

Ensuring Accountability

Kristina Keneally

Shadow Minister for Government Accountability

Ebony Bennett

Deputy Director at the Australia Institute

Ebony Bennett 0:02

G'day, everyone. I'm Ebony Bennett. I'm Deputy Director at the Australia Institute and host of our webinar series. Thanks so much for joining us today. I'd like to begin by acknowledging the traditional owners of the land on which I live and work and to make a point that sovereignty was never ceded, and that this always was and always will be Aboriginal land. We've got a long way to go in terms of reconciliation and in terms of pursuing a Voice to Parliament treaty and truth. And the Australia Institute supports that effort. And we will hopefully have some more webinars coming up this year that help take us in that direction. The same as last year, we're aiming to do these webinars at least weekly, but days and times may vary. So please head to our website at australiainstitute.org.au/events so you don't miss out. And just a few tips before we begin to help this run smoothly. If you've never been on Zoom before, I highly doubt that now but just in case, you can hover over the bottom of your Zoom screen, and you should be able to see a Q&A function where you can ask questions of all our panellists. And you should be able to upvote questions from other people, and also make comments on other people's questions as well. Please keep things civil and on topic in the chat or we'll boot you out. We don't often have to do it, but we will if we have to. And lastly, a reminder that this discussion is being recorded and will be posted up on our website, and on Australia Institute TV. But if you have to duck out for whatever reason, as long as you're registered, you'll be emailed a link as well. So we're here today to talk about accountability and we know that trust and accountability are essential to any healthy and functioning democracy. But as years of Australia Institute's research shows, trust in our Parliament and in politics has been on the decline for many years. There are currently some pretty large gaps in our federal system of accountability. Most notably, there is no national anti-corruption commission, despite the former Attorney General Christian Porter promising one more than two years ago now. But on top of that, we've got things like our public broadcaster, the ABC, and SBS having its funding severely cut, also being under constant political pressure. Some of our existing regulatory and accountability mechanisms and bodies, like the Australian National Audit Office have also faced budget cuts. So there's a range of pressures here. And of course, we've had a series of government scandals and rorts, which seem to attract few consequences. So that's why the Australia Institute is establishing its Democracy and Accountability program, as part of our research headed up by Bill Browne who joins us today. And that's why we're thrilled to introduce today's special guest Senator Kristina Keneally. She's the Deputy Labor leader in the Senate, and the Shadow Minister for Home Affairs, Immigration and Citizenship, and most importantly, for today for Government Accountability. Senator Keneally is also the former Premier of New South Wales. And I'd encourage you to check out her Press Club speech at the beginning of this year, where she talked about the issue of accountability. It's well worth checking out; you can find it on her website, or I think on the Press Club's website as well. Thank you so much for joining us today Senator Keneally, we really appreciate it.

Senator Kristina Keneally 3:12

Thank you. It's great to be here.

Ebony Bennett 3:14

And so I wanted to start out with an issue that's dear to the Australia Institute and our supporters. And that's the idea of a National Integrity Commission. As I mentioned, it's been delayed by a couple of years, but also the government model that's being proposed, really probably isn't up to the job. You in particular come from a jurisdiction that has a very strong commission, integrity commission in the New South Wales ICAC. What kind of a difference would it make to have a body like ICAC at the Federal level, do you think?

Senator Kristina Keneally 3:47

Well, look, a tremendous difference. And let me unpack that a bit - and I think the work that the Australia Institute is doing with its Democracy and Accountability project is incredibly important to help shape a national conversation and a national push towards a National Integrity Commission. A democracy is not necessarily a given. And that might sound like a funny thing to say from someone who's been in public life but in elected office or engaged in politics in one way or another for the last 20 years. But we cannot assume that the democratic institutions and conventions that exist in Australia will continue on unmitigated, or unaffected by shifts in the world around us. And quite frankly, we are seeing really disturbing trends in terms of the number of Australians who are losing confidence in democracy and the number of Australians who've actually said that. In fact, in some cases, a anti- or a non-democratic system, a dictatorial system, if you will, it could be preferable. Now, part of the challenge about democracy and continuing to support it, is that it relies on the consent of the governed. And if people who are the community that elect governments lose confidence in those governments, that's when we start to lose confidence in the democratic system. And what erodes confidence in government - it is, at its most basic, a belief by the population, that governments are no longer on their side, that governments are no longer acting in the national interest, that governments are there for self-serving purposes, that governments are there for, for the few, not the many. And we, how does that, how does the public see evidence of that? They see it when they see politicians engaged in self interested corruption in dodgy deals, in rorts using taxpayer money to support projects that benefit individuals or political parties, rather than the national interest. And so when we lose sight of those transparency and accountability mechanisms throughout government, and I've got to say, you know, in many ways a body like an ICAC in New South Wales or a National Integrity Commission nationally, it, it should not be necessary, but it is. But it's not the first step in accountability. In many ways, it's kind of the gotcha step - we should also be ensuring that whether it's in our budgeting systems, or our decisions about how money is allocated, our transparency, our whistleblower protections, there's a whole range of accountability and transparency mechanisms that have been eroded over the last eight years of this government, and that are fundamental to supporting and upholding transparency and accountability in government. At the end of that, it does set an ICAC or a corruption body. And it is fundamentally necessary to give the public confidence that there are, that essentially sunlight will be brought to bear and transparency will be brought to bear even if individual politicians or political parties seek to resist it.

Ebony Bennett 7:19

I'll just follow up on that. You mentioned in your Press Club speech earlier this year, that sometimes the argument comes up that actually exposing all these acts of corruption publicly, also damages the standing of politics, and that's a reason not to have those types of bodies. And you kind of talked about the what corruption does in politics. Can you just tell me a little bit more about that?

Senator Kristina Keneally 7:43

Yeah, I think this is an important point. Because, you know, I get that there is an argument that sometimes is put particularly that the public just thinks all politicians do this, right? That the public thinks all politicians are self interested, that both political parties do it and therefore a pox on everyone's houses, "they're all bastards" is kind of the argument that gets put and therefore, having a corruption body just feeds that. Let's be clear, what feeds the undermining of democracy is not the sunlight and the transparency and the accountability. It is the corruption itself. It is the misuse of public funds, it is the scandals, it is the deals for mates. That is what undermines trust in democratic institutions. And so what we've seen, for example, in places like New South Wales, and Victoria and other states where they've had these institutions, is that people have a sense that when there's accountability applied in public, where there are... where there is the capacity to use what are extraordinary powers to uncover the things that some people would rather keep hidden, about corrupt deaths or misuse of taxpayer money. And that actually gives people the confidence to know that someone is watching, someone is holding people to account and someone will ensure that governments remain on their side. Now, as I said, it would, in an ideal world, we wouldn't need these types of mechanisms. But we don't live in an ideal world and unfortunately, what do we know about power - that power left unchecked and power left without transparency and scrutiny, you know, will at times lead to self-interested decisions. So we need to ensure - and we need to give the public the confidence to know - that their democratic voices are being heard and their democratically-elected governments are being held to account.

Ebony Bennett 10:02

Bill, did you have a question?

Bill Browne 10:05

Yeah, thank you. Senator, I was struck by kind of your comments about waning public confidence in politicians. And the way that kind of 'writing off the political class as a whole' undermines the integrity of the system. I think one of the areas we've seen that recently is with concerns around misleading political advertising. These days, it kind of feels like there's not an election that goes by without there being allegations that this or that advertising is misleading. We've seen that there's, at the state level, measures to address this with South Australia's Truth In Political Advertising laws, which have been running since 1985. And last year, the ACT adopted those laws as well. I was wondering what you thought the prospects were of truth in political advertising laws at the federal level, and whether they go some way to increasing public confidence?

Senator Kristina Keneally 11:00

Yeah, there are a couple of reforms that I think we need to adopt at a federal level. But let me first, just before I go to those, because I think it's important to acknowledge there are things that do exist

in our current democratic system that we need to value and uphold that help, value and uphold the and sorry, that help keep governments to account and bolster trust in democracy. So things like an independent Australian Electoral Commission, compulsory voting and the rule of law, freedom of speech, freedom of religion and association, you know, and the oversight and accountability mechanisms that already exist. You mentioned the auditor, earlier Senate Estimates, state-based Integrity Commissions and then of course, adding to that a National Integrity Commission, I would say some of the other reforms that need to occur, and that Labor supports are Truth in Advertising provisions at a federal level. And I think that's important, not just from the standpoint of partisan politics, although it is fundamentally important. We saw that in the last election campaign: claims being made about certain policies that the Labor Party supposedly had, that we simply did not. But I think it's also important from the standpoint of foreign interference. And, you know, we have seen play out in the United States and in other jurisdictions, and to a lesser extent in Australia, but there's no reason to think this won't grow, the attempts either by state based actors or or others, non-state based actors, to spread misinformation within a political context; whether that be to get a certain point of view up in an election or just to create mayhem and discord. And, you know, we saw that play out in the American election most significantly, both in 2016, and then again in the most recent election. So I think the safeguards that we need to start to think about are challenging ones, ones we haven't grappled with before. But truth in advertising plays a key part in that. There are also going to increasingly be roles for Big Tech companies, the social media platforms, Facebook, Google, and Instagram and Twitter. But yet, and whether it comes to foreign interference, extremism, misinformation, and their capacity to support democracy, if you will, and to work with democratically elected governments. Just last week, we had a hearing on Extremism at the Parliamentary Joint Committee on Intelligence and Security and the tech platforms were there. And it was good that they were because we are really...as one of them said, we are writing these rules as we go along. This is a really new, new world. And the other thing I would just add in terms of reforms that I think need to be made, and that Labor supports, political donations - the threshold for disclosure is too high at about \$14,300. Labor has a bill currently in the Senate to lower that to \$1,000. And also we believe that disclosure should be made far more quickly - right now, you can wait up to 19 months until after an election to know who is donating to political parties. We have a bill in the Parliament that would seek to make that disclosure within seven days. And these are some of the key reforms to enhance democracy and the transparency and accountability around it that we would bring into law should we win at the next election.

Ebony Bennett 14:57

Bill, I know you've done some research on the Senate being kind of the home of accountability in Parliament. I just wondered if you had a question that kind of related to some of those mechanisms that already exist that the Senate has been touching on.

Bill Browne 15:12

Yeah. So the Australia Institute has done a bit of research into kind of the role of the Senate, as you say, but also Australian's perceptions of the Senate. And what we've found as a whole is that Australians recognise its importance. But they're not always clear on the exact details of what powers it does and doesn't have. There's a bit of confusion over kind of powers that the US Senate has that the Australian one doesn't, and so on. But it's still there. The Australian Senate has these kind of remarkable powers: orders for the production of documents, the committee system, Senate Estimates. And I've kind of looked at that at a kind of intellectual level but I'm interested in your experience as a Senator practically - what does the Senate do to hold the government to account?

Senator Kristina Keneally 16:02

Well, as you might expect, I'm a big fan of the Senate. (Laughter). I think it's where the real work of Parliament happens. And I say, I mean it's a joke at one level. The continue debate between House and Senate members but in reality, the Senate is where legislation can be scrutinised, where legislation... where the government has to really prove that the legislation has merit. So it's often where legislation is stopped - bad legislation is stopped or bad legislation is amended in order to make it acceptable. It's also, in terms of the accountability mechanisms - and I think you're right to point out things like the order for production of documents, the requirement of a Minister to present him or herself to the Parliament and explain themselves, the power to call witnesses before Senate Committees - they are extraordinary powers. And if anything, they have become more important in recent years, given that we've seen, as Ebony pointed out, cuts to the Auditor General's and the like - some of the Auditor General's more recent reports indeed, one that comes out today on the Great Barrier Reef Foundation had been prompted because the Senate first decided to scrutinise a decision of government. But the flip side of that is that, as the Senate is growing more important, and I dare say more sophisticated in its use of its accountability mechanisms, the government of the day - the current Liberal/National government - is finding more and more ways to avoid that accountability. So we did a little experiment, I think it was last year, with Senate Estimates where we started to count, every day, the number of times they took a question 'on notice'. And sometimes they would take questions on notice that were just completely answerable. They just simply didn't want to give an answer in a public setting. And we started to count the number of times they took a question on notice and at every meal break - so at lunch and dinner - we published them online. And boy, that... within a day, the number of questions on notice dropped down. And you know, but yet, it's creeping back up and continually the government seeks to avoid that scrutiny. So, again, my point being that we can't take any of these things for granted and a government, if it wanted to or if it had the numbers in the Senate with maybe a friendly crossbench, could ramp through some significant changes that would curtail that scrutiny capacity.

Ebony Bennett 18:56

Speaking of scrutiny and the role of the Senate, but also I guess other bodies, in your Press Club speech again, you talked a lot about the kind of special purpose funds that this government in particular seems to be using a lot more. You mentioned things like Building Better Regions, which is a billion dollars, obviously, we had the sports rights program, community development grants, drought communities program, there's a lot of kind of special purpose funds and you identified I guess some issues with how they're managed. And we've also talked about the fact that other agencies that scrutinise spending like the Audit Office have had their funding cut. Can you just talk to me a little bit about the problem with those types of grants?

Senator Kristina Keneally 19:46

So, this is a budgeting trick that Scott Morrison has really took on board when he was Treasurer and is now carried through to near perfection, he might think as Prime Minister, and that is to create all these pockets of money in the Budget for special purpose, you know, fund type allocations that essentially have very few or no rules or guidelines around how the money is to be spent, and where the decision is at the discretion of the Minister, or a group of ministers. And so, you take - you mentioned the Community Development Fund - let's take that one as an example. The Community Development Fund started out at a \$340 million fund during the Abbott Government. Anyone that

will, you know, it's not a bad thing, governments might have small pockets of money to give out small grants to local community groups to do things they wouldn't otherwise be able to do. Yeah, I can remember when I was a local member, you know, we gave a small grant to a church to refurbish their kitchen, so they could do better outreach to local homeless communities - fine, great. Here's the thing though with the Community Development Fund under this Coalition Government - it has now grown since 2013, to a \$2.5 billion fund. \$2.5 billion. And here's the kicker, to be able to receive money from this fund, you have to be invited by the government to apply. There are no open... there's no open application, there's no guidelines, there's no rules. So you know, no prizes for guessing which electorates and which kinds of community groups get the bulk of this funding. And this is repeated over and over in the Budget, the Safer Communities Fund, the Female Facilities Sports Fund, the Urban Congestion fund. And, you know, one of the things we'll be scrutinising in next week's Budget is the extent to which these funds have just continued to grow. This is a deliberate design feature of the Budget. So sports rorts, which is possibly the most notorious, was a \$100 million program. You know, community development grants, you know, if 2.5 billion, you know, sports rorts was the tip of an iceberg, in terms of how this government is using taxpayer money, like it is Liberal and National Party money and doling it out just prior to elections, to suit their political purposes. And let me leave you with this. The next time you hear the Prime Minister justify decisions taken under these types of funds by saying, 'Oh, well, the Minister complied with the guidelines' - that's because the guidelines say the Minister can do whatever he or she wants, that there are no rules. So you know, it's quite... this is what I talked about when the public needs to have confidence that their money is being spent in their interest, and not in the interest of political parties or individual politicians. It is having merit based processes, independent and transparent applications, where everyone gets a fair go and then have the ability for offices like the Auditor General to add a national anti-corruption commission to scrutinise the decisions of government.

Ebony Bennett 23:27

Yeah, I think we've got about 530 people on the line with us. Thanks so much for joining us, everyone. Just a reminder, you can type in a question using the Q&A function. We've probably got time for one or two more questions from Bill and I, and then we'll go to questions from the audience. I did just want to follow up on that Kristina, with particularly the role of the Auditor General and the Australian National Audit Office. And I feel like in the last couple of years, it feels like sometimes the last line of defence at how we can find out about how government is spending taxpayers' money. But as we've touched on, it's had its funding cut. What else do we need to be doing to strengthen some of those existing accountability mechanisms that are in place?

Senator Kristina Keneally 24:16

Yeah, look, I think that you're right to point out the cuts. That is just extraordinary and particularly at a time when their workload is increasing. The other, well, some of the other challenges that we face in terms of our independent, supposedly independent, bodies is the increasing decisions by this government to appoint former Liberal MPs, National MPs and Liberal and National staffers to these independent bodies that are supposed to provide scrutiny or accountability or decision making responsibility from government. So if you think about things like the Administrative Appeals Tribunal, which has been stacked out with political appointees. The fact that half of the Abbott ministry currently hold appointed government jobs, you know, appointed there by their mates in the current government

Ebony Bennett 25:22

Is that true? I didn't know that.

Senator Kristina Keneally 25:25

Extraordinary. This year alone, we have seen the Morrison Government this year 2021, which we're only in May now, we've seen the Morrison Government appoint a political Liberal or National staffer or MP to one job a week. One job a week. And the most egregious being the Fair Work Commission, which is supposed to ensure that working Australians have fair pay and conditions. One of the appointees to that is the daughter, a Deputy Mayor in southwestern Sydney and the daughter of a former Liberal MP, she's been appointed to a 26 year contract worth \$10 million, to the Fair Work Commission. You know, like Australians, ordinary Australians could only dream of that type of job security. But how can we be ensuring that we have transparent and appropriate and independent processes when we have political appointees being put into these types of roles? Now, the government will say, and they've already claimed, all these people are qualified. It's not - and maybe some of them are, I haven't scrutinised all their CVs - but it is the appearance of, the politicisation of our independent bodies that are meant to be independent, that are meant to be assessing things on merit, that are meant to have the qualifications and the skills. And I think it'd be fair enough, if you, for example, if you look at the AAT [Administrative Appeals Tribunal], there's been quite a lot of scrutiny of the fact that many of the appointees don't have relevant legal qualifications for those roles. So these are, these are key metrics, I guess, that we can use to look at whether or not the government is acting in the national interest and is on the side of the Australian people, or is taking decisions that's on the side of themselves, and their Liberal and National mates.

Ebony Bennett 27:30

We've got time for one last question from you Bill, and then we'll head to the questions from the audience.

Bill Browne 27:34

Yeah, thank you. Um, so yes, keeping the government to account is such a natural function of the Opposition. That's one reason I'm so happy to see it kind of formalised in your role. But you mentioned in your address that no one gets into politics to be in opposition. And I'm wondering what can you do while in opposition to kind of ensure that you keep the courage of your convictions in government and make sure that.. are there plans to keep the portfolio if Labor wins the next election, for example?

Senator Kristina Keneally 28:08

Oh, that's an interesting question. I haven't asked the leader yet if I get to be a government Accountability Minister in an Albanese-led Labor government. But I think yeah, to be frank, I have often said that my role as Shadow Minister for Government Accountability isn't to supplant or take the place of the jobs that all my colleagues are doing in their individual portfolios, but rather to amplify and to draw together where we see the pattern of incompetence, or waste or mismanagement or rorts or scandals that is occurring across the government. But the way a government should be holding themselves to account is to 1) make clear what their commitments

are, and to deliver upon them. And when I was in government in New South Wales, we had a New South Wales State Plan, which we publicly reported on every year that covered our main commitments. Now, whether you have that type of approach - Anthony, we have, of course, our platform, and Anthony has made clear through a series of vision statements, the values that we uphold as the Australian Labor Party, and we are now releasing the policies that we will take to the next election. But I would say that the significant commitment that we have already made and we will have more to say about in coming months, is our commitment to introduce a National Integrity Commission, an anti-corruption body, one that is transparent, one that has the capacity to... that is to look backwards, to examine things, decisions that have been taken by previous governments, one that conducts its hearings, or is able to conduct its hearings in open, you know, one that is able to examine the decisions of Ministers and MPs. These are all fundamental aspects of what give the public confidence in anti-corruption bodies. I have heard some people argue that perhaps it's best if these hearings are held in secret. My view is, and the view that our Shadow Attorney General Mark Dreyfus has put, is that we need to be able to, at times, have hearings in public because it's fundamental to demonstrate to the community when a body makes a finding of corruption, that the evidence upon which they relied. All of these things... we are an open democratic society, and democracy abhors secrecy. And to the extent that government processes, like an anti-corruption commission, should be conducted in open, they absolutely should. And so that is the fundamental accountability mechanism and commitment that Labor is making under an Albanese Labor Government.

Ebony Bennett 31:09

Thank you very much. I think we might go to questions from the audience. Now I can see we've got quite a few here. I'm gonna start with one from someone called Bill Arnold. He says, "Is there a method to ensure that all Royal Commissions could include a full fiscal audit?" For example, you know, to just follow the money in certain cases. I guess we've seen a huge number of Royal Commissions in recent years.

Senator Kristina Keneally 31:35

Well, look, Royal Commissions have extraordinary powers and can examine whatever they... essentially where the evidence leads. They have Terms of Reference, of course, but often Royal Commissions will come back to governments and say, we need to alter or extend or change so that we can look at this or that aspect. I would say that the responsibility for financial auditing shouldn't just lie with Royal Commissions, that we shouldn't just be relying on a Royal Commission and indeed, there are bodies like the Parliamentary Budget Office, which was introduced under the last Labor Government that also provide that type of scrutiny and accountability. The Audit Office does as well. And, of course, parliamentary debate and an examination parliament. You know, for example, I was part of the Senate Inquiry into the Great Barrier Reef Foundation allocation of \$444 million to that body. So I think we do have multiple ways in which we can follow the money. But I certainly, I certainly think it's quite within the remit of Royal Commissions to do that, should they need to.

Ebony Bennett 32:53

Thank you. The next question is from Michael Lester. He says, "How can the blight of revolving door from politics and bureaucracy to corporations in sectors such as mining and defence be effectively redressed?" We've already touched on political appointments - this is a bit similar.

Senator Kristina Keneally 33:11

But this is an interesting point in terms of political appointments or indeed, for senior, particularly senior bureaucrats, the extent to which people's.... for example, the ministerial Code of Conduct supposedly prohibits people from taking up employment in their areas within a certain period of time after they've left office. But yet we have seen examples of where that is not enforced by this government. And, you know, the point I have consistently made about the Prime Minister, Scott Morrison, is that he doesn't reward bad behaviour, he doesn't punish bad behaviour, he rewards it. And you're part of a Ministerial Code of Conduct and part of the privilege of serving as a Minister should also be abiding by the terms of that code of conduct while in office and indeed, once you have left, to the extent that it applies to you once you've left. So I, again, I come back to the capacity of an anti-corruption commission. This might, in certain circumstances, this might be an area that they seek to scrutinise.

Ebony Bennett 34:23

Yeah. The next question is from Sally Kia. She says "There definitely needs to be reform in accountability systems but would confidence in the democratic system be also reinforced if people were educated in how it actually works, and how they can participate, not only by voting, but also being able to lobby Members of Parliament and Ministers and participating in other community feedback processes?"

Senator Kristina Keneally 34:47

Yeah, I think that's a really interesting question, because sometimes it's one of the most common questions I get from members of the public is 'how do I write a submission?' What does it look like? How do I...does it really matter if I write to my MP? And they are sometimes surprised when I say, look, a submission can just be a letter or you know, of course it matters when you write to your MP, if you get, you know, 30 letters as an MP on a subject, you start to go, "mmm, what's going on here?" If people are picking up pen and paper and, or sending you an email with their considered thoughts. So I think there's some value in that. And when I talk about upholding democratic institutions like an independent Electoral Commission, like compulsory voting, I think what does have to go hand in hand with that is providing more ways for citizens to participate in democracy. I think back to one of the claims, one of the statements that Gough Whitlam made, which was, you know, our aspiration, our goal is to work with the Australian people, I'm paraphrasing here, but it was essentially our goal is to work with the Australian people so that they can participate in the decisions with their government on the things that affect their lives. And that has to be the fundamental aspect of democracy. To some extent that can start in school, but I don't think it ends in school. I think that the risk that we have sometimes taken is that we forget that everything we've learned in - you know, I was in high school 30 years ago, Twitter didn't exist, then, emails didn't exist then. Yeah, I think I met my congressman in America once, you know that, yeah now, we're not doing mobile offices on weekends. You know, the ways in which we participate in the democratic process have changed. And you know, we those should be lifelong engagements from governments building up the democratic capacity of its citizenry.

Ebony Bennett 36:48

Yeah. Bill, you mentioned you had done some research around people's understanding of the Senate. Is there anything else that sheds light on what the public does or doesn't understand about how the Parliament works?

Bill Browne 37:00

Yeah, well, a few years ago, we did ask people kind of a range of questions: would you feel comfortable approaching your local member with an issue? Do you even know the name of your local member? Have you ever spoken to them? That kind of thing. And I think, unfortunately, having met a local congressman once would probably put you ahead of many Australians, who don't have a lot of access to politicians. One of the things we recommended in that time was actually to increase the number of politicians so that they represent fewer people and have more chances to meet with them. But there's kind of a lot of ways that we could get people more involved in the political process. Party membership is pretty low and the average age of party members is very high. There's a lot of room for improvement in Australia.

Senator Kristina Keneally 37:52

And what you're doing right now with these webinars, and I do think this is one of the great innovations that have come out of COVID, as tragic as COVID has been, both in terms of a health crisis and an economic crisis, is that it has created these new forums. And so I commend the Australia Institute for doing these webinars because it is allowing us to have these conversations that we might have struggled to have with 600 or so people in normal times.

Ebony Bennett 38:20

Yeah, no, it's a good point. Um, the next question follows on from something you've already talked about, with the kind of special purpose funds. So Lars Bendel asks "If these funds are so questionable, how did they pass the Parliament? Did Labor vote for them?" Can you just tell us how these kinds of things come into existence?

Senator Kristina Keneally 38:41

A lot of these funds don't require legislation. In fact, most of them don't require legislation. They are they're created by government department at the time, I doubt they're created by ministers are their creative, you know, within the funding envelope of a department and don't require law to be passed for them to be created. I think that Yeah, and let's be clear, all governments have had various types of funds to do various types of special purpose things that, you know, for example, the intended goal of the female facilities sports fund is quite laudable. You know, the idea that more girls are playing sports that they haven't traditionally played like AFL or NRL or cricket, and that we need to be able to provide more facilities change rooms and the likes to facilitate that. That's quite laudable. And it's the kind of thing that governments often would create funds for. It's the, it is the lack of transparency, the lack of guidelines, the lack of rules, the the willingness to act against Department advice, and the capacity to have utter and complete discretion by a Minister, by an elected Minister - those are the challenges around these funds and you know, the only way that, in this current environment, that we can apply, that we can highlight this, is to apply scrutiny, both through what we do as an opposition, but also through forums like the Auditor General. So, for

example, earlier this year, ABC 730 - and my office has done some additional scrutiny - highlighted that Peter Dutton as Home Affairs Minister was essentially using the Safer Communities Fund as a way to boost the coalition's chances in the Tasmanian by-elections during the section 44 citizenship by-elections, and he gave out two grants before the guidelines were even written. He spent \$36,000 of taxpayer money flying down to Tasmania to announce them - his department warned him not to make these grants, they told him he would likely attract scrutiny and criticism, that they weren't justifiable, he still went ahead and did it. And he didn't break any laws or any rules because the rules said he could do whatever he wanted. Now the Auditor General has opened up an audit into those grants and into that Fund. So it is about making sure that the accountability mechanisms, both through the Senate, through the media who play an important role in accountability, and through things like the Audit Office, are supported and in place. But I think an additional layer is the National Integrity Commission.

Ebony Bennett 41:39

The next question is from Michael Lester. He says "How can increasing government secrecy in cabinet security and commercial-in-confidence be reduced and FOIs (that's Freedom of Information requests for people who aren't aware) be strengthened?"

Senator Kristina Keneally 41:57

Yeah. So last year, the Parliamentary Joint Committee on Intelligence and Security of which I'm a member, published a report on media freedom, which was occasioned by the two infamous raids on the ABC and the Newscorp journalist in relation to national security information. And while that was a narrowly construed report, in terms of looking at the connection between national security lies and media freedom, it did go to some of these other issues about the increasing trend within government to classify information more secret than necessary. The Freedom of Information requests were were taking longer, we're being increasingly refused or restricted. And so the Committee did make some important recommendations about some changes that were required in relation to the overall access to information protection from whistleblowers and the like. We noted these were matters that were raised in our submissions, and while they didn't directly go to our Terms of References, merited significant examination and changes, that the culture of secrecy combined with what was described as a chilling effect on media in terms of that secretive or punitive culture of police raids, was really creating... was inimical to a liberal open democracy. I will just say, though, I think it's important to remember from, particularly in terms of...there are some things that do need to be kept confidential and I respect that within government. It's a, you know, there's some national security information, there is some commercial-in-confidence information that is legitimately required to be kept confidential. But it's about getting the balance right. It's about having the right independent testing mechanisms. And it is about respecting the fact that we are a liberal, open democracy where people should expect transparency from the government. And this is to circle back to where I began. It's why it's not just about a National Integrity Commission. It's about having a culture across government that respects openness and transparency and believes accountability is important. And when that exists, and when the public can expect that from their government, whether it's an Auditor General, whether it is freedom of information, whether it is protecting whistleblowers, whether it is disclosure of political donations, whether it is having a National Integrity Commission, all of those things are fundamental, all of them to supporting people's consent for the democratic government.

Ebony Bennett 44:52

The next question I've got kind of follows on a little bit from that. It's from Sylvia Morgan, she says, "Does the national broadcaster play a role in calling for government accountability. Can you just talk to us a little bit more about those raids and the role of the media, but the ABC in particular?"

Senator Kristina Keneally 45:09

I, this is a great question because it is a key part of our... as we look forward to, in a very challenging world, to having a voice that is trusted. That is not subject to the ownership structure. And that is respected by the Australian people, as a voice, as an independent voice. And I say, in the challenging future that we face, I spoke earlier about foreign interference. We've also seeing the ability for algorithms and tech companies to be able to separate us up into our little tribes and only present us with information that conforms to our already-held views. And so, and this is something that - separate to this question - this is something we will have to grapple with in terms of greater transparency around those algorithms, greater rules around how those companies operate. Because quite frankly, that is also a challenge to our public conversation. But right now we do face misinformation, we face foreign interference, we face the challenges of separating out and the fact that you are often not presented with a different point of view, in a context that allows for conversation and debate. And so you end up with these echo chambers online, and the role of an independent taxpayer-funded news source, and one that can apply scrutiny and accountability, and one that is one of the most trusted and relied upon voices in the Australian landscape, is fundamental. And so when we talk about cuts to the ABC, it's not just about, you know, programming, or entertainment content, although that's important, it is also about the news, the ability to apply proper scrutiny and news coverage. And you know, we know from Senate Estimates that the cuts have, as the ABC Managing Director told us, cut into muscle now, it's not as if there is fat there to cut. And so this is another way in which we can erode public accountability when we erode the role of the public broadcaster.

Ebony Bennett 47:48

I've got a couple of questions here, one from Martin Johnson and one from Karen Jones, that touch on the idea of ministerial accountability, and basically asked what happened to it. Do you have any views on that? [Oh, I think we've got - it looks like the Senator's monitor has frozen there. Bill, can I check? Can you see any thing there? Yeah, well, we might, unless we can get her back shortly, we might have to wrap up a little bit early. I'm really sorry. Well, we'll stay on the line for a little bit longer in the hopes that the Senator can join us again. I do believe she's in Parliament House, which is, will be ironic if she's having trouble connecting there from the NBN in Parliament. But I think it will be important to... are you back there? Yes. Can you hear us?

Senator Kristina Keneally 48:46

Welcome to Parliament wifi! [Laughter.] I've been cut off by the Parliament.

Ebony Bennett 48:57

Yeah. No, we've had, we've had several MPs and Senators encounter similar problems in Parliament House, but the question was around ministerial responsibility and what's happened to it?

Senator Kristina Keneally 49:10

Oh, it's laughable. But it's also tragic. You know, and this is back to my point about, you know, what does the Ministerial Code of Conduct stand for if it's not enforced? And you know, so we all know, you know, the Angus Taylor, the Stuart Roberts, the Michaelia Cash, the Linda Reynolds. You know, and that's before we even get to the.... whether or not, you know, there has been an independent investigation into Christian Porter and the allegations against him. You know, we have just seen example after example, where ministers are not punished for poor performance or for misdeeds, but in fact, go on to be rewarded. You know, ultimately, this is not, you know, I sound like a broken record, but you know, a National Integrity Commission - this is one of the reasons it's absolutely fundamental. When you have ministers, you know, who have been stood down or who have faced criticism or scrutiny for taking decisions that they either serve their private interests or appear to serve their private interests. You know, that would be - that's a fundamental area of scrutiny that a National Integrity Commission would be able to consider. But, you know, when you also have ministers doing things like forging documents to have a hit on the City of Sydney Lord Mayor, or you have ministers who have repeatedly misled the Parliament, or who have failed to cooperate with AFP investigations, or who have been responsible, and of course, who've been responsible for things like Robo debt, and of course, we remember who the Social Services Minister, and then the Treasurer was to the implementation of Robo debt. And that was Scott Morrison. You know, nobody seems to be responsible for anything in this government. And that is because the modus operandi of this government is to outsource all decision making and risk to someone else. And we've seen that through COVID, we have seen that through a range of decisions by this government. And, you know, that is our responsibility as the Opposition, it is the responsibility of the media, it is the responsibility of Institutes and think tanks like the Australia Institute, it's the responsibility of every citizen, to demand that accountability from their elected officials. So there's no.... if we are... the erosion of democracy occurs when people in elected office are not held accountable, and are allowed to serve their own interest ahead of the national interest. And, you know, while the National Integrity Commission is a fundamental plank in that, it is not the only plank and all of us have a role to play in holding governments to account.

Ebony Bennett 52:11

I've got a couple of questions here that touch on the idea of defamation law reform and what prevents reforming them to give greater weight to public interest so that investigative journalism and accountability via the media can do its work. And I guess, just reflecting on the fact that it seemed to hinder a lot of me-too stories initially and alleged perpetrators could kind of sue the women coming forward and disclosing sexual harassment and other abuse that they endured. Do you have anything to say on defamation law and what reforms could be required there?

Senator Kristina Keneally 52:50

And I might defer that to my colleague, the Shadow Attorney General Mark Dreyfus. It was an area we briefly looked at, in terms of the PJCIS Enquiry into media freedom, but ultimately decided wasn't part of our Terms of Reference, in terms of national security. And I would say that there are some aspects of how the media operate, if I could just segue to something that I'm better prepared to talk about, which is the contestability of journalist information, and I just want to briefly speak to this because if a national security agency wants to get a warrant in relation to a journalist and say, their metadata, or their phone records, those warrants, you know...we the PJCIS recommended should be

contested by a Public Interest Advocate. That is somebody you know, we aren't... we didn't argue that the journalists themselves should be notified that they were potentially the subject of a warrant. But we did say a Public Interest Advocate, that could speak on behalf of the public, when such a warrant was being sought by the government, by a government agency, was a way to uphold that the idea of public interest and public scrutiny. And I would say that... that I mention that because it is an example of where we've tried to grapple with the notion of the public interest, media and the need for secrecy in certain circumstances, whether that's directly applicable in terms of defamation and the type of cases you outlined, I'm not able to say. But I think it points to a Parliamentary Committee trying to grapple with those types of questions.

Ebony Bennett 54:46

We've probably only got time for one last question and this might be a little bit left field but Emery Newton is asking about workplace gender in Parliament and the different electorate offices around the country. With everything that's been coming out over the past few months, would you be able to update us on, you know, where we're at, what has changed and where to from here.

Senator Kristina Keneally 55:13

Yes so in terms...that's a great question. And many of you will recall that the Prime Minister initially said he was going to have a review of the culture and the workplace practices at Parliament House, and it was going to be done by one of his own MPs, Celia Hammond. Now Celia's a lovely person, I don't have anything against her. But you know, that's not the appropriate response to really, the crisis and the challenges that were identified, following the revelations about Brittany Higgins' assault, alleged assault, here in Parliament House. So Kate Jenkins - Labor called for this to be an independent review, and for it to be involving both parties and indeed all parties. The government has agreed to that. Kate Jenkins is undertaking that now, and has been consulting with all the parties and with staff here in the Parliament House as well. And we look forward and we continue to work with her and we look forward to the outcomes of that review. I think it's quite appropriate that she's doing that. In the meantime, the Australian Labor Party has released new policies on harassment, on bullying, and a new complaints process for... particularly relating to well, not just to staff, but indeed to all members of the Australian Labor Party. And that has been done following a significant period of consultation across the party and with our staff, in order to ensure that people had support people within the party they could go to, clear complaint mechanisms and a clear understanding of how those complaints would be resolved. And very much so, to provide confidentiality where it's required, and to help devise, to find outcomes that are acceptable and desirable by the complainant. So, you know, no, I'm not claiming we've perfectly nailed it but I do think we have done a significant amount of work. And no doubt there is more to come particularly following the outcome of the Jenkins review.

Ebony Bennett 57:41

Thank you. I'm afraid we're gonna have to wrap it up there. Thanks so much for joining us Senator Kristina Keneally and Bill Browne. We really appreciate your time today. Thanks everyone, for all your great questions. We do have more exciting webinars coming up over the next few weeks. So you can head to australiainstitute.org.au/events to register for those. Thanks so much for your wonderful questions today. I'm sorry we didn't get to all of them. But hopefully we covered a good range. I feel like there was a good range of topics there that we covered - everything from the media

to donations to ministerial accountability. So we really appreciate you coming along. I think we had about 550 people at one point and we really appreciate you coming along. And thanks again for your time Senator Keneally. We really appreciate it.

Senator Kristina Keneally 58:28

Thanks, everyone. Thanks, Ebony. Thanks, Bill.

Ebony Bennett 58:31

Thanks, everyone. Hope to see you next week. Bye bye.

Transcribed by <https://otter.ai>