**

The Assistant Minister for Superannuation, Financial Services and Financial Technology (Senator Hume) tabled the following documents:

Independent Observer report on *MV Al Kuwait*, Report 219—Order of 25 August 2020 (728)—Letter to the President of the Senate from the Minister for Families and Social Services (Senator Ruston), dated 3 September 2020, responding to the order, and attachments.

40 **Orders for production of documents—Report on outstanding orders—Document**

The Assistant Minister for Superannuation, Financial Services and Financial Technology (Senator Hume) tabled the following document:

Orders for production of documents—Report on outstanding orders for documents, dated 3 September 2020.

General business was called on.

41 **National Cabinet**

Senator Patrick, pursuant to notice, moved general business notice of motion no. 782—That the Senate—

(a) notes that:

(i) the Prime Minister has established a ‘National Cabinet’ comprising of the Prime Minister, state Premiers, and territory Chief Ministers,

- (ii) the Prime Minister has claimed that National Cabinet is to be part of the Federal Government's Cabinet system and subject to requirements of Cabinet secrecy, and
 - (iii) the Department of the Prime Minister and Cabinet has claimed National Cabinet's records and deliberations are exempt completely from release under the *Freedom of Information Act 1982*, and Cabinet secrecy has also been applied to the deliberations of other bodies including the National COVID-19 Advisory Commission and the Australian Health Protection Principal Committee;
- (b) considers:
- (i) the creation of National Cabinet as a part of the Federal Cabinet system to be inconsistent with long-established principles of responsible Cabinet Government in Australia, and
 - (ii) that the assertion of Cabinet secrecy in relation to National Cabinet and the deliberations of associated bodies is excessive, impedes the proper scrutiny of Executive Government, and is not supported by the law; and
- (c) urges consideration is given to the introduction of legislation that would place key aspects of long-established and accepted Cabinet convention and practice on a statutory basis.

At 5.30 pm: Debate was interrupted while Senator Patrick was speaking.

42 **Adjournment**

The Acting Deputy President (Senator Walsh) proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 5.57 pm till Tuesday, 6 October 2020 at midday.

43 **Attendance**

Present, all senators except Senators Abetz*, Brown*, Ciccone*, Dodson*, Gallacher*, Hanson*, Kitching*, McDonald*, Rice*, Roberts*, Marielle Smith *, Steele-John*, Sterle*, Waters* and Whish-Wilson* (*on leave).

RICHARD PYE
Clerk of the Senate