INTERNET
The Journals of the Senate are available at

Proof and Official Hansards for the House of Representatives,
the Senate and committee hearings are available at

For searching purposes use
http://parlinfo.aph.gov.au

SITTING DAYS—2014

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>11, 12, 13</td>
</tr>
<tr>
<td>March</td>
<td>3, 4, 5, 6, 17, 18, 19, 20, 24, 25, 26, 27</td>
</tr>
<tr>
<td>May</td>
<td>13, 14, 15</td>
</tr>
<tr>
<td>June</td>
<td>16, 17, 18, 19, 23, 24, 25, 26</td>
</tr>
<tr>
<td>July</td>
<td>7, 8, 9, 10, 14, 15, 16, 17</td>
</tr>
<tr>
<td>August</td>
<td>26, 27, 28</td>
</tr>
<tr>
<td>September</td>
<td>1, 2, 3, 4, 22, 23, 24, 25, 30</td>
</tr>
<tr>
<td>October</td>
<td>1, 2, 27, 28, 29, 30</td>
</tr>
<tr>
<td>November</td>
<td>24, 25, 26, 27</td>
</tr>
<tr>
<td>December</td>
<td>1, 2, 3, 4</td>
</tr>
</tbody>
</table>

RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on ABC NewsRadio in the capital cities on:

- ADELAIDE 972AM
- BRISBANE 936AM
- CANBERRA 103.9FM
- DARWIN 102.5FM
- HOBART 747AM
- MELBOURNE 1026AM
- PERTH 585AM
- SYDNEY 630AM

For information regarding frequencies in other locations please visit
http://www.abc.net.au/newsradio/listen/frequencies.htm
FORTY-FOURTH PARLIAMENT
FIRST SESSION—FOURTH PERIOD

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

Senate Office holders
President—Senator Hon. Stephen Parry

Temporary Chairs of Committees—Senators Christopher John Back, Cory Bernardi, Sam Dastyari, Sean Edwards, Alexander McEachian Gallacher, Susan Lines, Deborah Mary O'Neill, Nova Maree Peris OAM, Dean Anthony Smith, Zdenko Matthew Seselja, Glenn Sterle, Peter Stuart Whish-Wilson and John Reginald Williams

Leader of the Government in the Senate—Senator Hon. Eric Abetz

Deputy Leader of the Government in the Senate—Senator Hon. George Henry Brandis QC

Leader of the Opposition in the Senate—Senator the Hon Penny Wong

Deputy Leader of the Opposition in the Senate—Senator the Hon Stephen Conroy

Manager of Government Business in the Senate—Senator Hon. Mitchell Peter Fifield

Manager of Opposition Business in the Senate—Senator Claire Moore

Senate Party Leaders and Whips
Leader of the Liberal Party in the Senate—Senator Hon. Eric Abetz

Deputy Leader of the Liberal Party in the Senate—Senator Hon. George Henry Brandis QC

Leader of The Nationals in the Senate—Senator Hon. Nigel Scullion

Deputy Leader of The Nationals in the Senate—Senator Hon. Fiona Nash

Leader of the Opposition in the Senate—Senator the Hon Penny Wong

Deputy Leader of the Opposition in the Senate—Senator the Hon Stephen Conroy

Leader of the Australian Greens—Senator Christine Anne Milne

Leader of the Palmer United Party in the Senate—Senator Glenn Patrick Lazarus

Deputy Leader of the Palmer United Party in the Senate—Senator Jacqui Lambie

Chief Government Whip—Senator David Christopher Bushby

Deputy Government Whips—Senators David Julian Fawcett and Anne Sowerby Ruston

The Nationals Whip—Senator Barry James O'Sullivan

Chief Opposition Whip—Senator Anne McEwen

Deputy Opposition Whips—Senators Catryna Louise Bilyk and Anne Elizabeth Urquhart

Australian Greens Whip—Senator Rachel Siewert

Palmer United Party Whip—Senator Zhenya Wang

Deputy Palmer United Party Whip—Senator Jacqui Lambie

Printed by authority of the Senate
<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Back, Christopher John</td>
<td>WA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Bernardi, Cory</td>
<td>SA</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Bilyk, Catryna Louise</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Birmingham, Hon. Simon John</td>
<td>SA</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Brandis, Hon. George Henry, QC</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Brown, Carol Louise</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Bullock, Joseph Warrington</td>
<td>WA</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Bushby, David Christopher</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Cameron, Hon. Douglas Niven</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Canavan, Matthew James</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>LNP</td>
</tr>
<tr>
<td>Carr, Hon. Kim John</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Cash, Hon. Michaelia Clare</td>
<td>WA</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Colbeck, Hon. Richard Mansell</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Collins, Hon. Jacinta Mary Ann</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Conroy, Hon. Stephen Michael</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Cormann, Hon. Mathias Hubert Paul</td>
<td>WA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Dastyari, Sam</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Day, Robert John</td>
<td>SA</td>
<td>30.6.2020</td>
<td>FFP</td>
</tr>
<tr>
<td>Di Natale, Richard</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Edwards, Sean</td>
<td>SA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Faulkner, Hon. John Philip</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Fawcett, David Julian</td>
<td>SA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Fierravanti-Wells, Hon. Concetta Anna</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Fifield, Hon. Mitchell Peter</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Gallacher, Alexander McEachian</td>
<td>SA</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Hanson-Young, Sarah Coral</td>
<td>SA</td>
<td>30.6.2020</td>
<td>AG</td>
</tr>
<tr>
<td>Heffernan, Hon. William Daniel</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Johnston, Hon. David Albert Lloyd</td>
<td>WA</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Ketter, Christopher Ronald</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Lambie, Jacqui</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>PUP</td>
</tr>
<tr>
<td>Lazarus, Glenn Patrick</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>PUP</td>
</tr>
<tr>
<td>Leyonhjelm, David Ean</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>LDP</td>
</tr>
<tr>
<td>Lines, Susan</td>
<td>WA</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Ludlam, Scott</td>
<td>WA</td>
<td>30.6.2020</td>
<td>AG</td>
</tr>
<tr>
<td>Lundy, Kate Alexandra</td>
<td>ACT</td>
<td></td>
<td>ALP</td>
</tr>
<tr>
<td>Macdonald, Hon. Ian Douglas</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Madigan, John Joseph</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>IND</td>
</tr>
<tr>
<td>Marshall, Gavin Mark</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Mason, Hon. Brett John</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>McEwen, Anne</td>
<td>SA</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>McGrath, James</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>LNP</td>
</tr>
<tr>
<td>McKenzie, Bridget</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>NATS</td>
</tr>
<tr>
<td>McLucas, Hon. Jan Elizabeth</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Milne, Christine Anne</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Moore, Claire Mary</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Muir, Ricky Lee</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>AMEP</td>
</tr>
<tr>
<td>Nash, Hon. Fiona Joy</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>NATS</td>
</tr>
<tr>
<td>Senator</td>
<td>State or Territory</td>
<td>Term expires</td>
<td>Party</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>--------------------</td>
<td>--------------</td>
<td>-------</td>
</tr>
<tr>
<td>O'Neill, Deborah Mary (1)</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>O'Sullivan, Barry James</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>NATS</td>
</tr>
<tr>
<td>Parry, Stephen Shane</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Payne, Hon. Marise Ann</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Peris, Nova Marae OAM</td>
<td>NT</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Polley, Helen Beatrice</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Reynolds, Linda Karen CSC</td>
<td>WA</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Rhiannon, Lee</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Rice, Janet Elizabeth</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>AG</td>
</tr>
<tr>
<td>Ronaldson, Hon. Michael</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Ruston, Anne Sowerby</td>
<td>SA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Ryan, Hon. Scott Michael</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Scullion, Hon. Nigel Gregory</td>
<td>NT</td>
<td>30.6.2020</td>
<td>CLP</td>
</tr>
<tr>
<td>Seselja, Zdenko Matthew</td>
<td>ACT</td>
<td></td>
<td>LP</td>
</tr>
<tr>
<td>Siewert, Rachel Mary</td>
<td>WA</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Singh, Hon. Lisa Maria</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Sinodinos, Hon. Arthur</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Smith, Dean Anthony</td>
<td>WA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Sterle, Glenn</td>
<td>WA</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Urquhart, Anne Elizabeth</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Wang, Zhenya</td>
<td>WA</td>
<td>30.6.2020</td>
<td>PUP</td>
</tr>
<tr>
<td>Waters, Larissa Joy</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Whish-Wilson, Peter Stuart</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>AG</td>
</tr>
<tr>
<td>Williams, John Reginald</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>NATS</td>
</tr>
<tr>
<td>Wong, Hon. Penelope Ying Yen</td>
<td>SA</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Wright, Penelope Lesley</td>
<td>SA</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Xenophon, Nicholas</td>
<td>SA</td>
<td>30.6.2020</td>
<td>IND</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Territory</th>
<th>Senator</th>
<th>Party</th>
<th>Senator</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Capital Territory</td>
<td>Lundy, K.</td>
<td>ALP</td>
<td>Seselja, Z.M.</td>
<td>LP</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>Scullion, N. G.</td>
<td>CLP</td>
<td>Peris, N.M.</td>
<td>ALP</td>
</tr>
</tbody>
</table>

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

PARTY ABBREVIATIONS

AG—Australian Greens; ALP—Australian Labor Party;
AMEP—Australian Motoring Enthusiast Party; CLP—Country Liberal Party;
DLP—Democratic Labour Party; FFP—Family First Party; IND—Independent,
LDP—Liberal Democratic Party; LNP—Liberal National Party; LP—Liberal Party of Australia;
NATS—The Nationals; PUP—Palmer United Party
Heads of Parliamentary Departments
Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services—C Mills
Parliamentary Budget Officer—P Bowen
<table>
<thead>
<tr>
<th>Title</th>
<th>Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon Tony Abbott MP</td>
</tr>
<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senator the Hon Nigel Scullion</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for the Public Service</em></td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for Women</em></td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td><em>Parliamentary Secretary to the Prime Minister</em></td>
<td>The Hon Josh Frydenberg MP</td>
</tr>
<tr>
<td><em>Parliamentary Secretary to the Prime Minister</em></td>
<td>The Hon Alan Tudge MP</td>
</tr>
<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
<td>The Hon Warren Truss MP</td>
</tr>
<tr>
<td>(Deputy Prime Minister)</td>
<td>The Hon Jamie Briggs MP</td>
</tr>
<tr>
<td><em>Assistant Minister for Infrastructure and Regional Development</em></td>
<td></td>
</tr>
<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>The Hon Julie Bishop MP</td>
</tr>
<tr>
<td><strong>Minister for Trade and Investment</strong></td>
<td>The Hon Andrew Robb AO MP</td>
</tr>
<tr>
<td><em>Parliamentary Secretary to the Minister for Foreign Affairs</em></td>
<td>Senator the Hon Brett Mason</td>
</tr>
<tr>
<td><strong>Minister for Employment</strong></td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td>(Leader of the Government in the Senate)</td>
<td>The Hon Luke Hartsuyker MP</td>
</tr>
<tr>
<td><em>Assistant Minister for Employment</em></td>
<td></td>
</tr>
<tr>
<td>(Deputy Leader of the House)</td>
<td></td>
</tr>
<tr>
<td><strong>Attorney-General</strong></td>
<td>The Hon George Brandis QC</td>
</tr>
<tr>
<td><strong>Minister for the Arts</strong></td>
<td>The Hon George Brandis QC</td>
</tr>
<tr>
<td>(Vice-President of the Executive Council)</td>
<td></td>
</tr>
<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
<td></td>
</tr>
<tr>
<td><em>Minister for Justice</em></td>
<td>The Hon Michael Keenan MP</td>
</tr>
<tr>
<td><strong>Treasurer</strong></td>
<td>The Hon Joe Hockey MP</td>
</tr>
<tr>
<td><strong>Minister for Small Business</strong></td>
<td>The Hon Bruce Billson MP</td>
</tr>
<tr>
<td>Acting Assistant Treasurer</td>
<td>Senator the Hon Mathias Cormann</td>
</tr>
<tr>
<td><em>Parliamentary Secretary to the Treasurer</em></td>
<td>The Hon Steven Ciobo MP</td>
</tr>
<tr>
<td><strong>Minister for Agriculture</strong></td>
<td>The Hon Barnaby Joyce MP</td>
</tr>
<tr>
<td><em>Parliamentary Secretary to the Minister for Agriculture</em></td>
<td>Senator the Hon Richard Colbeck</td>
</tr>
<tr>
<td><strong>Minister for Education</strong></td>
<td>The Hon Christopher Pyne MP</td>
</tr>
<tr>
<td>(Leader of the House)</td>
<td></td>
</tr>
<tr>
<td><em>Assistant Minister for Education</em></td>
<td>The Hon Sussan Ley MP</td>
</tr>
<tr>
<td><em>Parliamentary Secretary to the Minister for Education</em></td>
<td>Senator the Hon Scott Ryan</td>
</tr>
<tr>
<td><strong>Minister for Industry</strong></td>
<td>The Hon Ian Macfarlane MP</td>
</tr>
<tr>
<td><em>Parliamentary Secretary to the Minister for Industry</em></td>
<td>The Hon Bob Baldwin MP</td>
</tr>
<tr>
<td><strong>Minister for Social Services</strong></td>
<td>The Hon Kevin Andrews MP</td>
</tr>
<tr>
<td>Assistant Minister for Social Services</td>
<td>Senator the Hon Mitch Fifield</td>
</tr>
<tr>
<td>(Manager of Government Business in the Senate)</td>
<td></td>
</tr>
<tr>
<td><em>Minister for Human Services</em></td>
<td>Senator the Hon Marise Payne</td>
</tr>
<tr>
<td><em>Parliamentary Secretary to the Minister for Social Services</em></td>
<td>Senator the Hon Concetta Fierravanti-Wells</td>
</tr>
<tr>
<td><strong>Minister for Communications</strong></td>
<td>The Hon Malcolm Turnbull MP</td>
</tr>
<tr>
<td><em>Parliamentary Secretary to the Minister for Communications</em></td>
<td>The Hon Paul Fletcher MP</td>
</tr>
<tr>
<td><strong>Minister for Health</strong></td>
<td>The Hon Peter Dutton MP</td>
</tr>
<tr>
<td><strong>Minister for Sport</strong></td>
<td>The Hon Peter Dutton MP</td>
</tr>
<tr>
<td>Assistant Minister for Health</td>
<td>Senator the Hon Fiona Nash</td>
</tr>
<tr>
<td>Title</td>
<td>Minister</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Minister for Defence</strong></td>
<td>Senator the Hon David Johnston</td>
</tr>
<tr>
<td>Minister for Veterans' Affairs</td>
<td>Senator the Hon Michael Ronaldson</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for the Centenary of ANZAC</td>
<td>Senator the Hon Michael Ronaldson</td>
</tr>
<tr>
<td>Assistant Minister for Defence</td>
<td>The Hon Stuart Robert MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Defence</td>
<td>The Hon Darren Chester MP</td>
</tr>
<tr>
<td><strong>Minister for the Environment</strong></td>
<td>The Hon Greg Hunt MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for the Environment</td>
<td>Senator the Hon Simon Birmingham</td>
</tr>
<tr>
<td><strong>Minister for Immigration and Border Protection</strong></td>
<td>The Hon Scott Morrison MP</td>
</tr>
<tr>
<td>Assistant Minister for Immigration and Border Protection</td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td><strong>Minister for Finance</strong></td>
<td>Senator the Hon Mathias Cormann</td>
</tr>
<tr>
<td>Special Minister of State</td>
<td>Senator the Hon Michael Ronaldson</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Finance</td>
<td>The Hon Michael McCormack MP</td>
</tr>
</tbody>
</table>

Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Human Services in the Social Services portfolio and a Department of Veterans’ Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases.
<table>
<thead>
<tr>
<th>TITLE</th>
<th>SHADOW MINISTER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leader of the Opposition</td>
<td>Hon Bill Shorten MP</td>
</tr>
<tr>
<td>Shadow Minister Assisting the Leader for Science</td>
<td>Senator the Hon Kim Carr</td>
</tr>
<tr>
<td>Shadow Minister Assisting the Leader for Small Business</td>
<td>Hon Bernie Ripoll MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Small Business</td>
<td>Julie Owens MP</td>
</tr>
<tr>
<td>Shadow Cabinet Secretary</td>
<td>Senator the Hon Jacinta Collins</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
<td>Hon Michael Danby MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
<td>Dr Jim Chalmers MP</td>
</tr>
<tr>
<td>Deputy Leader of the Opposition</td>
<td>Hon Tanya Plibersek MP</td>
</tr>
<tr>
<td>Shadow Minister for Foreign Affairs and International Development</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Women</td>
<td>Senator Claire Moore</td>
</tr>
<tr>
<td>Manager of Opposition Business (Senate)</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for the Centenary of ANZAC</td>
<td>Hon David Feeney MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Foreign Affairs</td>
<td>Hon Matt Thistlethwaite MP</td>
</tr>
<tr>
<td>Leader of the Opposition in the Senate</td>
<td>Senator the Hon Penny Wong</td>
</tr>
<tr>
<td>Shadow Minister for Trade and Investment</td>
<td>Dr Jim Chalmers MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Trade and Investment</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Defence</td>
<td>Hon David Feeney MP</td>
</tr>
<tr>
<td>Shadow Minister for Veterans' Affairs</td>
<td>Hon David Feeney MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Defence</td>
<td>Gai Brodtmann MP</td>
</tr>
<tr>
<td>Shadow Minister for Infrastructure and Transport</td>
<td>Hon Anthony Albanese MP</td>
</tr>
<tr>
<td>Shadow Minister for Cities</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Regional Development and Local Government</td>
<td>Hon Julie Collins MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Regional Development and Infrastructure</td>
<td>Hon Alannah MacTiernan MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Western Australia</td>
<td>Hon Warren Snowdon MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for External Territories</td>
<td>Hon Tony Burke MP</td>
</tr>
<tr>
<td>Shadow Treasurer</td>
<td>Hon Chris Bowen MP</td>
</tr>
<tr>
<td>Shadow Assistant Treasurer</td>
<td>Hon Dr Andrew Leigh MP</td>
</tr>
<tr>
<td>Shadow Minister for Competition</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Financial Services and Superannuation</td>
<td>Hon Bernie Ripoll MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Shadow Treasurer</td>
<td>Hon Ed Husic MP</td>
</tr>
<tr>
<td>Shadow Minister for Finance</td>
<td></td>
</tr>
<tr>
<td>Manager of Opposition Business (House)</td>
<td>Hon Mark Butler MP</td>
</tr>
<tr>
<td>Shadow Minister for Environment, Climate Change and Water</td>
<td>Senator the Hon Lisa Singh</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for the Environment, Climate Change and Water</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Higher Education, Research, Innovation and Industry</td>
<td>Senator the Hon Kim Carr</td>
</tr>
<tr>
<td>Shadow Minister for Vocational Education</td>
<td>Hon Sharon Bird MP</td>
</tr>
<tr>
<td>Shadow Assistant Minister for Higher Education</td>
<td>Hon Amanda Rishworth MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Manufacturing</td>
<td>Tony Zappia MP</td>
</tr>
<tr>
<td>TITLE</td>
<td>SHADOW MINISTER</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Shadow Minister for Communications</td>
<td>Hon Jason Clare MP</td>
</tr>
<tr>
<td>Shadow Assistant Minister for Communications</td>
<td>Michelle Rowland MP</td>
</tr>
<tr>
<td>Shadow Attorney General</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for the Arts</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for the Arts Deputy Manager of Opposition Business</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Justice</td>
<td>Hon David Feeney MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Shadow Attorney General</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for the Arts</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Education</td>
<td>Hon Kate Ellis MP</td>
</tr>
<tr>
<td>Shadow Minister for Early Childhood</td>
<td></td>
</tr>
<tr>
<td>Shadow Assistant Minister for Education</td>
<td>Hon Amanda Rishworth MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Education</td>
<td>Julie Owens MP</td>
</tr>
<tr>
<td>Shadow Minister for Agriculture</td>
<td>Hon Joel Fitzgibbon MP</td>
</tr>
<tr>
<td>Shadow Minister for Rural Affairs</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Northern Australia</td>
<td>Hon Gary Gray AO MP</td>
</tr>
<tr>
<td>Shadow Special Minister of State</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Northern Australia</td>
<td>Hon Warren Snowdon MP</td>
</tr>
<tr>
<td>Shadow Minister for Health</td>
<td>Hon Catherine King MP</td>
</tr>
<tr>
<td>Shadow Assistant Minister for Health</td>
<td>Stephen Jones MP</td>
</tr>
<tr>
<td>Shadow Minister for Mental Health</td>
<td>Senator Hon Jan McLucas</td>
</tr>
<tr>
<td>Shadow Minister for Sport</td>
<td>Hon Bernie Ripoll MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Health</td>
<td>Nick Champion MP</td>
</tr>
<tr>
<td>Shadow Minister for Families and Payments</td>
<td>Hon Jenny Macklin MP</td>
</tr>
<tr>
<td>Shadow Minister for Disability Reform</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Human Services</td>
<td>Senator the Hon Doug Cameron</td>
</tr>
<tr>
<td>Shadow Minister for Housing and Homelessness</td>
<td>Senator the Hon Jan McLucas</td>
</tr>
<tr>
<td>Shadow Minister for Carers</td>
<td>Senator Claire Moore</td>
</tr>
<tr>
<td>Shadow Minister for Communities</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Families and Payments</td>
<td>Senator Carol Brown</td>
</tr>
<tr>
<td>Shadow Minister for Immigration and Border Protection</td>
<td>Hon Richard Marles MP</td>
</tr>
<tr>
<td>Shadow Minister for Citizenship and Multiculturalism</td>
<td>Michelle Rowland MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Immigration</td>
<td>Hon Matt Thistlethwaite MP</td>
</tr>
<tr>
<td>Shadow Minister for Indigenous Affairs</td>
<td>Hon Shayne Neumann MP</td>
</tr>
<tr>
<td>Shadow Minister for Ageing</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Indigenous Affairs</td>
<td>Hon Warren Snowdon MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Aged Care</td>
<td>Senator Helen Polley</td>
</tr>
<tr>
<td>Shadow Minister for Employment and Workplace Relations</td>
<td>Hon Brendan O'Connor MP</td>
</tr>
<tr>
<td>Shadow Minister for Employment Services</td>
<td>Hon Julie Collins MP</td>
</tr>
</tbody>
</table>
CONTENTS

TUESDAY, 28 OCTOBER 2014

Chamber
DOCUMENTS—
  Tabling ........................................................................................................ 7867
COMMITTEES—
  Meeting ......................................................................................................... 7867
BILLS—
  Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014—
    Second Reading .......................................................................................... 7867
QUESTIONS WITHOUT NOTICE—
  Defence Procurement .................................................................................. 7886
  Iraq ................................................................................................................. 7888
  Defence Procurement .................................................................................... 7889
  East West Link ............................................................................................... 7891
  Asbestos ......................................................................................................... 7892
  Environment ................................................................................................. 7894
  Asylum Seekers .............................................................................................. 7896
  Australian Defence Force ............................................................................. 7897
  Fuel Prices ...................................................................................................... 7899
  Budget ........................................................................................................... 7901
QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS—
  Defence Procurement .................................................................................. 7902
  East West Link ............................................................................................... 7909
NOTICES—
  Presentation ..................................................................................................... 7910
  Withdrawal ....................................................................................................... 7912
BUSINESS—
  Leave of Absence ......................................................................................... 7912
  Consideration of Legislation .......................................................................... 7912
NOTICES—
  Postponement ............................................................................................... 7912
COMMITTEES—
  Reporting Date ............................................................................................... 7912
  Foreign Affairs, Defence and Trade References Committee—
    Reference ..................................................................................................... 7913
BUSINESS—
  Withdrawal ..................................................................................................... 7913
  Days and Hours of Meeting ............................................................................ 7914
MOTIONS—
  International Day of the Girl Child ............................................................... 7917
BUSINESS—
  Days and Hours of Meeting ............................................................................ 7918
BILLS—
  Corporations Amendment (Publish What You Pay) Bill 2014—
    First Reading ............................................................................................... 7918
    Second Reading ............................................................................................ 7919
CONTENTS—continued

COMMITTEES—
Foreign Affairs, Defence and Trade Joint Committee—
Meeting ................................................................. 7921
NOTICES—
Postponement .......................................................... 7922
MOTIONS—
Asylum Seekers ......................................................... 7922
Mining ........................................................................... 7924
Future Fund ................................................................. 7925
Biosecurity ..................................................................... 7926
MATTERS OF PUBLIC IMPORTANCE—
Budget ........................................................................... 7926
DOCUMENTS—
Consideration ............................................................. 7941
COMMITTEES—
Public Works Committee—
Report ........................................................................ 7942
Foreign Affairs, Defence and Trade Joint Committee—
Report .......................................................................... 7942
Community Affairs Legislation Committee—
Additional Information ................................................. 7942
National Capital and External Territories Committee—
Report .......................................................................... 7942
Human Rights Committee—
Report .......................................................................... 7943
Foreign Affairs, Defence and Trade Joint Committee—
Report .......................................................................... 7946
Constitutional Recognition of ATSIP—
Report .......................................................................... 7946
Foreign Affairs, Defence and Trade Joint Committee—
Law Enforcement Committee—
Government Response to Report .................................... 7951
MINISTERIAL STATEMENTS—
Spring Repeal Day ....................................................... 7965
DOCUMENTS—
Corporations Amendment (Streamlining Future of Financial Advice) Regulation 2014—
Order for the Production of Documents .............................. 7965
MINISTERIAL STATEMENTS—
Veterans: Effects of Military Service ................................. 7965
COMMITTEES—
Membership ................................................................... 7969
BILLS—
Migration Amendment (Character and General Visa Cancellation) Bill 2014—
Rural Research and Development Legislation Amendment Bill 2014—
First Reading ................................................................... 7970
Second Reading .................................................................. 7970
CONTENTS—continued

Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014—
  First Reading .......................................................................................................................... 7974
  Second Reading ..................................................................................................................... 7974
Albury-Wodonga Development Corporation (Abolition) Bill 2014—
Australian Education Amendment Bill 2014—
Dental Benefits Legislation Amendment Bill 2014—
Social Services and Other Legislation Amendment (2014 Budget Measures No. 4) Bill 2014—
  First Reading .......................................................................................................................... 7979
  Second Reading ..................................................................................................................... 7979
Aged Care and Other Legislation Amendment Bill 2014—
Health and Other Services (Compensation) Care Charges (Amendment) Bill 2014—
  First Reading .......................................................................................................................... 7985
  Second Reading ..................................................................................................................... 7986
COMMITTEES—
  Australia Fund Establishment—
  Trade and Investment Committee—
    Membership .......................................................................................................................... 7988
BILLS—
  Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy
    Amendment Bill 2014—
  Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy
    (Collection) Amendment Bill 2014—
  Customs Amendment (Korea-Australia Free Trade Agreement Implementation)
    Bill 2014—
  Customs Tariff Amendment (Korea-Australia Free Trade Agreement Implementation)
    Bill 2014—
  Omnibus Repeal Day (Autumn 2014) Bill 2014—
  Tax and Superannuation Laws Amendment (2014 Measures No. 4) Bill 2014—
    Assent .................................................................................................................................... 7988
  Australian Sports Anti-Doping Authority Amendment Bill 2014—
  Higher Education and Research Reform Amendment Bill 2014—
  Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill 2014—
    Report of Legislation Committee ......................................................................................... 7988
  Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014—
    Second Reading ................................................................................................................... 7988
    In Committee ........................................................................................................................ 8015
ADJOURNMENT—
  Emergency Services Levy ...................................................................................................... 8040
  Camdenville Public School ...................................................................................................... 8041
  Water Infrastructure ............................................................................................................... 8042
Tuesday, 28 October 2014

The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 12:30, read prayers and made an acknowledgement of country.

DOCUMENTS
Tabling
The Clerk: Documents are tabled pursuant to statute. Details will be recorded in the Journals of the Senate and on the Dynamic Red.
Details of the documents also appear at the end of today’s Hansard.

COMMITTEES
Meeting
The Clerk: Proposals have been lodged by the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples for a private briefing tomorrow; the Joint Standing Committee on Foreign Affairs, Defence and Trade for a public hearing today; the Foreign Affairs, Defence and Trade References Committee for a private meeting today; and the Joint Standing Committee on Electoral Matters for a public meeting tomorrow.

The PRESIDENT (12:31): I remind senators that the question may be put on any proposal at the request of any senator.

BILLS
Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014
Second Reading

Debate resumed on the motion:
That this bill be now read a second time.

Senator JACINTA COLLINS (Victoria) (12:32): The Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 is bill is the second national security bill brought forward by the government in this parliament; the first, the National Security Legislation Amendment (No. 1) Bill, was passed through the parliament on 1 October. Labor insisted on a full review of that bill by the Parliamentary Joint Committee on Intelligence and Security; and we supported the bill, subject to the government implementing each of the committee’s recommendations. This bill is of a very different nature to the first bill. Labor’s shadow Attorney-General, Mark Dreyfus, said of that bill in his second reading speech in the other place:

Many of the measures in the bill are largely uncontroversial, though worthy, adjustments to intelligence legislation, including updating ASIO’s employment framework, improving ASIO’s ability to work and share information with other organisations, enabling ASIS to better cooperate with ASIO, improving ASIS’s protective security capability while operating in dangerous environments and renaming our defence agencies to better reflect their roles. Though it is perhaps impossible to separate this legislation from current events in public debate, we should be clear that these are reforms intended to endure well after current threats have faded. We should debate their content on that basis.

The foreign fighters bill contains a very different set of amendments. The first bill updated and adjusted the architecture of our national security organisations in a broad way so that they
will be better able to meet present and future demands. The foreign fighters bill, by contrast, directly addresses the threats to Australian security which have arisen out of present circumstances in Iraq and Syria. Where the first bill focused on the structure of our national security institutions in the long view, this bill focuses on the discrete powers most relevant to addressing the immediate threat of foreign fighters.

Labor offered the government its constructive bipartisan support for the first bill and we have offered constructive bipartisan support for this bill. As the Leader of the Opposition, Bill Shorten, has said on many occasions, Labor believes that our security agencies and national institutions should have the powers and resources they need to keep Australians safe from the threat of terrorism and we will support the government in providing those powers and resources. However, our bipartisan assistance to the government on matters of national security is never a blank cheque and we have also sought serious changes to this bill. Labor foreshadowed during debate on the first bill that subsequent bills 'may merit a different approach', and this has proven to be the case with regard to the foreign fighters bill. We have sought much broader changes to the foreign fighters bill than we sought to the first bill—arising as it did out of a lengthy bipartisan process begun by a Labor government.

Labor has fought hard over the past weeks to improve this bill by making sure it actually assists our agencies in addressing the foreign threat and by insisting on necessary safeguards for the fundamental democratic freedoms which characterise our society and our way of life in Australia. We pursued these improvements in the intelligence committee, where Labor members and senators closely scrutinised the bill and tested the case for each new measure. In cooperation with the government members of the committee we achieved 36 substantive recommendations. We pursued these improvements in negotiations with the government in which we have achieved agreement on not just the full implementation of the intelligence committee's recommendations but also yet further amendments to the bill. Now, not satisfied with the government's position on two outstanding matters in this bill, Labor will pursue improvements to this bill through further amendments that we will move in the Senate.

To give context to the improvements to this bill that have been achieved by Labor, it is useful to consider the scope of the bill and the original form in which the bill was first introduced into the Senate. The bill was introduced into the parliament on 24 September. It contains a broad range of measures designed to address the foreign fighter threat and amends more than 20 Commonwealth acts. Much of the bill implements recommendations of the March 2013 COAG review and the second, third and fourth reports of the former Independent National Security Legislation Monitor, Bret Walker SC. These measures include: a new power for interim suspension of passports; merging the Crimes (Foreign Incursions and Recruitment) Act into the Criminal Code, and harmonisation with code antiterror provisions; changes to the law of evidence to facilitate the use of overseas evidence in prosecutions of foreign fighters; a new evidence-tampering offence; lowering the legal threshold for arrest without warrant for terrorism offences; new power to seize bogus travel documents; providing for information sharing between AUSTRAC and AGD to help combat terrorism financing; and the introduction of delayed notification search warrants for terrorism offences.

The bill also includes other proposals which have attracted more controversy: a new offence for advocacy of terrorism, and the introduction of 'advocacy of terrorism' as a ground for prescription of a terrorist organisation; a new offence for entering or remaining in an area

CHAMBER
declared by the Minister for Foreign Affairs; and an expansion of power to collect biometric information on Australian citizens at airports. Further, in its original form, the bill provided for the extension by 10 years without review of the sunset clauses for legislation empowering the AFP control orders due to expire in December 2015, the ASIO questioning and detention powers due to expire in July 2016 and the AFP preventative detention orders due to expire in December 2015.

Let us look at the committee recommendations. The bill was referred to the Parliamentary Joint Committee on Intelligence and Security, where it was thoroughly scrutinised and debated. The committee sought public submissions and held several public hearings. Labor members worked tirelessly with their government counterparts to apply the level of scrutiny and oversight Australians expect their representatives to bring to bear on legislation of such consequence. The process culminated in the intelligence committee’s production of a substantial report making 36 recommendations, many of them calling for significant changes or clarifications. For completeness, and to illustrate to the Senate and to the Australian people the breadth and depth of the changes to this bill that have been achieved, I will set out those recommendations of the committee which call for amendment to the bill. I note that in each and every case Labor has insisted that the intelligence committee's recommendations be accepted and necessary amendments brought forward by the government.

In relation to sunset provisions, in its original form, the bill provided—extraordinarily, as I said—for the extension by 10 years, and without review, of the sunset clauses for legislation empowering control orders, ASIO questioning and detention powers, and preventative detention orders. Incredibly, in fact, there were reports in the press that the government initially wanted to remove any sunsetting arrangements for these powers, and confirm them as a permanent part of our law. Control orders, preventative detention orders, and the ASIO powers are each extraordinary and unprecedented powers introduced in the mid-2000s in response to the September 11 attacks and the Bali and London bombings. Their extraordinary nature is reflected in the fact that the Howard government saw fit to subject those powers to review and have them lapse after 10 years of operation if no legislation was passed to extend them. I note that the then Labor opposition sought amendments limiting this sunset period to five years—amendments which, unfortunately, at the time were unsuccessful.

The intelligence committee, after robust debate, concluded that these powers should sunset two years after the next federal election. It is right and proper that the next parliament be obliged to grapple with these powers again, and to decide on its own account whether their continuation is justified. Labor was not satisfied that the case had been made for such a lengthy extension. It is not acceptable that these extraordinary powers could operate for two decades without being properly reviewed by the parliament. As I said, this bill is aimed at a present threat; Labor will resource our agencies appropriately to deal with that threat, but we will not abandon scrutiny of agency powers properly considered special or emergency measures.

Moving onto the reviews, importantly, Labor has ensured that these sunset provisions are accompanied by mandatory reviews ahead of time. As was noted in evidence given to the committee, the whole purpose of sunsetting provisions is undermined if appropriate reviews are not conducted. The intelligence committee recommended that its review of the preventative detention order, control order, and ASIO powers be mandated by statute. What is
more, it recommended amendment of the Independent National Security Legislation Monitor Act to mandate reviews of the powers by that body also. It is worth remembering that it was only due to pressure from Labor that this body was retained. Earlier in the year, the Abbott government described this critical oversight office as 'red tape' and sought to repeal it. We vocally opposed that short-sighted cut, and the bipartisan support the committee expressed for the position in its report on the first bill was vindicated by Labor's consistent support for proper oversight mechanisms.

Speaking on the first bill, I pointed out that the position of monitor had been vacant since April. At a time of substantial change to our national security laws, that office is still vacant. This is simply unacceptable. Labor calls on the government to appoint an appropriate, credentialled and experienced monitor immediately. This is critical. By insisting on dramatically shortened sunset periods and on statutory reviews, both by the monitor and by the intelligence committee, Labor has ensured that, no matter the attitude of the Australian government in the next parliamentary term, there will be a sober and considered review of these powers ahead of their scheduled sunset.

We move onto foreign evidence. Labor has improved key human rights protections in the bill's provisions for the use of overseas evidence in terrorism prosecutions in Australian courts. As we did in regard to the first bill, we have demanded amendments to clarify that torture can never be accepted in any way under our law. As originally presented to the parliament, this bill excluded foreign evidence obtained as a result of torture only where that torture was carried out by public officials. There is no reason why the exclusion should be constrained in this way, especially when we are particularly concerned with regions which may have no readily recognisable state authorities.

The committee recommended the exclusion be expanded to cover torture by anyone. It also recommended the expansion of the definition of evidence obtained under duress to cover situations where evidence is obtained from a person by dint of threats to their person, their family, their associates or their property. In its original form, the bill had only covered circumstances where a person or their family was threatened. Though we strongly support making foreign evidence easier to use, as it is a critical part of enabling successful prosecutions under foreign incursions offences, Labor also wants appropriate safeguards for the accused. The committee recommended that judges be obliged to warn juries about the potential unreliability of foreign evidence; this is an important way of making sure that trials are fair.

On biometric collection, the foreign fighters bill includes provisions for the expanded collection of biometric data on Australian travellers. While the legislation expressly provides only for the collection of photographs, the bill as originally drafted allowed the government to expand this to other forms of biometric data, such as fingerprints or iris scans, by mere regulation and without seeking parliamentary approval.

Labor voiced its objection to this during the committee process. It is not acceptable that such an expansion of power with serious consequences for the privacy of ordinary citizens could be achieved without new legislation. Indeed, it is worrying that this aspect of the bill only became apparent during the Intelligence Committee's scrutiny. It is a vindication of that scrutiny process that did occur. We welcome the committee's recommendation to remove the ability of the government to prescribe further biometric collection by regulation. We also
welcome the recommendation that the privacy commissioner oversee both the biometric database that is provided for in this bill and any future legislative proposals to expand it to other forms of data.

On foreign incursions, the bill makes a number of changes to Australia's existing foreign incursions legislation which were recommended by the National Security Legislation Monitor. Appropriately, the bill will roll the Foreign Incursions and Recruitment Act into the Criminal Code and update its provisions to specifically deal with the foreign fighter threat. We welcome those changes along with the improved ability to use foreign evidence and we hope that these improved provisions will allow for successful prosecutions of Australians who engage in lawless conduct in conflict zones abroad.

However, the bill as originally presented was drafted in a confused way. It did not simply implement the monitor's recommendation that the definition of 'engaging in hostile activities' overseas be updated to include terrorist activity as currently defined under Australian law. Rather, it included a new concept: 'subverting society'. As was pointed out in evidence to the committee, this expanded the operation of the foreign incursions provisions well beyond what the foreign incursions provisions were meant to address. It could have seen those provisions address private disputes or petty criminal activity.

Labor welcomes the committee's further recommendation that the definition of 'engage in hostile activity' be amended so that it only captures conduct which would be a serious offence under Australian law. The strange legislative language of 'subverting society' was likely to mislead or confuse the public as to what was intended. As the former monitor Bret Walker pointed out during the intelligence committee process, there is no need for this sort of florid language in Commonwealth statutes, which should be drafted in clear and calm terms. A loaded legislative term like 'subverting society' would cause completely unnecessary community agitation when the substance of the provision is aimed simply at terrorist conduct. Labor welcomes both the substantive changes which faithfully implements the monitor's recommendation and the removal of this poor drafting technique. We are pleased to see the government agree to produce a more tightly constrained provision that is drafted in clear language.

On enhanced oversight, across all parts of the bill Labor has sought improved oversight and accountability mechanisms. We believe that our security agencies can only continue to do their important work if Australia's political leaders are willing and able to reassure the community—and I refer here to every part of our diverse, multicultural community—that our security agencies are not only appropriate empowered but also appropriately accountable. Of key importance is that the committee recommended that it have the power to oversee not just the Australian Intelligence Community agencies but also the AFP in its counter-terrorist capacity. Labor supports this, as it is right and appropriate for the intelligence committee to be able to hold all agencies involved in counter-terrorism activities to public account. This is especially so given the extension in this bill of AFP powers, including to preventative detention orders and control orders.

With respect to the more controversial parts of the bill, particularly the declared areas and advocating terrorism, I will cover those issues during my contribution to the committee stage and in moving the amendments that have been circulated. In conclusion, I will say that Labor has approached this legislation as a responsible opposition should. We have offered the
government our bipartisan support for measures to ensure our national security and that is constructive, bipartisan support. Labor did not, and never would, offer the government a blank cheque on this or any piece of legislation. We have worked hard to improve this bill. We want to make sure that it operates as intended, actually serves to protect our security and is subject to limits and accountability appropriate to the sort of free society that Australia is and must remain.

Our committee members have worked hard in pursuit of these ends in the intelligence committee process. We have worked hard in pursuit of these ends in negotiating with the government. And when our concerns have not been satisfactorily resolved, we have moved amendments in this place, which we urge the government to consider and to adopt.

Labor is proud of its record on national security and we are happy to assist the government in getting this bill right. We thank the government for its willingness to accept so many of the changes that we have asked for, and we hope that in that same spirit of constructive bipartisanship they might accept the two further changes we seek in the Senate today.

(Time expired)

Senator WRIGHT (South Australia) (12:52): I rise to speak with a heavy heart about this bill, the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014. This is a significant and complex piece of legislation which, if enacted, will have long-term impacts on how ordinary Australians go about their lives. These impacts will include whether and where people travel; the circumstances in which people can be detained and questioned by ASIO, Customs officials or the police; and what kind of public commentary on controversial issues is allowed to occur in Australia. The reality is that once this legislation is enacted—once it is on the books—it is very likely, on the basis of the lessons of history, that it will be very hard to shift.

I want to make one thing clear in this speech, and it is this: this legislation does not target only those with a criminal or terrorist intent. Nor does it carefully pinpoint gaps in the existing counter-terrorism legal framework and then fill them in neatly. This is a bill that will affect many everyday Australians and how they go about their lives. It contains widely drafted, sweeping reforms and makes changes to over 20 existing acts. It introduces a range of new, very serious criminal offences. It extends the scope of many other existing criminal offences, and it significantly expands the range and scope of powers available to law enforcement and intelligence-gathering agencies.

Interestingly enough, I received a tweet when I was talking about the need for the scrutiny of legislation. Someone tweeted to me, ‘Why do you Greens want to protect terrorists?’ I think that is one of the fundamental issues that we need to come to terms with in debating this legislation, because it is not the guilty I am interested in protecting here, it is the innocent. It is actually the Australians going about their lives who will be affected by this wide-ranging, unprecedented change to our laws. Tomorrow these laws may affect me or my child or my neighbour, or someone listening to this speech or reading my remarks.

In response to some of the commentary that I have been putting out in relation to this national security legislation I received a letter from an Australian working abroad, who thanked me for the Greens’ work in opposing this legislation, in particular the ‘declared zones’ offence. This person said:
While some people are having theoretical debates about what such provisions might mean, it is all too real for people like me. I am an Australian living and working in the Middle East, many of my friends are aid workers and journalists, and this bill will have serious repercussions for us. If this bill becomes law in its current form, on our return to Australia, we will all be criminals; unless and until we can prove we are not.

While in the Middle East I have worked with and volunteered for INGOs … One has to ask how exactly restricting or criminalising the movements of people like me will make Australia a safer place? I urge people who might be listening to this, or reading these remarks, to remember that every time, in Australia, we lose rights and freedoms that are precious—every time we allow fear to divide us and hurt people who are innocent—terrorism is actually winning. The Australian Greens have consistently said that there must be proper parliamentary scrutiny of this legislation, including a robust inquiry which offers legal experts and relevant stakeholders a genuine opportunity to come to terms with this complex legislation, to analyse it and to provide comment on the bill.

In the face of fear about terrorism the first failure of this government, in carrying out its duty to protect the population of Australia, is in not providing an adequate opportunity for this parliament and the Australian community to even begin to understand some of the most significant counter-terrorism changes in our lifetimes. This has not happened. This is a failure to uphold and protect some of the most dearly held tenets of the democracy that we cherish—in a sense, that we are fighting for here. This is irresponsible and antidemocratic. Already, by playing the national security trump card, by rushing these laws through parliament in the space of two days in the Senate, with inadequate time to consider them and before they have been properly scrutinised by the very committee of this parliament established to safeguard our human rights—the Parliamentary Joint Committee on Human Rights—it is possible to say that this government is already allowing terrorism to win, or to start to win.

The government is pursuing these changes without adequate consideration of the broad range of existing offence provisions and powers that are currently available to such agencies to protect the Australian community against threats to national security, and without a careful analysis of whether each individual reform proposed is a necessary and proportionate response to genuine and legitimate national security concerns.

As it is for every other senator in this place, keeping the Australian community safe from harm is my unwavering priority. Of course it is. I live in the community. My family is in this community. My children are here and so are my neighbours and my friends. But I will not pretend that the only way we can keep our community safe is to undermine the rights and processes that make us a vibrant parliamentary democracy.

I will not agree to amending laws on the run, without allowing the parliament or the community to really understand what they will mean for ordinary Australians. I will not agree that doing that is the best way to guard Australia against national security risks. The Australian Greens support careful lawmaking, particularly when people's lives, rights and liberties are at stake. This means ensuring that the agencies we rely upon to protect us from harm have the tools they need to investigate crime and gather intelligence. But it also means looking at what laws we already have in place, whether they are working properly or need to be improved, and when they should be limited to the most exceptional circumstances.
In short, it means listening to those with experience and expertise. Sadly, the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 has been introduced in flagrant disregard of these principles. As a result, this bill risks being at least an ineffective reaction to the national security threat which is faced by Australia, duplicating existing laws, and at worst it risks being a disproportionate intrusion on the rights and liberties of Australians.

Let’s look at the lack of scrutiny first. I was really interested to hear Senator Collins’ comments. It will be interesting to see how Labor votes this afternoon when there is an hour’s motion to gag debate on this bill. If that motion is successful, this Senate will have fewer than eight hours to consider the most significant counter-terrorism laws in my lifetime. The unwarranted haste with which this bill is being pushed through parliament has meant government agencies and Australia’s foremost legal experts have not had enough time to provide a comprehensive analysis of the full bill. The communities who were apparently consulted in relation to the draft bill remain deeply concerned with its content and continue to feel sidelined and ignored. Even the government’s own expert—the position established for the specific purpose of monitoring our national security laws—the Independent National Security Legislation Monitor, the INSLM, has remained vacant since April, leaving Australia without the source of independent expert advice it needs most.

The Legal and Constitutional Affairs Legislation Committee, of which I am a member, forewent its capacity to inquire into the bill, although the Senate referred it to that committee. The unrepresentative Parliamentary Joint Committee on Intelligence and Security, comprised only of the club, coalition and Labor politicians, with no input from crossbenchers or Independents or the Australian Greens, has had too little time to identify and address the potential implications of these changes on the lives of ordinary Australians.

As a lawyer, I remain deeply concerned about the devil yet to be revealed in the detail of this bill. The Australian Greens have a number of concerns about this bill, many of which I will not have time to address during the time allocated. However, I will start with the no-go zone offence. The Australian Greens will seek to abolish the so-called no-go zone provision in this bill which will make it a criminal offence, punishable by 10 years imprisonment, for a person to travel to a declared area. In an extraordinary departure from the type of traditional rule-of-law principles the Attorney-General in this place claims to hold dear, the offence does not include a fault element; it does not include a mental intention element; it does not require the person to be travelling with any kind of criminal or wrongful intent. It effectively allows the executive arm of our government to draw red circles on the world map and put anyone who goes there at risk of criminal prosecution.

There is a narrow list of exemptions for ‘legitimate purposes’, but this will not protect the many Australians who travel abroad every year. A person who has travelled to a declared zone will be subject to a criminal charge and can only effectively defend themselves if they can bring evidence to show that they were in the area solely for one of the listed legitimate purposes. Legally, to start with, that will be extremely hard to do. As the law stands, visiting friends will not suffice. Travelling to give legal advice or for a religious pilgrimage or ceremony is not covered. And, while visiting a family member will be considered a legitimate purpose, being invited to a wedding in another town while you are there and attending would breach the requirement for the purpose to be a sole reason for the travel.
This law will have a chilling effect on the freedom of movement of every Australian with relatives or friends in areas that are experiencing, or may in the future experience, violence or conflict. Would anyone here with young children take the risk of visiting a sick mother or father in a declared area if they knew they would have to face a criminal court to prove the legitimate reasons for their travel on their return? It is also worth noting that travelling for business purposes is currently not listed as a legitimate purpose in the bill. This offence has the serious potential to isolate and divide family members, dislocate migrant communities and stifle business transactions with developing nations. The risk is that this will further entrench feelings of isolation and alienation in the very communities we rely upon most in building a safer, more cohesive Australian society. And all this when this offence is considered by legal experts to be completely unnecessary.

Australia's criminal laws already well and truly cover circumstances where a person leaves Australia to participate in hostile or terrorist activities overseas, as well as circumstances where a person encourages or urges another person to engage in such activities or a person who financially or otherwise supports terrorist or criminal organisations.

Let's turn to control orders and preventative detention orders. The second area for concern is indeed the extension of sunset clauses—the built-in expiration provisions for various existing powers: control orders, preventative detention orders, ASIO's questioning and detention warrant powers, and certain stop, search and seizure powers relating to terrorism offences available to the police under the Crimes Act. Despite the fact that we are told that this legislation is so urgent that we must consider it within a period of hours in the Senate and get it through the parliament with unwarranted haste, these powers are not due to expire until December 2015 and July 2016. But this bill seeks to extend them further. These powers are exceptional. They allow authorities to operate outside the traditional criminal justice process, because they restrict the liberty of people not charged with, or even suspected of, engaging in a criminal offence.

A number of independent bodies, including the Independent National Security Legislation Monitor and the 2012 COAG review of counter-terrorism measures, have carefully reviewed these existing powers. Both the INSLM and the COAG reviews recommended that the preventative detention order regime be repealed, describing it as being 'at odds with our normal approach to even the most reprehensible crimes', and said that it may be thought to be 'unacceptable in a liberal democracy'—but maybe that is not what we are living in anymore. The INSLM also stated that 'control orders in their present form are not effective, not appropriate and not necessary'. Inexplicably, this bill ignores expert evidence in relation to these provisions and precludes the opportunity for further review of these powers by the Parliamentary Joint Committee on Intelligence and Security, which is required to review the operation, effectiveness and implications of ASIO's questioning and detention warrant powers by January 2016.

As well as extending the time frame for these powers, this bill extends their reach by making it easier, for example, for the police to obtain and enforce control orders. I cannot say strongly enough: we must not normalise powers that will allow ASIO or the police to detain someone without charge; limit whom they can speak to, where they can go and whether and where they can work; and impact on the lives of their families. We must remember that we are not only talking about Prime Minister Abbott's 'baddies' here; it could very well be a
'goodie'—a person getting on with their everyday life in Australia—who gets caught up in
this. If a mistake is made, a suspicion is wrong and someone happens to be in the wrong place
at the wrong time—and we have historical examples of that in Australia—lives can be
destroyed, people can be crushed and our democracy is poorer.

Let me turn to biometric material. This bill contains biometric data provisions that usher in
an unprecedented change to the data collected about travellers at Australian airports. I will be
moving amendments to remove these sections. No-one has had the time to carefully consider
what this change might mean and what impact it will have on the privacy rights of all
Australians leaving on international departures, including those who pose no risk to
Australia's national security. As presently drafted, these changes could result in giving the
green light for the collection and inter-agency sharing of biometric material, which currently
includes photographs and face recognition, but could potentially include iris scanning and
fingers. We just do not know precisely what forms of biometric material will or can be
collected, used and shared under these changes and under what circumstances and with whom
this material can be shared. Due to lack of time, many experts were unable to provide
comprehensive submissions on the impacts of these changes. For these reasons, the Australian
Greens will move that the reforms proposed in schedules 5 and 6, relating to the expanded use
of biometric material for passenger processing at Australia's border, be removed from the bill.

I will also introduce amendments in relation to the new offence of advocating terrorism.
Many experts have suggested this offence duplicates and unnecessarily expands existing
offences while using broadly defined terms that may have unintended consequences. This
offence risks capturing legitimate commentary on issues like Australia's foreign policy or
political satire whilst at the same time driving those with nefarious intentions underground,
making it harder to monitor and investigate real terrorism offences such as supporting a
terrorist organisation. To remain one of the world's strongest democracies, we must remain
free to strongly criticise the actions of our government, particularly on those matters directly
relevant to our nation's place in the world, such as whether we should engage in combat
activities overseas or whether Australia should publicly condemn or praise a certain political
or violent struggle. Not everyone thinks carefully about their public contributions on matters
that invoke passionate responses. It is chilling to think of those among us, from our teenage
sons and daughters to favourite online bloggers, who, because of impetuous or thoughtless
action with no real malice involved, could be at risk of very serious punishment under an
offence like this, which does not specifically define the limits of criminal liability.

We also have significant concerns about new powers for the suspension of travel
documents and visa cancellations. These clauses give the minister very broad powers with
limited oversight and narrow appeal rights. The Australian Human Rights Commission,
among others, has pointed out that the cancellation of family and sponsored visas risks
violating a range of human rights.

We have other concerns about the expansion of powers of customs officials to detain
people without charge, the delayed notification search warrants and provisions governing the
use of foreign evidence in Australian criminal proceedings—and we will be speaking further
about those in our committee stage amendments.

The issues raised in this speech merely skim the surface of the Australian Greens' grave
concerns with this bill. The Parliamentary Joint Committee on Human Rights has not yet even
finished its consideration of this bill and is still waiting for responses from the Attorney-General to deal with deficiencies in the mandated statement of compatibility provided with the bill. But it is fair to say that Australia has a proud history of protections and freedoms that it has inherited from hard-fought reforms in British democracy. When the government seeks to take away freedoms including freedom of movement, freedom of expression, right to freedom and freedom from arbitrary detention, it is essential that the legislation is subject to rigorous scrutiny.

(Time expired)

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (13:13): I rise to make a short contribution in the five minutes I have available to the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014. As a member of the Parliamentary Joint Committee on Intelligence and Security, I can assure Senator Wright and other senators in this place that there has, in fact, been robust and deep scrutiny of this bill. The committee listened to a wide range of witnesses and, importantly, also to the evidence provided by the security agencies, who work tirelessly on behalf of the people of Australia to ensure our security and also to ensure that we meet our security obligations to the broader global community.

To put it into context, on 24 September this year the United Nations Security Council met and passed a unanimous motion. The resolution requires all 193 UN member states to prosecute and penalise people who travel or attempt to travel abroad for terrorism training or to help finance such efforts; to deny entry to anyone they have reasonable grounds to believe could be supporting or participating in terror related activities; and to share airline passenger information records and other personal details with international databases to help track and prevent the movement of suspected foreign fighters. It is only the sixth time in 70 years that the Security Council has met with heads of nations. It met in those times to address the most urgent threats to peace and security. We see here that whilst there are urgent threats—and we are seeing those play out both on the global stage, particularly with the events in northern Iraq and Syria, and in Australia, as we have seen just recently in Melbourne, as well as in Canada and the United States—there are emerging and changing threats from people who support the ideology of Daesh or the Islamic state.

The Parliamentary Joint Committee on Intelligence and Security scrutinised these bills and made 36 recommendations. As Senator Collins pointed out before, it was a bipartisan effort whereby members from both the government and the opposition looked at the bill and made suggestions as to how to improve it so that we could capture the operational effect that the agencies need to ensure the safety of Australians but at the same time increase the balance to make sure that essential freedoms are preserved and that there are checks, such as sunset clauses, so that these do not without due cause become a permanent feature of our legislation.

I would like to quickly address some of the key points that have raised concern. One is the issue of advocacy. One of the problems in the past has been that people who had been seeking to inculcate in young, impressionable minds the mindset that this is something that is not only permissible but required by their ideology had been very smart and very clever to walk a fine line to avoid the current law which would capture them. We are seeing that we have a generation of people who have been inculcated to a point where the process from that inculcation to action—to that radicalisation—is very short. And it is quite important that we have the ability to circumvent and to prevent those enabling conditions such that we do not
have this body of young people—or, in some cases, older people—who have been radicalised to the point where they can decide to act and very quickly move forward.

We have seen a number of cases in which the so-called hate preachers have walked that fine line, they have inculcated into minds the willingness to act, and this legislation is a way of preventing that. Importantly, they commit an offence if they ‘intentionally counsel, promote, encourage or urge the doing of a terrorist act or the commission of a terrorism offence’ and the person is reckless as to whether another person will engage in a terrorist act or commit a terrorist offence. There are a number of things in there, particularly the 'reckless' element, that are important and that provide protections from a free-speech perspective. Importantly also, there is a safeguard in that there is an existing defence for acts that are done in good faith, such as political communication or publishing a report or commentary about a matter of public interest.

The sunset clauses, as we talked about, are important measures, and we have reduced the time frames on those to make sure they do not become a continuing feature of our law. But the arrest thresholds are an important part, as we have seen, with increasingly the change from large groups with complex plans seeking to have mass casualty events. We have had a very good record in Australia of our existing laws enabling our security forces to have things like Operation Pendennis, in which we defeated the threat against the MCG in Melbourne. Now we are seeing people operating as small groups or individuals very quickly, with no great planning required in terms of their equipment. It is important to change the threshold to enable our security officers to act in a timely manner so that they can apprehend people and prevent those occurrences. So the threshold is being changed to require that an officer of the law has reasonable grounds to suspect, rather than the threshold of reasonable grounds for belief. This is not arbitrary. Some factual basis for the submission must be shown. It is also important to recognise that this is not a new concept in Australia, with many states and territories already having an arrest threshold that is based on suspicion.

On the issue of biometric measures, we have seen a case in which somebody left Australia, with manual checking at an airport, and went and joined terrorist fighters overseas. We already use biometric measures for people coming into Australia. Many would be familiar with eGate. This legislation provides the ability to use that same technology outbound. It meets the obligations that we have signed up to through the United Nations. It means that we can use existing technology, existing privacy safeguards, on outgoing as well as incoming passengers to prevent the kind of occurrence we saw in Australia before.

I will make one final comment, on declared areas. This is not an offence of strict liability. The DPP still has discretion as to when to actually bring a case against an individual. So, if there is a range of background factors and other information that is in the brief and the DPP cannot for whatever reason use another law, this measure provides an opportunity to bring a case against an individual who has travelled to a declared area. But for a declared area—somewhere like Mosul—witnesses were questioning, during the public hearings on this, why somebody would not be free for example to go and do language training. As I put to those witnesses, in the case of an area like Mosul, where every reasonable person has either fled or has been executed through decapitation or crucifixion, what reasonable person would seek to travel there to do education training? It just does not make sense. And because this is not a strict liability offence, all the people who were talked about in terms of journalism and foreign
aid workers would not automatically be captured when they came back, because whole
regions are unlikely to be declared areas. In fact, specifically, countries are not going to be
able to be declared areas. So this offence is not the dire restriction on freedom of movement
that has been claimed. Because it is not strict liability, the DPP has a discretion to include it as
part of a brief of evidence.

My time is about to expire, but I commend this bill to the house. It has had good scrutiny
by the process that has been set up by this parliament, which has worked well for many years
through the Parliamentary Joint Committee on Intelligence and Security, and I commend it to
the Senate.

Senator LEYONHJELM (New South Wales) (13:21): I rise to speak against the
Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014. I do so because I do
not believe that the bill is urgent or even necessary and also because it contains measures that,
like the previous national security legislation, erode our rights and freedoms. It is somehow
fitting that this chamber is close to empty because it reminds us of Edmund Burke's
observation that bad things happen when good people do nothing.

Last week, the government snapped to attention in response to video threats made by a 17-
year-old jihadist from Bankstown. I then attracted some attention when I used some mildly
unparliamentary language to describe him. I stand by that description. And, for that and other
reasons, I do not believe there is any reason to give security agencies additional powers to
prevent those like him from causing harm.

We have heard constant claims that we are now operating in a changed security
environment where Australia is under threat. Because Daesh is enjoying success in Iraq and
Syria, and a sympathiser has perpetrated an atrocity in Canada, the argument goes, we should
all be hiding under the doona and giving ASIO and the AFP additional powers to protect us. I
say that is not so. This bill has nothing to do with defeating Daesh in Syria or Iraq, and it will
not keep us safer here in Australia.

The Attorney-General says that the number of Australians presently involved in the
conflict in Syria and Iraq is unparalleled. According to his figures, 160 Australians are
currently supporting or fighting with extremist groups. And yet 66 Australians fought in the
Spanish Civil War. As a percentage of the Australian population in 1936, more Australians
thought helping communists or fascists was a good thing than are currently supporting
jihadists. Young men with a thirst for action and too much time on their hands have long
joined gangs and become entangled with organised crime. These days—at least for a few—it
seems violent religion provides an alternative outlet.

Then there is the basic reality that the government already has substantial powers on the
books to deal with any terrorist threat. Apart from the fact—as Bret Walker SC often points
out—that violence and conspiracy to commit violence have always been crimes, Australia's
security agencies have extensive surveillance capacities. They can, for example, obtain data
preservation orders that ensure metadata is retained and an individual's activities on the
internet can be examined. They can obtain warrants to intercept phone calls. People can be
held and compelled to answer questions. Preventive detention orders and control orders,
without any crime having been committed, stop people leaving their homes if it is suspected
that they might commit a crime in the future. Passports can be cancelled. Some of these
powers are so over the top they are already incompatible with a liberal democracy. No case
has been made for the need to add to them. In Australia, lightning kills five to 10 people each year; this does not mean our security agencies should have the right to enter our houses to check on us or imprison those who would walk around during storms.

People have pointed out that Daesh makes sophisticated use of social media and videos deliberately aimed at the young. ‘Wouldn't it be better,’ I have been asked, 'if watching those videos were made illegal? Wouldn't it be good if we could legislate Hizb ut-Tahrir out of existence?’ I have formed the view that the new offence of advocating terrorism, which can be committed by both individuals and organisations, is present in this bill purely to get at Hizb ut-Tahrir and any others like it. It does this in two ways. First, it defines advocacy so as to include the promotion of terrorism. This is broad enough to take in a general statement endorsing revolutionary violence with no particular audience in mind. Second, the offence is drafted in such a way that it requires only that the individual or organisation be reckless as to whether the words in question will cause another person to engage in terrorism. At common law, incitement has always required the element of intent, whereas promotion goes beyond the requirement—also present in incitement—that words ought to act directly on their intended audience.

Last week, I looked at Hizb ut-Tahrir Australia's website. Of course, ASIO probably already know what we do on our parliamentary computers, but I am letting senators know because it was actually an enlightening experience. Hizb ut-Tahrir, like Daesh, supports a global Islamic caliphate. It seeks the imposition of sharia, including the hudud ordinances. These take in nasties such as stoning people to death for apostasy and adultery. It is difficult to avoid the imputation that, given a choice, Hizb ut-Tahrir would prefer Daesh to the Commonwealth of Australia. The issue, of course, is that making Hizb ut-Tahrir illegal will not stop Daesh's videos being made or distributed or watched. In fact, they are likely to acquire a sort of weird cachet from their very illegality. Lots of youngsters, when adults in authority tell them not to do something, immediately go out and do the opposite. This phenomenon is not confined to Muslims. What proscription and listing as a terrorist organisation will achieve when it comes to Hizb ut-Tahrir is to drive the organisation underground.

I like the fact that I can read Hizb ut-Tahrir's website. I like the fact that one of their obnoxious spokesmen turned up on Lateline and revealed to all and sundry just how uncomfortable he is around independent, educated women. I also like the fact that their public presence exposes them to ongoing scrutiny and forces them to speak, not fight. Sunlight is indeed the best disinfectant. It may be possible to legislate bodies like Hizb ut-Tahrir out of existence but not the sentiments it represents.

Thanks to the alleged urgency and necessity of this bill, the Parliamentary Joint Committee on Intelligence and Security was forced to come up with something approaching a review in a fortnight. Labor, of course, is being its usual supine self on national security—although, to be fair, the recommendations made by the committee are all sound. There is only one problem: they are like putting a bandaid on cancer. Yes, it would be nice to have words like 'encourage', 'promote' and 'advocate' defined with clarity—or at all. It would also be good if the foreign minister could not simply declare entire countries off limits. I agree that the idea of 'subverting society' needs work. But it clearly has not occurred to the Attorney-General that some countries and societies actually make good candidates for subverting: Zimbabwe, for
example, or North Korea. I am happy to say that I support the overthrow of Kim Jong-un and Robert Mugabe, and I would not mind if there was a bit of advocating terrorism to achieve that. What does that make me? Even better are the proposals to reel in the lengthy sunset clauses for PDOs and control orders. Instead of 2025 or 2026, they will stay on the books for a mere two years after the next federal election—about four years, then, give or take. Mind you, that is still a long time for bad law to hang around.

Then there is the recommendation, when it comes to unauthorised disclosure of delayed notification search warrants, to take the public interest into account. However, as with the previous national security legislation, this safeguard will only go into the explanatory memorandum, not the bill itself. I may have slept through some of my lectures in law school but I remember enough to know that a court only takes the explanatory memorandum into account when the words of the statute are unclear. And the words in this bill are perfectly clear.

These kinds of laws will effectively turn our security agencies into various versions of secret police. Last week, News Corp's Lachlan Murdoch criticised the attack on freedom of speech that sailed through this place with the support of both major parties in relation to special intelligence operations—laws that could see journalists jailed up to 10 years if they disclose information about them. This bill seeks to prevent so-called 'delayed notification warrants' from being disclosed. We are talking about a warrant. One assumes that Lachlan Murdoch will one day be at News Corp's helm. The way things are going, there will be nothing for his journalists to report aside from the colour of Kim Kardashian's knickers.

Even with the acceptance of all the recommendations of the Parliamentary Joint Committee on Intelligence and Security, we are still left with a bill that enables the foreign minister to declare large swathes of territory no-go areas, allows the AFP to conduct searches without telling anyone about them for up to 12 months, places further constraints on the ability of Australians to speak freely, engages in extraterritorial overreach, and tells journalists they must go to the Inspector-General of Intelligence and Security if they come across misconduct rather than reporting to the wider public in the normal way.

Mr Abbott tells us that the 'delicate balance' between freedom and security will have to shift 'for some time to come' in light of the heightened terror risk. What he fails to realise in enacting laws like this one and the national security legislation is that he is curtailing the very liberties that distinguish free countries like Australia. Australia has the rule of law, procedural fairness, the presumption of innocence, free speech and a free media. It is simply not acceptable to give those good things away, surrendering freedom for safety, in response to windy threats from the 'ginger jihad' of Bankstown. We can do better than that. Giving away freedom for security is like giving your possessions to a thief so you will not be robbed. At the risk of repeating a worn phrase, it would be tempting to call Mr Abbott and Mr Shorten the girly men of personal freedom, but I do not know of any girls who would be intimidated by threats from a spotty youth on YouTube.

Young men with limited skills and an aggressive cast of mind have always been attracted to violence and have often committed crimes. That those crimes are now sometimes committed in the name of Islam does not make them different from crimes committed in the name of communism or fascism, or even just testosterone. There is nothing unprecedented, urgent or super risky about any of this. The internet has changed many things about the
modern world, often for the better, but communists and fascists alike were able to convince Australians to fight in Spain in 1936 without it.

When I came to write this speech, there were lots of words and phrases I could have used at the outset to describe the foreign fighters bill. I could have called it Orwellian in its desire to put the Australian people under surveillance. When discussing Hizb ut-Tahrir, I could have pointed out that the best response to speech is more speech. I could also have suggested that the government was in the process of tearing up the Magna Carta and depositing the bits in Lake Burley Griffin. I did not use that language at the outset precisely because it has become stereotyped. However, that does not make it any less true. Look at what you are doing to Australia's democratic heritage; and then, in the name of all that is decent, do better.

Senator EDWARDS (South Australia) (13:35): I also rise to talk this afternoon on the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014. I do not have the advantage of having the sunlight shining on me, as Senator Leyonhjelm did throughout his speech, which was indeed pleasant to look at and certainly was a perfect photo opportunity. Senator Leyonhjelm, I will be at some variance with your views in my contribution today, perhaps particularly on the acts of terrorism on dictatorial people in other countries. We share a similar view on many things, as you well know, but today I think we might diverge.

The first responsibility of government is to the security of its citizens. To deliver on this, the Commonwealth relies on a team of thousands: the military, the state and federal police, and the government agencies and organisations whose people we never see—those amongst us who run towards the bomb blast when everybody else is running away. We owe Australians all reasonable protections, and we owe these people all reasonable tools to keep the odds in our favour.

The national security space requires flexibility and adaptability from all those involved, including from legislators. This bill in effect represents the law adapting in response to the ways in which our enemies have adapted in their fight against us. Outlawing the advocacy of terrorism at home is a sensible and necessary measure in a battle where the key recruiting mechanism has been the rhetorical flourishes of charismatic jihad salesmen. We are banning the jihad salesmen.

Restricting travel to declared regions is both an investment in our own security and an act of a responsible global citizen. It is an investment in our security because those who travel to fight may bring their war home with them and it is an act of a responsible neighbour because we would otherwise be exporting our national security liabilities to other countries. Removing the passports of those with ill will may be enough to stop them from reaching their intended battlefields, but is it enough to ensure they do not take up the battle here instead?

The cancellation of welfare payments for individuals of security concern hardly needs a supporting argument. It will remove the possibility of taxpayers' money being used to fund the very terrorism the same taxpayers' money is being used to combat. That is certainly a sound principle but it is also of great practical importance, because terrorism on the scale of that committed by Islamic State is not cheap. They need money; they need lots of it; and that money has to come from somewhere. Let it not come from here.

The government has cancelled a number of passports to date in order to halt those aspiring to join the terrorism tourism trail. That is the right course of action for Australia's security.
interests and it is the action of a responsible global citizen. But what happens next? What about the individual who is committed to terror and who is stopped from reaching the battlefield by effective border security but whose aspiration to fight may be far from extinguished? At the very least this leaves our security people with a considerable burden, but a far worse outcome would be one akin to what happened in Ottawa last week. It is reported Michael Zehaf-Bibeau's passport application was declined by Canadian police, who believed he intended to travel abroad to fight, before he attacked the National War Memorial and the parliament of Canada instead. The need for the provisions within this bill is evident.

It is also evident that we should start debating whether we must be much more prepared to imprison those amongst us who want to fight our armed forces overseas, those amongst us with the self-declared intention of overthrowing government and imposing an Islamic caliphate, but who simply cannot reach the battlefield to participate in that fight? What if they seek to conduct the fight here? The evidentiary burden for a passport cancellation is appropriately different to the threshold for arrest and imprisonment, but the risk of jihadists participating in the fight at home is very real. So I suggest that, in addition to the very appropriate provisions of this bill, the time has come for us to debate the appropriateness of being much more inclined to jail the enemy amongst us. I know that this bill has been through the Parliamentary Joint Committee on Intelligence and Security that Senator Fawcett chairs and that he made a contribution earlier. This process has been scrutinised by both sides of government and the minority parties in this house. I commend the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 to the house on those grounds.

(Quorum formed)

Senator FAULKNER (New South Wales) (13:44): I am delighted that there are so many senators in the chamber to listen to my contribution on the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014, which of course contains a broad range of measures designed to enhance the capability of Australia's law enforcement, intelligence and broader protection agencies to protect the Australian community from the threat posed by returning foreign fighters and individuals in Australia supporting foreign conflicts.

This bill was introduced into the Senate on 24 September. It was referred to the Parliamentary Joint Committee on Intelligence and Security and the Senate Legal and Constitutional Affairs Legislation Committee, both of which reported on the 17th of this month. Even with the short and, I believe, inadequate time available to it, I must say that the PJCIS has worked very hard to examine and scrutinise the bill, and it has done so effectively and closely. The committee made 36 recommendations—many of them calling for quite substantial changes or clarifications. I understand that the government has now agreed to all the recommendations made by the PJCIS. As a result, the federal parliamentary Labor Party determined at its meeting this morning that it will support this bill—but it will, however, propose a number of amendments in the committee stage.

With more and more legislative changes boosting the powers of security agencies, the requirement for effective external oversight is now critical to maintaining an essential level of trust in the community about agency operations. Today I want to use the opportunity of this speech in the second reading debate on the bill to speak about this issue and to state very clearly the importance of this issue of oversight of our intelligence and security agencies. I believe that the time is right for a comprehensive review of the oversight of Australian
intelligence agencies as further security measures are brought into the parliament for consideration.

I think that there are a number of steps that not only are worthy of debate, both inside and outside this chamber, but also could be readily adopted to enhance our current system. Last Friday, in fact, I posted a paper on my website, which was also posted by the Lowy Institute and published by the Australian Financial Review. That paper recommended eight measures to improve the oversight and scrutiny of our intelligence and security agencies. I do commend these proposals to the Senate and, as I said, I intend to take the opportunity of this second reading debate to outline some of these proposals to the Senate.

It is the parliament to which the intelligence agencies are accountable, and it is the parliament's responsibility to oversight their priorities and effectiveness. The Australian parliament has no better or more authoritative forum than the Parliamentary Joint Committee on Intelligence and Joint Security, the PJCIS, to do this job. The PJCIS is established under part 4 of the Intelligence Services Act—the ISA. Schedule 1 of the act contains detailed provisions about the committee's operations and appointment processes. But the provision of the ISA regarding a prescribed balance of PJCIS members between the Houses has, I think, been an unnecessary impediment to ensuring that the best-qualified eligible parliamentarians serve on this committee. I believe this should change to ensure that the PJCIS has the capacity to draw on those parliamentarians with the greatest expertise and experience in this area.

I also want to talk about the role of the Australian Federal Police, which now of course is absolutely central in Australia's counter-terrorism framework. In its report on this legislation the PJCIS, in recommendation 14, proposed that the committee's functions be extended to encompass the counter-terrorism activities of the Australian Federal Police, including, but not necessarily limited to, anything involving classified material. I have been arguing the merits of this proposition for a number of years, and I am pleased that the committee has again proposed that the government move in this direction—as it did in its report in 2010 on the review, administration and expenditure of intelligence agencies.

To ensure comprehensive and consistent oversight arrangements, it is critical that the AFP's counterterrorism elements be added to the list of organisations reviewable by the PJCIS and to achieve this section 29(1) of the Intelligence Services Act 2001 should be amended accordingly. Also, currently the Intelligence Services Act stipulates the functions of the committee as review of the administration and expenditure of agencies, including their annual financial statements and in addition, of course, any other matter referred by a minister or resolved by either house of the parliament. I argue that the powers and the access of the PJCIS should be enhanced to include access to more classified information and material, including reports and the classified annual reviews of intelligence agencies so that it can do its job more effectively. Of course, in considering the provision of such additional material, the critical issue arises of where to draw the line. It is clear that some types of information are so sensitive that they should not be provided to the PJCIS, even if the committee were given a broader remit.

I have outlined in my paper some examples of such sensitive information such as revealing the identity of a confidential human source or a human intelligence source; current or planned operations but not necessarily past operations; revealing the identities of agency staff past and present, unless that requirement was waived by the agency head; technical details of
nonhuman intelligence sources including cryptology; data or information provided by another country, unless that other country consents; current vulnerabilities of ICT systems, installations or infrastructures relating to national security; and, technical capabilities which are subject to protection beyond the top-secret level.

The PJCIS in that report of 2007 proposed that a small working group drawn from relevant departments, agencies and the committee be set up to recommend the types of material which the PJCIS could access, material which should remain off limits and amendments to the ISA enabling any proposed changes for consideration by government. I think this proposal has real merit and I hope to see it implemented.

In addition, currently the PJCIS can only request a matter be referred to it by a responsible minister. In the United States and the United Kingdom, the equivalent parliamentary committees set their own agenda and work programs. It is time for the PJCIS in Australia to be given the power to generate its own inquiries if it believes, following consultation with relevant agencies, that such action is necessary and appropriate. Also, the Inspector-General of Intelligence and Security, who provides detailed scrutiny of the legality and propriety of intelligence agencies' operations, must have her office adequately resourced. The government and the parliament must ensure that the resources and level of staffing provided to the IGIS continue to meet the growing demands and responsibilities placed on them by the expansion of the Australian intelligence community and its powers.

It is critical that the government and the PJCIS regularly review or audit these resources, including the level of staffing and their expertise, within the office of the IGIS. There has been an enhancement recently. That is a good thing but I would argue that the IGIS's annual report should be required to provide a detailed assessment of the adequacy of resources provided to that office and the consequences of any shortfalls if they occur. The government and the PJCIS should provide a response to any such annual assessment. In addition to that, there should be more formalised liaison between the PJCIS and other oversight bodies, of course including the Inspector-General of Intelligence and Security but also the Independent National Security Legislation Monitor. For example, each IGIS formal inquiry report should be provided to the PJCIS no more than three months after it is presented to the Prime Minister or relevant ministers. It would also be good practice for the committee to receive regular briefings from the IGIS and the security monitor and, where appropriate, from the National Security Adviser, who is based in the Department of Prime Minister and Cabinet.

In addition to these proposals, I believe there should be strong support for mandatory sunset clauses for controversial legislation. In recent years, in some instances the parliament has used sunset clauses when intelligence agencies have been granted unprecedented powers. These unprecedented powers include AFP detention orders, AFP control orders and ASIO questioning and detention powers. The lifespan of too many such sunset clauses has been far too long and it is simply not possible to predict the nature and extent of terrorist threats over such a long period.

Debate interrupted.
QUESTIONS WITHOUT NOTICE

Defence Procurement

Senator WONG (South Australia—Leader of the Opposition in the Senate) (13:59): My question is to the Minister for Defence. I refer to evidence before the Senate committee from naval shipbuilding expert Dr John White. He said:

… there is still sufficient time available with adequate contingency for the competitive PDS—

project design study—

to be carried out and … to build the future submarines in Australia …

Why is the government misleading the public by claiming there is not enough time to build Australia's new submarines in Adelaide without a capability gap when the experts are saying the opposite?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:00): That is a very good question. I have an enormous amount of respect for Dr White. Indeed, we used him to do a report into the mess that was left to us by the former Labor government with respect to frigates being several hundred million dollars over budget and several years late. The only real authority in Australia as to where we are at with submarines is inside the defence department. If the Labor Party had done its homework and read and studied what Admiral Moffitt, who was in charge of the program, has been saying for the last several years, it would know the timing is crystal clear. For six years, Labor had done nothing. Indeed, I said this on 8 May 2013. I said this in a number of statements. I said that if the two options left behind by Minister Smith, the son of Collins option and the bespoke Australian design, were real and not fantasies then we would accept the minister at his word. But I have a copy of Labor's submarine design here.

Senator Moore: Mr President, I rise on a point of order on direct relevance to the question. The question relates to a statement made by Dr John White. The question was about that statement and also the claims about the reasons why the Australian submarines cannot be built here.

The PRESIDENT: Senator Johnston has been addressing the points of the question that was asked by Senator Wong.

Senator JOHNSTON: Having spent some time personally on this subject, I have a copy of Labor's submarine design after six years in government. Let me show it to the chamber.

Honourable senators interjecting—

The PRESIDENT: Minister, that was disorderly. Senator Johnston, I remind you and all ministers that in answering questions you are not allowed to use props or information like that. You have eight seconds left to complete your answer.

Senator JOHNSTON: It is only a paper design. I have copies to distribute. I would not mind tabling it but I am not sure it is going to take— (Time expired)

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:03): Mr President, I ask a supplementary question. I refer to evidence to the Senate by another submarine expert, Commodore Paul Greenfield. He said:
If government wants to avoid a capability gap, the timing of delivery and the rate of delivery can be arranged so that the new submarines can be introduced in lockstep with the Collins submarines as they are withdrawn from service.

Why is the government ignoring the experts on Australia's Future Submarine project?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:04): Mr Greenfield may well be right that they can be arranged that way, but I have to tell you that the government, given the delay, has very limited schedule options available to it because of the complete lack of work done by Labor. I happened to see Mr Swan this morning talking about the threat to national security of not building submarines in Australia. He was himself the single greatest threat to national security—

Senator Wong interjecting—

The PRESIDENT: Pause the clock. Senator Wong, your manager is on her feet wishing to take a point of order.

Senator Moore: Mr President, I rise on a point of order, again, on direct relevance. I would ask you to draw the attention of this minister to the question that was asked.

The PRESIDENT: The minister was asked by Senator Wong, 'Why is the government ignoring advice?' The minister was going on to explain the advice. He has 31 seconds left to answer the question.

Senator JOHNSTON: I should also say that there are many people who are giving gratuitous advice in this space who were retained by Defence South Australia. Independent, objective advice is very, very hard to find in this space. That is because I refuse to be drawn by people who are paid to give certain specific answers. I will rely on the defence chief to tell me which way we should go.

(Time expired)

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:06): Mr President, I ask a further supplementary question. Why is the government ignoring the experts, misleading the public and breaking its promise—this minister's promise—to South Australians to build Australia's new submarines in Adelaide?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:06): I said—and, of course, the Labor Party do not want to acknowledge what I said—in talking about the minister's two options that, 'On that basis, I accept what he has said, but if everything the minister says is based on fantasy we will tell you and we will revisit this.' What those opposite did was absolutely based on fantasy. There was no plan. There was no contract. There was no design. There was no money, because they took $20 billion out of the program. This is the biggest deception of the Australian public that I have ever seen in the national security space. You have stood there and said, 'We are going to build 12 submarines in Adelaide,' while ripping the process apart and misleading—

Opposition senators interjecting—

The PRESIDENT: Pause the clock.

Senator Wong: On a point of order, Mr President: the minister is misleading the Senate, and I seek leave to table this transcript of an interview where he says: 'We will deliver those submarines from right here at ASC in Adelaide.' Let it be tabled! Read the whole thing!
The PRESIDENT: Senator Wong! On two matters, Senator Wong: firstly, that was disorderly in relation to the first matter. The second matter is that you sought leave. Is leave granted?

Leave not granted.

Opposition senators interjecting—

The PRESIDENT: Order!

Iraq

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:08): My question is to the Minister for Defence, Senator Johnston. Can the minister update the Senate on Australia’s contribution to the international effort to disrupt and degrade the operations of Daesh, also known as ISIL, in Iraq? What work has been undertaken by the Australian Defence Force to assist the Iraqi government and the coalition of 60 other nations involved in this effort?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:08): I thank Senator Fawcett for that question and to his reference to Daesh, which is the Gulf States’ term for this terrorist group. The Australian Defence Force’s contribution consists of up to 600 personnel including our Air Task Group and a Special Operations Task Group. As the VCDF, Vice Admiral Ray Griggs has said, the Air Task Group in Iraq is one of the most capable air packages Australia has ever deployed. It is also the first completely self-contained air task group we have ever deployed and it is integrating seamlessly into the US led coalition.

As of today our Super Hornets have flown 33 missions, each consisting of two aircraft clocking up a total of around 500 hours. Our KC-30A air-to-air refueller has flown 24 missions delivering fuel to Australian and coalition aircraft. These missions have been supported by our Wedgetail early warning command and control aircraft, which plays a vital role coordinating all coalition aircraft. It has conducted 19 missions, accruing 230 flying hours. The CDF has been providing a number of operational updates and has been sensible and judicious with this information to protect our people, but has advised the coalition has the strategic momentum. The adverse effects of air strikes on ISIL are numerous. Apart from degrading ISIL’s capabilities, they are affecting their access to revenue, their ability to move freely and resupply their people. Air strikes by the coalition are also having a broader impact on morale and confidence and the notion that ISIL or Daesh is invincible. These air strikes are continuing to make an impact. I want to pause to congratulate our Defence personnel on their superb efforts inside Iraq. I congratulate them.

Honourable senators: Hear! Hear!

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:10): Mr President, I ask a supplementary question. Can the minister update the Senate on the status of our special forces who are deployed to the Middle East?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:10): On 18 and 19 October, my friend and colleague, the Minister for Foreign Affairs, Julie Bishop, travelled to Iraq and finalised the legal arrangements for the deployment of Australian special forces to advise and assist the Iraqi security forces. Defence is now working closely with DFAT and other government agencies to meet the administrative requirements and the mechanics to implement the legal arrangements that have been negotiated. Once these are in place, they
will pave the way for the deployment of our special forces. The Australian Defence Force takes force protection issues extremely seriously and is developing appropriate measures to mitigate the risks to its operations and the deployment of our people into Iraq. Our special forces are currently positioned in Australia’s main base in the Middle East and are ready to assist the Iraqi security forces to prepare and plan for operations. We want to ensure this is done properly. We do not want to cut corners; and here we are focused on the detail and the prudence going forward.

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:11): Mr President, I ask a further supplementary question. Can the minister outline to the Senate the nature of the broad coalition of nations which are providing political, economic, humanitarian or military support?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:11): I would like to acknowledge once again the bipartisan support we have had from the Leader of the Opposition Bill Shorten and the Australian Labor Party on this important issue of national security which, of course, is above politics. As we all know, Australia is contributing to degrading and disrupting this terrorist organisation and is one among many. In June Iraq’s then foreign minister wrote to the UN Security Council, asking member states to assist with combating ISIL. There are now some 60 nations that make up a coalition of nations, including nations in the Middle East and the Gulf States. Nations contributing to air strikes alongside Australia in Iraq include: the United States—obviously—the United Kingdom, Denmark, France, Belgium and the Netherlands. Other nations are participating in air strikes in Syria. The coalition of nations are all in Iraq at the invitation and request of the Iraqi government, and it is the Iraqi government that is coordinating these operations.

Defence Procurement

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:12): My question is to the Minister for Defence. I refer the minister to the CEO of submarine builder TKMS Australia, who told the ABC that TKMS could deliver 12 submarines that met Australian requirements for $20 billion, with the price including ‘all the programmatic aspects to deliver the submarine in Australia’. Given that the minister has now been caught out by claiming that there is a capability timing gap if our new submarines are built in Australia, does he stand by government claims that Australian built submarines will cost between $50 billion and $80 billion?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:13): Of course, a lot of corporate entities, companies and, indeed, some countries will promise the sun and the moon in order to get a very big and lucrative contract like this.

Senator Kim Carr: We know how to fix that!

The PRESIDENT: Order!

Senator JOHNSTON: The top end requirements for our submarine capability are well known across the board, but I can say that we have not made a decision with respect to submarines.

Senator Wong: The Prime Minister has.

Senator JOHNSTON: There will be a first- and second-pass process.
Senator Cameron: No more promises!

The PRESIDENT: Order, Senator Cameron!

Senator JOHNSTON: As the head of the DMO has said, we have engaged many countries with respect to this highly-complex and difficult program. Indeed, Germany was one of them.

Opposition senators interjecting—

The PRESIDENT: Order!

Senator JOHNSTON: I pause to say that one of the top end requirements is for a tonnage in a submarine of 3,400 tonnes. This is beyond what Collins now is. The Germans, of course, have never built a submarine of those dimensions. That is a very important consideration, and we will engage with TKMS as to what proposals they have and will put on the table. A vital part of that will be where the build is to take place and what cost there is in acquiring our submarine capability. In the last 12 months we have been working assiduously to perfect and to finalise our top end requirements so that we can engage these companies and get the best capability for our Navy. That, at the end of the day, is what this is all about.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:15): Mr President, I ask a supplementary question. I refer to retired Rear Admiral Peter Briggs, who has criticised the government's plans to buy the Japanese Soryu submarine, saying:

Proposing that you go and buy an off the shelf submarine with a 6,000 mile range, it's worse than a waste of money, it's an illusion.

Given that the minister has been caught out misleading the public on a capability timing gap and the cost, do you stand by the government claims that Japanese submarines meet Australia's Defence requirements? (Time expired)

Senator JOHNSTON (Western Australia—Minister for Defence) (14:16): Australia's Defence requirements require the best possible capability that we can provide. We have been bequeathed a boat, the Collins class submarine, that was sold to the Australian public on the basis that it was reliable and low in cost to maintain. It has been little short of a disaster. Indeed, retired Rear Admiral Briggs has been an advocate for a son of Collins. Son of Collins was one of your last remaining options. That was laden with fantasy because no work has been done. At $1 billion a year with one or two boats infrequently in the water, I do not want a son of Collins; I want something that gives Navy some capability, which they have been desperately seeking for such a long time. (Time expired)

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:17): Mr President, I ask a further supplementary question. Given that the Senate has now heard expert testimony that Australia's future submarines should not be bought off the shelf and can be built in Australia with the capabilities that the Navy needs at a competitive price to taxpayers and in a time frame that would avoid a capability gap, why won't the government and you, Senator Johnston, keep your promise and build our new submarines here in Australia?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:17): One of the reasons is because I have seen what the Labor Party delivers in its policy propositions to the Australian public. You are advocating that we do not learn the lessons of Collins. You are advocating that we go straight down the old Collins path where we take billions of dollars of
money and heap it into a program that will be over budget and will be over time schedule but, more importantly, will not provide the capability that we need going forward. We will do this properly. I am very upset when the air warfare destroyer program is $100 million or $200 million or $300 million over book. Labor have no qualms about having an NBN that is $30 billion over book. Thirty billion dollars is what you bring to the table in losses. I am not going to deliver anything like that. We are looking for the best capability that Navy can have. Clearly, those on the other side of this chamber do not like the truth because they never tell the truth. They do not like the truth on this subject. (Time expired)

East West Link

Senator RICE (Victoria) (14:19): Mr President, my question is to the Minister representing the Minister for Infrastructure and Regional Development, Senator Johnston. How does the government justify contributing $3 billion to the East West Link tollway project in Victoria, including $1½ billion already handed over, despite information including the business case remaining secret and it being a project which manifestly will not solve Melbourne's congestion problems when the meltdown in Melbourne's train system yesterday due to antiquated signalling shows that it is public transport that is in desperate need of investment from both state and federal governments?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:19): I thank the senator for that question. The coalition government has made an historic investment in the budget to get on with building Australia's infrastructure, bringing investment in infrastructure to $50 billion through to 2019-20. This includes $16.4 billion more than Labor promised in its infrastructure investment program. We are investing $7.6 billion in Victoria alone. The $3-billion commitment to Melbourne's 18-kilometre East West Link will address major transport challenges for Melbourne.

On 9 September 2014 the Australian and Victorian governments announced the preferred bidder, the East West Connect consortium, to construct and operate the eastern section of East West Link. On 29 September this year a $5.3 billion contract was signed between Victoria and East West Connect to build the eastern section of East West Link. The estimated cost of this section is $6.8 billion. This is real money from a government that is getting on with the job because we are delivering some real action in terms of infrastructure. This includes $5.3 billion for the construction, $700 million for public transport and local road upgrades, $500 million for land acquisitions and $300 million of state project management fees. The Australian government is providing $1.5 billion, with $2 billion from the Victorian government and $3.3 billion from private investment. The Australian government has so far contributed $500 million towards the eastern section. The remaining $1 billion Australian government commitment for the eastern section will be paid over three years from 2014-15. The associated works are expected to commence late this year, and I am very proud of that fact. (Time expired)

Senator RICE (Victoria) (14:22): Mr President, I ask a supplementary question. The minister was not answering my question, which was about investment in public transport and the lack of information relating to that investment.

The PRESIDENT: Your question, Senator Rice?
Senator RICE: The government promised pre-election that it would publicly release cost-benefit analyses for projects where federal funds of over $100 million were being committed. Does the minister reconfirm this commitment and, if so, does he believe that this information should be publicly available before the funds are handed over?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:22): If Senator Rice had been listening, she would have heard that I said $700 million of the $5.3 billion, which I referred to, is for public transport and local road upgrades. I think that is a very significant contribution to the wellbeing of public transport in Victoria. I think it is very welcome. I am really quite surprised, Senator, that you would be asking the question with the tenor that you are unhappy with this program. This is real money, it is actually starting this year and I have told you how much we are investing. I think the government has an awful lot to be very proud of in getting on with the job in Melbourne, in Victoria. Indeed, this is one example of what this side of the chamber is really all about: getting on with the job and actually making things happen.

Senator RICE (Victoria) (14:23): Mr President, I ask a further supplementary question. The last question was about the cost-benefit analysis not being available. The Minister for Infrastructure and Regional Development recently confirmed in the other place that he expected Infrastructure Australia would release their assessment of the East West Link business case and related information. However, Infrastructure Australia said in Senate estimates last week that the release of the project's business case would be a matter for the Victorian government. Given that the Senate has three times ordered the production of documents, including the business case, will the government now agree to release the business case?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:24): I will have to talk to the minister responsible for that. I will undertake to do that for you. But given my experience with the traffic flows in and around Melbourne and the expansion of that community, I think it is clear that there is obviously a business case for infrastructure money to be put on the table to assist in traffic flows on the East West Link. Can I say, Senator, that Infrastructure Australia is assessing projects which involve Commonwealth funding of at least $100 million and will publish justifications for its recommendations to government. On 4 September, Minister Truss introduced the Infrastructure Australia Amendment (Cost Benefit Analysis and Other Measures) Bill 2014 into the House of Representatives to embed this into Infrastructure Australia's legislation. As I am given to understand, it is actually slated for debate this week in the Senate.

Asbestos

Senator SESELJA (Australian Capital Territory) (14:25): My question is to the Leader of the Government in the Senate, Senator Abetz. Can the minister inform the Senate what the Commonwealth government will do to provide certainty for the homeowners and residents of more than 1,000 houses in Canberra affected by Mr Fluffy loose-fill asbestos?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:25): Can I acknowledge Senator Seselja's longstanding interest and advocacy in this matter and, in sending a bouquet to Senator Seselja, I will also send one to Senator Lundy and to the two members of the House of Representatives who represent the ACT, along with the ACT Chief
Minister, for their very cooperative approach in seeking an outcome that will be of benefit for the 1,000-plus Mr Fluffy homeowners in the ACT who clearly want and need certainty and the assurance that there is a way forward.

So I am delighted to inform the Senate that earlier today I was joined by the Chief Minister of the ACT to announce that the Commonwealth would assist the ACT in its task by providing a concessional loan of up to $1,000 million, to deliver a program to buy back and demolish houses in the ACT affected by Mr Fluffy loose-fill asbestos. This facility will allow the ACT to borrow up to $1,000 million at the Commonwealth interest rate for a period of 10 years, allowing savings of approximately $32 million over the life of the loan. This in-principle agreement will provide certainty for the Mr Fluffy homeowners and residents in the ACT and will assure them that help is on the way and that a program set up by the ACT government will shortly commence. The loan will ensure that the ACT is in a position to deliver a well-structured remediation program over coming years. The ACT will be responsible for the program and its administration. Can I finish where I started by acknowledging the very cooperative approach of all representatives from the ACT in this matter.

Senator SESELJA (Australian Capital Territory) (14:27): Mr President, I ask a supplementary question. Can the minister advise the Senate when he expects the buyback program to commence?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:27): I can indicate to the honourable senator the basis on which the Commonwealth approach this issue. The issue is clearly one within the province of either state or territory governments. It is their responsibility to deal with this issue. However, we were very mindful of the fact that the ACT government, being a relatively small government, did not have the financial wherewithal to easily obtain a loan of $1,000 million. To do so would have attracted a higher interest rate than that which the Commonwealth can command and also may well have had an adverse impact on its credit rating and therefore interest payments in relation to existing loans. So we as a Commonwealth have come to an agreement with the ACT to ensure that a loan facility,
under the name of the Commonwealth, is made available at a cheaper interest rate, which will assist the ACT in this issue.

Environment

Senator WATERS (Queensland) (14:30): My question is to the Minister representing the Minister for the Environment, Senator Cormann. I refer to the Prime Minister's recent claim that 'coal is good for humanity'.

Senator O'Sullivan: Kick your leather shoes off—

The PRESIDENT: Order, Senator O'Sullivan.

Senator WATERS: I note that the Indian Conservation Action Trust has calculated that pollution from coal kills between 80,000 and 115,000 people in India every year, that 300 million poor Indians could not afford Australian coal and that many are not connected to the grid, anyway, and what is needed is distributed renewable energy. When will the government accept that coal is not good for humanity, but rather is good for the private profits of the big mining donors to the Liberal Party.

Senator CORMANN (Western Australia—Minister for Finance) (14:31): I very much thank Senator Waters for that question. Let me say very slowly for the benefit of Senator Waters and for the benefit of the Senate: coal is good. It is at the heart of our economic prosperity here in Australia and around the world. It has helped lift living standards for people right across the world. It will continue to help lift living standards around the world.

The Labor Party wants us to all move back into a cave and not move. The Labor Party does not believe in progress. Senator Wong: The Greens.

Senator CORMANN: Sorry, the Greens. I apologise.

Honourable senators interjecting—

Senator CORMANN: My sincere apologies. Only half of the Labor Party and the Greens do not believe in progress. Half of the Labor Party and the Greens want us to move back into a cave and not do anything. On this side of the chamber, and perhaps some people on the Labor side of the chamber, we actually believe in policies to drive stronger economic growth. We believe it is a good thing for people to have the opportunity to get ahead. We believe it is a good thing for people across Australia to be able to aspire to better opportunities and to increased prosperity into the future. The policies pursued by this government are very much a reflection of that. We believe that coal is good and will continue to have a central part in driving economic growth in the future. That is why we got rid of the Labor/Greens carbon tax. We got rid of this impost on households and businesses across Australia that was making Australia less competitive without achieving any beneficial environmental outcomes. I very much thank Senator Waters for that question. I look forward to the supplementary question.

(Time expired)

Senator WATERS (Queensland) (14:33): Mr President, I ask a supplementary question. The Australian Academy of Science has today slammed the government's Reef 2050 Plan as inadequate to protect the Great Barrier Reef because it represents business as usual on coal ports and because it fails to address climate change. When will this government start listening
to the science on climate change and on the reef instead of approving mega coal mines in the Galilee Basin and treating the reef simply as a highway for coal ships?

Senator CORMANN (Western Australia—Minister for Finance) (14:33): As I indicated to the Senate in response to the primary question, coal is good. I know that we on this side of the chamber are not alone in that view. We do know that there is somebody out of Tasmania who shares our view. You might ask who that is. Well, it is none other than Dr Bob Brown, who, as the director of the Tasmanian Wilderness Society, said that coal-fired thermal was 'the best centralised option we have'. I could not have put it better myself.

So the Greens can come in here again and again and say that we should stop using coal, but I will refer Senator Waters back to what Dr Bob Brown said when he was the director of the Tasmanian Wilderness Society, and what I would say— **(Time expired)**

Senator WATERS (Queensland) (14:35): Mr President, I ask a further supplementary question. The government is referring to 30-year-old newspaper articles rather than the Academy of Science. That kind of is the point.

Senator CORMANN interjecting—

The PRESIDENT: Order on my right! Senator Bernardi!

Senator Jacinta Collins: He is ignoring you, Mr President.

The PRESIDENT: He would not be the first senator to ignore me, Senator Collins. Senator Waters has the call.

Senator WATERS: I refer to the announcement today from investment bank Citi that they will not be financing the Abbot Point coal port expansion in the Great Barrier Reef. In this they join Deutsche Bank, HSBC—

Senator Ian Macdonald: It is nowhere near the Great Barrier Reef. Tell the truth—

The PRESIDENT: Senator Macdonald!

Senator WATERS: Credit Agricole, Barclays and the Royal Bank of Scotland. Given the risks to the reef and the risk of it becoming a stranded asset, will you rule out putting taxpayers money into the Abbot Point coal port expansion?

Senator CORMANN (Western Australia—Minister for Finance) (14:36): The first point I would make is that I am not responsible for the decisions that are made by individual investment banks when it comes to the investments they may or may not choose to pursue. That is a matter for them. What I can say is that we can actually walk and chew gum at the same time. We can pursue economic growth in a way that is environmentally responsible. Minister Hunt has worked very hard to ensure that we have strong environmental protections at that same time as pursuing a very important economic growth opportunity for Australia. For Queensland and for Australia it is an opportunity of national significance. The previous government was looking at providing approvals there. It is fair to say that Minister Hunt has done an outstanding job in appropriately balancing environmental considerations with the need to pursue—

The PRESIDENT: Pause the clock.

Senator Waters: Mr President, I rise on a point of order on relevance. I asked a specific question—will the government finance the Abbot Point expansion given that the investment banks are abandoning it? I have not had a response and there are only four seconds to go.
The PRESIDENT: Thank you, Senator Waters. There was a little bit more to your question than that. Minister, you have four seconds remaining to answer the question.

Senator CORMANN: Thank you, Mr President. I believe I was directly relevant to the question. If there is anything that Minister Hunt wishes to add to the answer, I will ask him—  
(Time expired)

Asylum Seekers

Senator BACK (Western Australia) (14:37): My question is to the Assistant Minister for Immigration and Border Protection, Senator Cash. I ask whether the minister will inform the Senate of the key elements of Australia's strong and consistent border protection policies.

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:37): I thank Senator Back for his question and for what I know is a keen interest in this important policy area. When it comes to border protection—but, in particular, to doing it properly—there are three things that you need to do as a government. The first thing you need to do is to know and acknowledge the policies that actually work. The second thing you need to do is to have the backbone—the spine and the resolve—to implement those policies despite the barrage of opposition that you receive from others. The third thing that you need to do is to have the competence to implement those policies, and that is exactly what we on this side of the chamber have done when it comes to border protection.

Let us look at what we have achieved with the coalition's policies. In the last 312 days we have had but one single, solitary venture that came to our shores. Contrast that to a similar period under the former government, where we had in excess of 20,000 people arrive illegally by boat—one single, solitary venture, compared to in excess of 20,000 people arriving here illegally by boat. What do we see, however, from the other side? In the last 48 hours we saw but a mere flirtation with those policies that actually work. In a 'Marles moment', to quote Senator Smith, the shadow minister, in relation to the government's turn-back policy, admitted openly, on record, 'It has had an impact.' I personally think that is an understatement, but at least the shadow minister admitted that the government's turn-back policies had had an impact. He then indicated that Labor may consider taking it to the next election. And we all know what happened then. (Time expired)

Senator BACK (Western Australia) (14:40): Mr President, I ask a supplementary question. Is the minister aware of any ongoing commentary about the effectiveness of turn-backs, and will the minister advise the Senate on how the coalition government's policy of turn-backs contrasts with previous approaches?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:40): As I was saying, the member for Corio, the shadow minister for immigration, is on the record as admitting that turn-backs have had an effect. But, unfortunately for the shadow minister, it was but a very brief moment of clarity before other Labor figures pulled him aside and said, 'That is not our policy—you need to correct the record.' I have in front of me—and Tasmanian senators will be familiar with this publication—*The Examiner*, which reports: 'Senators don't support the policy,' and quotes Senator Singh as saying: 'Turn-backs endanger the lives of those at sea.' Senator Singh, I have to say—through you, Mr President—that it was your failed policies that
endangered the lives of in excess of 1,200 people who died at sea. We also have the Leader of
the Opposition, Mr Shorten himself, coming out today and confirming: 'Turn-backs are not
part of the opposition's policies.' No turn-backs, no border security—people smuggling will
become rife if those opposite are re-elected to govern. (Time expired)

Senator BACK (Western Australia) (14:41): Mr President, I ask a further supplementary
question. Will the minister inform the Senate of why it is important to maintain the
government's resolve and consistency when it comes to protecting our nation's borders?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border
Protection and Minister Assisting the Prime Minister for Women) (14:41): Quite simply,
because it is resolve and consistency that actually stops the boats. In relation to the statistics,
y they bear witness to that fact. The Australian people know that; we know that. The only
people who do not know that, and who refuse to admit it, are those on the other side. This is
what resolve and consistency has done in relation to Australia's borders. We have effectively
stopped the flow of boats. People are no longer dying at sea. In excess of 1,200 people died at
sea under the former government's policies. Thousands of children were
placed in detention.
What are our policies doing? Our policies are ensuring that those children are now released
from detention and into the community. In relation to the cost saving to the Australian
taxpayer, we have saved them approximately $2½ billion over the forward estimates in the
budget. (Time expired)

Australian Defence Force

Senator LAZARUS (Queensland—Leader of the Palmer United Party in the Senate)
(14:42): My question is to Senator Johnston, the Minister for Defence. The Australian
Defence Force is responsible for keeping our country safe and secure. Our Australian Defence
Force personnel demonstrate the most extraordinary courage by putting their own lives at risk
to keep the lives of all Australians safe and secure, both at home and abroad. The risk of
terrorism has increased in recent times and military personnel are being targeted across the
world. Our own military personnel are being told not to wear their uniforms in public for
safety reasons. The previous Australian Defence Force remuneration agreement from 2011-
2014 included a nine per cent increase over three years. The government is currently
negotiating a three-year agreement and is only offering our defence personnel an increase of
1.5 per cent per year. Senator Johnston, why is your government trying to shaft the Australian
Defence Force by only offering them an increase of 1.5 per cent per year? Do you think this is
an acceptable result for Australia's Defence Force personnel?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:44): I sincerely
thank the senator for his question, and may I say that this is an extremely important issue that
was very parsimoniously glossed over at Senate estimates last week. It was barely touched on.
The Commonwealth position taken before the Defence Force Remuneration Tribunal reflects
the unique nature of military service. The proposed offer to the next ADF workplace
remuneration arrangement agreed between the Chief of the Defence Force and the
government has been put before the independent Defence Force Remuneration Tribunal. On
15 October the DFRT, the remuneration tribunal, heard submissions from the Australian
Defence Force, the Commonwealth and service organisations. In accordance with standard
practice in complex cases, that decision has been reserved and it would be premature to
speculate on the outcome. If agreed by the Defence Force Remuneration Tribunal, the
workplace remuneration arrangement will see more than 70,000 permanent and reserve ADF personnel receive an increase in their pay each year for three years. The first pay rise will take effect from 6 November this year and will be paid on 20 November.

The proposed workplace arrangement does not alter the conditions of service for ADF members serving on operations, who will continue to be supported through additional remuneration and preferential tax treatments reflecting the nature of the operations they are undertaking. The proposed workplace arrangement also supports Defence's intention to streamline ADF salaries and allowances and simplify administration for ADF members and Defence. This will be achieved by rolling a range of discretionary leave and other benefits into salary increases which will benefit all ADF personnel.

Senator LAZARUS (Queensland—Leader of the Palmer United Party in the Senate) (14:46): Mr President, I ask a supplementary question. Australia’s Defence Force personnel cannot be paid enough. These people are putting their lives on the line to keep our country safe. Offering a pay increase of only 1.5 per cent per year is effectively a pay reduction as inflation is running at around three per cent. This means the pay of our Defence personnel—diggers, airmen and sailors—will not keep up with the cost of living, yet I understand that most senior officers of the Australian Defence Force received pay increases of up to 40 per cent over the last two years.

The PRESIDENT: Senator Lazarus, your time has expired. I did not hear a question there. I will be guided if the senator is happy for you to quickly put a question to that preamble. That is a warning to all senators not to have a long preamble if you wish to get your question asked. Senator Lazarus.

Senator LAZARUS: Senator Johnston, could you please explain why you are cutting the pay of our Defence personnel and yet giving significant pay increases to senior Defence Force officers?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:47): Senator, that is not correct. The Parliamentary Budget Office figure of 3.9 per cent average growth for total wages and salaries over the forward estimates does not reflect changes to Defence workforce levels. The claim in the article which I am sure you are drawing your question from that the quantum for operational allowances paid to deployed personnel is linked to base pay is clearly incorrect. That is where I think you have, if I may say so, fallen into a misunderstanding of what is going on. Allowances are not calculated as a loading on base pay and there is no link between the workplace arrangement and operational allowances. Since 1999, Defence has had two distinct allowances payable in operational situations—international campaign allowance for warlike operations and deployment allowance for non-warlike operations. The quantum of allowances is calculated having regard to an assessment of the level of operational and environmental hazards that exist for each operation. There is a— (Time expired)

Senator LAZARUS (Queensland—Leader of the Palmer United Party in the Senate) (14:48): Mr President, I ask a further supplementary question. In addition to cutting the pay of Australia’s Defence Force personnel in real terms, the Australian government is also trying to reduce other benefits and entitlements provided to our Defence personnel in order to save money. Senator Johnston, will your government stop trying to shaft Australian Defence Force personnel, pay them what they deserve, and maintain or, even better, increase the entitlements and benefits that they receive?
Senator JOHNSTON (Western Australia—Minister for Defence) (14:48): Let me make one thing very, very clear here and now and on the record. We are not cutting the pay of ADF personnel. The fact is that the increase that we are paying may not be in line with what you perceive is necessary—and may I say that, to some greater degree, I share that concern. But, more importantly, I am focused on managing a budget that has been bequeathed to me by probably Australia's most incompetent financial managers in our history. So I, the government and the CDF need to balance budgets in a way that tries to equate to equity for all parties. National security is extremely important. The budget underpins our success in providing security for Australians. That is at the heart of this matter—and I can tell you we inherited a mess.

Fuel Prices

Senator DASTYARI (New South Wales) (14:50): My question is to the Minister for Finance, Senator Cormann. I remind the minister that, before the election, the Prime Minister denied there would be any increases in tax under a Liberal government. Given that the minister announced by ambush today an increase in the petrol tax, can the minister please explain why the Prime Minister lied to the Australian people?

Senator Abetz: That has to be withdrawn.

Senator Cameron: He does that all the time.

The PRESIDENT: Order! Senator Cameron, please desist from interjecting. Senator Dastyari, you were referring in an unparliamentary way to the Prime Minister. If you withdraw that element I will then call upon the minister to answer the question.

Senator DASTYARI: I withdraw. Can the minister please explain why the Prime Minister misled the Australian people?

Senator CORMANN (Western Australia—Minister for Finance) (14:51): Let me reject right up front the final assertion that the senator has made. Let me also clarify for the Senate that what I have announced today are revised implementation arrangements for a measure announced in the budget on 13 May—and, of course, that budget measure was to ensure that the real value of the excise on fuel does not continue to fall. Something that might have escaped the Labor Party and the Greens is that the real value of the excise on fuel has continued to fall since indexation of fuel excise was abolished in 2001. Back in 2001 the fuel excise was 42 per cent of the average fuel price; today it is 25 per cent. And, of course, as we speak here today, the Greens, in particular, are advocating a position that the real value of the excise on fuel should continue to fall. Our position on this side of the chamber is that it is an important structural reform of the budget to ensure that the real value of the excise on fuel does not continue to fall, and that it keeps pace with inflation.

Senator Wong: Why did Abbott mislead the Australian people? You lied to people before the election.

Senator CORMANN: If Senator Wong would give us the courtesy of listening to the answer, she would know that her interjections are based on a completely false premise—because, of course, the fuel excise indexation measure will ensure that the real value of the excise on fuel does not continue to fall, that it remains constant in real terms and that it keeps pace with inflation. I do not know how many other ways I can explain this—

The PRESIDENT: Pause the clock.
Senator Dastyari: Mr President, I rise on a point of order on direct relevance. I asked a very specific question about why the Prime Minister said one thing before the election and did something different after the election. The minister has not answered the question.

The President: To the contrary, Senator Dastyari, right up-front the minister rejected that aspect of your question. The minister rejected the question and he answered it directly. The minister then went on to explain. The minister has 17 seconds left to continue his answer.

Senator Cormann: What the Prime Minister said very clearly before the election is that the coalition would fix the budget mess that Labor left behind. We are fixing the budget mess that Labor left behind and we are making sure that the tax on fuel does not continue to fall. We think that from 42 per cent down to 25 per cent—(Time expired)

Senator Dastyari (New South Wales) (14:54): Mr President, I ask a supplementary question. Minister, won't this hike in the fuel tax mean that in two weeks time families will pay more every single time they go to the bowser?

Senator Cormann (Western Australia—Minister for Finance) (14:54): Let me just say right up-front that under the coalition, over the forward estimates, taxes as a share of GDP will be lower than they would have been under Labor—so let's just get that one right out of the way—in particular because we got rid of your great, big, new carbon tax. The second point I would make is that the impact on households from our fuel excise indexation measure will be modest. By the end of the financial year—

Opposition senators interjecting—

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

Senator Cormann: By the end of the financial year, a typical household will pay about 40c more per week for 50 litres of fuel, but the impact on our capacity to grow a stronger, more prosperous economy will be significant, because the government will be able to raise $2.2 billion in revenue over the forward estimates, which we will be able to invest in productivity-enhancing, job-creating economic infrastructure. And, of course, over time, as our economy grows more strongly, we will be able to generate more revenue for government and that will help us to fix up the mess that the Labor Party left behind and to fix up the mess that Wayne Swan and Penny Wong left behind. (Time expired)

Senator Dastyari (New South Wales) (14:55): Mr President, I ask a further supplementary question. Can the minister confirm that any refund of this tax, if it is rejected by parliament, will go to big oil companies and not Australian families?

Senator Cormann (Western Australia—Minister for Finance) (14:55): Those of us who have been in this chamber for a while remember that in opposition we can all be very brave and courageous in making assertions and predictions on what we might do 12 months down the track. Let me just say that I am very confident that on reflection, within 12 months, Labor and the Greens may have another thought about whether or not to support this particular measure. I am very confident that the proposal that we have announced today will be validated within 12 months by the parliament.

The President: Pause the clock.

Senator Wong: Mr President, I rise on a point of order on relevance. It is a very important point that has been asked of the Minister for Finance—that is, if the tax is rejected, who gets
the refund? I think Australians are entitled to know whether they would be refunded or whether the refund would, in fact, go to the companies.

The PRESIDENT: On the point of order, the question was prefaced with, 'Can the minister confirm,' and, as you rose to your feet, I think the minister was just about to do that.

Senator CORMANN: Because on this side we are so helpful, I will not claim the standing order that you should not ask me for legal opinion—because, of course, the effect of his question is that he was asking me for a legal opinion. The effect of the law, as it stands, is that, if the fuel excise indexation arrangements are not validated by the parliament, the funds will be refunded to the taxpayer who was responsible for paying the tax in the first place—that is, fuel manufacturers or fuel importers. That is something for the Labor Party and the Greens to think about. (Time expired)

Budget

Senator CANAVAN (Queensland) (14:57): My question is for the Minister for Finance and Minister representing the Treasurer, Senator Cormann. Is the minister aware of any promises to return the budget to surplus more quickly than the government itself is planning? Can the minister advise the Senate of whether or not such promises are credible?

Senator CORMANN (Western Australia—Minister for Finance) (14:57): I thank Senator Canavan for that question. Yes, I am aware. The other day I was sitting quietly in my office working on ideas on how to continue the efforts to repair the budget mess that we have inherited from our predecessors, and who turned up on television? None other than opposition leader Mr Bill Shorten. What was Mr Bill Shorten promising to the Australian people? That not only would the Labor Party get the budget back to surplus; they would actually get the budget back to surplus sooner than the coalition.

This is Mr Shorten, who was a senior minister in the government that created the mess in the first place. This is Mr Shorten, who is opposing most of our sensible savings measures. This is Mr Shorten, who cannot even convince the Labor caucus to support the savings measures they themselves initiated and banked in the budget. This is Mr Shorten, who is telling us that big businesses generating more than $20 billion a year in revenue should continue to have tax cuts for their investment in research and development. The Labor Party under Prime Minister Gillard and Prime Minister Rudd said: 'That is not appropriate. We should not give a tax cut to businesses generating more than $20 billion in revenue a year.' Not Mr Shorten—Mr Shorten says, 'That's too hard.' We know that Senator Kim Carr, the senator for Pyongyang, rolled Mr Shorten in the Labor caucus. He rolled Mr Shorten in the Labor caucus.

The PRESIDENT: Order! Senator Cormann, that is unparliamentary, so I would ask you to withdraw that reflection on Senator Carr.

Senator CORMANN: I withdraw. We do know that the Labor senator for Victoria went into the Labor caucus and he rolled Mr Shorten on this particular Labor Party saving. We know that he has been proud to claim that in the past. We know that he has been sitting here in the chamber chuckling when we have made these assertions, because he knows it is true. Here we have got a Labor leader who was part of the people who created the mess and who is not doing anything to help us fix the mess. Here he is claiming that he going to bring the budget back to surplus. (Time expired)
Senator CANAVAN (Queensland) (15:00): Mr President, I ask a supplementary question. Will the minister advise the Senate of what budget savings are currently being held up in the Senate?

Senator CORMANN (Western Australia—Minister for Finance) (15:00): What I can advise Senator Canavan and the Senate is that nearly $6 billion in budget savings are blocked right now by the Labor Party. They are savings that Labor themselves initiated and banked in their last budget. They never had what it took to legislate their own savings measures to the parliament and here they are now telling us that—

Senator Cameron: They are attacks on the poor. That is what they are. You are just attacking the poor in this country.

The PRESIDENT: Order, Senator Cameron.

Senator CORMANN: not only are they going to bring the budget back to surplus but they are also going to bring the budget back to surplus sooner than the coalition, without any detail whatsoever on where Mr Shorten is going to cut deeper or where he is going to increase taxes. That is because, given Mr Shorten’s track record so far, he is actually starting from way behind. Eventually it will dawn on Mr Shorten that if he wants to make these sorts of promises, the budget is not actually a magic pudding. If you do not want to support our savings, if you do not want to support our revenue measures and if you want to deliver a surplus more quickly, you have got to tell us how. (Time expired)

Senator CANAVAN (Queensland) (15:01): Mr President, I ask a further supplementary question. Will the minister inform the Senate why it remains so important to repair the budget?

Senator CORMANN (Western Australia—Minister for Finance) (15:01): Budget repair is critically important if we are to protect our living standards, if we are to build opportunity and prosperity for the future and if we want to ensure that we do not reduce opportunities for our children and grandchildren. That is because the situation the Labor Party left behind—having inherited a strong budget position, a strong surplus and money in the bank and net interest payments on the back of a positive net-asset position—is a situation where every year now we have got to put our hands into the pockets of our children and grandchildren, forcing them to pay for our lifestyle today and forcing them to pay for a proportion of our recurrent expenditure year-on-year.

That is fundamentally unfair because what it means is that down the track our children and grandchildren would have to accept either lower services from government or higher taxes from government in order to pay for the budget mess and the debt and deficit disaster the Labor Party has left behind. On this side we are working very hard to sort this out in order to improve opportunities for our children and grandchildren. (Time expired)

Senator Abetz: Mr President, I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Defence Procurement

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:03): I move:
That the Senate take note of the answers given by the Minister for Defence (Senator Johnston) to questions without notice asked by Senators Wong and Conroy today relating to the manufacture of the next fleet of Australian submarines.

What we see here today in the chamber is that this government and this minister are not content with lying to the Australian people and in particular to South Australians before the election; they are continuing to lie about that broken promise after the election.

Senator Abetz: Mr Deputy President, on a point of order: the honourable Leader of the Opposition in the Senate has made the direct allegation that the Minister Johnston has lied and that needs to be withdrawn, as she well knows.

The DEPUTY PRESIDENT: Senator Wong?

Senator Wong: I will withdraw 'lie' and replace it with 'mislead'. That is because before the election this member told South Australians that this government, were they to be elected, would build the submarines in Adelaide. Yet today and every day we see him confecting excuses to walk away from that promise. The important point for today is as this, as I said: they are not content with misleading South Australians before the election, because this government, this Prime Minister and this minister are intent upon confecting excuse after excuse to try to justify a broken promise.

Let us go through some of the excuses which this government has put forward for their broken promise. First, they said that an off-the-shelf submarine would be better and cheaper. The evidence to the Senate committee—which is not from Labor Party people and not from the South Australian government, but from experts in the field—has said very clearly that an off-the-shelf submarine does not have the capability, does not have the range and cannot do the job that the Australian Navy needs. One excuse hits the wall.

Second, the government says that we do not have the skills here in Australia to build the submarines. Again, there is evidence before the Senate committee. Also, we know that we have great shipbuilders here in Australia and a great and highly skilled workforce, who have been denigrated consistently by this government. But important evidence before the Senate committee said very clearly that we do have the skills to build the submarines here in Australia.

The third confected excuse to try to justify Prime Minister Tony Abbott walking away from the promise to South Australians is cost. What we have is the government softening people up by backgrounding the media with inflated costs for an onshore build. At the Senate inquiry I attended in Adelaide, Mr Hamilton-Smith got it right when he said that people were being softened up for a broken promise. We had figures such as $50 to $80 billion been quietly backgrounded to the media by the government in an attempt to suggest that an onshore build would be too expensive. That excuse has been demolished as well by public statements by shipbuilders, including the shipbuilder TKMSA in Australia, about whom Senator Conroy spoke in his question. They stated they could deliver 12 submarines that met Australian requirements for $20 billion with the price including all the programmatic aspects to deliver the submarines in Australia.

That the final excuse that they have returned to is in fact on a capability gap in terms of the timing of the delivery of submarines. The minister has been trying to suggest that is actually the reason. It is not a broken promise and it is not all the other reasons which have been demolished. Actually, it is the timing reason. Let us remember who has said that the minister
is wrong: Dr John White, naval shipbuilding expert and co-author of the Winter review that
the minister commissioned. He said:
There is still sufficient time available, with adequate contingency, for the competitive project design
study to be carried out and to build the future submarines in Australia.
Commodore Paul Greenfield said:
… there does not have to be a capability gap if we get on with it now.
That evidence was given on 30 September.

Finally, Rear Admiral Peter Briggs, the former submarine commander and head of the new
submarine capability team, said:
Our strong recommendation is that we get bids from all four potential contenders and make a
sensible, informed choice at that point and that we get on with it …
In other words, we should go to an open tender process—a proper tender process.

Every excuse that this government has put up for breaking their promise has been
demolished by the experts in the Senate committee. And the only thing that South Australians
can conclude by observing this minister's answer today and every day is that this is a
government confecting excuses—putting up excuses which are flimsy, misleading and
untrue—in an attempt to avoid responsibility for yet another broken promise. **(Time expired)**

**Senator BIRMINGHAM** (South Australia—Parliamentary Secretary to the Minister for
the Environment) (15:08): If it were all as straightforward and rosy as Senator Wong makes
out, you would have to wonder why there was not a defence submarine contract in place when
the change of government took place. If it were all as straightforward and rosy as Senator
Wong suggests, you would have to wonder why there was not a settled submarine design in
place when the change of government took place. If it were all as rosy as Senator Wong and
Senator Conroy point out, you would have to wonder why Labor's 2007 promise to build
submarines and to start work in 2007 went unactioned for six long years. There were six years
of inaction.

I do not like to come into this chamber and give Senator Conroy any credit for anything
but—do you know what?—more work went into the design of the national broadband
network than went into the design of the next generation of Australian submarines. There was
more work on that napkin on the RAAF VIP plane, when the NBN was designed, than there
was for Australia's future submarines.

The Labor Party come into this chamber today and tried to suggest, as they have done
consistently, that there has been 12 wasted months—as I think I heard Senator Conroy shout
out at during question time—

**Senator Conroy**: Twelve wasted months.

**Senator BIRMINGHAM**: There he goes again! There were six wasted years, Senator
Conroy—six years in which you did nothing. Not only did you not progress things during
those six years, you took them backwards. By 2012-13 you had managed to drop the nation's
share of defence spending to its lowest level since 1938. You cut the defence budget by the
single largest amount—10.5 per cent—since the end of the Korean War. Following your 2009
white paper you cut or deferred some $16 billion. All up, your decisions led to 119 defence
projects being delayed, 43 projects being reduced and eight projects being cancelled.
But, worst of all, Labor actually took more than $20 billion out of the forward projections for the future submarine program. That is what they did.

Senator Conroy: Dear oh dear!

Senator BIRMINGHAM: He can protest all he wants. He can complain all he wants, but the facts speak for themselves. Nothing was done in six years. No contracts were signed. No design was settled upon, and the budget was stripped bare.

We went to the last election with something the Labor Party did not have—an actual policy for defence. Senator Conroy and Senator Gallacher—if he is going to speak—are welcome to quote from Labor's defence policy if they like. But there was not one for the last election. It was blank—as blank as their actions in the preceding six years. Our policy made it very clear that we will make the decisions necessary to ensure that Australia has no submarine capability gap within 18 months of the election. That is exactly what we will do.

We will also ensure that the work on the replacement of the current submarine fleet will centre around the South Australian shipyards. That is exactly what we will do. We have made it clear that there will be more jobs in South Australia in future as a result of our government's commitment to follow through on delivering more submarines for the future.

Labor talked about more submarines for six years, and did absolutely nothing. By the time of the next election we will have settled on designs, we will have progressed under contracts, and we will be in a position where we can identify that there will be more jobs for South Australia. So, rather than the fear campaign that keeps being waged by those opposite—rather than wanting to scare people into believing that doom and gloom is around the corner—our comment is clear: there will be more jobs. There will be more jobs in South Australia. We will make the decisions that Labor failed to make for six years. We will budget to deliver on those decisions, although Labor stripped the budget bare.

We will make sure that we look after the interests of our defence force, the interests of Australian taxpayers, and that we deliver jobs for the future. Unlike those opposite, who have nothing to stand on, I promise you that by the time of the next election there will be clear evidence that South Australia's defence industry is secure in the future—far more than it was under those opposite.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (15:13): The tired, old lies being told by this government have not defended the government on the issue of submarines for the last three months, and they certainly will not get them through the next three months. They can keep trotting out the statement that we did nothing, even when, in estimates, it was agreed that $200 million was set aside and $70 million has actually been spent on the design and the whole process—they can go through all of that—but what is at stake here is the honesty of Mr Abbott and Senator Johnston. They stood in front of the gates of the ASC and said that they would build 12 subs in Adelaide. I have stood right there—in exactly the same spot. I have even shown the Senate the video of Senator Johnston making that promise before the last election.

Where did they start? The government backgrounded all of the media, saying that the Japanese submarine was much better than the Australian submarine on what we were thinking of. Unfortunately, every expert in Australia who knows anything about submarines turned up
at a Senate committee to say, 'That's just not true.' Rear Admiral Peter Briggs, one of Australia's pre-eminent submariners, said:

Proposing that you go and buy an off the shelf submarine with a 6,000 mile range, it's worse than a waste of money, it's an illusion.

The experts told us that the government's fantasy about buying existing Japanese submarines was an illusion. That is what the experts said, so the government said, 'Oh dear. That one has hit the fence. Let's move on. Cost!' The next backgrounding the government did of all the media was to say it would cost between $50 billion and $80 billion to build the subs here in Australia. What did the experts queue up at the Senate committee to tell us? What did the companies say? The experts at TKMS wrote a letter to the government to try to head off this shonky decision to hand the submarine contract to the Japanese. They said that they could build 12 new submarines in Australia for $20 billion—not the $50 billion to $80 billion advanced by the government but $20 billion. So, when it comes to their excuses, just do not believe the government's lies.

Then the government started going around the country saying: 'We've missed out on how good the Japanese subs were and we've missed out on the cost, because none of that's true. Skills! Australia doesn't have the skills to build submarines.' Well, unfortunately, what did the experts say about that? BAE, the shipbuilders involved in the AWD project, who had to listen to the government make claims about 150 gross man hours per tonne as a productivity rate, say that they are achieving a productivity rate of 76 gross man hours per tonne. But today, yet again, the minister stands up and says that Australia, based on the AWD, does not have the skills and cannot get the productivity. Do not let the evidence get in the way of the answers from the Minister for Defence in this chamber!

There is the tender process. Now they are claiming we do not have time because the Collins subs will retire before we will finish building the subs. What does the pre-eminent leading naval shipbuilding expert in this country, Dr John White, say? He is so good that Senator Johnston just received a report that he hired him to write on Australia's shipbuilding industry. What does he say? He says:

There is still sufficient time available, with adequate contingency, for the competitive project design study to be carried out and to build the future submarines in Australia …

Every excuse to break the promise— (Time expired)

**Senator CANAVAN** (Queensland) (15:18): I want to follow on from the comments that Senator Birmingham made. I think he was onto something when he was comparing the inaction on the submarines while Labor were last in government to what they were doing on the NBN. They did spend billions of dollars on the NBN and we all saw the results of that—not much service to people and nothing rolled out, but lots of money spent. We saw no planning on the NBN. After reflecting on hearing Senator Conroy, who is now in charge of the submarine in a shadow capacity for the Labor Party, I thought, 'What would be more frightening? Having a Labor government do nothing on submarines or having Senator Conroy doing a lot? What would be more frightening for us as a nation?' We all saw the results for the NBN when the Labor Party tried to spend billions of dollars, did nothing and wasted money in convoluted contracts, when they clearly did not have a commercial bone in their body in order to sign something which will protect the interests of this nation.
We just saw an example of that. The shadow defence minister of our nation would like to take, as somehow almost tendered documents, statements made on a radio station by a European submarine builder, which are apparently evidence enough of what the budget should be. If this is how the Labor Party put their budgets together in government, maybe it starts to explain a lot about why our budget is blowing out and why they could never hit a deficit target in their whole period in government.

Senator Gallacher: This is about submarines!

Senator CANAVAN: Apparently it is okay, Senator Gallacher, for us to say that a company has said something on the radio, so it must be a fact. Because someone has said in a radio interview that they could build something for $20 billion, that is now an established fact. That is not the process we are going to take in government. We are not going to rely on evidence from a radio transcript in a $20 billion decision for this nation. The decision is about the defence interests of our nation and will have decade-long consequences on how we can defend our nation.

The approach that we take when we are going to spend that sort of money, when we make a decision that will be about protecting the interests of our children and grandchildren in this nation, is to take the best evidence from the Department of Defence. They have the experts who are independent and are not working for particular companies—not that there is anything wrong with that, but everybody of course has their own barrow to push. We need to rely on independent evidence, and that is what this government is doing. We will not be cherry-picking evidence provided by particular people. We will be properly testing it through the process that the Labor Party also used on defence decisions when they were in government. It will be a two-pass process: there will be a first-pass process to go to cabinet and a second-pass process when more due diligence is done. That is what will happen and that will lead to better decisions by our government.

I was also listening to Senator Wong. She said that we do have the skills here in this nation to build a submarine. I have been to some of the Senate committee hearings—I am a member of the Senate economics committee—and I cannot think of one witness who thought that we can build a submarine alone in this nation. That cannot happen. It did not happen with the Collins class submarines; it is not happening with the air warfare destroyers. We will have to rely on expertise in other countries. Everyone recognises that. The Collins class was a multicultural submarine. It was made up of Swedish design, a US combat system and French propulsion. We will have to do the same with any decision we make in the future. It cannot all be done here, but there will still be plenty of work done in Australia, particularly in Adelaide, as the minister has outlined.

I want to finish with some evidence that was also presented at one of these Senate committee hearings. It was from Mr Glenn Thompson, who is the Assistant National Secretary of the Australian Workers Union. He put in his submission that the project to replace the HMAS Success, which has just been re-contracted, should have been approved and announced many years ago. I put that to him and said, 'I presume that this means it should have been done more than one year ago.' Mr Thompson replied, 'Absolutely.' So here we have the assistant national secretary of the AWU saying that the Labor Party should have made that decision years ago on that ship, and their own union bodies are damning them for their
inaction. The reason that we are in this plot right now is that Labor had six years to do something on this and did nothing.

Senator GALLACHER (South Australia) (15:23): I rise on the motion to take note of answers by Senator Johnston to questions by Senator Wong and Senator Conroy. It was really pleasing that Senator Birmingham broke his self-imposed exile and contributed to the debate. He has been conspicuously absent in this debate right throughout. But, as normal, his pedigree came to the fore. If you check his resume, Mr Deputy President—I am not sure that you have ever bothered to do that—you will find that his experience in life is restricted to political office as an adviser and the like. Real-world experience is not all that prominent on his resume, so he did what he was expected to do as a professional politician: he put his hand in his pocket, went on the stump, prevaricated and introduced other topics of no relevance to the critical matter at hand.

You cannot move in South Australia without realising this is a widely-held and deeply-felt subject. Of the number of telephone calls over a few short weeks from constituents to my office—I stress these were not from Labor held constituencies—70.5 per cent indicated that they wanted the submarines built in South Australia; 2.1 per cent indicated that they did not want the submarines built in South Australia; and 27.4 per cent had no view. This is a widely-held and deeply-felt important issue. As Senator Wong correctly put it, the minister has ignored the experts, is misleading the public and is breaking a promise.

The first point of misleading was when he introduced the AWD project, which he said was several hundred million dollars over budget, but he ignored the fact that the Audit Office produced a very comprehensive report. Part of the reason for those overruns was:

Imaturity in the detailed design documentation provided by Navantia, predominantly associated with drawing errors or omissions, contract amendments and late Vendor Furnished Information.

This resulted in ‘an average of 2.75 revisions per drawing’ and led to:

… costly and out-of-sequence rework in cases where construction work already undertaken no longer matched the design.

So I will not cop the workforce there being denigrated by anyone—particularly not this minister saying that they lack productivity. When asked, the Defence Materiel Organisation CEO said that there is ‘no lack of productivity’ from the workforce. It is ‘costly rework’ that is driving this loss of productivity on the project. That does not fall within the remit of the people who turn up there every day to do their job—and do it in a damn good way and in a very efficient manner.

As I said, Senator Birmingham has come out of his self-imposed exile, but let us look at what has happened with the other Liberal senators in the recent weeks. One South Australian senator broke ranks. My good colleague Senator Edwards, deputy chair of the economics committee, has said the project should go out to open tender. Locking Australia out of the process was like ‘not inviting an uncle to a wedding’. Senator Edwards has stepped up and is backing submarines in South Australia. Senator Fawcett has been eminently on the record right throughout this and has had to correct an erroneous report of his position, but he has been, very clearly, on the case and on the job in South Australia. Now I go to Senator Ruston. Senator Anne Ruston said that the government should consider the evidence from expert witnesses. That is not criticism from Senator Wong or Senator Conroy. That is criticism from Senator Ruston. The government should consider the evidence of expert witnesses. It is a bit
of free advice to her own government. Then we have the member for Hindmarsh, a Liberal MP, lobbying the PM for the local submarines bill. It is very clear that widely-held, deeply-felt community sentiment in South Australia says: 'Don't break a promise, build the subs here, make them in Australia, manufacture them in Adelaide and keep people in work.' It is a very clear sentiment that I endorse.

Question agreed to.

**East West Link**

Senator RICE (Victoria) (15:29): I move:

That the Senate take note of the answer given by the Minister for Defence (Senator Johnston) to a question without notice asked by Senator Rice today relating to the East West Link.

My question referred to the $1½ billion already being handed over despite information, including the business case, remaining secret and the fact that it is a project that manifestly will not solve Melbourne's congestion problems. This was shown yesterday morning with the meltdown in Melbourne's train system that was due to antiquated signalling, showing that it is public transport that is in desperate need of investment from both the state and the federal government.

However, in response to my question the minister spoke of contributing money to infrastructure and then proceeded to spruik the benefits of the East West Link, totally ignoring the question about the desperate need for investment in public transport. How can we possibly believe the benefits the government has ascribed to the East West Link when the critical information remains secret? Despite the government having made a commitment to release information, particularly business cases, for any project where the federal government is contributing over $100 million, they have not done that in this case.

So I asked the minister whether he reconfirmed his commitment and whether he actually believed that this information, including the business case and including cost-benefit analyses, should have been publicly available before the funds were handed over, and I got no assurance at all that this shroud of secrecy would be lifted and no time line for releasing the business case, despite the fact that contracts have now been signed for the East West Link project in Victoria and despite the fact that we now have financial closure on the project. So there are absolutely no commercial-in-confidence issues that mean the business case cannot be released.

In response to noting that in the other place the minister had said he expected that Infrastructure Australia would be able to release the business case, I also noted that in our estimates hearings last week Infrastructure Australia were saying that they felt the business case would have to be released by the Victorian government. But we have no assurance that the business case is going to be released and no understanding at all as to when we are going to receive this information, despite the fact that $3 billion of our taxpayers’ money is going into this project, with no transparent accountability to the community. One can only surmise that the numbers on the East West Link do not add up, or they would be on the public record. If the benefit-cost ratio was positive and robust, we would know about it. Instead, this information constantly has not been released. On the contrary, what we do know about this road is that it is massively unpopular and it is massively expensive—$18 billion for 18 kilometres of road; that is $1 million per metre. Spending this amount of money means that
no money is going to be available for the substantial investments that are needed in our public transport infrastructure—for example, the substantial investments in the new high-capacity signalling that is required in order to stop the breakdowns and to stop the collapse in the whole train system that Melbourne experienced yesterday morning.

We know that the East West tollway is massively polluting. We know that it is going to result in hundreds of houses being acquired. We know that it is going to result in parkland being destroyed for this new road project. The Senate has ordered the production of documents, including the business case, three times now, and three times they have not been released. What I was trying to get out of my question to the government was when we would be able to get this business case that is so desperately needed so that the information can be on the public record and we can have transparent, accountable, evidence based decision making on these infrastructure projects, rather than dodgy decisions being made in the interests of who knows who—certainly not in the interests of the community.

Question agreed to.

NOTICES
Presentation

Senators Hanson-Young and Di Natale to move:
That that there be laid on the table by the Assistant Minister for Immigration and Border Protection, no later than 3 pm on 30 October 2014, a copy of the advice which informed the Minister for Immigration and Border Protection’s decision to suspend the humanitarian intake from Ebola-affected countries, in particular Liberia, Sierra Leone and Guinea.

Senator O’Sullivan to move:
That the Senate notes the biggest reduction in energy costs ever recorded and continues to support initiatives that will bring downward pressure on the cost of energy to all Australians.

Senator Brandis to move:
That the following bill be introduced: A Bill for an Act to amend the law relating to counter-terrorism, and for related purposes. Counter-Terrorism Legislation Amendment Bill (No. 1) 2014.

Senator Brandis to move:
That the following bill be introduced: A Bill for an Act to amend various Acts relating to law and justice, and for related purposes. Civil Law and Justice Legislation Amendment Bill 2014.

Senator Waters to move:
That the Senate—

(a) notes:

(i) the significant impact of the International Day of the Girl Child, on 11 October, in promoting girls’ rights and women’s empowerment, bringing attention to gender-based discrimination, inequity and abuse suffered by girls globally, and

(ii) that Plan International and its parliamentary delegates are calling for cross-party support for the seven goals in relation to the post-2015 development agenda contained within Plan International’s 2014 Girls Call to Action:

1. Ensure girls in Australia and around the world have access to inclusive and quality education and life-long learning opportunities

2. End harmful practices such as child marriage, child labour and human trafficking

CHAMBER
3. Provide accessible health care and protect the sexual and reproductive rights of girls and young women

4. Ensure women have the same access to employment opportunities as their male counterparts and encourage young women to participate fully in the workforce

5. Eliminate gender-based violence and improve safety to ensure that girls are protected from harm

6. Ensure young women and girls live in an environment that supports a healthy lifestyle and have access to clean water, clean land and clean air

7. Achieve gender equality, the full realisation of women’s and girls’ human rights and the empowerment of all women and girls worldwide; and

(b) calls on all parties and parliamentarians to consider how they can support these goals and work towards gender equality in Australia and around the world.

**Senators Bilyk, Ryan and Di Natale** to move:
That the Senate notes that:

(a) 26 October to 1 November 2014 marks International Brain Tumour Awareness Week and, in doing so, acknowledges the impact brain tumours have on patients, their families and the community;

(b) statistics show that:
   (i) in 2014, about 1785 Australians (1 060 men and 725 women) are expected to be diagnosed with brain cancer, with 130 new cases a year among young people 0-24 years old,
   (ii) brain cancer is the leading cause of cancer death in people under the age of 40, and
   (iii) between 2006 and 2010, people with a brain cancer had just a 22 per cent chance of surviving for at least 5 years; and

(c) approximately 2 000 benign brain tumours are also diagnosed each year in Australia, and that these may cause permanent disability or death.

**Senator Rhiannon** to move:
That the Senate notes that:

(a) the Sunswift University of New South Wales Solar Racing Team was recently confirmed by the Fédération Internationale de l’Automobile to have broken the world speed record for electric vehicles, averaging more than 100 km/hr over 500 km on a single battery charge,

(b) the team is in the process of making their vehicle road registrable, which will be a good proof of concept for solar vehicles and inspire the young engineers of the future, and

(c) projects like these are only possible with federal research funding that prioritises clean, renewable technologies;

(b) congratulates the Sunswift team on their achievements; and

(c) calls on the Government to reverse its cuts to federal research funding and prioritise funding for the development of clean, renewable technologies.

**Senator Whish-Wilson** to move:
That the Senate—

(a) notes members of the:
   (i) Australian Parliament will only be allowed to see the final text of the Trans-Pacific Partnership Agreement (the Agreement) once it has been signed,

(ii) United States of America Congress are allowed access to the Agreement draft text, and
(iii) Malaysian Parliament will be shown the draft text prior to Malaysia signing the Agreement; and
(b) calls on the Minister for Trade and Investment and the Department of Foreign Affairs and Trade to
allow members of Parliament access to the Agreement draft text.

Senator Conroy to move:

That the following general business orders of the day be considered on Thursday, 30 October 2014
under the temporary order relating to the consideration of private senators’ bills:

No. 23 Trade and Foreign Investment (Protecting the Public Interest) Bill 2014.
No. 1 National Integrity Commission Bill 2013.

NOTICES

Postponement

The following items of business were postponed:

General business notice of motion no. 474 standing in the name of Senator Siewert for today,
proposing the introduction of the Social Security and Other Legislation Amendment (Caring for Single

COMMITTEES

Reporting Date

The Clerk: Notifications of extensions of time for committees to report have been lodged
in respect of the following:
Economics References Committee—retail leasing, extended to the eighth sitting day in 2015.
Environment and Communications References Committee—National Landcare Program, extended to 26 November 2014.
Legal and Constitutional Affairs Legislation Committee—
Exposure draft of the Medical Services (Dying with Dignity) Bill 2014, extended to 10 November 2014.
Migration Amendment (Protecting Babies Born in Australia) Bill 2014, extended to 10 February 2015.
Legal and Constitutional Affairs References Committee—the Manus Island Detention Centre, extended to 3 December 2014.

The PRESIDENT (15:37): Thank you, Clerk. I remind senators that the question may be put on any of those proposals at the request of any senator. There being none, we will move on.

Foreign Affairs, Defence and Trade References Committee
Reference

Senator GALLACHER (South Australia) (15:37): I move:
That the following matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by the last sitting day in June 2015:
The potential use by the Australian Defence Force of unmanned air, maritime and land platforms, with particular reference to:
(a) their role in intelligence, reconnaissance and surveillance operations, including in support of border security, civil emergencies and regional cooperation;
(b) their cost- and combat-effectiveness in relation to conventional military platforms;
(c) the Government’s force structure review and defence capability plan;
(d) challenges, opportunities and risks associated with their deployment;
(e) domestic and international legal, ethical and policy considerations;
(f) research and development capabilities and Australia’s industrial expertise;
(g) transport, health and air safety implications; and
(h) other related matters.
Question agreed to.

BUSINESS
Withdrawal

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:38): I move:
That the government business order of the day relating to the Social Services and Other Legislation Amendment (2014 Budget Measures No. 1) Bill 2014 and the Social Services and Other Legislation Amendment (2014 Budget Measures No. 2) Bill 2014 be discharged from the Notice Paper.

Senator MOORE (Queensland) (15:38): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator MOORE: My colleague in the other place Jenny Macklin has made some statements around this particular decision, and I feel we have to note it, as well. This indicates
a significant backdown from the government around these issues of the budget bills around social services. We could have avoided this process if their negotiations had been handled in a way that did not bring forward the bills in the way they came. This is a budget bill. We had that discussion in the last sitting. We came to this place and it was very clear that there were elements of the bill on these issues that would be able to be negotiated. We came into this place, and then new bills were created overnight.

In terms of this discharge motion, we are actually seeing a tidying up process. We believe that does happen from time to time in all kinds of records. But, just on this case, we think it is of note to say that we had to have a recreation of legislation overnight to ensure that there were things that could come to this chamber to be debated. The other half of all this process, which covered major issues, was able to be put aside—(Time expired)


The PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: The Manager of Opposition Business should not necessarily take at face value what Ms Macklin tells her. The government was very prepared to alter the legislation in the Senate in such a way to give effect to the will of the Australian Labor Party. There were elements in the social services package of bills that both the government and the opposition agreed upon and, indeed, the opposition circulated amendments to give effect to the removal of those parts that they did not support. We would have accepted that. However, the opposition did not allow the bill to proceed beyond the second readers. Ms Macklin has fabricated this story that somehow we were not willing to give effect to that which they wanted to achieve. We were; but they were—I think the technical term is—bloody-minded.

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:40): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator SIEWERT: The Greens will be supporting the removal of these two particular bills. We would also agree to support the removal of 6, 4 and 5 if the government felt like they would like to deal with those bills, as well, because the Greens will not support those bills. I think we need to be clear that the government has just repackaged the measures that were in bills 1 and 2 into four separate bills. We will not be supporting those bills as in the same way we did not support 1 and 2.

Question agreed to.

Days and Hours of Meeting

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:41): At the request of Senator Abetz, I move:

That the days of meeting of the Senate for 2015 be as follows:

Autumn sittings:
- Monday, 9 February to Thursday, 12 February
- Monday, 2 March to Thursday, 5 March
- Monday, 16 March to Thursday, 19 March
- Monday, 23 March to Thursday, 26 March
Budget sittings:
  Tuesday, 12 May to Thursday, 14 May

Winter sittings:
  Monday, 15 June to Thursday, 18 June
  Monday, 22 June to Thursday, 25 June

Spring sittings:
  Monday, 10 August to Thursday, 13 August
  Monday, 17 August to Thursday, 20 August
  Monday, 7 September to Thursday, 10 September
  Monday, 14 September to Thursday, 17 September

Spring sittings (2):
  Monday, 12 October to Thursday, 15 October

Spring sittings (3):
  Monday, 9 November to Thursday, 12 November
  Monday, 23 November to Thursday, 26 November
  Monday, 30 November to Thursday, 3 December.

Senator MOORE (Queensland) (15:41): I seek leave to make a statement.

The PRESIDENT: Leave is granted for three minutes.

Senator MOORE: You are being very cooperative here, Mr President. The opposition will be supporting the government's motion to put forward the calendar for next year. We do appreciate that we have had this calendar at this time, which is a good time to actually consider what is going to be happening in the future. We are concerned, though; we do not believe that the hours that have been put forward in the proposed calendar are adequate for the degree of legislation and consideration that this Senate should have in terms of a range of processes that will come before us in the new year.

It is the practice, Mr President, to make sure that the calendar meets the needs of the Senate for open and full debate. We believe that the calendar we have seen does not provide enough sitting time in the first half of next year for what we believe will be a tough time. Again, what will happen is: as important points of debate come before the chamber, there will be a request from the government for us to have extended sitting hours, extended times and variation in hours. As we have said consistently, we believe that it should be in exceptional cases only—extraordinary cases—that, because of a particular need and urgency, we have to come back to this place. The way to avoid that happening, and the way to ensure that there is appropriate planning and debate, is to set enough days, enough hours, to respond to the process.

We will be accepting the principle that the government has the right to determine the calendar—there is no debate about that. We will be supporting the motion. But we are putting on record again—and if you go back over hours debates that were held in this place when we were on that side and when the now government was on this side—there is this acrimony about when there is a need for extra hours and extra days. Our position is: when you are planning the forward plan for the Senate, you take into account the need of the place to consider legislation fully and to have enough time for debate so that we do not have to constantly have recommendations for extended hours and changes to plan which are
disruptive. So our position is: of course, we have the calendar in front of us and we are supporting it. But we are just saying that, should the time come that they come back to this place asking for extended hours or more days, we will expect that there will be an urgency and an extraordinary need for that, which would not have been covered if we had had extra days in the calendar ahead. That seems to be a regular process, and I do not understand why there is not an understanding that, if you put out extra time for sitting at this stage around which everyone can plan and around which you can plan other things that are needed, it would be a more effective way of managing the business of the chamber.


The PRESIDENT: Leave is granted for three minutes.

Senator FIFIELD: I think that there might be a button in the opposition manager's desk that opposition managers of whatever persuasion can hit and we hear a similar contribution. Senator Moore interjecting—

Senator FIFIELD: You are right; I do have a certain charm—thank you, Senator Moore. There is a fundamental difference, though, I think, to the basis upon which the contributions may have been made when I was in that chair compared to Senator Moore, and that is that when the previous government was in office they were routinely seeking to legislate to breach solemn election commitments that they had given. Therefore, it was appropriate that there was a good deal of time given to making that clear to the Australian people. Another important difference is the fact that when the coalition was in opposition we were very cooperative. In fact, some of my coalition colleagues would often chide me for being too cooperative with the government of the day, but we think that it is important that this place works.

We have not seen a great deal of cooperation from those on the opposite side. We have seen some but not nearly the degree that there should be to make this Senate work. So we think that the days that are presented to this chamber for sittings next year should be adequate if there is appropriate cooperation amongst all parties to get the people's business done. If there is a requirement for further sitting weeks, that will be a reflection of the lack of cooperation of those on the other side of the chamber, and I think my colleagues on this side would certainly hold these truths to be self-evident.

We do have a number of additional sitting days which are scheduled. We have tried to step away from the practice in previous years of scheduling sitting weeks in weeks where there are Canberra public holidays, which obviously denies sitting time. So we have sought additional Mondays in this sitting program, and I recognise that Senator Moore has stated that the opposition accept that setting the sitting schedule really is a matter for the government of the day, and I appreciate that very much. But I think it is important to say that this sitting schedule that we have put forward can work as long as there is due cooperation.


The PRESIDENT: Leave is granted for three minutes.

Senator MILNE: As it happens, I will not need three minutes, except to say that this is a perennial argument that is had in here. The Greens have consistently argued that we need to
schedule more sitting weeks so we do not end up with crowded schedules at the end of each of the seasonal sittings with the extended hours and the frustration everybody has. That is why you should put it up front, and I just want to put on the record how distressing it was this year to have sittings during school holidays. We warned at the time that that would be a very difficult scenario for many people. But no notice was taken of that. I am pleased to note that at least the sitting schedule that has been established for next year recognises school holidays, and I just want to put on the record that that is a critical consideration. People need to think about that in the scheduling.

I wanted to put on the record the Green's view that we should be scheduling some extra sitting time. It makes sense and it makes for more predictable lifestyles if you know exactly what you are doing and you have got time to do it in so you do not end up being squashed at the end of these sitting times by long sitting hours and legislation by exhaustion. It does not necessarily make for the best outcomes.

Question agreed to.

**MOTIONS**

**International Day of the Girl Child**

*Senator CASH* (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (15:50): I move:

That the Senate:

(a) notes that:

(i) the International Day of the Girl Child was celebrated on Saturday 11 October 2014, presenting an opportunity for all Australians to recognise girls’ rights and the unique challenges girls face around the world,

(ii) the theme for this year was 'Empowering Adolescent Girls: Ending the Cycle of Violence', and

(iii) empowering and investing in girls is crucial in order to break the cycle of discrimination, violence and inequality suffered by girls around the world; and

(b) acknowledges the Government's:

(i) commitment to the National Plan to Reduce Violence Against Women and their Children 2010-2022, and the launch of the Second Action Plan on 27 June 2014, which will assist women to lead happy, productive lives in safe communities,

(ii) continuing work under the National Action Plan on Women, Peace and Security 2012-2018,

(iii) commitment to improving women's economic empowerment and increasing their economic independence and stability through a range of policies and practices,

(iv) new aid paradigm which sets a target requiring that at least 80 per cent of investments, regardless of their objectives, will effectively address gender issues in their implementation, and

(v) recent aid announcements to support women and girls in conflict zones or other vulnerable security situations, including committing:

(A) a further $2 million to the United Nations Population Fund specifically to support women and girls who have been brutalised by ISIL during this conflict, noting that this support will be for reproductive and other health services and this is in addition to the $5 million in humanitarian support that Australia has already provided to Iraq, and
(B) an additional $12.4 million to support women and their children subjected to violence in Afghanistan and Pakistan, bringing Australia's total contribution to ending violence against women and children in Afghanistan and Pakistan to over $30 million since 2013.

Senator WATERS (Queensland) (15:50): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator WATERS: The Australian Greens support the empowerment of women and girls and we support the International Day of the Girl Child. We will not be opposing this motion, but I would like to place on record that we utterly reject the government's claim that they are committed to improving women's economic empowerment. This government's cruel budget cuts family tax benefits, kicks the vulnerable off welfare, cuts the parenting payment and seeks to impose a GP co-payment. These attacks on women's economic empowerment come after the cuts to the low income super contribution and the plans to water down reporting requirements designed to tackle the gender pay gap. Of course, cutting $7.6 billion out of the foreign aid—the biggest single cut in the federal budget—and claiming to care for the world's most vulnerable is not a new aid paradigm; it is a heartless joke. We will not be opposing this motion, but we have submitted our own motion which commends the International Day of the Girl Child without politicising the issue or falsifying the government's record.

Question agreed to.

BUSINESS

Days and Hours of Meeting

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:51): I move:

That—
(a) on Tuesday, 28 October 2014:
   (i) the hours of meeting shall be 12.30 pm to 11 pm,
   (ii) the question for the adjournment of the Senate shall be proposed at 10 pm,
   (iii) the routine of business from not later than 7.20 pm be government business only, and
   (iv) consideration of the government business order of the day relating to the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 have precedence over all other government business; and
(b) on Wednesday, 29 October 2014:
   (i) the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 be considered and that the time allotted for all remaining stages be until 12.30 pm, and
   (ii) paragraph (b)(i) of this order shall operate as a limitation of debate under standing order 142.

Question agreed to.

BILLS

Corporations Amendment (Publish What You Pay) Bill 2014

First Reading

Senator MILNE (Tasmania—Leader of the Australian Greens) (15:52): I move:

That the following bill be introduced: A Bill for an Act to require reporting of certain payments to governments in relation to resource extraction activities, and for related purposes.
Question agreed to.

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

Bill read a first time.

Second Reading

Senator MILNE (Tasmania—Leader of the Australian Greens) (15:53): I move:
That this bill be now read a second time.

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

Leave granted.

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

Leave granted.

The speech read as follows—

As a democracy that values transparency and accountability, and as a major player in the global extractives market, Australia has a responsibility to ensure that our companies demonstrate best practice revenue transparency. Currently, the legislative framework that governs the conduct of Australian companies overseas is opaque, with many Australian companies the subject of concerning allegations in relation to corruption, bribery, human rights abuses and environmental degradation.

There are many legislative changes that need to occur to deal with this problem in its entirety, but there are important initial steps that we can and must take immediately. This Bill, the Corporations Amendment (Publish What You Pay) Bill 2014, is the first important stage in this process.

This Bill creates mandatory reporting requirements for ASX-listed and Australian based extractive companies—including those involved in oil, gas, mining and native forest logging—on all financial payments they have made, over the previous year, to any government in whose country they operate, on a project-by-project basis. This is a reform that has long been called for by some of Australia’s most prominent and respected NGOs who are members of the Publish What You Pay coalition, including Oxfam Australia, the Australian Council for International Development, Transparency International, and World Vision.

Currently, the extent to which Australian companies self-report this information is very limited. As highlighted by Publish What You Pay Australia’s report Australia: An Unlevel Playing Field—Extractive industry transparency on the ASX 200, current levels of voluntary disclosure are very low. Furthermore, in the instances where companies have disclosed information, it is fragmented across country, sub-national and business units. As such, there is a need for far greater clarity, transparency and consistency in the reporting of payments to foreign governments by Australian extractive companies.

The global push for extractive industry transparency

Among our closest allies, Australia is now being left behind in its reticence to introduce this legislation, and we must catch up. Around the world, countries including the United States, Canada and the United Kingdom are all introducing mandatory reporting requirements for extractive companies, coming together to create a global standard. While they hold their extractive companies to higher standards, Australia lags behind.

In the United States, the Dodd-Frank Act was introduced in 2010, with section 1504 of this law requiring all U.S. and foreign companies registered with the United States Securities and Exchange
Commission (SEC) to publicly report how much they pay foreign governments for access to their oil, gas and minerals.

In the European Union in 2013, EU member states signed ‘Publish What You Pay’ requirements into law, extending extractive companies to include not only oil, gas and mining companies, but also those involved in logging native forest. The United Kingdom recently completed their consultation on this EU Directive, and is set to have legislation finalised later this year, ready to come into effect in January 2015. Norway has also introduced domestic legislation to activate this EU Directive, with many other member states in the process of developing this legislation.

In July 2013, Canada also committed to development of mandatory standards for payments by extractive companies. Like Australia, Canada is heavily involved in extractive industries, and in this example the Canadian Government, the Canadian Publish What You Pay coalition, and the mining sector—including the Mining Association of Canada, and the Prospectors and Developers Association of Canada—all came together to develop draft recommendations for mandatory reporting mechanisms. This is an encouraging example of the resources sector working constructively with Government to commit to transparency, and I am hopeful that Australian extractive companies will show their support for this legislation like their Canadian counterparts.

Led by this example, Australia must commit to Publish What You Pay legislation. Already we are being left behind in the push toward this global standard. Not only have we failed to implement these payment transparency mechanisms, but we are failing to investigate concerning corporate behaviour overseas. We remain one of the few countries that still permit facilitation payments rather than recognising them as bribes. The OECD recently said they were "seriously concerned" at the lack of effort regarding foreign bribery. We must do better, and this Bill is a first important stage in achieving greater transparency and accountability for Australian companies.

This Bill establishes for Australia the same standards that have been set already within foreign jurisdictions, establishing similar requirements and thresholds that are being introduced in the United Kingdom, United States and Canada. As the Publish What You Pay Coalition in Australia has highlighted, the United States, European Union and Canadian legislation will cover 70% of the global extractive market, including companies that are also listed on the ASX. This Bill would substantially contribute to increasing this global effort, capturing an additional 5% of the global extractive market. As the rest of the world moves forward with this important initiative, we must not be left behind.

**Investment, costs and business benefits**

In addition to improved transparency, this Bill would benefit the investment environment. Both the Financial Services Council and the Australia Council of Superannuation Investors, major players in the Australian investment market, support mandatory disclosure mechanisms like those established in this Bill because they provide more information which members can use to better evaluate risks associated with investments. Similarly, it will enable ASX listed companies to better assess risks associated with pursuing projects in developing countries. This was a key benefit identified by the United Kingdom Government in developing their mandatory reporting legislation. By the same reasoning, as the rest of the world moves toward Publish What You Pay regimes, Australian companies that don’t report this data may be viewed as higher risk investments due to their comparatively opaque reporting standards. As the UK Government’s Impact Assessment of their Publish What You Pay legislation highlighted, this kind of regime is expected to reap benefits for both business and investors.

Companies already compile and track the data that would need to be disclosed under the legislation, for themselves and their subsidiaries. Furthermore, as other foreign jurisdictions introduce mandatory disclosure laws, many companies will need to comply with mandatory reporting requirements due to their participation in other stock markets. Estimates of the cost associated with the Publish What You Pay legislation for companies in the EU were estimated to be just 0.05% of their annual revenue in the first year of implementation, and then less thereafter. Given the multibillion dollar profits associated
with extractive companies (in the financial year 2011-12, Rio Tinto and BHP Billiton made profits of USD 5.8 billion and USD 15.4 billion respectively), and the fact that companies will already have to provide this information under schemes in other jurisdictions, compliance costs are not a barrier to implementation.

Extractives transparency and international development

With Australian firms heavily involved in extractive industries overseas, including in countries where resource extraction is often linked to poverty, instability and corruption, this Bill is an important transparency mechanism. Despite many developing countries having large resource bases, the citizens of these countries often remain in poverty due to corruption and poor governance structures. By improving accountability with this Bill, citizens and civil society groups in these countries will have far greater access to information about payments, and as a result, a far greater capacity to hold their governments to account. For this reason, aid and development organisations around the world including Oxfam, World Vision, Action Aid and many others, back the introduction of mandatory payment disclosure legislation. In their recent report Trillion Dollar Scandal, international NGO ONE identified introduction of mandatory reporting requirements for extractive companies as one of the central ways through which we can stem the billions that flow illicitly out of developing countries every year. This Bill reduces the opportunity for corruption and other illicit activities by requiring the reporting of payments that have previously been in the dark. By promoting better governance through these measures, better social outcomes for citizens of developing nations will follow.

As the Publish What You Pay Coalition has noted, the amounts of money at stake are "potentially transformational" with, for example, "exports of oil and minerals from Africa [in 2008] were worth roughly $393.9 billion, nearly 9 times the value of international aid to the continent and over 10 times the value of exports of agricultural produce."

As current chair of the G20, signatory to both the United Nations Convention Against Corruption and the OECD Convention on Combating the Bribery of Foreign Public Officials in International Business Transactions, Australia must show leadership by implementing this legislation.

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

Leave granted; debate adjourned.

COMMITTEES

Foreign Affairs, Defence and Trade Joint Committee

Meeting

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (15:53): At the request of Senator Fawcett, I move:

That the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold public meetings during the sittings of the Senate, as follows:

(a) Wednesday, 29 October 2014, from 11 am to noon, to take evidence for the committee's inquiry into Australia's trade and investment relationships with countries of the Middle East;
(b) Wednesday, 29 October 2014, from 1 pm to 2 pm, to take evidence for the committee's inquiry into the role of the private sector in promoting economic growth and reducing poverty in the Indo-Pacific region;
(c) Thursday, 30 October 2014, from 11 am to 12.30 pm, to take evidence for the committee's inquiry into human rights issues confronting women and girls in the Indian Ocean—Asia Pacific region;
(d) Monday, 24 November 2014, from 5.30 pm to 6.30 pm, to take evidence for the committee's inquiry into the role of the private sector in promoting economic growth and reducing poverty in the Indo-Pacific region;
(e) Tuesday, 25 November 2014, from 12.45 pm to 2 pm, to take evidence for the committee's inquiry into human rights issues confronting women and girls in the Indian Ocean—Asia Pacific region;

(f) Wednesday, 26 November 2014, from 11 am to noon, to take evidence for the committee's inquiry into Australia's trade and investment relationships with countries of the Middle East;

(g) Monday, 1 December 2014, from 5.30 pm to 6.30 pm, to take evidence for the committee's inquiry into the role of the private sector in promoting economic growth and reducing poverty in the Indo-Pacific region;

(h) Tuesday, 2 December 2014, from 12.45 pm to 2 pm, to take evidence for the committee's inquiry into human rights issues confronting women and girls in the Indian Ocean—Asia Pacific region;

(i) Wednesday, 3 December 2014, from 11 am to noon, to take evidence for the committee's inquiry into Australia's trade and investment relationships with countries of the Middle East;

(j) Wednesday, 3 December 2014, from 12.45 pm to 2 pm, to take evidence for the committee's inquiry into human rights issues confronting women and girls in the Indian Ocean—Asia Pacific region; and

(k) Thursday, 4 December 2014, from 10 am to noon, to take evidence for the committee's inquiry into human rights issues confronting women and girls in the Indian Ocean—Asia Pacific region.

Question agreed to.

NOTICES
Postponement

Senator RHIANNON (New South Wales) (15:54): by leave—I move:

That general business notice of motion No. 477 standing in my name for today, relating to public housing, be postponed to the next day of sitting.

Question agreed to.

MOTIONS
Asylum Seekers

Senator HANSON-YOUNG (South Australia) (15:54): I move:

That the Senate—

(a) notes that Mr Zainullah Naseri, a Hazara man and the first Afghan forcibly removed by the Australian Government, was tortured by the Taliban on his return;

(b) agrees that the security situation in Afghanistan is deteriorating and remains extremely dangerous for Hazaras; and

(c) calls on the Government to:

(i) issue a moratorium on the forced return of asylum seekers back to Afghanistan, and

(ii) send a contingent of officials to Afghanistan to investigate the security situation there and in the Hazara region of Ghazni and report to Parliament on their return.

Senator Kim Carr interjecting—

The PRESIDENT: Okay. You did not do that at the appropriate time.

Senator Moore interjecting—

The PRESIDENT: When I called to see whether anyone had any objection to formality, there was no objection.

Senator Kim Carr interjecting—
The PRESIDENT: Well, I am just telling you what happened. So Senator Hanson-Young was then proceeding. I will be guided by the goodwill in the chamber—if we can have goodwill with denial of formality—

Senator Moore interjecting—

The PRESIDENT: I think that is fair to Senator Hanson-Young, because Senator Hanson-Young was not denied. So, Senator Hanson-Young, you have moved the motion and before I put the motion, did Senator Cash wish to make a statement?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (15:56): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator CASH: The government will not be supporting this motion. A fundamental part of Australia's immigration system is that people found not to engage Australia's protection obligations and to have no lawful basis to remain in Australia are expected to return to their country of origin. Australia does not remove people where this would contravene our obligations under international human rights instruments to which Australia is a party, including the Refugee Convention. Australia is bound by the customary international law principle of non-interference in the international affairs of other sovereign states. Australia's consular obligations and entitlements under international law do not extend to monitoring the welfare of non-national offshore citizens.

Senator KIM CARR (Victoria) (15:56): Mr President, I seek leave to make a short statement for one minute.

The PRESIDENT: Leave is granted for one minute.

Senator KIM CARR: I am aware of the reports of the treatment of Mr Zainullah Naseri by the Taliban. Mr Naseri is a Hazara, who arrived in Australia by boat and spent time in detention before being granted a bridging visa. He was deported after his application for refugee status was rejected. It has been reported that he was abducted by the Taliban while travelling from Kabul to his home district of Jaghori. His kidnappers are reported to have tortured him for two days before he seized an opportunity to escape. This is an extremely distressing story and it is proper that the immigration minister has ordered an investigation. Labor urges the minister not only to ensure that the investigation is conducted in a comprehensive and timely manner but that the findings are made public. We are also concerned that he has made statements that may appear to prejudice the results of the investigation. The minister has been reported as saying—(Time expired)

Senator HANSON-YOUNG (South Australia) (15:58): Mr President, I seek leave to make a short statement for one minute.

The PRESIDENT: Leave is granted for one minute.

Senator HANSON-YOUNG: I find it extraordinary that the first and only person forcibly returned to Afghanistan under this government has been found to have been tortured upon return, so much so that the minister has, rightly, called for an investigation. Yet we see here today the government refusing to accept that halting the forced returns of others might indeed be a good idea, given they could not guarantee the safety of the only one person whom they
have so far sent back. There is an investigation underway. The government know that something happened that should not have happened. They know it is dangerous there and here we have the government blindly wishing to continually dump Hazara refugees back in Afghanistan to face torture by the Taliban. I do not know what the opposition are going to do on this motion. I suspect they did not want this going to a vote in the first place. They should vote in support of this motion and I hope they do the right thing. *(Time expired)*

**The President:** The question is that general business notice of motion No. 479, moved by Senator Hanson-Young, be agreed to.

The Senate divided. [16:03]

(The President—Senator Parry)

| AYES | | \[10\] |
| Noes | | \[33\] |
| Majority | | \[23\] |

**AYES**

Di Natale, R  
Ludlam, S  
Rhiannon, L  
Siewert, R (teller)  
Whish-Wilson, PS  
Hanson-Young, SC  
Milne, C  
Rice, J  
Waters, LJ  
Wright, PL

**NOES**

Back, CJ  
Bilyk, CL  
Bullock, J.W.  
Bushby, DC (teller)  
Canavan, M.J.  
Carr, KJ  
Cash, MC  
Colbeck, R  
Collins, JMA  
Dastyari, S  
Edwards, S  
Fifield, MP  
Gallacher, AM  
Ketter, CR  
Lines, S  
Marshall, GM  
Mason, B  
McEwen, A  
McGrath, J  
McKenzie, B  
McLucas, J  
Moore, CM  
O'Neil, DM  
O'Sullivan, B  
Parry, S  
Peris, N  
Polley, H  
Ruston, A  
Singh, LM  
Sinodinos, A  
Smith, D  
Sterle, G  
Williams, JR

Question negatived.

**Mining**

**Senator O'SULLIVAN** (Queensland—Nationals Whip in the Senate) (16:06): I move:

That the Senate acknowledges the massive economic benefits delivered to this nation by the black coal industry and the importance it has for the employment fortunes of miners and other professionals in this nation, noting that Australia should maintain a diverse and sensible energy mix.
The PRESIDENT: The question is that general business notice of motion No. 482, moved by Senator O’Sullivan, be agreed to.

The Senate divided. [16:07]

(The President—Senator Parry)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>30</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noes</td>
<td>12</td>
</tr>
<tr>
<td>Majority</td>
<td>18</td>
</tr>
</tbody>
</table>

AYES

Back, CJ
Bilyk, CL
Bullock, J.W.
Bushby, DC (teller)
Canavan, M.J.
Carr, KJ
Cash, MC
Colbeck, R
Edwards, S
Fifield, MP
Gallacher, AM
Ketter, CR
Lines, S
Marshall, GM
McEwen, A
McGrath, J
McKenzie, B
McLucas, J
Moore, CM
O’Neill, DM
O’Sullivan, B
Parry, S
Payne, MA
Peris, N
Polley, H
Ruston, A
Sinodinos, A
Smith, D
Sterle, G
Williams, JR

NOES

Di Natale, R
Hanson-Young, SC
Ludlam, S
Milne, C
Muir, R
Rhiannon, L
Rice, J
Siewert, R (teller)
Wang, Z
Waters, LJ
Whish-Wilson, PS
Wright, PL

Question agreed to.

Future Fund

Senator MILNE (Tasmania—Leader of the Australian Greens) (16:10): I move:

That there be laid on the table by the Minister representing the Treasurer (Senator Cormann), no later than noon on 24 November 2014, a copy of the Future Fund’s analysis of risks posed by climate impacts and ‘unburnable carbon’ to its portfolio, through the Asset Owners Disclosure Project 2014 survey.


The PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: The government does not support this motion. The Future Fund did not provide a response to the Asset Owners Disclosure Project survey in 2014. The Future Fund has not participated in previous years' surveys; this is on the public record. The Future Fund incorporates consideration of environmental, social and governance risks into its
investment decision-making. This is done through its ownership rights and environmental, social and governance risk management policy and through the external investment managers responsible for specific investment decisions.

Question agreed to.

Biosecurity

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:11): I move:

(a) notes the importance of well resourced, expert biosecurity operations in protecting Australia's biosecurity status and agricultural industry; and
(b) calls on the Government to rule out any push to integrate Australia's biosecurity operations into the new Australian Border Force Agency.


The PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: The government is committed to the continued integrity of Australia's biosecurity arrangements. It is important that government agencies work effectively together to avoid unnecessary costs on business while ensuring their critical roles are fulfilled. It is important that this is done in a way that does not compromise Australia's biosecurity protections and quarantine capabilities, since that could compromise our competitive advantage and trade status, along with our agricultural and environmental integrity.

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

Budget

The PRESIDENT (16:12): Senators, I inform you that at 8.30 am today two senators each submitted letters in accordance with standing order 75. Senator Siewert proposed a matter of urgency and Senator Moore proposed a matter of public importance for discussion. The question of which proposal would be submitted to the Senate was determined by lot. As a result, I inform the Senate that the following letter has been received from Senator Moore:

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

The Prime Minister's pre-election promise there would be 'no cuts to education, no cuts to health, no change to pensions, no change to the GST and no cuts to the ABC or SBS'.

Is the proposal supported?

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

The PRESIDENT: I understand that informal arrangements have been made in relation to speaking times for today's debate, and I will ask the clerks to set the clocks accordingly, with the concurrence of the Senate.

Senator LINES (Western Australia) (16:13): I rise today to speak to the MPI that we have just agreed to in relation to the Abbott government's set of broken promises. What we have seen from this government is broken promise after broken promise. These promises that have
been broken go to the heart of the budgets of ordinary Australians—whether they are working Australians, whether they are pensioners, whether they are Australians who rely on benefits, or whether they are families with children. There is hardly a group in our community that the Abbott government's broken promises have not affected. The big end of town seems to be okay, but every other group in Australia has been really hit hard by these broken promises. They are very serious because, prior to the election, Mr Abbott gave absolute—what we thought were cast-iron guaranteed—commitments that there would be no cuts to education, no cuts to health, no cuts to pensions, no rise in the GST, no cuts to the ABC and no cuts to SBS.

We have seen quite the contrary on display from the government. Every single one of those allegedly cast-iron promises to the Australian public has now been absolutely broken, slashed and burned, cut up into little pieces and is now lying on the party room floor. It is an absolutely disrespectful way to treat Australians. I want to focus in particular on what the Australian public have to look forward to in the area of public health if Mr Abbott's government's cuts in that area make it through the parliament. What we have seen is an $80 billion cut to Australia's public hospitals and education. In relation to health we have seen the imposition of a GP tax, a tax on being sick, a tax on ordinary Australians when they visit their doctor. That will cost Australian families $3.5 billion a year in out-of-pocket expenses. For every single Australian, regardless of their income—whether they are a pensioner, an average income earner or have got children—that is the hit to their pocket. It is a hit on the most vulnerable in our community. People who should be supported by a safety net have seen that safety net ripped out from under them.

It is also the government's plan to end Medicare. Right back as far as Malcolm Fraser the Liberals and the Nationals have not supported Medicare. Why? I have no idea. Australia's Medicare system is a proven system, it is a good system, it is valued by countries right around the world. But it seems that this government and successive Liberal-National governments want to slash and burn Medicare. As a young parent, as a low-income earner, I absolutely struggled when I was forced to take out health insurance under the Fraser government. What that meant was that I took my children to emergency departments and went without appropriate Medicare for myself because of cost. We should never impose that on Australians. We have had that strategy before. We have seen that it does not work. It is a failed strategy. The GP tax will say that the government decides who does visit a doctor and who does not. That is not right. I have lived through those days and I would not want to put that on anyone else. It is an unfair process. Our Medicare system should be available to every person in the community regardless of personal circumstances. It is not for governments to come between a medical practitioner and their patients.

What is more, there is no evidence in Australia that GP services are being overused by patients—none whatsoever. In fact, we do want people who are vulnerable or have got persistent health problems to be visiting their GP. GPs are at the front line of our health services. They are the gatekeepers of our health services. But the Abbott government's broken promises do not stop there. We know that if you get a referral for an X-ray or to a physio there is likely to be a tax on that. If you get a prescription for pharmaceuticals there will be an additional tax on that. Out-of-pocket expenses for ordinary everyday Australians will just go on and on and on. We will see Australians lining up at emergency departments just as I did
when I had young children. We will see pensioners going without the medical services they need because they will be too scared of the cost. This is extremely unfair. It is a complete broken promise. It is time the Abbott government admitted it and turned its back on this unfair tax.

Senator McKENZIE (Victoria) (16:19): Bravo, Senator Lines, for making it through another repetitive effort from the great strategists opposite. They sit down every morning and say: 'What's the biggest thing on our agenda? What are we really passionate about raising on behalf of the Australian people?' We once again have this very predictable and extremely repetitive effort. Bravo, Senator Lines, for having another swing. To everybody from Labor who is going into bat today, well done! I hope we have not had to recycle too much! Unfortunately, from listening to that, they have no idea.

Minister Johnson today in question time had it right. It is a very predictable MPI because there is no idea on the other side. We have blank space, blank heads, a blank page. It is a classic Labor tactic. It is not about broken promises; it is like a broken record. And the thing with a broken record is that people stop listening to it; they just turn it off; it becomes white noise in the back of everybody's day; nobody is listening. With your own reputation in tatters after six years of broken promises and incompetence, you are trying to tar us with your own brush. Labor is saying: 'We know we were dishonest, we know we were useless, but Tony Abbott and his mob are just as bad.' But the problem is that that claim is absolutely false. It is a classic tactic of Labor to go out with a media release, press conferences, statements in the chamber and questions through an inquiry that actually do not match the facts. In fact the shadow minister for employment released press releases during estimates which completely falsely represented what was happening in the estimates hearing at that particular time. It is a tired old tactic. The Australian people can obviously see through it. Despite your denials about the election results, there is no denying that they were emphatic about getting rid of the rhetoric and false claims of Labor.

Let's talk about broken promises. Labor promised to consult on climate change and instead delivered a carbon tax. Labor imposed the world's biggest carbon tax—a $9 billion a year hit to our economy costing average households over $550 per year. Despite the emphatic result of the election over a year ago, Labor still supports a carbon tax. Labor senators voted to keep the carbon tax in place last July, although they do not talk about that back in their electorates. They are in denial about the election result—a broken record long after the audience has left the dance floor.

Labor promised a budget surplus—in fact, they did not just promise it once; they promised it 500 times—but Labor have not delivered a budget surplus in over a quarter of a century. In fact, Wyatt Roy, the member for Longman, was not even born when Labor last delivered a budget surplus. Labor promised less debt; Labor government debt blew out to over $320 billion and was projected to reach $667 billion in 10 years. Labor promised more jobs; under Labor, the number of unemployed increased by over 200,000, productivity declined by 0.7 per cent a year, working days lost to strikes doubled and business red tape increased, making it a bit hard to deliver on that promise by Labor of more jobs. Another promise by Labor was to cut company tax; after the election, Labor scrapped the tax cut. Labor promised to give $2.1 billion for a transport link in Western Sydney; it never happened.
Labor promised to build an NBN. It would have cost at least $29 billion more than we were told, and hardly anyone signed up. The government is getting the NBN back on track with more than twice as many homes and businesses now receiving NBN services than a year ago. Under a coalition government, NBN Co met its rollout target for the very first time. That is good management. Labor promised to build 2,650 trades training centres in schools; 2,409 of them have not been built. Labor promised safe and secure borders; over 50,000 illegal arrivals came in more than 800 boats, causing a cost blow-out of over $11 billion. Labor promised to support the Australian Defence Force, and the Defence Force budget fell to the lowest level as a percentage of GDP since 1938.

This MPI goes to education, health, pensions, the GST, and the ABC and SBS. So let us look at the reality versus the string of Labor lies. In relation to education and schools under this government, Commonwealth spending for schools will reach record highs and increase over four years. That is the reality. It is black and white in the budget papers. In the recent budget, the Australian government kept its commitments and is investing record recurrent funding of $64.5 million in government and non-government schools over the next four years. That is an increase of $4.6 billion, or 37 per cent, during this period. They are the facts. There will be no cuts to education funding for schools. I quote ABC Fact Check: The Government did not cut $30 billion from schools in the May budget … Ms Ellis is spouting rubbery figures.

It is black and white, and it is simple: we did not cut funding to education. No matter how many times you say that we did, no matter how many MPIs you bring before the Senate, and no matter how many times you trot shadow ministers and backbench senators out for press releases and media releases, it does not make it true.

That is only one component of the Education portfolio; let us turn to universities. Labor's campaign on university reform is perhaps the most dishonest yet and I am sure that we are going to have a right royal stoush over the coming weeks about the reality versus Labor lies on that particular campaign. Let us look at Labor's record and at Senator Carr's record. Senator Carr's record on universities is that he proposed cuts to higher education and research of over $6.6 billion, which the department confirmed at a Senate inquiry last week, including $28 billion on one day in April 2013. Labor's current scare campaign on $100,000 degrees is plain wrong. The University of Western Australia has set fees for 2016 which are less than half of what Labor is claiming. No student will need to pay up-front, nor will they be prevented from attending universities for financial reasons. What we do know about the proposed reforms under the government's higher education legislation is that there will be a range of fees charged. To say there will be $100,000 degrees is simply wrong. We are increasing funding to universities, as was confirmed in the Senate inquiry last week.

The story in the Health portfolio is very similar. Again, Labor is spouting rubbery figures. I know that those opposite do not like to hear this, but the budget papers show that the Abbott government is increasing funding to hospitals by $5.3 billion, or 40 per cent, over the next four years. That is the reality; that is the fact. Labor's trickery is that it promised increases beyond the forward estimates which it knew it could never afford, but Labor did not have to worry about that because the promises do not appear in the budget papers. What is in the budget papers, what is projected over the forward estimates and what the government
proposes to spend over a given period of time is what we can argue about, because it is the reality; it is not dream time. This is known as Labor's budget time bomb.

The MPI goes to cuts to pensions. For the record, there are no cuts to pensions under this government. Pensions will continue to increase twice a year and the family home will continue to be exempt from the pension's asset test. Older Australians now have lower bills following the abolition of the carbon tax but still get to keep their energy supplement. The income thresholds for the Commonwealth seniors health card were indexed from 20 September 2014, enabling up to 27,000 additional people to qualify for the card. I could go on in relation to this government's arguments around no cuts to pensions, no cuts to health and no cuts to education.

If Labor's claims are about $100,000 degrees are the most dishonest, then Labor's claims about the government's alleged secret plans to raise the GST are the silliest. We said that we would not be making any changes to the GST, and we are not. Again, just because you say that it is so does not make it so. The Australian people are interested in fact, not fiction, as demonstrated by their absolute support of the coalition's agenda at the last election.

We have key achievements. When we look at the promises that we took to the federal election, by any measure, the Abbott government is delivering on its promises. (Time expired)

Senator DI NATALE (Victoria) (16:29): This motion goes to the issue of broken promises, but what it really goes to the issue of trust and integrity. What we seen from this government is an enormous breach of trust. It is an enormous breach of trust because the changes to these commitments that were made during the election campaign and that are now no longer relevant are so significant, so severe and so blatant that there is no hiding from it. Sometimes in politics we find these areas of grey. We see one side saying one thing, another side saying another and the truth is somewhere in the middle. But on this issue there is simply no excuse for what has occurred. There have been a string of broken promises and there has been a breach of trust.

This is a government that campaigned on the issue of trust and was relentless in its prosecution of the lies told about the carbon tax—to use their words. This is a government that promised in opposition that it would be open, honest and accountable and—to use the Prime Minister's words—that they would do what they say and say what they do. How is it that they could effectively reverse position on so many issues of fundamental importance to the Australian community? The answer is straightforward. The changes announced by this government in this budget are so unpopular, they are so brutal and they are so necessary that, had they promised these things in the election campaign, people would never of bought it. The government would not have been voted into office. They simply did not have the courage to put this narrow, brutal and ideological world view to the Australian community. They did not have the courage to do it.

They did not have the courage in education to stand up and say, 'We are going to make it harder for a young kid to get a university education.' They did not have the courage to say, 'If you are unemployed, we are going to kick you off welfare for six months. If you cannot cope, well, that's tough.' They did not have the courage in health care to say to people, 'You know what, we're going to make it harder for you to see a doctor. You might be struggling, but we are going to put a whopping great co-payment for when you go and see the GP; but we are going to add another co-payment on top of the existing co-payment for your medicines. We
are going to make it harder for you to go and get a x-ray done because there will be costs associated with that as well.' They did not have the courage to put those issues to the Australian community.

They are based on a lie. In health care, we are told that the health system is unsustainable, that it is out of control and that we have got some sort of emergency or crisis. Let me tell you what a crisis looks like: over the last decade, Commonwealth spending on health care has been stable. It has not changed. If anything, it has decreased. We saw the Australian Institute of Health and Welfare's report announced a month or two ago for the year 2012-13. There was the lowest growth since 1990 and 1991. I will say that again: we have seen the lowest growth in health spending for over two decades. When it comes to the amount we spent on health care, we are somewhere near the bottom of other OECD countries and half what the US spends on health care. That is what a crisis looks like and that is what unsustainable health spending looks like this government.

It is totally confected and their solution is: 'We are going to whack in a great big co-payment, making it harder for people to see a doctor and particularly for those people who can afford it least.' But just as importantly, there are massive cuts to the way our hospital systems are funded. Over the next decade, we are going to see $50 billion taken out of our hospital system. Anyone who thinks that somehow that is a way of improving the health of the Australian community needs their head read. We have got a situation now where people already struggling through the public hospital system to be seen in a timely way in emergency departments. We have got long waiting lists for elective surgery and we have got people who are unable to get access to life-saving treatment. This government's response is to rip out $50 billion from the Australian hospital system.

When you combine the cuts to education, New South Wales stands to lose $25 billion over the next 10 years when you include those cuts to hospitals and education. In Victoria, over the next three years and this is when we take out that huge figure, we are looking at almost $400 million. This is a great breach of trust to the Australian community and the government did not have the courage to put it to the Australian people. (Time expired)

Senator CAROL BROWN (Tasmania) (16:34): I too rise to contribute to the matter of public importance on the Prime Minister's pre-election promise that there would be no cuts to education, no cuts to health, no change to the pension, no change to the GST and no cuts to the ABC or SBS. As we know, Mr Abbott went to the election promising all these things and telling the Australian people that he would not change the pension, there would be no change to the GST and no cuts to the ABC or SBS. As we know, Mr Abbott went to the election promising all these things and telling the Australian people that he would not change the pension, there would be no change to the GST, there would be no cuts to education and there would be no cuts to health. He told them these things because he wanted to get elected. He wanted the Australian people to trust him.

It did not take long for the trust that the Australian people put in Mr Abbott to be shown to unfortunately be misplaced. What we have seen from this government is a systematic targeting of those that can least afford to be targeted and those with the least amount of money. What we have seen is a substantial cut to pensions. In my home state of Tasmania, where we have around about 98,000 pensioners, they will be worse off and they know they will. The letter that Mr Abbott spent over $1 million on was to tell people that his election commitment was not based on a lie, but they know the truth and they know that they will be worse off. They have seen the work and they have seen some of the modelling produced by
ACOSS. They know that they will be worse off. They know the Prime Minister has broken this commitment to them, and they will not forget it.

Mr Abbott, it appears, will unfortunately say anything to get into government. He has a list of lies and broken promises—and the list of lies unfortunately gets longer by the day. The massive cuts that he wants to inflict on Australians target pensioners, families, students, the poor and the sick. They give little hope for the future and take away so much from Australians.

Labor will continue to fight against these cuts and continue to speak up for those whose voices are not heard by this government. The effects of Mr Abbott's twisted priorities are worrying. They are frightening Australians, particularly, as I have mentioned, in my home state of Tasmania. The cuts to education will be extremely harsh for Tasmania. A good education can lift people out of poverty and give them hope and optimism for the future. We need to lift our students’ performance. If Tasmanian students are to achieve in line with national standards Mr Abbott needs to keep his promises.

His first budget failed to fund the vital fifth and sixth years of the Gonski reforms and instead ripped $80 billion from our schools and hospitals. Tasmanian schools will lose $682 million—the biggest ever cut to our schools. But where are the Tasmanian Liberal senators, and where are the federal Liberal members in the House of Representatives when it comes to these cuts? They remain silent.

Every Tasmanian school will suffer. Their funding will be cut although parents, teachers and students were promised improvements by Mr Abbott and Mr Pyne. These are savage cuts. They will leave the average school $3.2 million worse off and rob every student of $1,000 in individual support per year. The quality of education for Tasmanians will suffer. Parents, teachers and students have been betrayed. How can we expect Tasmanian students to improve their results when Mr Abbott is cutting funding for the resources and staff they need to help them? These cuts are the equivalent of sacking one in seven teachers, and they are already having a great impact in our classrooms.

Now I come to the cuts to health. We know that Tasmania has a higher burden of chronic disease. Mr Abbott's $1.1 billion in cuts to public hospitals in Tasmania will seriously affect health outcomes for Tasmania. I am running out of time, but Tasmanians know that Mr Abbott came to this election— (Time expired)

**Senator RUSTON** (South Australia—Deputy Government Whip in the Senate) (16:40): I feel the need to defend my Tasmanian colleagues in the face of that outburst, which suggested that Tasmanian senators and members of the lower house have not been out there talking up the important aspects of the federal budget and the federal policy positions that are now being implemented, which were promised at the federal election in 2013. I have heard, many times in this place, senators from Tasmania and the three members who represent Tasmanian electorates in the lower house out there talking up the importance of Tasmania. They support their home state. I would just like to put it on the record that unless Senator Brown has a hearing problem she should listen a little harder to her colleagues from Tasmania, even if they are from the other side of the chamber, when they support their home state.

Before I go to the substance of what I would like to say today in relation to the matter of public importance on the Prime Minister's election commitments, I would like to draw the
attention of the house to the extraordinary scaremongering that continues to go on. The ABC has a fact check; maybe we need a fact check in this place, because some of the things that were said while I sat here and listened to the contribution of those opposite astounded me. They are actually incorrect. It is not just that they have not heard; they actually made statements that were factually incorrect.

Those statements, and the scaremongering that is going on, is creating a very negative and uncertain environment out there amongst voters. That is really not fair. If there are hard messages to sell, let's be honest about them and tell the voters the truth; do not beat it up with a whole heap of scaremongering.

I would like to draw an interesting comparison between the federal coalition government and a current Labor government that is in existence in this country—the state Labor government in South Australia. Labor has been in power in South Australia for the last 12 years. In that time we have seen South Australia become somewhat of a laughing stock for the rest of the country because the environment in that state does not encourage business. It does not support business growth. It is the highest taxed state and it is the state with the highest debt.

It is really quite interesting to draw a parallel between the state government and what is happening federally—the positive things we are trying to put in place, despite the resistance and blocking that we see in the Senate. We have been trying to get some of the initiatives that we took to the election campaign through this place, but we are blocked, despite the people of Australia having voted for this government on exactly those mandates.

I draw to the house's attention the fact that the South Australian Labor government is a classic example of what happens when you do extraordinary things with budgets. That is exactly what we inherited when we came into government in 2013. Currently in South Australia the 2012-13 budget deficit is $940 million. That is the highest on record. When you consider the population in South Australia, on a pro rata basis it is an extraordinary amount of money that is owed by every man, woman and child in South Australia to pay for the budget deficit in that state.

The government of South Australia has delivered budget deficits for the past four years. Over the past year, the projected deficit has blown out to $1.2 billion—the largest budget deficit in over 15 years. But the really annoying, dishonest and unscrupulous thing that is going on at the moment is that the Weatherill Labor government in South Australia is trying to con the South Australian public into thinking that this is all the federal government's fault. I just have to put on the record that the $14 billion debt bill that was projected by the Weatherill government out to 2016 was on the books well before we were elected to government in 2013. So it seems a little bit rich that we have a situation at the moment where the Weatherill government is spending millions of dollars of South Australia's taxpayers' money—it is actually not South Australian taxpayers' money because they probably had to borrow it, like they borrow everything else to spend in South Australia—to fund a campaign to blame the federal government for something that, if you look at their budget figures, they acknowledged was already in existence well before the Abbott government was elected to this place.

Worse than the budget deficit in South Australia are the election promises that the South Australian government made to the South Australian public about the creation of 100,000 jobs. In the time that they have been in government and with the creation of their 100,000
jobs policy, we have seen 8,700 more jobs, not 100,000. We need to be very careful that we get the facts on the table. As those opposite have mentioned in relation to particularly education and health, Mr Weatherill is trying to make the suggestion that the federal government are cutting health and education. As we well know—and as you would well know, Madame Acting Deputy President Lines, as you sat on the education hearings in relation to higher education and you sit on the Education and Employment Legislation Committee—education funding has not been cut. I repeat: education funding has not been cut. So, for Mr Weatherill to somehow blame the federal government for cuts in funding that are going to South Australia—when in fact the amount of money that is going to South Australia, not just for education but also for health, is increasing—makes his lie and deceit even worse.

The fact is that the South Australian government have created their own debt and deficit problem. The blame lies firmly with their policies and the implementation of their policies. It seems extraordinarily rich that Mr Weatherill would suggest to blame us and then spend additional money in creating a false campaign. You do not have to entirely take my word for this—

Senator Payne: I would take your word for it.

Senator RUSTON: Thank you, Senator Payne. She was going to take my word for it. This morning in the paper a letter was revealed from the Essential Services Commission in South Australia, ESCOSA, which is the independent economic regulator in South Australia. The chief executive of this regulator, Dr Paul Kerin, who had been appointed by the previous Labor government to this position, resigned the week following the South Australian election. In his letter, Mr Kerin states:

I have voted Labor most of my life and I chose to join the Commission under a Labor government …

However, having seen that government from the inside, I have no appetite to deal with it for another four years.

In relation to the reforms and his oversight of particular agencies in South Australia—undergoing the water industry's economic reform, the commission's role in driving that reform, the independence of government, government legislation et cetera—Mr Kerin went on to say:

My experience over the past three years has shown that the understanding in relation to those economic activities was incorrect. Instead, the government and its senior bureaucrats have clearly demonstrated that they have no interest in genuine reform, nor in serving the long-term interests of consumers. Indeed, they have stymied all efforts on those fronts at every turn.

Further, he said he had been 'appalled by the behaviours that both ministers and senior bureaucrats had engaged in to stymie' those reform efforts.

You would have to suggest that, if you were going to appoint somebody to be an economic regulator and you are completely convinced of the goodness and wellbeing that you are providing to your state and the economic development you are providing to your state by your policies, you would certainly think that you would give your economic regulator every opportunity to be able to better those policies, keep an eye on them and make sure that they really were delivering the things that you were saying. The comments made by Dr Kerin were revealed only after a freedom of information request, because the bureaucrats within the department refused to release the letter of resignation from Dr Kerin, citing that it was contrary to the public interest. I thought that was quite an interesting reason for not releasing
the fact that somebody was being critical of the operation of the government. You would think that the South Australian government would have wanted a level of transparency around its economic regulator because, surely, if everything they are saying about the economic prosperity and all the great things that they are doing in South Australia are true, they would want the independent verification of their independent regulator. That is a very sad indictment of one of Australia's Labor governments. The federal government may be an indication of what the Liberal Party in South Australia is likely to inherit if and when they should win government in South Australia.

In standing here today and talking on this matter of public interest, I would like to put on the record that I think it is abhorrent that we are conducting scaremongering without any real facts around the information that we are putting into the public domain. (Time expired)

**Senator LUDLAM** (Western Australia) (16:50): I do not normally speak to MPIs because they can, as some senators have observed, be fairly predictable. I could not let this one go past. It is premised on the rather now famous quotation, and I thank our colleagues in the Labor Party for bringing it forward—the PM's election promise, right on the eve of the last federal election, and it could not have been clearer: 'no cuts to education, no cuts to health, no change to pensions, no change to the GST and no cuts to the ABC or SBS.' It is a measure of the despair with which many people hold politicians, that you would get a comment as bold-faced and as black and white as that, and it is immediately doubled back on at the earliest opportunity. That is the nature of someone who lied his way into office. There is no way of being more polite about it than that. It is as though the Prime Minister exists in his own eternal political present, where words just come out of his mouth to suit a particular moment or a particular sound grab, and the next day it is as though it was never said and we are all meant to just forget that it ever happened. The GST was the last piece of that puzzle until fairly recently, and, of course, that has been put into the public domain as well. The catalogue of deliberate deceptions that the GST has set running is now complete.

Everything, as far as this government's budget repair proposals are concerned, is on the table except that which might offend powerful donors or interests. That has been very safely quarantined away as you have been marching around the landscape abolishing taxes for the last 12 months. Some economic interests—many of them very used to exercising their political clout—are coming in a hard-line and strategic way after our national broadcasters, the ABC and the SBS. It is that element of this trashed promise to the Australian public before the election that I want to focus on.

Cuts of somewhere between $120 million and $200 million to our national broadcaster, the ABC, are described by the minister as a 'down payment'. It is quite creepy behaviour when you think about it—'That's a nice national broadcaster you've got there; it would be a shame if anything were to happen to it.' There are threats to editorial independence, threats to funding and now direct threats to programming. Maybe the ABC will be forced to take advertising. Maybe it will be forced to curtail its online presence. You can see why some of the ideologues who are coming after the ABC and SBS are so terrified of how well our national broadcasters are performing online. They are doing some of the most innovative stuff, I would say, not just in the country but in the world in taking a publicly funded national broadcaster and putting that presence online in a way that enlarges its audience to a new generation of people who are not necessarily watching mainstream free-to-air TV or, for that matter, reading newspapers.
I have come to realise that the ABC and SBS are not being attacked because they are failing; they are being attacked because they are succeeding a little too well. That is something that is really worth considering. These broadcasters are loved. They are national institutions that are loved by people right across the political spectrum and right across this continent—from downtown in the big cities all the way out to the most remote and regional areas where you can get an ABC radio broadcast. That is one of the elements of why this government is in such trouble. The government was asked about the prospect of whether this could lead to job losses and, at this stage, we are looking at 500 or 600 job cuts. It may be less than that or it may be more. We do not know the scale of the cuts that are proposed. Mr Turnbull has said, 'It would depend on which staff are cut. The ABC is not a workers' collective.' What contempt! As though anybody proposed that it was a workers' collective; it is a much loved national broadcaster. That is why we have already seen the beginning of the damage being done: 80 staff have been let go from ABC International, the Australian Network has been trashed, the payments from DFAT to wind up its operations fell short by $5 million and the broadcaster is facing serious and significant cuts. That is why we will fight it.

As we put the government on notice, do not be surprised if the tiny handful of ideologues who loathe the very existence of public broadcasters come to heel when they need it. Do not be too surprised if that tiny handful of people are completely overmatched by the breadth and depth of passion with which Australian people from right across the country and right across the political spectrum will stand up and fight for their national broadcasters, both the ABC and the SBS. You are put on notice now. The Prime Minister may have forgotten that commitment that he made to the rest of the country right before the election, but we have not.

Senator KETTER (Queensland) (16:55): I wish to speak on this matter of public importance regarding the Prime Minister's pre-election promise on 6 September last year, one day before the election, that there would be:

No cuts to education, no cuts to health, no change to pensions, no change to the GST and no cuts to the ABC or SBS.

I listened to the contribution from Senator McKenzie earlier in the debate, and I sensed the exasperation in her contribution about this issue being continuously raised by Labor. All I can say to Senator McKenzie and her colleagues is that they had better get used to this because this is accountability. This government needs to be held accountable for the litany of broken promises and its twisted priorities.

With the Prime Minister's comments yesterday regarding the GST, surely we are now seeing the full set of broken promises completed. This government will soon be running out of promises to break, having systematically smashed every commitment it gave to the electorate. Proper reform means bringing the community with you, challenging vested interests and making a case for changing the status quo; proper reform means not doing a dump and run with this budget of broken promises; and proper reform means not just bumping up the nearest regressive tax that you can get your hands on.

We have heard today from both Senator Ruston and Senator McKenzie that what the Labor Party is saying in this regard is somewhat factually lacking—that is how I would categorise what they said—but let us look at what this government is saying about taxation. That we have a government now looking earnestly at a regressive tax which affects the poor is a great concern to us. One of the great mythologies that exists out there is that Labor is always
responsible for a higher level of taxation than the coalition. When we look at the ABC Fact Check, we find that, under the Labor period of government from 2007 to 2013, the average proportion of taxation as a proportion of GDP was 21.4 per cent, whereas in the previous Howard government there was a tax take of 23.5 per cent as a proportion of GDP. So, when we are talking about mythology, let us get our facts right and let us look at who is really responsible for higher taxes in this country.

To return to the broken promises, I quote again: 'There will be no cuts to education, no cuts to health, no changes to pensions, no changes to the GST and no cuts to the ABC or SBS.' All of these promises were made in one sentence that Mr Abbott uttered in an interview on SBS on the eve of the 2013 election. It was during a live interview when the then opposition leader was at one of the sports stadiums.

We know that his promises have been completely smashed. On education, what has essentially happened is that they have scrapped the fifth and sixth year of funding that was previously part of the bipartisan Gonski reforms. In the area of health, $50 billion has been cut from public hospitals, and in the area of pensions, the pension age has been raised to 70, with indexation slashed and concessions cut. In respect of the GST, comments were made yesterday about wanting to broaden and raise the tax. On the issue of no cuts to the ABC, we have seen that there will be $35 million in cuts over four years. And in respect of SBS, the carrier that broadcast the opposition leader's promises, there will be $8 million in cuts over four years. These cuts will hit Queensland hard. In Australia's most decentralised state, those regions of Queensland outside the capital will be hit especially hard.

Recently we have also seen government senators justifying cuts to rural and regional health care on the basis that what they said before the election were merely National Party commitments and not coalition commitments. I asked Senator Nash, in her capacity of representing the Minister for Health, on 3 September about the fact that the Nationals election platform talked about increased financial support for doctors in regional and remote areas but that what actually came out in the budget was that the rebate for most GP and out-of-hospital pathology and diagnostic imaging services were to be reduced by $5. Senator Nash's response to that question was that if those opposite paid a little more attention they would realise that it is National Party policy and that they would go on to form coalition policy for the election campaign, and that immediately addresses the issue. That was the response from the National Party, the party that is supposed to be standing up for regional Australia and regional Queensland. They are nowhere to be found.

On top of these broken promises we have plans for $100,000 degrees as a further kick in the guts for regional Queenslanders. The Queensland Times, a newspaper based in Ipswich, reported:

Universities in regional Queensland and New South Wales fear the Abbott Government's education reforms could hit hard, with the poor discouraged by new charges and the bright poached by whatever school has the most money.

Local councils have also been asked to get by on less grant money from the federal government, and do not even get me started on what Queenslanders think about this out-of-touch Treasurer's view that poor people do not drive cars. Despite the Senate comprehensively rejecting a new fuel tax, they have snuck it in the back door: an increased tax for Queenslanders every time they fill up at the bowser, thanks to this government.
Australia remains gobsmacked at the conduct and deceitfulness of this government and their astonishing record to date. *(Time expired)*

**Senator McGrath** (Queensland) (17:03): This MPI is not a story of cuts; it is a story of Labor's record on debt, tax and deficits. It is a horrible history of Labor mismanagement and horrid economic planning. So, mums and dads watching at home, send your children out of the room now, because you are about to hear some figures and I do not want you swearing in front of your children, and neither do I want your children realising the full extent of the debt they are going to inherit from Labor and what that means in terms of the work they are going to have to do to pay off Labor's debt. I do not want the toddlers and teenagers of Australia having nightmares because of Labor's debt and all the work they are going to have to do.

So, let us have a discussion about the figures—the truth about the inheritance Labor gave to us in September last year, when they were finally booted out of office. Labor initially forecast a surplus of $5.4 billion for the 2013-14 financial year and kept this forecast surplus for eight successive budget updates. The final figure was $48.5 billion in deficit. From 2008-09 to 2013-14, Labor delivered six successive deficits, totalling $240 billion, and we have many more to come, because of their mismanagement. If we include 2013-14, Labor left the government with future deficits of $123 billion up to the forward estimates for 30 June 2017. If no policy action was taken by Tony Abbott and the coalition to repair the budget position that the government inherited from Labor—and the Greens; I will give them a mention here too—gross debt would have spiralled to $667 billion over the medium term and would have continued to grow. That is the equivalent of $25,000 for every Australian.

This is Labor's legacy of debt for all Australians. But Labor do not want to talk about this. They do not want to talk about their six years in power. It is almost like the forgotten history of Australia in terms of the textbooks that Labor want to write. It costs $1 billion a month to pay the interest on Labor's record debt. This will be $2.8 billion a month in 10 years if nothing changes.

The independent budget office stated that 'without action Australia's debt will grow at one of the fastest rates in the developed world'. We have to make savings. If we do not make savings, this country will be in real trouble. So we want to make savings that should see us save money that could construct 15 new teaching hospitals every year—savings of $16 billion over 10 years. That is more than the cost of the Pharmaceutical Benefits Scheme, the National Disability Insurance Scheme and higher education spending.

On the eve of the 2013-14 federal election, then Treasurer Chris Bowen had to go even further in his 2013 economic statement by writing down receipts a further $7.8 billion for 2013-14 and over $33 billion across the then forward estimates. This government—Tony Abbott's government, Joe Hockey's government, Julie Bishop's government, Warren Truss's government—inherited a shambles of a budget, a weakening economy and rising unemployment. This government had to take immediate action to address a number of unresolved issues inherited from Labor. This includes injecting $8.8 billion to restore the Reserve Bank of Australia's capital buffer after Labor ripped out $5.2 billion in dividends; providing $571 million in 2013-14 and $2 billion over the forward estimates to fix Labor's funding shortfall for offshore processing of illegal maritime arrivals; funding Public Service agencies to meet the cost of Labor's unfunded redundancies arising from their hidden job cuts; and clearing 96 announced but unlegislated tax and superannuation measures that included

CHAMBER
measures announced to boost the budget bottom line, even though these measures could never be delivered or would damage the economy. Labor left Australia with no plan to fund the future and address their unsustainable spending trajectory over the medium term.

This government is implementing a serious economic action strategy to repair the budget and strengthen our nation's finances. We are going to make sustainable spending promises. We are going to deliver record infrastructure investment—which, as a Queenslander, I am very happy about in terms of the work that is going to happen on the Gateway and on the Bruce Highway. We are going to create new jobs and bring the budget back to surplus over the medium term.

This government has been taking responsible and methodical action. The adults are back in charge, cleaning up Labor's mess, cleaning up Labor's debt and deficit disaster and getting the budget back under control. (Time expired)

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (17:08): On the eve of the 2013 federal election, Tony Abbott, the now Prime Minister, made six solemn promises to the Australian people. He said on SBS in an interview in September 2013 that there would be, and I quote:

No cuts to education, no cuts to health, no change to pensions, no change to the GST and no cuts to the ABC or SBS.

And we have heard this repetitively during this debate.

After the election, we have seen a very different story emerge as the Abbott government has systematically set out to break each and every one of these commitments. The ABC and SBS have had their budgets cut. The government is planning a devastating $80 billion worth of cuts to health and education. They are trying to slash pensions by $80 a week over the next 10 years and make all Australians work until they are 70 before they can qualify for the pension. And now the Abbott government is heading for a 100 per cent perfectly shameful record of broken promises, as they turn their sights to breaking their pre-election promise not to change or increase the GST.

Currently, the GST is distributed on a needs basis. It takes into account each state's ability to raise revenue and balances it with each state's funding needs to determine the fairest way to distribute the funds. A fundamental principle of the GST is that all states must have the revenue they need to provide their citizens with basic services like health, education, transport and security. No state should be left behind, and states that are benefiting from times of greater prosperity should contribute a bit more to help the states that are doing it a bit tougher. If the GST were changed, it would be devastating for Tasmania. Seven hundred million dollars in revenue and the vital public services that this money supports would be in peril. But it is not just Tasmania that could lose out if the rate base or distribution formula for the GST is changed. Let us not forget that it was not so long ago that Western Australia was a net beneficiary of the GST. And there is nothing to guarantee that that situation will not turn again.

Before the election, Labor was very concerned that the Abbott government had its sights set on changing the GST. This was a reasonable concern, given the Western Australian Liberal Premier Colin Barnett let the cat out of the bag about Mr Abbott's talks with the Liberal premiers on plans to change the GST once he got into government. But, remarkably,
as the 2013 election drew closer, the story from those opposite changed dramatically. With his eyes keenly on the prime ministerial prize, Mr Abbott set about hiding his plans, saying:

Let me be as categoric as I can, the GST won't change, full stop, end of story …

… … …

Let me repeat it—the GST won't change, full stop, end of story.

On 11 May last year, he reinforced the message to Launceston's The Examiner newspaper, saying:

The Coalition fully supports the existing GST arrangements. We will not change them.

But now the Prime Minister must be getting giddy, because the past week has seen him perform another dramatic backflip. And this one shows that Labor's pre-election concerns about his plans for the GST were entirely justified. Gone are Mr Abbott's sincere promises about not meddling with the GST. Now, the Prime Minister is saying that the GST is certainly:

… something which ought to be looked at as part of the federation reform process and as part of the tax reform process.

He also talked of the need to look at spending responsibilities and revenue capacities while, at the same time, saying:

It should be possible to make these arrangements more equitable between the larger states with the smaller states no worse off.

This idea that more money can go to one state without disadvantaging any other states or increasing the amount of GST that is taken up is little more than 'magic pudding' economics. It does not add up.

Make no mistake: the threat to Tasmanian public services of Tony Abbott and the Liberals making changes to the GST is very real. Now, more than ever, we need a strong response from the Tasmanian Liberals in this place. In Launceston's The Examiner this week, the Liberal member for Bass and the Liberal member for Lyons both voiced their support for the current system. But the member for Braddon, Mr Brett Whiteley, failed to provide a comment. The most fundamental duty of a member of parliament is to fight for the interests of the people that elected them. At a time when north-west Tasmanians need a strong representative in Canberra to fight these regressive GST changes, Mr Whiteley has gone missing in action. It is time that he came out of hiding and fought against a move that could strip the Tasmanian economy of $700 million a year.

Interestingly, in a speech on 24 March this year, Mr Whiteley was quite willing to talk about the GST when he accused the Palmer United Party of:

… announcing a policy to rip hundreds of millions of dollars of GST payments out of the Tasmanian economy in a desperate attempt to win a seat at the upcoming Senate election in Western Australia.

He went further, saying that Senator Lambie is:

… faced with the challenge of standing up for the people of Tasmania or backing her party leader in ripping hundreds of millions of dollars out of the Tasmanian economy.

It is now time for Mr Whiteley to step up and back his electorate against his party leader's plans that could rip hundreds of millions of dollars out of the Tasmanian economy. For
Tasmania’s sake, Mr Whiteley needs to demand that the Prime Minister keeps his pre-election promise not to make any changes to the GST.

**The ACTING DEPUTY PRESIDENT (Senator Bernardi):** Order! The time for the discussion has expired.

**DOCUMENTS**

**Consideration**

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

1. Department of Health
   Australian Radiation Protection and Nuclear Safety Agency (ARPANSA)—Annual Report 2013-14—Section 60 of the *Australian Radiation Protection and Nuclear Safety Act 1998* (1 September 2014/1 September 2014)

2. Department of Infrastructure and Regional Development

3. Department of Veterans’ Affairs
   Repatriation Medical Authority—Twentieth Annual Report 2013-14—no legislative requirement to table the report (19 September 2014/23 September 2014)

4. Department of the Environment
   Bureau of Meteorology—Annual Report 2013-14—Section 70 of the Public Service Act 1999 (15 October 2014/15 October 2014)

5. Department of Finance

6. Department of Health
   Annual Report 2013-14—Volumes 1 and 2—Sections 63 and 70 of the Public Service Act 1999 (29 August 2014/29 August 2014)

7. Department of Infrastructure and Regional Development

8. Department of Social Services

9. Attorney-General’s Department
   CrimTrac—Annual Report 2013-14—Section 70 of the Public Service Act 1999 (30 September 2014/30 September 2014)

10. Attorney-General’s Department
    Australian Film, Television and Radio School (AFTRS)—Annual Report 2013-14—Section 9 of the Commonwealth Authorities and Companies Act 1997 (2 October 2014/2 October 2014)

11. Department of Veterans’ Affairs
12. Department of Industry
Annual Report 2013-14—Section 63 of the Public Service Act 1999 (20 October 2014/20 October 2014)

13. Department of Infrastructure And Regional Development

14. Department of Infrastructure and Regional Development

COMMITTEES

Public Works Committee
Report


Foreign Affairs, Defence and Trade Joint Committee
Report


That the Senate take note of the report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Community Affairs Legislation Committee
Additional Information

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (17:16): On behalf of the Chair of the Community Affairs Legislation Committee, Senator Seselja, I present additional information received by the committee on its inquiry into the Social Services and Other Legislation Amendment (2014 Budget Measures No. 1) Bill 2014 and related bill.

National Capital and External Territories Committee
Report

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (17:17): On behalf of the Joint Standing Committee on the National Capital and External Territories, I present the committee's report on the future of Norfolk Island. I move:

That the Senate take note of the report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.
On behalf of the Parliamentary Joint Committee on Human Rights, I present the 14th report of the 44th Parliament of the committee on the examination of legislation in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011.

Ordered that the report be printed.

Senator SMITH: I move:

That the Senate take note of the report.

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' 14th report of the 44th Parliament. This report provides the Parliamentary Joint Committee on Human Rights' view on the compatibility with human rights as defined in the Human Rights (Parliamentary Scrutiny) Act 2011 of bills introduced during the period 30 September to 2 October 2014 and legislative instruments received during the period 13 to 19 September 2014. The committee has also considered responses to the committee's comments in previous reports.

Of the 12 bills introduced in the period covered by the report, four are assessed as not raising significant human rights concerns and four raise matters requiring further correspondence with ministers. The committee has deferred its consideration of the remaining four bills. A number of the bills considered are scheduled for debate during the sitting week commencing 27 October 2014, including the Albury-Wodonga Development Corporation (Abolition) Bill 2014, the Social Services and Other Legislation Amendment (2014 Budget Measures No. 6) Bill 2014, the Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014 and the Parliamentary Entitlements Legislation Amendment Bill 2014, which senators will be pleased to know does not infringe upon anyone's human rights.

As always, the report outlines the committee's examination of the compatibility of these bills with our human rights obligations, and I encourage my fellow senators and others to examine the committee's report to better inform their consideration of proposed legislation. Importantly, for the protection of traditional rights and freedoms—some would prefer the term 'civil liberties'—this report includes our examination of the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014. As has been widely reported, this legislation proposes a range of very significant changes to national security laws in Australia, and, as a consequence, the limitation of fundamental rights and freedoms.

As a context to my remarks, I remind senators that the committee's task is to undertake a technical and bipartisan inquiry into the human rights implications of legislation—international human rights obligations as agreed by previous governments. Importantly, the scrutiny role of the committee requires that it conduct its assessments in the absence of partisan politics. Senators will already be familiar with the work of other parliamentary committees—the Scrutiny of Bills Committee and the Parliamentary Joint Committee on Intelligence and Security—and the similar conclusions drawn by them and us on a variety of proposals.
Overall, I regard the committee's approach to examining the Foreign Fighters bill as seeking to create a constructive dialogue around the measures contained in the bill by highlighting particular issues of human rights concern to the parliament. In this respect, there is scope within the human rights legislative scrutiny framework to ensure that important issues of national security are balanced against the protection of fundamental rights and freedoms.

The report clearly states that the committee 'notes that human rights principles and norms are not to be understood as inherently opposed to national security objectives or outcomes' and that 'international human rights law allows for the balancing of human rights considerations with responses to national security concerns'. Critically, the committee expects proponents of legislation, who bear the onus of justifying proposed limitations on human rights, to apply this framework in the statement of compatibility required for bills. More simply put, proposed measures can limit human rights, if they can be shown to be reasonable, necessary and proportionate in pursuit of a legitimate objective. This analytical framework is capable of ensuring that any intrusions into human rights are finely calibrated, such that our laws only limit rights as much as is necessary to achieve their goal.

On that note, the report observes that, in relation to a number of the proposed measures, the statement of compatibility does not fully explain why the measures are necessary in pursuit of a legitimate objective. In particular, it does not explain how and why existing law enforcement and intelligence-gathering powers are insufficient to prevent serious threats to Australia's national security interests. In these instances, the committee is seeking further explanation from the Attorney-General's Department. For example, the bill would extend for 10 years a number of specific powers which are due to expire in 2015 or 2016, such as control orders and preventative detention orders. The committee's report notes that it regards there to be sufficient time before these powers expire to undertake detailed and thorough inquiries as to their efficacy and necessity.

The committee has also taken the approach of recommending amendments and constructive solutions in relation to a number of the measures in order to strengthen the human rights compatibility of the bill. For example, the bill currently allows for the exclusion of foreign evidence that is obtained directly as a result of torture. The committee has suggested that foreign evidence obtained directly or indirectly from torture should be excluded in order to align the legislative proposal with Australia's international obligations under the convention against torture.

I would note that the committee has determined that some of the measures outlined in the bill are likely to be incompatible with human rights—for example, the introduction of the declared area offence provision. This provision would introduce a new offence of entering or remaining in a declared area unless it was solely for a legitimate purpose. The bill specifies a limited number of legitimate purposes. The offence is punishable by a maximum sentence of 10 years imprisonment.

As noted in the report, the proposed construction of the offence would mean that a person could commit the offence without actually knowing that the area was declared and without any intention of engaging in or supporting terrorist activity. A person accused of entering or remaining in a declared area would bear an evidential
Burden—that is, they would need to provide evidence that they were in a declared area solely for a legitimate purpose. An offence provision which requires the defendant to carry an evidential burden will engage the right to be presumed innocent because a defendant's failure to discharge the burden of proof may permit their conviction despite reasonable doubt as to their guilt.

The committee has also raised concerns in relation to the right to freedom of movement as the list of defences or excuses to the proposed offence is relatively narrow. For example, it is not a defence to visit friends, transact business, retrieve personal property, attend to personal or financial affairs or to undertake a religious pilgrimage. While it is a defence to be 'making a news report,' this is only the case if the person is 'working in a professional capacity as a journalist'. Accordingly, there appear to be a number of innocent reasons why a person might enter or remain in a declared zone, but that would not bring a person within the scope of the sole legitimate purpose defence. The report therefore concludes that the declared area offence provision, as currently drafted, is likely to be incompatible with human rights.

More significantly, though, the right to freedom of expression, also known as free speech, is a foundational principle of our democracy and is protected by article 19 of the International Covenant on Civil and Political Rights. The committee is of the view that a number of measures in the bill engage this fundamental human right or civil liberty. The ASIO special powers regime allows ASIO under a questioning and detention warrant to request the detention of a nonsuspect for the purpose of intelligence gathering. For two years after the expiry of a warrant, it is an offence for an individual to disclose operational information or information which is broadly related to the warrant. This restricts the ability of the media to report on the use of these warrants. The bill would extend the special warrant regime.

The control order regime may be applied because of things a person has said rather than things they have done. It also enables a person subject to a control order to be prohibited from talking to particular persons including the media. This bill extends this control order regime.

The preventative detention order regime may also be applied because of things a person has said rather than things a person has done. The bill would extend this regime.

Extension of stop, question, search and seizure powers may be used to disrupt protest activities through the use of 'declared area' powers which would enable the police to stop, question and search people in the declared area without reasonable suspicion that an individual has committed any offence.

With regard to advocating terrorism the bill proposes a new offence of advocating terrorism. The offence would be made out where a person: (a) advocates the doing of a terrorist act or a terrorism offence; and (b) is reckless as to whether another person will engage in that conduct as a result. The offence would be punishable by a maximum of five years imprisonment. The report notes the committee's concern that the offence, as drafted, may result in the criminalisation of speech and expression that does not advocate the commission of a terrorist act or terrorism offence. This is because the proposed offence would require only that a person is 'reckless' as to whether their words will cause another person to engage in terrorism (rather than the person 'intends' that this be the case).

It is not the ambition of this committee to be inconvenient to the desire and duty of governments to protect citizens from the harm of others and the deliberate evils of terrorism.
But the scrutiny role of this committee in the Senate must always be to shine a light on real and possible breaches of those fundamental rights and liberties—the right to freedom from arbitrary detention, the right to freedom of movement, the right to a fair trial and the presumption of innocence, the right to privacy and the rights to freedom of expression and association. *(Time expired)*

Question agreed to.

**Foreign Affairs, Defence and Trade Joint Committee**

**Report**

**Senator O'SULLIVAN** (Queensland—Nationals Whip in the Senate) (17:28): Mr Acting Deputy President, I seek leave to incorporate into *Hansard* a speech of Senator Fawcett, Chair of the Defence Subcommittee, that was meant to have been delivered at the time the Joint Standing Committee report on Foreign Affairs and Trade was tabled.

Leave granted.

*The speech read as follows—*

**REVIEW OF THE DEFENCE ANNUAL REPORT 2012-13**

Mr President, on behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I have pleasure in presenting the Committee's first report for the 44th Parliament, entitled *Review of the Defence Annual Report 2012-13*.

The Review of the Defence Annual Report is an important oversight activity. It provides an opportunity for the Defence Subcommittee of the Joint Standing Committee to inquire into a broad range of Defence issues as part of the process of accountability of Government agencies to Parliament. The Subcommittee considers this to be a key part of its role.

The Subcommittee resolved to focus on five main areas for its review:

- Asset management and Capital Investment Programs;
- Defence Cooperation Program;
- Naval combat capabilities;
- Air combat capability; and

The Subcommittee heard from Defence officials at a public hearing held on the 6th of June. It also received evidence from the Australian Strategic Policy Institute, and two industry participants, ClinetiQ and Nova Systems.

As part of its review, the Subcommittee considered Defence estate issues, including the cost pressures associated with the maintenance of heritage listed buildings. The Committee recommends Government should review the process by which Defence properties are placed on the Commonwealth Heritage List and how their maintenance is funded.

The Subcommittee also considered the efficacy of Defence contracts to ensure that SMEs are paid in a timely manner by prime contractors. Based on evidence received, the Committee recommends that Government should review its contract templates and procurement processes.

The Subcommittee considered the scope of the Defence Cooperation Program and options for a Whole of Government approach to supporting regional partners. Noting the complexities of achieving a structured and coordinated regional security effect, the Committee commends Defence on the development of a future framework in the Pacific. However, Australia needs to ensure it is achieving
value for money with the Defence Cooperation Program, and specifically, the Pacific Patrol Boats Program.

Mr President, during the course of the review, it became apparent that, despite some positive developments, Defence's approach to capability management remains fragmented. There does not appear to be a single contiguous system which Defence can use to conduct capability-assurance from definition, through acquisition and service-life, to disposal.

The Committee believes that the introduction of such a system, potentially managed by the Vice Chief of the Defence Force, would increase transparency and enhance oversight by Government and the Parliament of capability management by Defence.

That being said, it was pleasing to see positive outcomes arising from the SEA 1000 industry Integrated Project Team - a working group made up of Defence and industry experts who are developing the design brief for the new submarines and examining potential industries able to execute such a project. The Committee encourages the further development of this initiative, along with transparent communication of the team's views to Government.

The Committee believes that expertise within the private sector could be leveraged for all stages of the capability development life cycle. Rather than contracting for specific packets of work, greater benefit could be gained by entering into a teaming arrangement as part of a whole-of-life approach to identifying and managing risk.

The Committee is also concerned by the lack of detail in the Defence Annual Report on the progress of implementation of all the Coles review recommendations relating to the Collins Class submarines. This is something that needs to be expanded upon in future Defence annual reports.

Mr President, it is disappointing to note that the Committee is still awaiting a response from Defence to the recommendations of its previous Defence Annual Report review, which was tabled in June last year. The Committee hopes to receive a response to its previous review shortly.

The Committee acknowledges the dedication and commitment of the servicemen and women of the Australian Defence Force and commends them on the outstanding service they provide to the nation. The Committee also recognises that the members of the ADF are supported by an enduring network of families, friends and loved ones and to these people we give our thanks.

Finally, the Committee notes the loss of Lance Corporal Todd Chidgey during 2014. Our deepest condolences and thoughts are extended to his family and friends.

Mr President, I commend the report to the Senate.

Senator O'SULLIVAN: I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**Constitutional Recognition of ATSIP Report**

**Senator PERIS** (Northern Territory) (17:29): On behalf of the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples, I present a progress report, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the reports be printed.

**Senator PERIS**: I move:

That the Senate take note of the report.

The chair of the committee, Mr Ken Wyatt, and the shadow minister for Indigenous affairs, Shayne Neumann, spoke yesterday in the House of Representatives to outline and discuss the
progress report. I too will emphasise what the report and progress is about. It should be noted that there has been a long journey and process leading up to the tabling of this progress report. It is another big step forward. We should realise that the real journey has only just begun.

The campaign to recognise Aboriginal and Torres Strait Islander peoples in our Constitution is an important one, not just for the first people but for all Australians. Ultimately, this is an opportunity for all Australians to celebrate, to unite and to add more than 40,000 years to our nation's history. It is about being inclusive, not exclusive, and it is something we should all get behind. This report clearly states that we must do all we can to ensure the campaign and message is clearly delivered to all Australians. It is imperative that we are all behind the journey towards constitutional recognition.

Only 47 years ago, less than a lifetime, back in 1967, the Australian government ran a referendum to change the Constitution to give Aboriginal people the right to vote. We can all take heart that this referendum was overwhelmingly endorsed by Australians, winning 90.77 per cent of votes and carrying in all six states. We need to rebuild that momentum from 1967. We need to inspire, engage with and reach out to all Australians on what we are trying to achieve. We need to right a wrong, and that will only be realised with the support of all Australians.

The report contains three options for recognising Aboriginal and Torres Strait Islander peoples in the Australian Constitution. I am very pleased to say that all three options deal with issues of discrimination. This is a win for common sense. It is a win for all Australians, not just Aboriginal and Torres Strait Islanders.

A few months ago when I tabled the interim report I stated in this house that I had grave concerns with the path to constitutional recognition when the government had plans to weaken the provisions to the Racial Discrimination Act. With those plans now scrapped, I believe the pathway towards achieving recognition is one step closer. This has been reinforced by three key recommendations of the report, which all recommend removing references to race.

As an Aboriginal woman, this constitutional change is incredibly important to me and to all Aboriginal and Torres Strait Islander Australians. I say to you that I will never tire in my pursuit to do all that I can to ensure that the voices of Aboriginal Australians are heard. We must now ensure that we put every effort into encouraging all Australians to be part of this process and to vote 'yes' for constitutional recognition of Aboriginal and Torres Strait Islander Australians.

In my role as an Aboriginal member of this parliament, I am honoured to be in a position to advocate for recognition on behalf of all Aboriginal people and the Australian Labor Party. I reiterate that Australia does not lose 226 years of history; it gains 40,000 years of history.

The committee is now calling for submissions on steps towards a successful referendum, including the wording of a proposal, and on mechanisms to build community engagement. This committee will hold more public hearings around Australia in the months ahead. I seek leave to continue my remarks later.

Leave granted.

Senator McKENZIE (Victoria) (17:33): I, too, rise to speak to the tabling of the progress report of the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres
Strait Islander Peoples. As a member of the committee I would like to commend the deputy chair for her work, and particularly the chair, as they have been quite diligent in consulting widely right around Australia, often on the committee's behalf. It has been fabulous. I would like to thank the co-members of our committee, who have been a real pleasure to work with. I hope the spirit in which all parties and senators and members have approached the very hard work of this particular committee and report, and in getting everybody's finger on the page, is symbolic of the greater task before all of us as we head out into our communities and beyond to engage, initiate, drive and facilitate the conversation in our community so that Australians are fully informed as they head towards a referendum.

There is going to be difficulty—historical and cultural difficulty—for Australia in achieving constitutional change. And there is a need to ensure that any change is overwhelmingly supported by Aboriginal and Torres Strait Islander people. I think the broader Australian community needs to see that in order to be able to fully engage with the conversation.

I am really proud of recommendation one. It says what should be done and it should be at the heart of any discussion and debate on changes to our founding document. Recommendation one states:

The committee recommends that each House of Parliament set aside a full day of sittings to debate concurrently recommendations of the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples as set out in this report with a view to achieving near-unanimous parliamentary support for and building momentum towards a referendum to recognise Aboriginal and Torres Strait Islander peoples in the Constitution.

I think that is going to be a fascinating debate—to have all Australian people, through the lower house, and all states, through the Senate, discussing and debating the options that our committee has set out for ways that we may achieve constitutional recognition of Aboriginal and Torres Strait Islanders. I think this is the appropriate way to approach the issue. So I would like to thank our co-members and the chair, particularly, for his leadership. I seek leave to continue my remarks later.

Leave granted.

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:36): I rise to also take note of this progress report of the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples. In rising I would also like to acknowledge and to again express what a pleasure it is to work with the committee in trying to progress this issue, because everybody is interested in achieving constitutional recognition. I would also like to thank the secretariat, who have again put in effort above and beyond the call of duty and have contributed very significantly to the progress report and to the outcomes.

One of the important issues we are dealing with in constitutional recognition is that generally most Australians are, in theory, supportive of the concept of constitutional recognition. RECOGNISE has been out there talking to people about constitutional recognition. But what the committee has found when we are out there talking to people is that they have been consulted by the expert panel, they have engaged with RECOGNISE and they have engaged with the joint parliamentary select committee, but there has been no forward progress in terms of what the consultation is about. The expert panel went out and asked them what they thought, they drafted up a report and a lot of people see that there has been little
progress. I am not saying that in a negative way, but there has been little progress in determining what the question is—what are we going to ask Australia to support in a referendum? Of course, I am coming from the perspective that I want them to give a great big tick to constitutional recognition, but, I have always said, in a substantive way. When the committee has gone out again to talk to people they have said, ‘What's the proposition?’ This committee report gives people a thing to grab hold of and talk about. What are the options that you favour? Option 1 is the one that is closest to the expert panel's recommendations, and it contains what I would suggest are the substantive bits of the expert panel recommendations without, very notably, the language provision, 127. Option 2 does not go as far as option 1, and option 3 is a significantly different proposition that, as Senator Peris articulated, still takes out the reference to race in section 51(xxvi).

I must admit, without pre-empting the debate, that I am really joining Senator McKenzie in very strongly advocating the debate in both houses of parliament. I must say that, in terms of option 3, I would be really disappointed if we did not have those beautiful words in that the expert panel recommends, in terms of recognising that the continent and its islands now known as Australia were first occupied by Aboriginal and Torres Strait Islander peoples, acknowledging the continuing relationship of those peoples with their traditional lands and waters and the continuing cultures, languages and heritage of Aboriginal peoples. I think these are really strong sentiments, and I would really like to see them in our Constitution. However, one of the key recommendations that the committee also makes in this report, and one that I think is really important, is that this place—both the House of Representatives and the Senate—should talk about this in a really substantive way, and that we put aside time to do that. I think that what Australians are looking for is some leadership from their leaders in this place. If we cannot sit and talk about the options that are on the table—to sit down and have a substantive discussion about it—how can we expect the rest of Australia to engage in what would be the question? So I very strongly support the recommendations here, and urge people to engage with recommendation 1.

I hope the government, in a timely manner—and I am not saying they are not going to—takes this on board and makes sure that we fit into our calendar this discussion around these options, because it will enable the members and senators to engage in this discussion. What it should also do is to provoke them, before that discussion happens, to go out and talk to their constituents—what do their constituents see for constitutional recognition? What would they like to see in the Constitution? I am also hoping it will engage them in the desire and support for constitutional recognition. So it will have that two-fold effect of engaging people and encouraging people to engage and support constitutional recognition. But, very importantly: what is the question that they want to see in a referendum?

The other two recommendations are further articulating the proposition that the joint select committee made public comment about, which is that the referendum to change the Constitution should take place at or shortly after the next election in 2016. Recommendation 7, which I think is very important, is the recommendation that the Aboriginal and Torres Strait Islander Peoples Recognition Act 2013 should be extended to align with the timing of a referendum. It was the review panel that recommended to the government, not long ago, this year, that they need to pay attention to that act because it does sunset next year, and we would hate to see that act sunset before we got to a constitutional referendum. So again I hope that
the government can take that on board and make sure that we do extend that act while we continue this community discussion around constitutional recognition of Aboriginal and Torres Strait Islander peoples.

I am not pretending that constitutional recognition will suddenly fix and address the issues around the substantive disadvantage and the discrimination that Aboriginal peoples have faced over the period since occupation of Australia occurred. But I do see it as a very, very important step towards reconciliation and in continuing the addressing of the injustices that Aboriginal and Torres Strait Islander peoples have suffered since the occupation of Australia. As I said, it is not the answer, but it is a substantial step towards it. But we cannot afford to get it wrong. We cannot afford to go with a question that does not meet people's needs and, in particular, support of Aboriginal and Torres Strait Islander peoples. But we cannot afford, certainly in my opinion and I know in the Greens' opinion, to get this wrong. We need to get it right. So we need to invest the time, which is why it is so important that this place does debate these issues and does debate these options to have a look at what this country could support. I commend the report to the Senate.

I thank the members of the committee, in particular the chair, Mr Ken Wyatt, and Senator Peris, the deputy chair, who put so much effort into leading and making sure that we got this progress report done. I look forward to the contributions and the debates that we are going to have in this place in the very near future. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Foreign Affairs, Defence and Trade Joint Committee

Law Enforcement Committee

Government Response to Report

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (17:45): I present two government responses to committee reports as listed on today's Order of Business. In accordance with the usual practice, I seek leave to have the documents incorporated in Hansard.

Leave granted.

The documents read as follows—


Introduction


Information about Australia's Response to Human Trafficking and Slavery

Australia has been a party to the United Nations Convention against Transnational Organized Crime since 2004, and to its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children since 2005.

The Australian Government takes a comprehensive, whole-of-government approach to combating human trafficking and slavery. Australia is committed to working with other governments domestically
and internationally, and with intergovernmental and non-government organisations, to prevent human trafficking and slavery, prosecute the perpetrators, and protect and support the victims.

Since the establishment of Australia's strategy to combat human trafficking and slavery in 2003, the Australian Government has provided more than $150 million to support a range of domestic, regional and international anti-trafficking initiatives. Key measures include:

- specialist teams within the Australian Federal Police to investigate human trafficking and slavery matters, and an Australian Policing Strategy to Combat Trafficking in Persons
- legislation to criminalise human trafficking, slavery and slavery-like practices, including forced labour and forced marriage
- legislation to protect vulnerable witnesses giving evidence in Commonwealth criminal proceedings, including victims of human trafficking, slavery and slavery-like offences
- support for the Commonwealth Director of Public Prosecutions to prosecute human trafficking and slavery-related matters, including funding and training
- a victim support program which provides individualised case management support
- visa arrangements to enable suspected victims and witnesses of human trafficking and slavery to remain in Australia and support the investigation and prosecution of offences
- specialist immigration officers posted in Thailand, China and the Philippines, who focus on human trafficking issues and aim to prevent trafficking in source countries
- regional engagement in the Asia-Pacific on human trafficking issues through the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime
- regional activities to deter human trafficking and slavery, train law enforcement officials, and assist victims under Australia's overseas aid program, and
- national and regional research by the Australian Institute of Criminology.

Australia's response to human trafficking and slavery has provided support to victims of sexual exploitation and other forms of exploitative labour, and has seen the successful prosecution and conviction of a number of perpetrators. Information on the Australian Government's initiatives to combat human trafficking and slavery is available at <www.ag.gov.au/humantrafficking>.

Note on Terminology
In this document, 'human trafficking and slavery' is used as a general term that encompasses slavery-like practices including servitude, forced labour, deceptive recruiting for labour or services, debt bondage and forced marriage.

Recommendation 1
The Committee recommends that the Department of Immigration and Citizenship, in conjunction with the Interdepartmental Committee on Human Trafficking and Slavery and relevant non-government organisations, develop a fact sheet to provide visa applicants appropriate information on their rights as part of the visa application process. The information should be available in the visa applicant's language.

The Australian Government accepts this recommendation in part. The Australian Government is committed to the continual improvement of Australia's strategy to combat human trafficking and slavery and is exploring means of raising awareness among non-citizens of their rights and protections. Given the extent of information currently available, the Australian Government does not propose to develop a factsheet on rights for all visa applicants.

However, the Australian Government recognises that certain categories of visa holders may be particularly vulnerable to exploitation. The Australian Government is actively working to address these
specific vulnerabilities, including through the development of a *National Action Plan to Combat Human Trafficking and Slavery*. The National Action Plan will cover a five year period and will include specific action items seeking to prevent and address the exploitation of vulnerable groups, such as migrant workers. The National Action Plan will also be accompanied by a revised Communications Awareness Strategy which will include specific materials for categories of visa holders considered vulnerable to exploitation. These materials will provide information about workers’ rights and will be distributed in relevant community languages where appropriate.

Other targeted resources developed by the Australian Government to assist visa applicants to understand their rights include online factsheets for foreign workers, subclass 457 visa holders and international students, as well as the website *Study in Australia*. These resources provide information to foreign workers, subclass 457 visa holders and student visa holders about their workplace rights in Australia and are available in several community languages. The factsheets can be accessed online at <http://www.fairwork.gov.au/resources/fact-sheets/workplace-rights/pages/default.aspx>. The *Study in Australia* website address is <http://www.studyinaustralia.gov.au/>. The Australian Government has also developed information about forced marriage issues to be included in the Partner Migration Booklet.

**Recommendation 2**

The Committee recommends that the Australian Government continue to use international mechanisms including, but not limited to, the United Nations Human Rights Council's Universal Periodic Review to combat people trafficking.

The Australian Government accepts this recommendation and will continue to use appropriate international mechanisms, including the Human Rights Council's Universal Periodic Review process, to build international support to help combat human trafficking and slavery.

**Recommendation 3**

The Committee recommends that the Australian Government negotiate re-funding of contracts for non-government organisations one year ahead of the current contracts' conclusion.

The Australian Government accepts this recommendation in part.

The not-for-profit sector in Australia is heavily engaged in responding to human trafficking and slavery and plays a vital role in Australia's strategy to combat these crimes.

The Support for Trafficked People Program (Support Program) is an Australian Government program administered by the Department of Social Services (DSS) and delivered by Australian Red Cross under a funding agreement with DSS. The current funding agreement commenced on 1 July 2012 and will cease on 30 June 2015. DSS manages its funding agreements in line with the principles and requirements of the Commonwealth Grant Guidelines. Future funding arrangements in relation to the Support Program will be a decision for government.

The Australian Government also funds non-government organisations (NGOs) to undertake specific anti-trafficking projects under the *Proceeds of Crime Act 2002* (POCA). This funding is committed under section 298 of the POCA and is sourced from the Confiscated Assets Account, using assets and other money confiscated under the POCA. POCA funding is not available on an ongoing basis and is generally provided for specific projects through competitive and transparent grants processes. Due to the nature and source of this funding, it is not possible for these contracts to be renegotiated.

In addition, the Australian Government also provides grant funding to NGOs through the Department of Foreign Affairs and Trade (DFAT). Funding from DFAT is available through the following mechanisms:

(a) the provision of core funding to support the day-to-day work and ongoing activities of organisations,
(b) the provision of activity based funding for specific activities. This type of funding generally includes a specific set of activities and the associated expected outcomes, as well as a defined activity budget to report and acquit against, and

(c) the provision of program based funding with other donors (joint donor program funding). This type of funding also includes a specific set of activities for the program, and a defined budget for reporting against.

Due to the nature of this funding, it is normally not possible for DFAT to negotiate refinancing of these contracts. Core funding is provided by DFAT where it identifies a shared value and it promotes the government and program's aid agenda. Core funding supports not-for-profit organisations to undertake their work so no contract extensions are required. NGOs can also apply for grant funding from DFAT themselves for support of a specific activity; and they can also be invited to apply for grant funding in competitive grant processes DFAT runs. A defined activity grant/s with a set budget and timeframe will be the result of this process. For activity grant funding, the activity occurs over an agreed time frame, so extending the agreement one year before it ends would not normally be required. If any extensions are needed to complete activities they would be granted for minimal time to ensure outcomes are obtained, with appropriate approvals.

Recommendation 4

The Committee recommends that suspected victims of trafficking be provided an initial automatic reflection period of 45 days, with relevant agencies given the capability to grant two further extensions of 45 days if required. In addition, the suspected victims of trafficking should be provided appropriate support services through the Support for Trafficked People Program.

The Australian Government accepts this recommendation in part.

All eligible victims of human trafficking and slavery may be referred to the Support for Trafficked People Program (Support Program) by the Australian Federal Police (AFP). Eligibility for the Support Program is determined by the AFP and is based on whether a person is suspected of being a victim of a human trafficking, slavery or slavery-like offence under Division 270 or 271 of the Commonwealth Criminal Code Act 1995. Additionally, the victim must be an Australian citizen or else hold a valid visa. If the victim does not hold a valid visa, a Bridging F visa (BVF) may be obtained under the Human Trafficking Visa Framework.

The Support Program provides individualised, case managed assistance to access a range of support services, including suitable accommodation that meets the AFP's security requirements; financial support; medical treatment and counselling; legal and migration advice; and social support. The Support Program is administered by the Department of Social Services (DSS) and delivered by Australian Red Cross under a funding agreement with DSS.

The Australian Government notes that an initial, automatic period of 45 days' reflection and intensive support is provided through the Assessment Stream of the Support Program to all eligible victims of human trafficking or slavery, regardless of whether they are willing or able to assist police. The Extended Assessment Stream, which provides access to a further 45 days' intensive support, may be offered to victims who are willing, but unable, to assist police, due to reasons including ill health or trauma. Longer-term support for victims who are willing and able to assist police is available through the Justice Support Stream of the Support Program.

Under the Human Trafficking Visa Framework (Visa Framework), suspected victims who are not Australian citizens and do not already have a valid visa can be granted a BVF. A BVF is valid for up to 45 days and enables suspected victims without a valid visa to access the Assessment Stream of the Support Program. Suspected victims who are willing, but unable for such reasons as ill health or trauma, to assist police may be granted a BVF for an additional 45 days to enable access to the Extended Assessment Stream. The offer of a second BVF is considered on a case-by-case basis. Victims on the Justice Support Stream may be granted a Criminal Justice Stay visa to allow them to
remain in Australia for the duration of the criminal justice process. A Witness Protection (Trafficking) (Permanent) visa (WPTV) may be offered to allow a victim, and their immediate family members, to remain permanently in Australia if they have made a contribution to an investigation or prosecution and would be in danger if returned home.

The Australian Government is committed to the continuous improvement of the Support Program and Visa Framework with the aim of creating a flexible, victim-focused response that meets the individual needs of each victim. The Operational Working Group (OWG), which is comprised of the AFP, the Attorney-General’s Department (AGD), the Office of the Commonwealth Director of Public Prosecutions, DSS, and the Department of Immigration and Border Protection (DIBP), continues to explore ideas for the enhancement of Australia's strategy to combat human trafficking and slavery.

Following the passage of the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act on 27 February 2013, members of the OWG agreed it would be appropriate to consider whether the Support Program and Visa Framework continue to be sufficiently flexible and responsive to meet the needs of victims. AGD and DIBP are currently examining the structure and operation of the Visa Framework, and will give consideration to the appropriateness of granting two 45 day extensions as part of that process. DSS will be consulted in respect of any potential changes to the Support Program.

Since their establishment in 2004, significant enhancements have been made to the Support Program and Visa Framework in response to community sector feedback. In particular, a number of changes were made in 2009 following extensive consultation with the community. The changes, which are in line with international best practice and the UN High Commissioner for Human Rights' Recommended Principles and Guidelines on Human Rights and Human Trafficking, include:

- enabling identified suspected victims of human trafficking and slavery who are unlawful non-citizens to access the BVF irrespective of whether they are assisting police, and extending the validity of that visa from 30 days to 45 days
- increasing the initial period of support under the Support Program from 30 to 45 days
- allowing for the grant of a second BVF and extended period of initial support for victims who are willing, but unable, to assist with an investigation or prosecution
- reducing the WPTV process from two stages to one stage by removing the Witness Protection (Trafficking) (Temporary) visa
- including offshore immediate family members in the offer of a WPTV
- lowering the certification threshold for the Attorney-General to issue a Witness Protection (Trafficking) certificate from a 'significant contribution' to a 'contribution', and
- providing an additional 20 days of transitional support for all victims as they leave the Support Program.

Recommendation 5

The Committee recommends that the Australian Government consider Recommendation 3 of the Senate Legal and Constitutional Affairs report on the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012, having regard to the need to ensure that even if assistance does not lead to a conviction, it is still substantial in terms of giving assistance to authorities.

The Australian Government accepts this recommendation in part.

Recommendation 3 of the Senate Legal and Constitutional Affairs report recommended that the Australian Government review the Human Trafficking Visa Framework (Visa Framework) and the Support for Trafficked People Program (Support Program). The Senate Legal and Constitutional Affairs report also recommended that the Australian Government consider establishing an ongoing visa and
access to a victim support mechanism that is not conditional on a victim of human trafficking or slavery providing assistance in the criminal justice process.

The Australian Government has considered Recommendation 3 of the Senate Legal and Constitutional Affairs report on the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012. While the Australian Government does not intend to formally review the Visa Framework and the Support Program at this time, the Australian Government is committed to the continuous improvement of Australia's strategy to combat human trafficking and slavery. Following the passage of the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act on 27 February 2013, members of the Operational Working Group, which is comprised of the Australian Federal Police, the Attorney-General's Department (AGD), the Office of the Commonwealth Director of Public Prosecutions, the Department of Social Services, and the Department of Immigration and Border Protection (DIBP), agreed it would be appropriate to consider whether the Support Program and Visa Framework continue to be sufficiently flexible and responsive to meet the needs of victims. AGD and DIBP are currently examining the structure and operation of the Visa Framework as part of this process.

The Australian Government notes the Senate Legal and Constitutional Affairs Committee's recommendation to consider establishing an ongoing visa and access to a victim support mechanism that is not conditional on a victim of human trafficking and slavery providing assistance in the criminal justice process. The Visa Framework and the Support Program are designed to ensure a balance between victim welfare and criminal justice processes. Prosecutions for human trafficking, slavery and slavery-like offences rely heavily on witness assistance and testimony, and the complete de-linking of witness assistance and visa provisions from the criminal justice framework may affect the success of human trafficking and slavery related prosecutions. The Visa Framework is designed to protect and support victims of human trafficking and slavery before, during and after the criminal justice process. Other support, migration and visa options may be available to victims of human trafficking and slavery who do not wish to provide assistance to authorities.

The Australian Government also notes the Committee's comment about the need to ensure that even if assistance does not lead to a conviction, it is still substantial in terms of giving assistance to authorities. Under the Visa Framework, a victim of human trafficking or slavery may be invited to apply for a Witness Protection (Trafficking) (Permanent) visa (WPTV) to allow them, and their immediate family members, to remain permanently in Australia if they have made a contribution to an investigation or prosecution and would be in danger if returned home. A WPTV can only be granted to a victim of human trafficking or slavery if the conditions specified in regulation 2.07AK of the Migration Regulations 1994 are met. One of the conditions is that the Attorney-General, or a person authorised by the Attorney-General, must have issued a Witness Protection (Trafficking) certificate (WPTC) to the effect that the victim has made a contribution to and cooperated closely with an investigation or prosecution into alleged human trafficking or slavery offences (whether or not a conviction is obtained). The Australian Federal Police must provide a detailed assessment of a victim's contribution to the Attorney-General's Department before a WPTC is issued. The role of the Attorney-General in this process ensures that the assessment of the victim's contribution is independent and impartial. The Australian Government also notes that applications for a WPTV may only be made after an invitation to do so from DIBP. These controls contribute to the integrity of the WPTV process.

Recommendation 6

The Committee recommends that the Australian Government further investigate the establishment of a federal compensation scheme for proven victims of slavery and people trafficking. The compensation fund should be funded by persons convicted of these crimes. The Committee also recommends that the Australian Government review the current rates of compensation.

The Australian Government accepts this recommendation in principle.
While the Australian Government does not intend to establish a federal compensation scheme for victims of human trafficking and slavery at this time, it continually monitors and reviews Australia's strategy to combat human trafficking and slavery, including to ensure that it meets the needs of victims. The Australian Government notes that the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children states that each Party shall 'ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered'. Under Australia's domestic legal system, compensation for victims of crime is generally a matter for States and Territories. Each State and Territory has a victims' compensation scheme, which may be available to victims of human trafficking and slavery. A number of victims have accessed compensation from these State and Territory schemes.

By contrast to the State and Territory victims' compensation schemes, a reparation order is made by a judicial officer when sentencing an offender. A reparation order is in addition to the sentence imposed and is enforced by way of a civil action such as the seizure and sale of property, registration of a charge on land, or garnishing of wages.

The Australian Government notes that reparation orders for victims of human trafficking and slavery may be made under the Crimes Act 1914 (Crimes Act). Under Section 21B of the Crimes Act, the Court may order a person convicted of a Commonwealth offence to make reparation to a victim for any loss suffered, or any expense incurred, by the victim by reason of the offence. Reparation orders may be made in connection with Commonwealth offences including those under Division 270 (Slavery and slavery-like conditions) and Division 271 (Trafficking in persons and debt bondage) of the Criminal Code Act 1995.

Recommendation 7
The Committee recommends that the Australian Government, in consultation with relevant stakeholders, undertake a review to establish anti-trafficking and anti-slavery mechanisms appropriate for the Australian context. The review should be conducted with a view to:

- introducing legislation to improve transparency in supply chains;
- the development of a labelling and certification strategy for products and services that have been produced ethically; and
- increasing the prominence of fair trade in Australia.

The Australian Government accepts this recommendation in principle. The Australian Government continually reviews Australia's strategy to combat human trafficking and slavery to ensure that existing anti-trafficking mechanisms are appropriate for the Australian context. As part of this process, the Australian Government is working collaboratively with relevant stakeholders to consider ways to combat exploitation in supply chains.

The Australian Government recognises it is a significant contributor to the national economy and has an important role to play in leading by example with respect to ethical procurement. In 2013, the Attorney-General's Department (AGD) and Department of Finance, which is responsible for the Commonwealth Procurement Rules, focused on raising awareness of indicators of exploitation in supply chains, including by creating an ethical procurement fact sheet for Commonwealth Government procurement officers and updating relevant internet-based procurement guidance materials.

The Australian Government has established a Supply Chains Working Group to examine ways to address human trafficking and related exploitative practices in supply chains. The Supply Chains Working Group is a subset of the National Roundtable on Human Trafficking and Slavery and is chaired by AGD. Working Group participants are expected to include representatives from government, peak industry bodies, business, unions, academic practitioners and other non-government organisations.
The Australian Government is also aware of a number of overseas initiatives to address exploitation in product supply chains, including the development of legislative mechanisms. The Australian Government will continue to closely monitor the effectiveness of these initiatives.

**Recommendation 8**

The Committee recommends that the Australian Government utilise the UK Internet Watch Foundation's URL list to block access to child abuse sites in Australia.

The Australian Government notes this recommendation.

The Australian Government has always maintained there is no place in society for child abuse material. The *Broadcasting Services Act 1992* sets in place clear legal mechanisms for the Australian Communications and Media Authority (ACMA) to investigate and enforce the rapid take-down of child abuse content hosted in Australia. The United Kingdom's Internet Watch Foundation (IWF) notes that the ACMA '… operates under a highly-developed regulatory scheme that enables take-down of illegal content within very short timeframes—with an impressive 100 per cent compliance from industry.'

However, over 99 per cent of online child abuse content investigated by the ACMA is hosted outside Australia. The ACMA is unable to enforce the take-down of such content. This is why the ACMA is a member of the International Association of Internet Hotlines (INHOPE), which represents 44 internet hotlines globally, including the IWF. INHOPE acts as a 'fast lane' across international borders to support rapid law enforcement and Internet Service Provider (ISP) action in the host country. The ACMA is the member agency for Australia and administers an online reporting mechanism through which the public—and law enforcement—can lodge complaints (www.acma.gov.au/hotline). In this context, the ACMA has a long-established and highly effective relationship with the IWF and other INHOPE members, with regular exchanges of information taking place. For example, in February 2012, collaboration between the ACMA, the IWF, and the Queensland Police led to the arrest of a man in Molendinar, Queensland.

The Australian Federal Police (AFP) and the ACMA operate within the terms of a Memorandum of Understanding governing arrangements related to notifications of prohibited or potential prohibited online content of a serious nature.

In an additional effort to tackle overseas-hosted child abuse content, the Government announced on 9 November 2012 that Australia's major ISPs will block content on the INTERPOL "Worst of" list under an arrangement with the AFP. The AFP is working with the ISP community to see wider implementation of this blocking. The INTERPOL list is a highly reputable, targeted list compiled with the assistance of law enforcement agencies globally and assessed by two independent INTERPOL member agencies. It operates by blocking content that it is a criminal offence in Australia to produce, access, possess or distribute, at a domain level and thereby captures all URLs made available through the identified domain. This is an effective method for ISPs to block illegal content, pursuant to Australian law, which is often hidden or moved within a domain to avoid detection. In April 2013 there were approximately 1200 domains on the INTERPOL list. This number will change significantly as domains are added or removed. By comparison, the IWF list typically holds between 500—800 URLs at any one time.

A primary purpose of the INTERPOL list is crime prevention. INTERPOL, in conjunction with other relevant law enforcement agencies, investigates all content that is lodged on the list. The AFP considers that blocking the INTERPOL list is an effective strategy to disrupt the distribution of child abuse material, including via commercial operators. The AFP will continue to monitor the effectiveness of the blocking, with particular regard to comparable international approaches.
The Australian Government notes that, following machinery of government changes, on 18 September 2013 the Department of Immigration and Citizenship became the Department of Immigration and Border Protection.

Fred Langford, Director for IWF: International, Correspondence providing comment on draft case study, 8 August 2012.

Australian Government Response To The Parliamentary Joint Committee On Law Enforcement's Inquiry Into The Gathering And Use Of Criminal Intelligence

On 15 May 2013, the Parliamentary Joint Committee on Law Enforcement (PJC-LE) handed down the report on its Inquiry into the gathering and use of criminal intelligence.

The Government thanks the PJC-LE for its comprehensive examination of the gathering and use of criminal intelligence in Australia. The Government has agreed to six of the Committee's 12 recommendations, either in whole or in principle.

Overview

Combatting serious and organised crime is a key priority for this Government. Serious and organised crime is complex, global and ever-changing. The impacts are significant, and the harms are felt throughout Australia. It is imperative that the strategy for combating serious and organised crime is collaborative, robust and puts to use all powers available to government. The development of consistent national criminal intelligence capabilities, enabling improved intelligence sharing between agencies and across jurisdictions and ensuring access to timely, accurate and relevant intelligence about criminal groups and activities, are key components to improving the response to serious and organised crime.

Criminal intelligence guides the actions of law enforcement and regulatory agencies and assists in developing policy responses and should be treated as a national asset. It is vital that law enforcement, intelligence, national security, policy and regulatory agencies collaborate and securely share intelligence.

In recent years, there has been substantial progress in improving intelligence, data and information sharing arrangements in Australia. This includes improving legislative provisions that relate to information sharing, such as the amendments made to the Australian Crime Commission Act 2002 which allows the ACC to share information with private sector bodies in certain circumstances, as well as participation in ongoing cross-jurisdictional information sharing arrangements such as police-to-police partnerships and national taskforces.

The Australian Criminal Intelligence Model (ACIM) represents an important step forward in the development of a more effective and efficient national criminal intelligence landscape. The Australian Criminal Intelligence Forum (ACIF) brings together heads of intelligence and law enforcement agencies across all jurisdictions, including a representative from the national security community, CrimTrac and the Australian and New Zealand Policing Advisory Agency (ANZPAA) to oversight implementation of the ACIM framework and to provide the mechanisms to harness and share Australia's intelligence assets. The ACIM provides a framework to support a whole-of-enterprise approach to intelligence capability management.

The Government supports the implementation of the ACIM, as a framework of guiding principles to enable agencies to better exploit and manage criminal intelligence. As a national framework of capabilities, including those relating to people and skills, technology and processes, policies and legislation, the ACIM will facilitate better information sharing across agencies, including law enforcement, policy and regulatory agencies.
The successful implementation of the ACIM will enhance partnerships between policing, law enforcement, regulatory and national security agencies, ensure those agencies have the technical capabilities to most effectively utilise intelligence holdings, and create consistent national standards for intelligence practitioners.

The ACIM establishes a national benchmark for facilitating the flow of criminal intelligence based on consistent standards, processes and protocols for the management of criminal intelligence nationally. Implementing the ACIM will result in more consistent, coordinated and collaborative collection and use of criminal intelligence, which in turn will build the national understanding of serious and organised crime.

Response to Committee Recommendations

Recommendation 1

The committee recommends that the Australian Crime Commission and the Australian Federal Police provide it with a detailed report on the findings and recommendations of the Australian Criminal Intelligence Database (ACID) and Australian Law Enforcement Intelligence Network (ALEIN) scoping study, National Information and Intelligence Needs Analysis, and assessment of the AFP's Project Spectrum. The report should provide details on:

- the recommendations regarding ACID and ALEIN and how they will be implemented including a timeframe;
- the outcome of the National Information and Intelligence Needs Analysis;
- the assessment of the AFP's Spectrum Program; and
- how the recommendations of each respective review and assessment will inform the development of the Australian Criminal Intelligence Model and maximise interoperability between existing databases and systems.

Agree

Interoperability at the business, information and technology levels is necessary to ensure strong collaborative partnerships between Australia's law enforcement and intelligence agencies into the future. The ACID/ALEIN Scoping Study, the National Information and Intelligence Needs Analysis (NIINA) and the AFP Spectrum program have all informed the development of options to improve technical interoperability in information sharing and, accordingly, align with the aims and strategic objectives of the ACIM. Enhancing analytical capabilities and greater collaboration among partner agencies would operationalise the ACIM. Improving national processes and capabilities to share information and intelligence assists in the creation of a 'decision advantage' by providing access to up-to-date information and intelligence to inform decision making processes.

The Government is pleased to provide the following information about the ACID/ALEIN Scoping Study, NIINA and AFP Spectrum Program.

ACID/ALEIN Scoping Study

The ACC initiated the ACID/ALEIN Scoping Study to identify future technological needs and business requirements to support an improved national criminal intelligence capability that can effectively meet the current and emerging requirements of Australian law enforcement agencies.

The Scoping Study report was finalised in January 2014. It explores building on existing capabilities and introducing new technologies to improve intelligence collaboration in the law enforcement community.

The ACC will advise Government on replacement options over the short, medium and long term, drawing on the options explored in the Scoping Study. One such option includes a fully networked system—the National Criminal Intelligence System.
National Information and Intelligence Needs Analysis (NIINA)

The NIINA was completed in July 2012 as part of the ACID/ALEIN Scoping Study to form a basis from which improvements to technical interoperability could be identified. It was a collaborative effort by the ACC, the National Counter-Terrorism Committee's (NCTC) Intelligence and Information Management System Working Group and CrimTrac. The NIINA centred on the business needs of the national criminal intelligence practitioners and managers. It reviewed the high-level user requirements of Australian intelligence systems and identified specific capabilities that would be required to meet the business needs of intelligence practitioners and managers.

Over 180 intelligence practitioners and managers, including representatives from state crime units, specialised squads, task forces, national units, regional coordination units and local areas, were consulted to provide an intelligence perspective across the strategic, operational and tactical domains. The analysis identified gaps between the national criminal intelligence needs and the national capability. The outcomes of NIINA were considered as part of the development of options to improve technical interoperability of ACID/ALEIN environment, and have informed discussions around which technologies are required to underpin the ACIM.

AFP Spectrum Program

The aim of the AFP Spectrum Program is to improve operational policing efficiency through the pursuit of business, policy and information technology system change. The program has provided proactive monitoring of information, improved productivity and simplified searching across law enforcement agency information.

A significant component of the Spectrum Program is the replacement of current AFP operating systems, including the AFP's case management system, PROMIS. It is anticipated the new system will be in operation by the start of 2018. Included in the specifications is the requirement to interface with a number of external systems, including ACID. This requirement would extend to any replacement system.

Recommendation 2

The committee recommends that the ACC as the lead agency on criminal intelligence and the Australian Criminal Intelligence Model (ACIM) provide it with a report on how the ACC will ensure that all current information technology systems are fully utilised and accessible under the ACIM.

Agree

The ACIF, ACC Board and the former Standing Council on Police and Emergency Management have acknowledged that technology is one of the critical success factors for implementing the ACIM across the Commonwealth, States and Territories. The ACIF has also agreed action items for ACIM that focus on pursuing technology solutions. Specifically, pursuing common technical and security architectures for information and intelligence holdings, and maximising the value of fusion and technical analysis capabilities.

ACIF has acknowledged that a phased 'building block' approach will be required in order to accommodate new technologies as they arise and enable wider sharing of existing technologies. The information sharing arrangements under the ACIM remain a key consideration for the ACIF members.

ACIF will report to the ACC Board on the deliverables of the ACIM, as required. Details of the ACIM, including progress on reducing the technological barriers to intelligence sharing, are now included in the ACC Annual Report.

Recommendation 3

The committee recommends that the Australian Criminal Intelligence Forum (ACIF) develop for the endorsement of all 17 ACIM agencies an information management strategy. As a first step in
developing the strategy, the ACIF should define key terms including a clear, working definition of criminal intelligence and provide descriptions of relevant concepts and processes.

Agree

The ACIF is developing an information management strategy as part of its work program. This will be delivered as part of the implementation of the ACIM. The information management strategy will provide the supporting business rules and common processes relating to the movement, security, quality, provisioning and use of information and intelligence contained within shared systems. As necessary, the information strategy will include a glossary of terms.

Once the ACIF agrees to the information management strategy, it will be provided to the ACC Board for endorsement.

Recommendation 4

The committee recommends that AGD conduct a review of disclosure of information procedures under Freedom of Information (FOI). The review should provide recommendations on any legislative, administrative or policy reforms required to achieve a consistent approach to FOI requests for information under the ACIM.

Noted

In 2013 Dr Allan Hawke AC conducted a review of the Commonwealth Freedom of Information Act 1982 (FOI Act) and the Australian Information Commissioner Act 2010 (the Hawke Review). The review examined the FOI Act and the effectiveness of the FOI system more generally.

Any consideration of disclosure of information procedures may occur within the context of the recommendations of the Hawke Review.

Recommendation 5

The committee recommends that AGD review law enforcement data security management practices, standards, principles and safeguards. The review should provide recommendations on:

- standards and uniform principles for the security and integrity of information contributed to the ACIM. These standards should detail how ACIM agencies are to hold, protect, secure and manage ACIM intelligence; and
- an accountability and oversight mechanism to monitor compliance with the uniform standards and principles.

Noted

The Government treats the issue of information security very seriously. It is important that users of a national repository have confidence in the security and usability of law enforcement data. As part of any sharing structure, appropriate security management practices will be integral to achieving successful intelligence partnerships.

Access and sharing limitations are key components of any secure information sharing system. As part of the development of the current intelligence sharing landscape, information security will remain a priority for Government and appropriate safeguards will be considered and integrated as part of any system development. Access requirements, portal security systems design and agencies' own security management requirements all comprise the suite of security management practices that will be inherent in any intelligence sharing system.

The ACIM recognises the importance of sharing information, and intelligence partnerships. A key objective of the ACIM is to consider the technical and security architecture necessary for information and intelligence sharing. Awareness and compliance with data security management practices, standards, principles, protocols and safeguards are being considered as part of the development of an information management strategy. The ACIM aligns with the ANZPAA information sharing protocols and sets out the common principles that are to guide the sharing of criminal intelligence. Like the
ACIM, the ANZPAA protocols instil governance procedures to ensure security requirements are maintained, understood and compliant with legislative obligations.

Significant work has been done at the Commonwealth level in recent years to strengthen the practices, standards and safeguards that protect data and information. For example, significant reforms to the *Privacy Act 1988* that commenced on 12 March 2014 introduced new Australian Privacy Principles that apply to the collection, use, disclosure, integrity, access and correction of personal information. The Australian Privacy Principles must be considered by all Commonwealth agencies when handling personal information.

In addition, at a Commonwealth level, there are bodies and agencies already tasked with considering the retention, use and security issues associated with national information and systems. The Australian Signals Directorate (ASD), under the Department of Defence, provides advice and assistance on matters relating to security and the integrity of information. This involves a stocktake and review of the type of data being held, networks, detection mechanisms and protections in place. The ASD produces a number of guidance materials on information security ([http://www.asd.gov.au/publications/index.htm](http://www.asd.gov.au/publications/index.htm)), including the Australian Government Information Security Manual which provides the framework for how government secures its data, including Commonwealth law enforcement data.

**Recommendation 6**

The committee recommends the establishment of a national repository for criminal intelligence as part of the ACIM.

**Recommendation 7**

The committee recommends that a cost-benefit analysis be undertaken in relation to the options for a national repository. This analysis should take into consideration:

- the determining factors detailed in Chapter 6 of this report;
- the need to complement existing information technology initiatives such as the AFP’s Spectrum Program;
- the need for interoperability and complementarity with current databases including the National Criminal Investigation DNA Database and the National Automated Fingerprint Identification System; and
- the intelligence sharing model used by the Australian intelligence community

**Agree in principle**

The ACID/ALEIN environment is the current national repository for criminal intelligence and provides a secure network for sharing criminal information and intelligence between Australian law enforcement agencies and their partners. As outlined in the response to recommendation 1, the ACC initiated the ACID/ALEIN Scoping Study to identify future technological needs and business requirements to support an improved national criminal intelligence capability that can effectively meet the current and emerging requirements of Australian law enforcement agencies. The ACC will advise Government on replacement options for the existing ACID/ALEIN system over the short, medium and long term, drawing on the options explored in the Scoping Study.

**Recommendation 8**

The committee recommends the standardisation of security clearance processes. To this end, the committee strongly encourages all state and territory jurisdictions to align their security clearance processes with that of the Australian Government Security Vetting Agency.

**Noted**

The Australian Government's Protective Security Policy Framework (PSPF) provides the appropriate controls for the Australian Government to protect its people, information and assets, at home and overseas. The PSPF can be found at [www.protectivesecurity.gov.au](http://www.protectivesecurity.gov.au).
In addition to personnel security advice on vetting, the PSPF also provides policy advice on governance, information security and physical security that, when applied collectively, support the protection of all information—not just classified information—people and assets.

The Australian Security Government Vetting Agency (AGSVA) undertakes vetting for the Commonwealth in accordance with the PSPF. Australian Government agencies that are exempt from the centralisation of vetting (exempt agencies) also follow the PSPF when undertaking vetting. In accordance with the PSPF, AGSVA, exempt agencies and States and Territories recognise each other's clearances unless:

- the clearance has lapsed
- the clearance was granted based on an eligibility waiver, or
- the AGSVA or exempt agency has substantial prejudicial information that the incoming employee is no longer suitable to access security classified information at that clearance level.

States and Territories have taken one of two approaches with regard to the PSPF and its implementation. Some States and Territories have largely adopted the PSPF, with minor tailoring to ensure its relevance to their specific business needs. Others have adopted the principles of the PSPF which are founded, in most instances, on the relevant Australian or International standard.

The Australian Government also has a Memorandum of Understanding in place with State and Territory governments regarding the exchange of classified information based on the PSPF's predecessor, the Protective Security Manual. Under the Memorandum of Understanding States and Territories can undertake their own security clearances which will be recognised by the Commonwealth (and other States and Territories) if completed in accordance with the Protective Security Manual (now the PSPF) or if they use the services of AGSVA.

**Recommendation 9**

The committee recommends that the ACC in collaboration with AGD establish as part of a licensing requirement to the national repository or other administrative arrangement, a formal agreement which requires signatory agencies to declare a commitment to contribute information and intelligence to the national holdings.

**Recommendation 10**

The committee recommends the establishment of an accountability and oversight regime to ensure that agencies are accountable for their contribution to the national holdings. As part of this regime, the Senior Officers' Group on Organised Crime (SOG on OC) should provide an annual oversight report to the Ministerial Council for Police and Emergency Management—Police and Standing Committee of Attorneys-General on the contribution of each respective agency for review and remedial action where required.

**Noted**

There is a range of reporting regimes already in place that provide assurances and visibility over agencies' contribution to national intelligence holdings. Multi-agency bodies such as the ACIF and the ACC Board have regular reporting requirements and a relevant connection to all signatories. Forums such as these provide exposure to decision-makers and allow for the exchange of comprehensive advice on key issues that allow inputs and outputs to be monitored and agencies to be held accountable for their contribution to the national intelligence holdings. These forums also have an ongoing commitment to improving reporting and accountability and have implemented improved reporting requirements. For example, the ACC Board has initiated the following improved reporting structure for the ACIF:

- the ACIF reports biannually to the ACC Board
- the ACIF provides updates to relevant ministerial councils on the implementation of ACIM as and when required
• the ACC CEO updates the Minister for Justice on progress of ACIF and the ACIM
• the ACC reports on the ACIF and ACIM included in its annual report, and
• the ACIF continues to consider reporting formats, templates and opportunities to improve its reporting requirements.

The Government will consider whether any additional reporting and accountability or oversight mechanisms are necessary as part of its consideration of replacement options for ACID/ALEIN.

**Recommendation 11**

The committee recommends that the feasibility of extending the jurisdiction of the Australian Commission for Law Enforcement Integrity (ACLEI) to include oversight of the Australian Securities and Investments Commission, AGD and the Australian Taxation Office be referred to the Parliamentary Joint Committee on ACLEI for inquiry and report.

**Noted**

On 6 March 2014, the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity initiated an inquiry into the jurisdiction of the ACLEI. In accordance with the terms of reference for this inquiry, the Committee will consider the desirability and feasibility of expanding ACLEI's jurisdiction to include ASIC, AGD and ATO.

The Government looks forward to reviewing the report of the Committee's inquiry.

**Recommendation 12**

The committee recommends that the ACC provide a detailed account of progress towards the ACIM in its annual reports

**Agree**

The ACC included an update on the Australian Criminal Intelligence Model (ACIM) in its 2011–12 Annual Report. The annual reports of the ACC are published on its website at www.crimecommission.gov.au. The ACC will continue to report on the ACIM in future annual reports.

**MINISTERIAL STATEMENTS**

**Spring Repeal Day**

**Senator SCULLION** (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (17:45): On behalf of the Prime Minister, I table a ministerial statement on spring repeal day.

**DOCUMENTS**

**Corporations Amendment (Streamlining Future of Financial Advice) Regulation 2014**

**Order for the Production of Documents**


**MINISTERIAL STATEMENTS**

**Veterans: Effects of Military Service**

**Senator RONALDSON** (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (17:46): I table a
ministerial statement on the research into the effects of military service on veterans and their families. At the same time, three research reports—the Vietnam veterans families study, the peacekeeper health study and the Rwandan deployment health study—will be released. I move:

That the Senate take note of the document.

At the last election, the government announced a comprehensive policy agenda to meet the needs of veterans and their families. We announced our four-pillar approach to veterans’ affairs:

- Recognising the unique nature of military service;
- Retaining a stand-alone Department of Veterans’ Affairs;
- Tackling the mental health challenges for veterans and their families; and
- Supporting veterans through adequate advocacy and welfare services.

To meet these commitments, the government has:

- Delivered its election commitment to change the indexation of Defence Forces Retirement Benefit (DFRB) and Defence Force Retirement and Death Benefit (DFRDB) military superannuation pensions, for superannuants aged 55 and over from 1 July 2014;
- Restored $1 million in advocacy and welfare support funding under the Building Excellence in Support and Training (BEST) program, funding which was slashed by the former Labor government;
- Expanded access to counselling services through the Veterans and Veterans Families Counselling Service;
- Ensured that more veterans and ex-service people can get treatment for certain mental health conditions without the need to lodge a claim for compensation through DVA, or to prove that the condition is service related—and I acknowledge that was a process commended under the former government;
- Cut red-tape for veterans lodging claims through the acceptance of Defence ID when making a claim for compensation;
- Reduced the time taken to process compensation claims across all three compensation acts, and acknowledge that more work must be done to get these down even further.

Since becoming the Minister for Veterans’ Affairs, and in the three years prior as the shadow minister, I made it clear that I was not prepared to see the mistakes of the past repeated when it came to the nation’s treatment of its veterans, ex-service personnel and their families. The treatment of Vietnam veterans on their return remains a dark stain on this nation’s history. It is something that must never be repeated. This philosophy underpins everything the government seeks to achieve.

Proper and robust research will help us to plan for the future. The research studies released today give us an enhanced understanding of the long-term effects of military service from a range of wartime and peacekeeping missions on the health of veterans and their families, and their access to health services. These three studies represent a significant investment in the future health and wellbeing of veterans, peacekeepers and their families, with the government providing funding of around $12.25 million to support their completion.
Prior to the election, the government committed itself to release of the Vietnam Veterans Family Study at the earliest opportunity. We also promised extensive consultation. Today, this report to government is released.

The Vietnam Veterans’ Family Study, with over 27,000 participants, is one of the most significant government-funded research projects commissioned about veterans and their families. I would like to first and foremost thank those veterans and their families who participated in the study, and acknowledge the hard work of the various researchers involved, including the Australian Institute of Health and Welfare, the Australian Institute of Family Studies and Colmar Brunton Social Research.

I particularly acknowledge the Consultative Forum for the Study, made up of veterans, partners and children, which also made a significant investment of their time and expertise, for which I am very grateful. My thanks go to Professor Bryan Rodgers, Chair of the study’s scientific advisory committee, and its members who ensured the rigour and validity of this large study.

The study compared the physical, mental and social wellbeing of two groups of Australian veterans: 10,000 randomly selected Army Vietnam veterans and their families, with 10,000 randomly selected Defence personnel who served in the Army during the Vietnam War era but did not deploy to Vietnam, along with their families.

The research findings indicate that although the majority of sons and daughters of Vietnam veterans are leading healthy and productive lives, the family members of deployed Vietnam veterans were more likely to have emotional, physical and social problems than other comparable military families.

The peacekeeper's health study focuses on seven peacekeeping missions from 1989 to 2002: Namibia, Western Sahara, Cambodia, Rwanda, Somalia and the two East Timor deployments. More than 14,000 Australian personnel were deployed as part of these operations. The vast majority participated in the East Timor operations, with over 10,000 personnel deployed between 1999 and 2002. A random sample of over 2,000 peacekeepers were invited to participate, with more than 1,000 contributing.

The final study released today is the Rwanda Deployment Health Study. This study, conducted by the then Centre for Military and Veterans' Health, investigated the health outcomes of the 680 veterans from Operation TAMAR in Rwanda.

The studies released today have relied on the firsthand, quantitative evidence provided by veterans and their families. Their contributions, frank answers to questions and willingness to participate have provided the evidence for the findings contained.

The government’s investment in research does not end with the release of these studies. In July this year, I launched the Transition and Wellbeing Research Program, the most comprehensive research program of its type undertaken in Australia. This $5 million research project, jointly funded by DVA and Defence, will examine the impact of military service on the mental, physical and social health of serving and ex-serving personnel who have deployed to contemporary conflicts.

For the first time, this will include a picture of the mental and physical health of service personnel after discharge and how mental health symptoms change over time. It will also investigate how individuals previously diagnosed with a mental health condition access care,
as well as examining the experiences and needs of families of serving and ex-serving members. This is an important and tangible way to ensure we do not repeat the mistakes of the past.

**Families**

Of the three studies being launched today, the *Vietnam Veterans Family Study* focuses on the intergenerational effects of war service—specifically Vietnam War service. This government places great store on the capacity and importance of families, as shown by our pre-election policy commitment to ‘veterans and their families’. We know that families play a central role in shaping the health and wellbeing of its members. The study confirms the importance of families and the need to connect them to support and programs. The study also shows that for this group of Vietnam veterans, there are some intergenerational effects for some children.

There are now a wide range of family supports available for all Australians, including resources for building better relationships through to dispute resolution. There are specific supports available for families with children who are at risk of separation, or who have separated. These mainstream supports are also complemented by veterans support for families, particularly through the VVCS. Family members can be affected by a loved one’s military service and are fundamental to the veteran’s successful transition following deployments and separation from military service. It is extremely important to acknowledge that sons and daughters of Vietnam veterans of any age are eligible to access, and be supported by, the VVCS services.

**Mental health**

A major theme in common across the three studies is mental health, and how veterans and families are dealing with the mental health effects of war and peacekeeping. The Australian Defence Force has invested significant resources on mental health, with a focus on building the resilience and achieving capability through mental fitness. For instance, ADF personnel now receive psycho-educational training about the risks they will face before deployment and a range of post-deployment screenings to assess their coping and to determine whether they would benefit from additional support. In 2012-13, the government spent almost $179 million on meeting the mental health needs of the veteran and ex-service community. Funding for veteran mental health treatment is demand driven and it is not capped.

The key to good mental health is to take action early. The government has therefore invested considerably in providing veterans with more streamlined access to mental health treatment. The government can pay for treatment for diagnosed PTSD, depression, anxiety, and alcohol and substance use disorders—whatever the cause. The condition does not have to be related to service. These arrangements are available to anyone who has deployed on operations overseas, and many who have served for more than three years at home. For instance, any of those who served in the Vietnam War or in peacekeeping operations are eligible for these arrangements. *(Time expired)*

**Senator WRIGHT** (South Australia) *(17:57)*: On behalf of the Australian Greens, I would like to speak to the reports that have been tabled by the Minister for Veterans’ Affairs and reiterate the importance of having good research into the effects of service on Australia’s military personnel, including peacekeepers, and also into the effects of that service on their
families and dependents. My experience in meeting both veterans and their partners and children has confirmed for me what the research has indicated and what was referred to by Senator Ronaldson—that is, that there is substantial evidence to suggest that for those who serve on our behalf war has not only many physical costs but also costs from the dislocation of their lives and the necessity for them to reintegrate into the civilian workforce when they demobilise from their service. There are also the ongoing effects, sometimes psychological and in relation to stress. Those costs transfer to those who support them. The role of partners and families is absolutely crucial. It is incumbent upon us as a community that, when we ask people to serve on our behalf and put themselves in the frontline, at risk of physical and psychological injury, we support those who support them.

I will look forward to reading the reports that have been tabled today. We need to see important, reliable research translated into sensible and reliable policy that acknowledges the contribution that our veterans and their families make on our behalf. That is the big, really important question.

I think that Australian society needs to be particularly grateful for not only the families, partners and children of veterans but also some of the organisations that work tirelessly to try to highlight the importance of having good research and good policy, including the Partners of Veterans Association of Australia and also their state counterparts and many small and large organisations that work for the welfare of partners and veterans throughout Australia. A matter that I have raised with the minister is that some of the partners associations, or many of them, do not actually have any real funding to keep them going, and I think it is important that we ensure that they can carry out that important advocacy and caring role, particularly in terms of reaching out to partners and families in rural and more isolated areas of Australia who often do not have the support networks that people in urban areas have. It can be very expensive to try to get out there to meet them. I know from the partners that I have spoken to how absolutely valuable that contact can be in keeping people going in their important work, in holding families together and in supporting their veterans.

I look forward, on behalf of the Australian Greens, to having a closer look at those reports.

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (18:00): With the indulgence of the chamber, as time ran out when I was making my ministerial statement, I table the remainder of my ministerial statement.

Question agreed to.

COMMITTEES

The DEPUTY PRESIDENT (18:01): Order! The President has received letters from a party leader requesting changes in the membership of various committees.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (18:01): by leave—I move:

That senators be appointed to committees as follows:

Australia Fund Establishment—Joint Select Committee—
Appointed—Senator Lazarus
Community Affairs Legislation and References Committees—
Appointed—Participating members: Senators Lazarus and Wang

Economics Legislation and References Committees—
Appointed—Participating members: Senators Lazarus and Wang

Education and Employment Legislation and References Committees—
Appointed—Participating members: Senators Lambie and Lazarus

Environment and Communications Legislation and References Committees—
Appointed—Participating members: Senators Lambie, Lazarus and Wang

Finance and Public Administration Legislation and References Committees—
Appointed—Participating members: Senators Lambie, Lazarus and Wang

Foreign Affairs, Defence and Trade Legislation Committee—
Appointed—Participating members: Senators Lambie, Lazarus and Wang

Foreign Affairs, Defence and Trade References Committee—
Appointed—Participating members: Senators Lambie and Wang

Legal and Constitutional Affairs Legislation and References Committees—
Appointed—Participating members: Senators Lambie, Lazarus and Wang

Rural and Regional Affairs and Transport Legislation and References Committees—
Appointed—Participating members: Senators Lambie and Wang.

Question agreed to.

BILLS

Migration Amendment (Character and General Visa Cancellation) Bill 2014
Rural Research and Development Legislation Amendment Bill 2014

First Reading

Bills received from the House of Representatives.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (18:02): I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (18:02): I move:

That these bills be now read a second time.

I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speeches read as follows—
MIGRATION AMENDMENT (CHARACTER AND GENERAL VISA CANCELLATION) BILL 2014

The purpose of this Bill is to strengthen the character and general visa cancellation provisions in the Migration Act to ensure that non-citizens who commit crimes in Australia, pose a risk to the Australian community or represent an integrity concern are appropriately considered for visa refusal or cancellation. The Bill also introduces a mandatory cancellation power for non-citizens who objectively do not pass the character test and are in prison.

The current legislative framework for the character and general visa cancellation provisions has been in place for some time. The general visa cancellation framework has been in place, without significant change, since the Migration Reform Act came into effect in 1994. Similarly, the character framework has been in place since 1999 without significant change.

Since that time, the environment in relation to the entry and stay in Australia of non-citizens has changed dramatically, with higher volumes of temporary visa holders in Australia and streamlined processes facilitating entry of temporary residents for economic and other purposes.

It is clear that facilitation of entry at the visa application stage needs to be complemented with strong visa cancellation grounds and processes at the post visa grant stage to ensure the integrity of the Migration Programme. This includes having appropriate responses available where non-citizens in Australia do not abide by the law, including by breaching visa conditions, or engaging in criminal activity or migration fraud.

Consistent with community views and expectations, the Australian Government has a low tolerance for criminal, non-compliant or fraudulent behaviour by non-citizens. Entry and stay in Australia by non-citizens is a privilege, not a right, and the Australian community expects that the Australian Government can and should refuse entry to non-citizens, or cancel their visas, if they do not abide by Australian laws. Those who choose to break the law, fail to uphold the standards of behaviour expected by the Australian community or try to intentionally mislead or defraud the Australian government should expect to have that privilege removed.

To meet this expectation the Government must not only have the ability to act decisively and effectively, wherever necessary, to deal with unlawful, fraudulent or criminal behaviour by non-citizens, but also have the legislative basis to effect a visa cancellation or refusal for those non-citizens. This Bill seeks to enhance the Government's ability to do so in three key ways:

First, by amending section 501 of the Act to:

- broaden the existing grounds for not passing the character test; and
- allow the Minister to require the head of an agency of a State or Territory to disclose to the Minister personal information that is relevant to whether the person passes the character test, and the possible refusal or cancellation of their visa under section 501.

The amendments proposed in this Bill give the Government the necessary capabilities to identify non-citizens who are liable for visa cancellation under the character provisions, or refusal under the character provisions and deal with them appropriately.

By introducing a power to obtain personal information which assists with the identification and consideration of non-citizens potentially liable for visa cancellation or refusal under section 501, the Government will be able to deliver greater surety in its commitment to protecting the Australian community from harm as a result of criminal activity or other serious conduct by non-citizens including those who pose an integrity risk to the Migration Programme.

Similarly, the broadened grounds for not passing the character test, the increased capability to deal with fraud and integrity issues, and the introduction of a lower threshold for cancellation of temporary visas will provide the Government with the necessary tools to ensure that such people are subject to visa cancellation or refusal consideration under the appropriate provision of the Act.
The proposed measures will amend the character test within section 501 of the Act to prescribe certain cohorts of non-citizens, such as those who have a charge proven for a sexual offence against a child, and persons involved in criminal conduct or activities such as people smuggling or war crimes, as not passing the character test. Additionally, amendments will be made to ensure that any non-citizen convicted of a crime or crimes, who receives a sentence totalling twelve months, regardless of how that total is reached, will fall within the definition of having a substantial criminal record and will not pass the character test.

Changes will be made to extend the character test to include non-citizens who commit crimes, but do not receive a sentence on the basis of issues surrounding their mental health. This cohort of people is often responsible for very serious offences, but under the current provisions, ensuring they are prevented from posing a further risk to the Australian community is difficult. The measures proposed will rectify that problem.

The second key measure is to amend the general visa cancellation provisions within the Act to:

- enhance measures for dealing with non-citizens who present an integrity, identity or fraud risk;
- introduce lower thresholds for cancelling temporary visas, reflective of the lower tolerance for behavioural concerns in the temporary visa context; and
- introduce stronger personal Ministerial decision making powers in relation to the general visa cancellation provisions, consistent with those in the character provisions.

Amendments proposed to section 116 of the Act will provide the necessary balance between the protection of the Australian community and the facilitation of entry for temporary visa holders. This cohort of non-citizens has until now been considered against thresholds similar to those applied in section 501, which are set at a high level to reflect the potential impact of removing a person's permanent visa. The amended provision will provide that non-citizens on temporary visas, who pose even a low level of risk, will be eligible for visa cancellation. Measures will also be introduced to better manage the cancellation of visas where the circumstances applicable to the grant of the visa never existed or no longer exist.

The Act will also be amended to provide that a visa may be cancelled where incorrect information was provided by or on behalf of a non-citizen either as part of a statutory process, or outside of such a process, and was relevant to the person making a valid application for a visa or a decision to grant a visa to the person.

The Act will also be amended to provide the Minister with the power to cancel a visa if he or she is not satisfied as to the visa holder's identity.

The measures proposed will ensure that the Government can move quickly to take action against non-citizens who pose a risk to the Australian community by delivering consistency in personal Ministerial decision making powers across both the character and general visa cancellation powers. This will involve the introduction of personal Ministerial powers to set aside and substitute decisions of delegates and tribunals, and to cancel a visa personally on the grounds under section 109 or section 116 with or without natural justice where it is in the public interest to do so. The latter of these amendments ensures that where a real and immediate risk is posed by a non-citizen, the Government can act quickly and decisively to remove that person from the Australian community before that risk can be realised. As with the existing personal Ministerial decision making powers under the character provisions, such decisions would not be subject to merits review processes.

The third key measure this Bill seeks to introduce is mandatory visa cancellation under section 501 of the Act where a non-citizen is serving a full-time sentence of imprisonment in a custodial institution and they are found to objectively not pass the character test on the basis of, for example, having been convicted of an offence or offences and sentenced to a term of imprisonment of 12 months or more, or having been convicted of, or found to have been guilty of, or had a charge proved against them for a
sexually based offence involving a child. Under this process, a non-citizen will have their visa mandatorily cancelled without prior notice of an intention to cancel a visa, with a notification of the cancellation decision provided after the fact. Upon notification, the non-citizen will be provided with the opportunity to seek revocation of the cancellation decision. Where a decision is taken by a delegate to not revoke the decision, the former visa holder will have access to merits review. This will be a streamlined process which will deliver the key benefit of providing a greater opportunity to ensure non-citizens who pose a risk to the community will remain in either criminal or immigration detention until they are removed or their immigration status is otherwise resolved.

These amendments are designed to strengthen and build upon the existing character and general visa cancellation framework and are consistent with the original intent of the provisions; to provide the Government's character and integrity to address the significant changes in the environment relating to the entry and stay of non-citizens in Australia since mid to late 1990s and reflects this Government's and the Australian community's low tolerance for criminal, non-compliant or fraudulent behaviour by those who are given the privilege of holding a visa to enter and stay in Australia. The Bill demonstrates this Government's clear commitment to ensuring that non-citizens do not pose a risk to the Australian community. I commend the Bill to the Chamber.

RURAL RESEARCH AND DEVELOPMENT LEGISLATION AMENDMENT BILL 2014

Australia's rural industries are among the most innovative and productive in the world. The Australian Government is committed to ensuring their profitability and competitiveness, now and into the future.

The Australian Government supports rural industries in a variety of ways. To help primary producers increase their output and improve their profit margins, we support rural research and development. Much of this support is channelled through the 15 rural research and development corporations. In addition, to keep our rural industries engaged and influential on the world stage, the government is a member of international commodity organisations and regional fisheries management organisations.

This Bill implements a 2014 Budget measure to change the way that the government pays for its membership to these organisations. The Bill also reduces the red tape burden currently imposed on some of the rural research and development corporations.

Australia is a member of the international wine, grains, sugar and cotton commodity organisations. These organisations work to improve the trading environment for agricultural products. They fund research and development on global issues affecting these industries, and provide useful information and statistics for our producers, scientists and research and development organisations.

Australia's membership to these organisations provides benefits to our primary producers. For example, the International Cotton Advisory Council sponsors research on the cost of cotton production and production methods to inform the cotton research community and primary producers. It has direct links with our Cotton Research and Development Corporation as part of its Research Associate Program.

Other roles of the international commodity organisations include setting international standards to improve production and product marketing, improving food safety and security. Just as our rural research and development corporates foster partnerships at home, international commodity organisations promote global partnerships. If we do not engage with these organisations, they could develop standards that are not appropriate for Australian conditions and practices.

Australia is a member of six regional fisheries management organisations. Our commercial fishing and aquaculture industry is worth over $2 billion annually and employs around twelve thousand people. These organisations manage migratory fish species to ensure the optimal use of fish stocks to the benefit of our fishing industries. Through our membership of these organisations, we ensure that regional...
management measures are compatible with domestic arrangements, and secure access for the Australian fishing industry.

Australian research and development operates within a global system, and must take into account international issues. The change to the legislation reflects this, and also acknowledges that the ultimate beneficiaries of the activities of these international organisations are farmers, fishing industries and rural communities.

The Bill amends three Acts to allow the government to recover the cost of the memberships from the Commonwealth funding provided to relevant rural research and development corporations. This will provide a funding mechanism for memberships to these organisations that is sustainable in a time of increasing budget pressures.

The amendments will result in a saving to government of about $7 million over the next four years. This saving will be redirected by the government to help repair the Budget.

The Bill also reduces red tape for some of the research and development corporations. For consistency across all rural research and development corporations, and to reduce regulatory burden, the Bill drops the requirements to table certain documents in the Parliament.

The funding contract and variations to the funding contract will no longer need to be tabled for Dairy Australia, Forest and Wood Products Australia, the Australian Livestock Export Corporation and Sugar Research Australia. In addition, Dairy Australia and the Australian Livestock Export Corporation will no longer table the annual report and other compliance reports. In the interests of good governance, the corporations will still produce these reports and make them available to the public or to members as required.

An annual co-ordination meeting for the chairs of the statutory research and development corporations will be dropped. Today, only five of the 15 research and development corporations remain as statutory bodies. There are more effective ways that the corporations can — and do — coordinate their activities, and the government decided that a legislated coordination meeting is no longer required.

Debate adjourned.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014

First Reading

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (18:03): I move:
That this bill may proceed without formalities and be now read a first time.
Question agreed to.
Bill read a first time.

Second Reading

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (18:04): I move:
That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.
Leave granted.
The speech read as follows—

MIGRATION AND MARITIME POWERS LEGISLATION AMENDMENT (RESOLVING THE ASYLUM LEGACY CASELOAD) BILL 2014

This Bill honours the Coalition's commitment to restore the full suite of border protection and immigration measures, abolished by the former Labor Government to stop the boats. The Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014 will amend the Migration Act 1958, the Migration Regulations 1994, the Maritime Powers Act 2013, and make minor changes to the Immigration (Guardianship of Children) Act 1946 and the Administrative Decisions (Judicial Review) Act 1977 to support the Government's key election commitments to stop the boats and resolve Labor's 30,000 legacy caseload. These measures are a necessary extension and consolidation of the Government's successful border protection policies and are part of a broad package of measures which will tackle the management of the backlog of illegal maritime arrivals known as IMAs and bring important enhancements to the integrity of Australia's protection programme.

The Government is committed to Australia's national security and economic prosperity in its efforts to combat the illegal and dangerous practice of people smuggling. These changes will further strengthen the Government's ability to manage illegal arrivals and strengthen public confidence in Australia's protection and migration programmes.

Specifically, the Bill reintroduces Temporary Protection visas, introduces Safe Haven Enterprise visas which is also a temporary visa, reinforces the Government's powers to undertake maritime turn backs and introduces rapid processing and streamlined review arrangements. The measures deliver on the Government's election commitment to reintroduce temporary protection visas and ensure that no IMA will be granted a permanent protection visa it will also ensure efficient processing of Labor's backlog of 30,000 asylum seekers, as promised.

The amendments to the Maritime Powers Act strengthen Australia's maritime enforcement framework and the ongoing conduct of border security and maritime enforcement operations. Enforced turn backs are a critical component of the Government's suite of border protection measures that have been so successful in stopping the boats. These measures affirm and strengthen the Government's ability to continue this success. This will help ensure that the tap stays off and we never return to the cost, chaos and tragedy that Labor and the Greens created.

The amendments in Schedule 1 of this Bill reinforce the Government's powers and support for our officers conducting maritime operations to stop people smuggling ventures at sea. They provide additional clarity and consistency in the powers to detain and move vessels and people. They further clarify the relationship between the Maritime Powers Act and other laws, and clearly state that ministers can give directions in respect of the exercise of maritime powers. Finally, as was Parliament's original intent, the amendments support our Navy and Customs personnel to continue to do their difficult jobs efficiently, effectively and safely on the water.

The amendments to the Maritime Powers Act are just one element of the Bill.

It has been a clear policy of this Government to ensure that those who flagrantly disregard our laws and arrive illegally in Australia are not rewarded with a permanent protection visa. The reintroduction of TPVs in Schedule 2 of the Bill is fundamental to the Government's key objectives to process the current backlog of IMA protection claimants. The Government is not resiling from providing protection, but rather, is providing temporary protection to those IMAs who are found to engage Australia's protection obligations. TPVs will be granted for a maximum of three years and will provide access to Medicare, social security benefits and work rights, as occurred under the Howard Government. TPVs will provide refugees with stability and a chance to get on with their lives, while at the same time guaranteeing that people smugglers do not have a 'permanent protection visa product' to sell to those who are thinking of travelling illegally to Australia.
However, consistent with this Government's principles of rewarding enterprise and its belief in a strong regional Australia, a new visa, the Safe Haven Enterprise Visa, will also be created. The Safe Haven Enterprise Visa will be will be open to applications by those who have been processed under the legacy caseload, and are found to be refugees. The SHEV will be an alternative temporary visa to the TPV, and encourages enterprise through earning and learning.

IMAs granted a SHEV will be required to confine themselves to designated regions (either a State or Territory government, local government, or employer can request to be designated), identified through a national self-nomination process. The visa will be valid for five years, and like the TPV will not include family reunion or a right to re-enter Australia. SHEV holders will be targeted to designated regions and encouraged to fill regional job vacancies and will have access to the same support arrangement as a TPV holder.

SHEV holders who have worked in Regional Australia without requiring access to income support for three and a half years will be able to apply, and if they meet eligibility requirements, be granted other onshore visas, for example family and skilled visas as well as temporary skilled and student visas. They will not be able to apply for a permanent protection visa. Consultation with State, Territories and Local Government will inform the details of the criteria for this visa. Details will be included in the Regulations subsequent to the passage of this Bill.

Schedule 2 of the Bill also includes the creation of authority in the Migration Act to make deeming regulations. The first time this authority is being used is to make regulations that deem IMAs who have a current on-hand permanent protection visa application to instead have applied for a Temporary Protection Visa. It also includes a minor amendment to the Migration Act to make clear that there may be multiple classes of Protection visas and to include an amended definition of Protection visas.

Schedule 3 of the Bill will create an express link between certain classes of visa that are provided for under the Migration Act (including protection visas) and the criteria prescribed under the Regulations in relation to those visas, and ensure that non-citizens can only apply for those visas in accordance with the criteria set out in both the Migration Act and in the Regulations.

The Government is of the view that a 'one size fits all' approach to responding to the spectrum of asylum claims made under Australia's protection framework is inconsistent with a robust protection system that promotes efficiency and integrity. It limits the Government's capacity to address and remove those found to have unmeritorious claims quickly while diverting resources away from those individuals with more complex claims. A new approach is warranted in the Australian context. The Fast Track Assessment Process introduced by Schedule 4 of this Bill will efficiently and effectively respond to unmeritorious claims for asylum and will replace access to the Refugee Review Tribunal with access to a new model of review, the Immigration Assessment Authority known as the IAA. These measures are specifically aimed at addressing the backlog of IMAs and will ensure their cases progress towards timely immigration outcomes.

All fast track applicants will have their protection claims fully assessed by my department under the Migration Act. However, it is the Government's policy that if fast track applicants present unmeritorious claims or have protection elsewhere, their cases will be channelled towards a direct immigration outcome rather than accessing merits review in order to prolong their stay in Australia. Such fast track applicants will be 'excluded fast track review applicants' and will not have access to any form of merits review.

The IAA will be established as a separate office of the Refugee Review Tribunal. Eligible fast track review applicants will have their refusal cases automatically referred to the IAA and will not have to apply for a review by it. The IAA's primary function will be to conduct a review 'on the papers' only considering the material which was before my department when it made its refusal decision under section 65 of the Migration Act.
The Government recognises that a review applicant may have a genuine reason for not presenting all relevant claims in the first instance. In limited circumstances, the IAA has a discretionary power to get new information where the information is considered to be relevant, however, the IAA is under no duty to accept or request new information or interview an applicant. In keeping with this model of limited review, the Immigration Assessment Authority will not accept or consider any new information presented at review by a fast track review applicant unless exceptional circumstances apply and the IAA is satisfied that the new information was not, and could not have been provided to the department before the section 65 decision was made.

This new approach to review will discourage asylum seekers who attempt to exploit the current review process by presenting manufactured claims or evidence to bolster their original unsuccessful claims only after they learn why they were not found to be refugees by the department. This behaviour has on numerous occasions led to considerable delay while new claims are explored.

These measures will support a robust and timely process, better prioritise and assess claims and afford a differentiated approach depending on the characteristics of the claims.

Effective tools must be available to ensure that those who do not engage our protection obligations can be removed from Australia. Prompt removal of failed asylum seekers from Australia supports the integrity of our protection programme and reduces the likelihood of applicants frustrating and delaying removal plans.

The current view put forward by some advocates that a person who simply claims to be a refugee is a refugee, despite multiple assessments to the contrary is actually undermining the Refugees Convention. Those not found to be refugees have no right to stay in Australia and must depart.

Schedule 5 of the Bill will make clear that the removal power is available independent of assessments of Australia's non refoulement obligations, where a non-citizen meets the circumstances specified in the express provisions of section 198 of the Migration Act. This change is in response to a series of Court decisions which have found that the Migration Act as a whole is designed to address Australia's non refoulement obligations, which has had the effect of limiting the availability of the removal powers. Asylum seekers will not be removed in breach of any non refoulement obligations identified in earlier processes. The Government is not seeking to avoid these obligations, rather it seeks to be able to effect removals in a timely manner once the assessment of the applicant's protection claims has been concluded.

Schedule 5 of the Bill will also create a new, independent and self-contained statutory refugee framework which articulates Australia's interpretation of its protection obligations under the Refugees Convention. The Government remains committed to ensuring it abides by its obligations in respect to the Refugees Convention and this change does not in any way compromise this commitment. The new statutory framework will enable Parliament to legislate its understanding of these obligations within certain sections of the Migration Act without referring directly to the Refugees Convention and not be subject to the interpretations of foreign courts or judicial bodies, which seek to expand the scope of the Refugees Convention. The new framework clearly sets out the criteria to be satisfied in order to meet the new statutory definition of a 'refugee' and the circumstances required for a person to be found to have a 'well-founded fear of persecution' including where they could take reasonable steps to modify their behaviour to avoid the persecution.

Let me be clear, the Government is not changing the risk threshold required for assessing whether a person has a well-founded fear of persecution. Under the new framework, refugee claims will continue to be assessed against the 'real chance' test, which has been the test adopted by successive Governments, in line with the High Court's decision in

Chan Yee Kin v Minister for Immigration and Ethnic Affairs [1989] HCA 62. The Bill also clarifies the interpretation of various protection related concepts such as:
The standard of effective State and non-State protection;
The test for assessing whether a person can relocate to another area of the receiving country; and
The definition of ‘membership of a particular social group’.

The new framework will also clarify those grounds which exclude a person from meeting the definition of a refugee or which, upon a person satisfying the definition of a refugee render them ineligible for the grant of a Protection visa.

The amendments contained in Schedule 6 reinforce the Government’s view that the children of IMAs, who are born in Australia, are included within the existing definition of unauthorised maritime arrival known as UMA in the Migration Act. This will ensure that, consistent with their parents, these children are subject to offshore processing and are unable to apply for a visa while they remain in Australia, unless I have personally intervened to allow a visa application.

The Government will also extend the definition of an UMA to the children of IMAs born in a regional processing country. This amendment supports the Government’s intention that IMA families in regional processing countries should be treated consistently and that children born to an IMA ought not be treated separately from their family in the protection assessment process.

Amendments will also be made to the Migration Act to ensure provisions relating to ‘transitory persons’ operate consistently.

From time to time, successive governments have found it necessary to ‘cap’ certain classes of either the Migration or the Humanitarian visa programmes, in order to ensure that Government annual targets are not exceeded. This is a vital programme management tool, particularly when exceeding targets may resolve in budget overspends. As a result of a recent High Court judgement regarding my use of the ‘cap’ for the onshore component of the Humanitarian programme, it has been necessary to make minor amendments to the Migration Act. The amendments in Schedule 7 of the Bill will put it beyond doubt that I may ‘cap’ classes of the migration or humanitarian programme when necessary.

Schedule 7 will also repeal the 90-day time limit for deciding protection visa applications at both the primary and review stages of processing. The associated reporting requirements will also be repealed as they consume time and resources without adding value to overall Government objectives.

The Bill deserves the support of all parties. Just like our community continues to benefit significantly from the constant update in technology, the current management and assessment process of asylum seekers should equally be deserving of a commitment to innovation and improvement. The changes in this Bill will benefit the Australian community by providing us with the assurance of an effective, orderly and managed protection programme.

The Government has a clear mandate for these changes. There are no surprises here, this is the Government keeping its election commitments to stop the boats - upon which we are delivering - and resolve the legacy caseload, efficiently, quickly, fairly and with integrity.

I commend the Bill to the House.

Debate adjourned.
Albury-Wodonga Development Corporation (Abolition) Bill 2014
Australian Education Amendment Bill 2014
Dental Benefits Legislation Amendment Bill 2014
Social Services and Other Legislation Amendment (2014 Budget Measures No. 4) Bill 2014
Social Services and Other Legislation Amendment (Seniors Supplement Cessation) Bill 2014
Social Services and Other Legislation Amendment (Student Measures) Bill 2014

First Reading

Bills received from the House of Representatives.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (18:04): I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (18:05): I move:

I move:

That these bills be now read a second time.

I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speeches read as follows—

ALBURY-WODONGA DEVELOPMENT CORPORATION (ABOLITION) BILL 2014

This Bill abolishes the Albury-Wodonga Development Corporation by repealing the Albury-Wodonga Development Act 1973. The Bill also provides for a number of consequential amendments to other Acts and sets out transitional provisions relating to the transfer of assets and liabilities from the Corporation to the Commonwealth.

The Government announced as part of the 2014-15 Budget that it would be delivering smaller, more rational Government involving the abolition or merger of Government bodies where possible to reduce the cost of government administration for taxpayers. The reforms are expected to deliver net savings over the forward estimates period.

As part of the second phase of the smaller government agenda, the Government decided that the Albury-Wodonga Development Corporation would be abolished with its remaining property management functions consolidated into the Commonwealth, as represented by the Department of Finance.
The Albury-Wodonga Development Corporation (Abolition) Bill 2014 provides for the transfer to the Commonwealth of the remaining assets and liabilities of the Corporation at the time of its abolition. These transferred assets and liabilities will be managed by the Department of Finance.

The date of the abolition of the Corporation will be set by proclamation but in the absence of this will occur six months following the date the Act receives Royal Assent, or by 1 July 2015, whichever date falls later. This transitional period allows for an orderly wind-up and transition of the Corporation's remaining activities before its abolition.

The Corporation ceased development activities in 2004 and in the interim has been preparing for its wind-up through the on-going sale of its remaining land interests. This Bill will bring to a close the operations of the Corporation.

I commend the Bill (to the House).

AUSTRALIAN EDUCATION AMENDMENT BILL 2014

The coalition government is committed to supporting the delivery of quality schooling and providing funding and regulatory certainty for all Australian schools.

The Australian Education Act 2013 is the principal legislation by which the Australian Government provides financial assistance to approved authorities for government and non-government schools. It enables expenditure of Australian Government funding for schools and related payments, and secures the reform and accountability objectives to improve the quality of education in Australia.

The Act commenced on 1 January 2014. Australian Government funding for schools is provided to state and territory governments that are then required to distribute these funds in line with the requirements of the Act. In 2014, around $14 billion will be paid to government and non-government school authorities under the Act.

This bill will create a mechanism to enable payments to be made under the Government's Indigenous Boarding Initiative, an initiative designed to provide additional recurrent funding in 2014 to support Aboriginal and Torres Strait Islander boarding students at non-government schools. The additional recurrent funding will be used by schools to deliver improved services to Aboriginal and Torres Strait Islander boarding students and provide additional support to boost school attendance and engagement.

The bill will also provide funding certainty for certain independent special schools and special assistance schools that would otherwise see their funding reduced to the schooling resource standard from 2015. Instead, these schools will now transition towards the standard consistent with other schools.

Since the Act was passed by the 43rd Parliament, a number of errors and oversights made during the original drafting have been identified which affect the proper administration of the legislation. This bill will correct these and provide greater certainty for schools about their funding entitlements for the current funding quadrennium.

Turning to the specifics of the bill:

Schedule 1 and Schedule 2 separate the measures that will come into effect at different times. Schedule 1 contains those amendments that will commence on Royal Assent, and Schedule 2 contains those amendments that need to be backdated to operate from the start of the Australian Education Act on 1 January 2014. The need for amendments in Schedule 2 to apply retrospectively from 1 January 2014 is to ensure that funding calculations and payments made for 2014 are correct, so that all schools are funded as intended.

The bill will create a new mechanism to make payments to schools in prescribed circumstances. The Regulations will contain the type of information the Minister must have regard to in exercising this new
mechanism, both in terms of eligibility and calculation of funding, and be subject to review and disallowance by the Parliament.

In the first instance, this new mechanism will enable payment of the Australian Government’s Indigenous Boarding Initiative. The initiative was announced in the 2014-15 Budget and will provide interim support for non-government schools with more than 50 Indigenous boarding students from remote or very remote areas, or where 50 per cent or more of their boarding students are Indigenous and from remote or very remote areas. This additional funding will assist non-government boarding schools to provide these students with a high quality education and support educational opportunities for Indigenous students.

The bill allows for the correction of errors and oversights that have become apparent since the Act became operative on 1 January 2014. The bill will ensure that certain special schools or special assistance schools will not have their funding reduced in 2015. Currently, the safety net in place will disappear and these schools will have their funding immediately reduced to the schooling resource standard from 1 January 2015 because the current work with the states and territories to develop nationally consistent data has not yet been completed. The amendment will provide funding certainty by providing $2.4 million in funding for next year and ensuring these schools transition to the schooling resource standard in a manner consistent with other schools until the revised student with disability loadings are available.

The bill will address a gap in the current Act dealing with the transitional arrangements to ensure that schools moving between approved authorities will be neither financially advantaged nor disadvantaged. A school moving to another approved authority will have, as a starting point for its Commonwealth funding entitlement under that approved authority, the amount that would have applied had the school not moved authorities.

The bill will correct the Accessibility/Remoteness Index of Australia (ARIA) index values for locations of schools, so that schools in inner regional locations are properly identified as such.

The bill will correct a significant error that would see, for some school authorities, the Commonwealth liable to pay the entire amount (both Commonwealth and notional state share) calculated for an authority, rather than the Commonwealth's share of that calculated amount.

The bill will insert the final 2014 amount for capital funding paid to Block Grant Authorities. This amount will be the basis for future capital funding amounts for Block Grant Authorities.

The bill will address a minor technical error and correct a cross-reference regarding the pro-rating of recurrent funding.

The bill will provide greater flexibility and options for managing any non-compliance that occurred under the previous legislation, the Schools Assistance Act 2008, should compliance action be taken.

The bill clarifies the operation of reviewable decisions and will correct errors relating to who can apply for a review of a decision under the Act.

Finally, the bill will amend the Australian Education (Consequential and Transitional Provisions) Act 2013 to extend to 1 January 2016, or a later date determined by the Minister, the commencement of school improvement planning requirements under the Act to provide regulatory certainty to schools while consultations with stakeholders occur in relation to possible adjustments to this requirement.

This bill supports all Australian schools by correcting errors and omissions in the existing Act to ensure effective and efficient administration. Taking action to fix these problems will strengthen the legislative framework that underpins the Australian Government's significant investment in schools and contribute to improving the quality of school education in Australia.
DENTAL BENEFITS LEGISLATION AMENDMENT BILL 2014

I am pleased today to introduce the Dental Benefits Legislation Amendment Bill 2014.

This Bill amends the Health Insurance Act 1973 and the Dental Benefits Act 2008 to allow for a better process for waiving debts for dentists under the former Medicare Chronic Disease Dental Scheme—dentists who did nothing more than make minor paperwork errors and who have been waiting too long for adequate resolution.

The Chronic Disease Dental Scheme was set up by the current Prime Minister in 2007, when he was health Minister, and provided access to benefits of up to $4,250 over two calendar years for patients with chronic health conditions. 80 per cent of people who accessed this scheme were concession card holders. It was our country's biggest ever investment into dental care.

This scheme provided much needed dental treatment—in fact more than 20 million services to more than one million patients—before the previous Labor government closed it down for political ends in 2012.

In opposition I offered to compromise on design changes to the scheme which were never entertained by the then Government. Their desire was simply to destroy a scheme helping Australians solely because its architect was Tony Abbott.

The Chronic Disease Dental Scheme included a technical reporting requirement; a requirement that necessitated dentists provide treatment plans to general practitioners, along with a quote and treatment plan to patients, prior to commencing treatment.

The then Government sought to use the dentists technical oversight as a means of discrediting the scheme, and it was a shameful act.

Dentists who did not meet these reporting requirements have been pursued for repayment of the full amount of the Medicare benefits paid under the scheme although, in most cases, these dentists met all the other requirements of the scheme and provided much needed services to patients. They were simply used by Labor as political pawns.

I made it clear previously in this House that recovery of the full benefit was an excessively severe punishment given that the only error these hard working professionals made was overlooking a paperwork requirement.

The Department of Human Services sought to redress this issue by applying to the Minister for Finance to waive these debts under section 34 of the Financial Management and Accountability Act 1997.

However, this process has so far been extremely time consuming and resource intensive for the Departments of Finance and Human Services. It has also created anxiety and uncertainty for dentists who have been waiting for long periods of time to find out if their debts have been waived.

This bill will relieve the uncertainty for dentists by allowing faster processing of the waivers. It does so by allowing the Chief Executive of Medicare to waive the debts of those dentists who did not meet the paperwork requirements without the need to go through the current lengthy process.

Let me be clear—this amendment will not excuse those dentists who did not comply with other legal requirements of the scheme or who committed fraud. Only those dentists who provided services in good faith will be eligible to have their debt waived. And we know that these dentists are in the majority.

Dentists who, in good faith, did the right thing by their patients and provided them with much needed services.

I turn now to the Child Dental Benefits Schedule. The programme commenced on 1 January 2014 and provides access to benefits for basic dental services to children aged 2-17 years. The total benefit entitlement is capped at $1,000 per child over a two calendar year period.
The CDBS has a means test, which requires receipt of Family Tax Benefit Part A or a relevant Australian Government payment.

This bill amends the Health Insurance Act 1973 and the Dental Benefits Act 2008 to introduce critical changes for the efficient operation of the Child Dental Benefits.

To ensure that compliance audits of the Child Dental Benefits Schedule are more efficient and effective, this bill introduces amendments which will bring the compliance framework for the Child Dental Benefits Schedule into greater alignment with Medicare's compliance framework.

It does so by including the power to compel a provider to comply with a request to produce documents to substantiate the payment of benefits.

These powers in this bill will enable the Chief Executive of Medicare or a relevant officer of the Department of Human Services to give a notice to a practitioner, requiring them to produce documents to a practitioner, or another relevant person, to confirm appropriate Medicare claiming is occurring.

Penalties will apply to individuals who fail to comply with a notice.

The bill also amends the Health Insurance Act 1973 and the Dental Benefits Act 2008 so that the provisions of the Professional Services Review scheme can be applied to any dental services provided under the Child Dental Benefits Schedule.

The Professional Services Review is an independent authority which examines suspected cases of inappropriate practice referred to it by the Department of Human Services.

The Professional Services Review can currently investigate cases of inappropriate practice under the Medicare programme and the Pharmaceutical Benefits Scheme.

Together, these critical amendments to the Child Dental Benefits Schedule will make the Schedule more efficient, ensure that Commonwealth funding is being used appropriately, and promote a more consistent compliance structure for both Medicare and dental programmes.

Lastly, the Bill makes a number of technical amendments to ensure the efficient and effective operation of both the Dental Benefits Act and the Child Dental Benefits Schedule.

This Government is committed to improving health outcomes for Australians, as well as ensuring efficient and effective delivery of services. This Bill does just that.

SOCIAL SERVICES AND OTHER LEGISLATION AMENDMENT (2014 BUDGET MEASURES NO. 4) BILL 2014

This Bill reintroduces several measures previously introduced in the Social Services and Other Legislation Amendment (2014 Budget Measures No. 1) Bill 2014 and the Social Services and Other Legislation Amendment (2014 Budget Measures No. 2) Bill 2014.

The first reintroduced measure will implement some changes to Australian Government payments. Firstly, from 1 July 2015, indexation of the income free areas for all working age allowances (other than student payments), and the income test free area for Parenting Payment Single, will be paused for three years.

From Royal Assent, Parenting Payment Single will be indexed to the Consumer Price Index only, by removing benchmarking to Male Total Average Weekly Earnings.

From 1 July 2015, indexation of several Family Tax Benefit free areas will be paused for three years.

Lastly, from 1 January 2015, indexation of the income free areas and other means-test thresholds for student payments, including the student income bank limits, will be paused for three years.

The Bill will introduce four family payment reforms from 1 July 2015. The first is to maintain the standard FTB child rates for two years in the maximum and base rate of Family Tax Benefit Part A and the maximum rate of Family Tax Benefit Part B.
The second measure will revise the Family Tax Benefit end-of-year supplements to their original values and cease indexation.

Family Tax Benefit Part B will be limited to families with children under six years of age, with transitional arrangements applying to current recipients with children above the new age limit for two years.

A new allowance will be introduced for single parents on the maximum rate of Family Tax Benefit Part A for each child aged six to 12 years inclusive, and not receiving Family Tax Benefit Part B.

The Bill will extend and simplify the ordinary waiting period for all working age payments from 1 January 2015.

Both the Pensioner Education Supplement and the Education Entry Payment will be ceased from 1 January 2015.

From 1 January 2015, the Bill will extend Youth Allowance (other) to 22 to 24 year olds in lieu of Newstart Allowance and Sickness Allowance. Young people with full capacity will be required to learn, earn or Work for the Dole from 1 January 2015.

Lastly, from 1 January 2015, the Bill will remove the three months' backdating of disability pension under the Veterans' Entitlements Act 1986.

This Bill forms part of a package of Bills support the sustainability of the social security system and the nation's Budget.

SOCIAL SERVICES AND OTHER LEGISLATION AMENDMENT (SENIORS SUPPLEMENT CESSATION) BILL 2014

This Bill will reintroduce one measure from the 2014 Budget, which was originally introduced as Schedule 1 to the Social Services and Other Legislation Amendment (2014 Budget Measures No. 1) Bill 2014.

The measure will, from 20 September 2014, cease payment of the Seniors Supplement for holders of the Commonwealth Seniors Health Card or the Veterans' Affairs Gold Card.

The measure will help ensure that payments to senior Australians remain targeted to those who need them the most.

However, other benefits will continue to be available to cardholders, including discounts on medicines under the Pharmaceutical Benefits Scheme, health safety net thresholds, and lower fees on medical services.

Recognising the Government's commitment to abolish the carbon tax, while keeping in place the associated payment increases, this Bill will rename the former Clean Energy Supplement as the Energy Supplement, and maintain it at current levels by permanently removing indexation of the supplement.

The new Energy Supplement will be available to people who formerly received the Clean Energy Supplement in association with their main income support payment, family payment or Veterans' Affairs payment, or through being a holder of the Commonwealth Seniors Health Card or an eligible holder of the Gold Card.

SOCIAL SERVICES AND OTHER LEGISLATION AMENDMENT (STUDENT MEASURES) BILL 2014

This Bill will reintroduce, with certain modifications, two measures relating to student entitlements that were originally announced by the previous government in the 2012-13 Mid-Year Economic and Fiscal Outlook and the 2013-14 Budget.

The two measures were removed from the Social Services and Other Legislation Amendment Act 2014 during its passage through the Senate in March 2014.
**Interest charge**

The Bill will allow for an interest charge to be applied to certain debts incurred by recipients of Austudy Payment, Fares Allowance, Youth Allowance for full-time students and apprentices, and ABSTUDY Living Allowance.

The interest charge will only be applied, from 1 January 2015, where the debtor does not have or is not honouring an acceptable repayment arrangement.

At present, current recipients of income support with debts have their payments reduced until their debts are repaid. For former recipients of income support, on the other hand, there is no incentive to repay their debts.

Debtors who are already making repayments, or who come to a repayment agreement with the Department of Human Services following implementation of the measure, will not be charged interest.

The key purpose of the interest charge is to encourage debtors to repay their debt, in a timely fashion, where they have the financial capacity to do so.

Once the interest charge is in place, debtors who have not been making repayments will have an incentive to engage with the Department of Human Services to make a repayment arrangement in order to avoid the interest charge.

The rate of the interest charge will be based upon the 90-day Bank Accepted Bill rate, plus an additional seven per cent, as is currently applied by the Australian Taxation Office for tax debts under the Taxation Administration Act 1953. Over the last four years, this rate has averaged approximately 10.9 per cent, and currently stands at 9.69 per cent for the quarter July to September 2014.

**Student Start-up Loans**

From 1 January 2015, the Bill replaces the current Student Start-up Scholarship with an income-contingent loan, the Student Start-up Loan.

The Student Start-up Loan aims to help students with the costs of study, including the purchase of text books, computers and internet access.

Under the new arrangements, there will be a limit of two Student Start-up Loans per year, of equivalent value to the Student Start-up Scholarship (currently $1,025 each and to be indexed from 2017).

The loans will be available on a voluntary basis, and will be repayable under similar arrangements to Higher Education Loan Programme debts.

Students will only be required to begin repaying their Student Start-up Loan after their Higher Education Loan Programme debt has been repaid.

In a departure from the measure introduced in the Social Services and Other Legislation Amendment Bill 2013 (a departure arising from the 2014-15 Budget), there will be no grandfathering arrangements for students who had previously received a Student Start-up Scholarship prior to commencement of the new provisions.

Debate adjourned.

Ordered that the bills be listed on the *Notice Paper as separate orders of the day.*

**Aged Care and Other Legislation Amendment Bill 2014**

**Health and Other Services (Compensation) Care Charges (Amendment) Bill 2014**

**First Reading**

Bills received from the House of Representatives.
Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (18:06): I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (18:07): I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

*The speeches read as follows—*

AGED CARE AND OTHER LEGISLATION AMENDMENT BILL 2014

This Bill introduces several minor amendments to aged care and health-related legislation consequential to one 2014 Budget measure and to support the recent extensive reforms to the aged care system in Australia.

Reprioritising the Aged Care Workforce Supplement

The Coalition committed during the 2013 election campaign to deliver better services for older Australians and greater certainty for providers.

The 2014 Budget included several important aged care initiatives to provide better choices and improved access to services that will allow older Australians to continue to live active and healthy lives.

Under one key Budget measure, Reprioritising the Aged Care Workforce Supplement, the Government is honouring its commitment to invest in Australia’s aged care workforce by putting back into the general pool of aged care funding the substantial amounts previously allocated to the workforce compact: $1.1 billion between 2013-14 and 2016-17, with a further $0.4 billion in 2017-18.

This initiative, under which residential care, home care and flexible care providers of aged care services receive an increase in basic subsidy, was implemented separately from 1 July 2014, through two legislative instruments addressing the subsidy arrangements.

This Bill makes consequential amendments to the Aged Care Act 1997 to reflect the implementation of the Budget measure. Specifically, this Bill removes the workforce supplement from the list of primary supplements that may be provided by the Subsidy Principles under the Act.

My Aged Care

A second measure in the Bill amends the Healthcare Identifiers Act 2010 to support the implementation of stage 2 of the Aged Care Gateway, which is a centralised online information portal known as My Aged Care.

Stage 1 of My Aged Care was introduced from 1 July 2013. It currently provides information on aged care, support for consumers in finding Commonwealth-funded aged care services in their local area, and online fee estimators for home care and residential care pricing.

Stage 2 of My Aged Care will operate from early 2015, and is a key component of the improvements to Australia’s aged care system. My Aged Care will be expanded to include:

- a registration process to create a centralised client record;
- a nationally consistent assessment approach;
• telephone screening and face-to-face assessments to determine care needs;
• enhanced web services; and
• a service matching and referral capability.

A client’s identity created during the new registration process will be authenticated, using Medicare’s healthcare identifier for the individual. This approach will protect both client privacy and the integrity of Commonwealth systems.

The amendments in this Bill will allow the collection, use and disclosure of the relevant data for this limited purpose.

Recovery of past home care costs for a compensation recipient

This Bill, together with the Health and Other Services (Compensation) Care Charges (Amendment) Bill 2014, amend the Health and Other Services (Compensation) Act 1995 and the Health and Other Services (Compensation) Care Charges Act 1995 to overcome a current anomaly in the legislation relating to the recovery of past care costs where the care recipient receives a compensation payment.

Recovery in these circumstances is currently possible in relation to the past costs of residential care, but not home care. This anomaly is removed by bringing the capacity to recover past care costs for home care into line with the existing arrangements for residential care.

The amendments remove the current inequity between the two types of care, overcome the potential for delayed entry into more appropriate residential care until compensation payments are settled, and minimise financial loss to the Commonwealth.

Other amendments

Lastly, this Bill makes minor clarifying and technical amendments to aged care and health-related legislation, consistent with intended policy, arising from the recent changes to aged care.

HEALTH AND OTHER SERVICES (COMPENSATION) CARE CHARGES (AMENDMENT) BILL 2014

This Bill, together with the Aged Care and Other Legislation Amendment Bill 2014, makes minor amendments to the Health and Other Services (Compensation) Act 1995 and the Health and Other Services (Compensation) Care Charges Act 1995.

Together, the amendments will overcome a current anomaly in the legislation relating to the recovery of past care costs where the care recipient receives a compensation payment.

Recovery in these circumstances is currently possible in relation to the past costs of residential care, but not home care. This anomaly is removed by bringing the capacity to recover past care costs for home care into line with the existing arrangements for residential care.

The amendments remove the current inequity between the two types of care, overcome the potential for delayed entry into more appropriate residential care until compensation payments are settled, and minimise financial loss to the Commonwealth.

Of the small package of amendments needed to achieve this measure, this Bill introduces those that expand the existing charges on compensation for the purpose outlined here. Amendments made by this Bill to sections 7 and 8 of the Health and Other Services (Compensation) Care Charges Act 1995 have been introduced separately to the Aged Care and Other Legislation Amendment Bill 2014 to comply with section 55 of the Constitution.

Debate adjourned.
COMMITTEES
Australia Fund Establishment
Trade and Investment Committee
Membership
Messages received from the House of Representatives notifying the Senate of the appointment of Ms Butler, Mr Husic and Mr Wilkie to the Joint Select Committee on the Australia Fund Establishment and Dr Chalmers, Mr Conroy and Mr Palmer to the Joint Select Committee on Trade and Investment Growth.

BILLS
Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Amendment Bill 2014
Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Collection) Amendment Bill 2014
Customs Amendment (Korea-Australia Free Trade Agreement Implementation) Bill 2014
Customs Tariff Amendment (Korea-Australia Free Trade Agreement Implementation) Bill 2014
Omnibus Repeal Day (Autumn 2014) Bill 2014
Tax and Superannuation Laws Amendment (2014 Measures No. 4) Bill 2014
Assent
Messages from the Governor-General reported informing the Senate of assent to the bills.

Australian Sports Anti-Doping Authority Amendment Bill 2014
Higher Education and Research Reform Amendment Bill 2014
Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill 2014
Report of Legislation Committee

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (18:08):
Pursuant to order and at the request of the chairs of the respective committees, I present reports on legislation as listed at item 17 on today’s order of business, together with the Hansard records of proceedings and documents presented to the committee.

Ordered that the reports be printed.

Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014
Second Reading
Debate resumed on the motion:
That this bill be now read a second time.

Senator FAULKNER (New South Wales) (18:09): Before question time in this second reading contribution I was making the point that the life span of too many sunset clauses in security legislation has been too long and that it is simply not possible to predict the nature and extent of terrorist threats over a 10-year period, which some of those sunset clauses were.
Giving future sunset clauses around a three-year life span is much more appropriate to meet the immediate threats to national security and to give a new parliament with a fresh perspective the opportunity to reconsider their necessity. I acknowledge that the government has accepted the PJCIS recommendations for substantially reduced time frames on sunset clauses for controversial provisions in this bill and the decision by the government in response to the work of the PJCIS I say is a good one. A mandatory review by the PJCIS assisted by the legislation monitor review should be conducted before expiry of a sunset clause provision. The committee should undertake a comprehensive review of the terms and operations of the legislation and gather information from stakeholder agencies as well as take public submissions and make considered recommendations to the parliament.

Not only has oversight of the intelligence agencies, in my view, failed to keep pace with their burgeoning role and powers but it has been decades since the effectiveness and adequacy of the oversight framework has been critically examined. It is time to satisfy the Australian community, the parliament and the agencies themselves that we have got this right. The time has come for a thorough review of the current arrangements for oversight of Australian intelligence agencies. I believe that such an inquiry should encompass the role, powers and scope of existing oversight mechanisms and consider the adequacy of the legislative framework which governs oversight, the degree to which it is coordinated and comprehensive and whether the resources allocated to such bodies are adequate.

Enhanced power requires enhanced accountability. The greater potential for that power to infringe on individual liberties, the greater the need for accountability in the exercise of that power. This is not to suggest that our security and intelligence agencies are acting perniciously or misusing their powers but in the relatively recent past those powers were used inappropriately with consequent erosion of public trust.

Not only has oversight of the intelligence agencies failed to keep pace with their burgeoning role and powers but it has been decades since the effectiveness and adequacy of the oversight framework has been critically examined. In my view, and I hope this is a view shared around the parliament, it is time to satisfy the Australian community, to satisfy the parliament and to satisfy the agencies themselves that we have got this right. I commend this approach to the Senate.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (18:13): I table the replacement explanatory memorandum relating to the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (18:14): I rise to speak on the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014. I am pleased to serve as a member of the Parliamentary Joint Committee on Intelligence and Security which reviewed this bill. This bill is the latest phase in an ongoing process of updating our national security legislation. The threats that Australia faces are constantly evolving, and our security apparatus must also evolve to keep pace with them.

The most notable recent development has been the movement of Australian citizens to other nations to participate in foreign wars. We know that around 160 Australians have already become involved with extremist groups in Iraq and Syria either through travelling to the region or by providing support from within Australia. If they successfully join up with extremist groups, foreign fighters learn the skills, develop the networks and adopt a hardened
ideology that makes them a serious threat to Australians if they return home. I support the
great work that our security agencies do in identifying individuals who are planning to leave
Australia to join organisations such as ISIL. It is vital that parliament provides our national
security agencies with the tools that they need to keep Australia safe. That is what this
legislation does, and that is why Labor supports it.

The bill contains a broad range of measures designed to address the foreign fighter threat
and amends more than 20 Commonwealth acts. The bill also implements recommendations
from the 2013 COAG review and a number of reports from the former Independent National
Security Legislation Monitor. The new measures in this bill include a new power for interim
suspension of passports. This will assist agencies in proactively addressing concerns that an
individual may be preparing to go overseas to commit an offence. These powers will lower
the evidence threshold required for a passport to be suspended temporarily and without
notifying the individual whose passport has been cancelled. These new measures will assist
security agencies to respond quickly when new concerns are raised. They will also allow
agencies to cancel a suspect's passport without potentially threatening an ongoing
investigation.

This bill merges the Crimes (Foreign Incursions and Recruitment) Act into the Criminal
Code and provides harmonisation with the code's anti-terror provisions. These new and
updated provisions provide a standardised legislative approach to terrorism related offenses
and update the definitions of certain offenses.

The bill creates a new offense for entering, or remaining in, an area declared by the foreign
minister. Declared areas are places where listed terrorist organisations are engaged in hostile
activities—with parts of Syria and northern Iraq being the most relevant current examples.
This will assist our security agencies to identify individuals and ensure that they have or had a
legitimate reason for entering a known area of terrorist activity. Individuals will not have
committed an offense by entering a declared area if they are providing humanitarian aid,
visiting family or working as a journalist or have other wholly legitimate reasons.

There are changes to the law of evidence to facilitate the use of overseas evidence in
prosecutions of foreign fighters. This change simply reflects the changing world in which we
live. In our interconnected world, Australian courts need greater flexibility when determining
whether to use evidence from overseas in terrorism related proceedings. This allows the great
work that Australian security agencies do with their international colleagues to be used, where
appropriate, to prosecute individuals who have broken Australian laws.

There is a new evidence-tampering offence. This is one activity that I think many
Australians would be surprised to know is not already against the law. Currently, if a warrant
is issued under section 34L(6) of the ASIO Act, it is not an offence to destroy evidence that is
requested. That is, very rightly, being corrected here.

This bill is lowering the legal threshold for arrest without warrant for terrorism offences.
This will allow an AFP officer to arrest someone without a warrant where they 'suspect on
reasonable grounds' that someone has committed or is committing a terrorism related offense.
The new threshold provides the AFP with the ability to move quickly to prevent a terrorist act
from occurring or to disrupt the planning of a terrorist act.
There is a new power to seize bogus travel documents. Again, this is probably another area where many Australians would be surprised that a new law is even required. While it is current practice for customs and border protection officials to prevent individuals from using bogus documents to enter or leave Australia or to apply for a visa, it is perhaps surprising that they do not currently have the power to seize those documents. This new power will allow customs and border protection officials to seize bogus documents, thus preventing the individual using them from trying their luck a second time.

This bill will provide for information-sharing between AUSTRAC and the Attorney General’s Department to help combat terrorism financing. The impact that the global financing of terrorism has had on the emergence of terrorist groups like al-Qaeda and ISIL cannot be understated. It is vital that Australia does all that it can to prevent money leaving Australia if it is destined for a terrorist organisation anywhere in the world. AUSTRAC hold a great deal of financial intelligence and they are experts in this field. This change will allow them to work more closely with our security agencies to ensure that any information they gather can be used in the fight against global terrorism.

There is the introduction of delayed notification search warrants for terrorism offences. This new power will allow the AFP to conduct a search of a premises without the occupier of that premises being made aware of that search. Allowing the AFP to gather information through the execution of a search warrant, while allowing the investigation to remain covert, is considered especially valuable. The AFP now have significant operating experience investigating terrorist groups and they believe that this new power will greatly assist their investigations into particularly resilient groups.

The bill also includes measures to extend the sunset clauses for legislation empowering: the AFP control orders; the ASIO questioning and detention powers; and the AFP preventative detention orders. The extension of the sunset clauses on these powers has been done in recognition of the ongoing nature of the terrorist threat to Australia and the importance of these powers in our fight against terrorism. These powers are particularly important as they provide security agencies with proactive measures of dealing with terrorist threats.

There have also been some changes to the control order regime in response to the COAG review, which recommended some additional safeguards. It is important that these safeguards remain in place so that the community can be assured that these powers continue to be used effectively and efficiently to combat terrorism.

The bill creates a new offence for ‘advocacy of terrorism’, and the introduction of ‘advocacy of terrorism’ as the grounds for proscription of a terrorist organisation. It will now be an offence to intentionally urge or counsel the commissioning of a terrorist act. This is a sensible new law, as there can be little doubt that the decision to spread a message of hate, division and violence has no place in Australian society. This sends a clear message that we will not sit by while cowards encourage others to murder and maim, thinking themselves safe from our laws.

The bill also provides for the expansion of the power to collect biometric information on Australian citizens at airports. This new technology is the cutting edge of counter-terrorism efforts in Australia and around the world. It is vital that Australia does everything it can to secure its borders, and this cannot be done unless the correct identity of everyone seeking to arrive or leave the country can be assured. I was pleased that the PJCIS was able to ensure
that additional information, like iris and fingerprint information, will not be included in the biometric information collected.

As a member of the PJCIS, I am pleased to see that the government has accepted all of the 36 recommendations. Key recommendations from the committee include amending sunset periods for a number of new and existing powers to ensure that these powers are only used for as long as they are necessary. Another recommendation relates to additional reviews of these powers to ensure that they are operating as intended and that they successfully provide security agencies with the tools that they need to keep Australians safe.

I wanted to echo some of Senator Faulkner's comments about the need for greater scrutiny while there are greater powers being endorsed by the parliament. As I have outlined here, there are greater powers—important and necessary powers—but there are also important and necessary safeguards which are needed and they will continue to be needed. There will be debate about those oversight powers, and I welcome that and I think that all in this chamber should welcome that debate.

In summary, this bill will provide Australia's security agencies with the updated toolkit that they need to protect Australians from terrorism. These measures are reasonable and proportionate, given the threats that we now face. I commend the bill to the Senate.

Senator LUDLAM (Western Australia) (18:24): It is with no great pleasure that I rise tonight to speak on this bill. I add my contribution to that of our spokesperson, Senator Penny Wright. I want to acknowledge and congratulate her and her staff for pulling together a remarkable dissenting report—given the extraordinary time pressure that the crossbenchers, opposition senators, committee staff and, most particularly, expert witnesses—who were brought together to assess this bill that the government proposes to shotgun through this place—were under. I do not use that term 'shotgun' lightly, but it is apt when you look at the process by which this government is putting this bill forward. I want to quickly sketch what has led us to this sorry place that we are in today with this bill.

This is the second of two national security bills, although the government is proposing that a metadata retention bill also be included in the series. I do not include that in a set of three because I think it is only tangentially related to national security, but this one does. I will say at the outset that the general premise of the government is sound in being concerned about people returning from conflicts overseas after potentially coming into contact with extreme ideologies or being steeped in those ideologies and returning home with potentially post-traumatic stress disorder after being involved in goodness knows what kind of violent conflicts. It is an issue that has been acknowledged across the spectrum, but I do question whether this bill makes any substantive or meaningful contribution towards protecting people from foreign fighters. That is not to say that the issue does not exist; it has of course existed for years. I would be interested to know, for example, whether the government has given any thought to combatants on either side who might have travelled to Gaza during Israel's recent bombardment there or whether they somehow are not to be considered within the scope of this legislation.

This bill would normally have been submitted to the Senate Standing Legal and Constitutional Affairs Reference Committee, which my colleague Senator Wright chairs, but the Legislation Committee, which Senator Ian Macdonald chairs, decided not to assess the bill and it was instead sent to the Parliamentary Joint Committee on Intelligence and Security.
After it came to power last September, the government eliminated the crossbench spot on that committee—Senator Faulkner made some comments in that regard not too long ago. It is a committee that excludes the crossbench, who make up a representation of 18. It is the largest ever representation in this chamber—not just the Greens—with people from right across the political spectrum and right across the country who have been blocked from assessing the bill and talking to expert witnesses. Then the bill is brought back in here as a fait accompli with a set of amendments agreed to by the opposition, as Senator Conroy has just outlined. So there was no involvement of the crossbench or of Senate Standing Legal and Constitutional Affairs Committee. It has been a very rapid process, which nearly all of the witnesses, who did manage to pull high-quality submissions together, acknowledged—and too fast to properly evaluate.

The National Security Legislation Monitor, as Senator Wright acknowledged in her contribution, has been vacant since April. That is the office that is meant to assess whether counter-terrorism legislation is necessary and proportionate. That is the measure with which the government holds the potential future office of the monitor in contempt—in very low regard—because the government has ignored a substantive amount of the recommendations that Mr Walker SC made in the last series of reports that he tabled on issues of direct relevance to this bill. You have not even bothered to re-appoint the office; you have been happy to leave that lie vacant since April. Senator Brandis is always proud to come in here and say that it was one of his colleagues, Senator Judith Troeth, who brought that bill forward. It was a private senator's bill that I co-sponsored and brought through here. It did not pass for well over a year, but, nonetheless, the office existed until April when the government thought it could wipe it out because that is how little it cares about oversight and accountability. It is disgusting.

The Inspector General of Intelligence and Security deals only with the aftermath—deals with issues at the end of the pipe—and does not really have a policy-evaluation role on whether laws like this are necessary or proportionate. That is where we have been left. Perhaps the minister at the table can correct me, but it is my understanding that at about 12.30 tomorrow there will be a gag motion moved and this debate will be shut down. That is treating this chamber with contempt. Whether you support the bill or not, whether you support the amendments or not, this process of simply shotgunning legislation as dangerous as this through this place is absolutely appalling. Why exactly is the government in such a hurry? Yes, I agree that there is a legitimate public policy issue with combatants returning from violent conflicts overseas. Australians have been transiting in and out of Syria, through the gruesome civil war there, for three or four years that we know of. Why the sudden urgency over the last couple of weeks? People can draw their own conclusions.

And, of course, the opposition has simply given this bill a free pass, as they did with the ASIO Bill. After the bill had passed we saw a remarkable outpouring of regret from people as diverse as shadow minister Albanese—I guess speaking in a private capacity—Greg Sheridan, from The Australian; Janet Albrechtsen; and an entire spectrum of commentators around civil rights, civil society and industry. I wonder whether we are going to see a similar performance from the Labor spokesperson on this bill. It is, once again, left to the crossbenchers to provide the opposition in this country. I do not know what Senator Lambie is going to say, and I will
not speak for the other crossbenchers, but it appears that the crossbench is the last remaining place in this chamber where critical thought on such bills resides.

Anthony Byrne, whom I hold in quite high regard, was chair of the Parliamentary Joint Committee on Intelligence and Security last year and I think he is the deputy chair of the committee now. He made some really perceptive comments a couple of months ago about the counter-terrorism legislation. Before ISIS really got a grip on western Iraq—although it had obviously been festering in Syria for a long period of time—Mr Byrne commented in an interview:

It is best that we have these debates around legislation as fraught as this in the light of day without some kind of pressure, without having to operate in the context of some kind of security emergency or heightened state of alarm. It is best that we hold these debates in a more measured way than that.

I think he is quite correct. Of course, what he left out is that the reason he presumably failed to move for that is that he knew the Labor Party would not be able to withstand the onslaught and would cave in. That is why it is best to be having these conversations in a more measured way—and, of course, we not. By this time tomorrow this bill will have been sent back to the House and will be on its way to being law. Again, it is left to the crossbenchers to provide that critical thought.

From my analysis, and the detailed and extremely valuable dissenting report that Senator Penny Wright has put forward, what we see is a mash-up of different causes. Some measures are sensible and necessary. Some measures are redundant because there are already provisions in criminal law that cover those offences. It makes it look much more as though somebody just wanted to draft some laws to look as though we are doing something, to be able to call a press conference and say we have passed some new laws. Actually, many of the things in this bill are redundant because offences have existed for a long period of time for the kinds of incitement to violence and criminal conspiracy that this bill, for some reason, thinks it is making an improvement on. Thirdly, there are measures that are simply dangerous and should not be in Australian law. Those obviously include the measures that Mr Walker, SC, believes should be taken off the statute books and not be given those additional sunset causes.

The Greens recommend that the bill not be passed in its current form. I think it is a great tragedy that the committee stage debate, where we actually get to have a reasoned discussion and debate about amendments, is likely to be cut short tomorrow by this gag motion that the government seems to be intending to move. Preventive detention orders should be removed from the Criminal Code. Control orders should be amended in line with recommendations by the Independent National Security Legislation Monitor, whom Senator Brandis seems to hold in high esteem—except he wanted to abolish the office and has not bothered to appoint another one. At least have the grace to read the reports that the guy produced, since his primary mandate was to assess precisely these kinds of clauses and work out whether they are necessary and proportionate.

The Greens will also be opposing the schedules of the bill that seek to expand the collection, use and sharing of biometric material in airport passenger processing systems. This is one of the most troubling aspects of the bill. It goes to schedule 5—the use of automated border processing control systems to identify particular individuals in immigration clearance. Actually, this will pass substantive automated surveillance technologies across the entire travelling population. And those measures proposed in schedule 6, as the dissenting report
points out, seek to extend the use of biometric material as part of the advanced passenger processing system. This can impact on the privacy of a vast number of people who are suspected of nothing at all.

That is why I think the Privacy Commissioner told the Parliamentary Joint Committee on Intelligence and Security that a privacy impact assessment should be undertaken. But there is nothing in sight; the government does not appear to be interested in that at all. The commissioner said:

Such an assessment could be done in a way to help inform the bill to see whether any additional safeguards need to be built into the legislative base to add additional protections to that information.

And isn't it extraordinary that the minister representing in this capacity was still tabling explanatory memoranda to a bill that is still under development—apparently—even though we have been debating it in here for several hours. That is the kind of debacle you walk into when you bring a bill through here were such a rush. Nearly everybody who made a submission on this bill acknowledged that it was being done much, much too quickly. And we have not heard from any coalition spokesperson thus far about the case for this extraordinary haste.

The Privacy Commissioner emphasised 'the importance of ensuring that any expansion of existing powers accords with community expectations about the handling of personal information' He said:

This balance can be achieved by ensuring that where the handling of an individual's personal information is authorised in the broader interests of the community, including upholding national security, those activities are accompanied by an appropriate level of privacy safeguards and accountability.

I am sure that the Labor Party believe that that accountability has been baked into this bill—and we, respectfully, strongly disagree.

I want to draw the chamber's attention to a joint statement on this legislation, the Foreign Fighters bill, titled 'Don't rush through unnecessary counter-terror laws that erode democratic rights and freedoms'. It was countersigned by 43 separate organisations. They make the case that the government denies our elected representatives and the community the opportunity to fully debate the changes—again, making the case for the extreme urgency that has been pressed. They make what I think is a profoundly important point. I will read briefly from the beginning of the statement:

The Australian Government has an important duty to protect the community from terrorism. At times, laws can legitimately limit the rights of individuals for the purpose of countering this threat, provided the limitations are necessary and proportionate.

In fact, national security laws and the protection of human rights share complementary goals; both are concerned with protecting Australians from harm.

The dichotomy that is put to us from the Prime Minister's office down—that we need to give up some of our rights in order to increase security—is exposed quite elegantly in this statement as false:

… national security laws and the protection of human rights share complementary goals; both are concerned with protecting Australians from harm.

You do not increase one by obliterating the other, yet that is precisely what this bill does.
The idea that agents or police can enter your home, or enter the home or premises of somebody who is not actually suspected of any offence, and not even have to notify anybody that that has occurred until months afterwards is characteristic of a police state. Preventative detention is characteristic of a police state. These are very, very dangerous powers that we play around with here, and once they are on the statute books, as Mr Walker quite correctly points out, they are inordinately difficult to get rid of. That is why the Greens believe, firstly, that the bill should not pass in the current form and, secondly, that the government—perhaps with the support of the opposition; I do not know—should rethink the unnecessary haste with which this legislation is being bashed through the parliament. The one thing that we do not want to see is a repeat of what happened after the ASIO bill. That bill was passed late at night in extraordinary haste and then in the following days the editorial pages, the TV shows, and the op-ed opinion pieces that came out said, ‘What the hell have we done? How did we let this happen? Why was this done?’ We are hoping for that kind of critical thinking and analysis before the bill passes, not after.

We put the government on notice about their so-called third tranche of legislation. As I said before, I think that that legislation is only peripherally related to national security, because there are a multitude of other agencies that are accessing metadata on a warrantless basis. It is not really a national security bill at all. That, again, is a line that we call on the Labor Party to step back from. Start behaving like a party of opposition. I thank the chamber.

**Senator REYNOLDS** (Western Australia) (18:39): I rise today in support of the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014. This bill introduces measures to support Australia’s security agencies to ensure that Australians are as safe and secure as we can make them, without stripping away the freedoms we value and, in fact, are fighting to protect.

National security must always be a primary priority of our national government, but so too must the preservation of our democratic freedoms. These are two seemingly incompatible policy objectives; to balance them is never easy and is always rightly contested in this place. There is no doubt, however, in my mind that the Islamic State is a threat to our democratic values, our people, our institutions and our Australian way of life. Their attempt to gain resources, ground and manpower, both in Australia and abroad, must be resisted.

In 1986, Margaret Thatcher noted in a speech to the British parliament:

… terrorism thrives on a free society. The terrorist uses the feelings in a free society to sap the will of civilisation to resist. If the terrorist succeeds, he has won and the whole of free society has lost.

She also noted:

Terrorism has to be defeated; it cannot be tolerated or side-stepped. When other ways and other methods have failed—I am the first to wish that they had succeeded—it is right that the terrorist should know that firm steps will be taken to deter him from attacking either other peoples or his own people who have taken refuge in countries that are free.

My own experiences in government, dealing with the threats of al-Qaeda and Jemaah Islamiyah, taught me that terrorists do not respect compassion; they see it as a weakness for them to exploit.

This threat is real, and we have seen it before. Between 1990 and 2010, 30 Australians are known to have fought or trained with extremist groups in conflict zones at the time, including Pakistan and Afghanistan. Of these, 25 returned to Australia, 19 became involved in activities
in Australia prejudicial to our national security and eight were convicted of terrorism related
offences. Since that time, the evolution of technology and social media in an increasingly
globalised world presents new opportunities for those who would seek to do us harm and new
national security challenges for us all to address. The phenomenon of foreign fighters who are
recruited by these new means underscores the connection between events overseas and the
security of our own communities—as the recent events in Canada remind us. Today, at least
185 Australians have become involved with extremist groups in Syria and Iraq by travelling
to the region, attempting to travel to the region or supporting groups operating there from
Australia.

Senator Leyonhjelm might be right that a 17-year-old from Bankstown is, to paraphrase
him, 'an idiot'. But what Senator Leyonhjelm did not tell you is that, while he is 17 and he
may be an idiot, he is now a radicalised and trained terrorist. His age is immaterial to his
intent and his ability to do us harm should he return to Australia. History has shown us time
and time again that child soldiers, once radicalised, are often the most brutal.

This bill introduces a range of measures to strengthen Australia's counter-terrorism
legislative framework, and ensure that our domestic security agencies are empowered to do
their jobs on our behalf. A new offence will make it illegal to intentionally counsel, promote,
encourage or urge the doing of a terrorist act. There have been suggestions that this law will
impact on free speech; however, as with everything, there must be a balance between
protecting the rights of free speech and protecting the rights of individuals to go about their
lives without the threat of terrorism.

Further, what has not yet been acknowledged by some opposite is that this bill does contain
safeguards within the provision designed to protect free speech. The offences makes reference
to the existing defence of 'acts done good faith' to protect the implied freedom of political
communication. It will also exclude acts like publishing a report or commentary about a
matter of public interest in good faith. The bill also seeks to extend sunset clauses for a
number of measures, including control orders, preventative detention orders, ASIO
questioning, and questioning and detention orders.

I welcome the fact that as a result of the PJCIS report the sunset clauses will be reduced
significantly from what they were originally proposed to be. I believe these powers are
essential components of Australia's anti-terrorism legislative framework. They play a crucial
role in mitigating, deterring and responding to terrorist threat Australia and extending these
sunset provisions will allow future governments to reassess the security environment and
determine whether these powers are still required. The bill provides more powers to our
security agencies to deal with what I believe is a clear and current threat of terrorism within
Australia posed by foreign fighters seeking to return to our country. It will also improve
Australian border security measures and introduce measures to cancel welfare payments for
persons involved in terrorism.

This bill is an essential component of the government's reform to national security
legislation. The threat posed by foreign fighters returning to Australia is real. It is not
overstated nor is it something that can be ignored. Australians who travel to fight with the
Islamic State should not be allowed to bring their abhorrent brand of extremism back to
Australia. As technology and threats change, so must legislation. These changes must be
responsive and timely to ensure that our security organisations are able to effectively respond to these emerging threats, as they clearly have today.

The Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill is both necessary and appropriate legislation at this time. I congratulate the Labor Party for their bipartisan approach and constructive amendments to this bill. I believe this bill strikes a clear balance between security and individual freedom, and I commend it to the Senate.

Senator LAMBIE (Tasmania—Deputy Leader and Deputy Whip of the Palmer United Party in the Senate) (18:47): I rise to briefly contribute the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 and acknowledge the sincere, well thought out and robust contributions other members of this chamber from both sides have made to this legislation. I would also like to thank and pay tribute, once again, to the public servants, security and police officers who risk their lives to protect us from our enemies.

I have real concerns about the impact that this legislation will have on the civil rights and individual democratic freedoms of Australian citizens. I understand that those civil rights and freedoms were hard fought for and that members of our ADF shed blood and died for these freedoms. Those freedoms and rights are a legacy and a precious gift of previous generations, which I cherish and reflect on every time I visit the graves and war memorials in Tasmania. So I am very reluctant to vote for legislation which brings about the lessening of these rights and freedoms for Tasmanians.

However, with the recent and unprecedented rise of Islamic extremism; their vile killings, torture and beheadings of innocents; and the Islamic extremists’ declaration of war on Australia and other western nations, followed up with coordinated attacks around the world, there is a clear and pressing social and national security need to strengthen the laws that will enable the brave and courageous public servants, security and police officer do their jobs and protect us all from the maniacs and psychopaths who would do us harm for no other reason than that we will not submit to their will and barbarous medieval culture.

I would like to thank the Attorney-General and head of ASIO for their briefing on this legislation and I am glad that they have taken on board my suggestion regarding a shortening of the sunset clause time frame. The management and carriage of these laws must have strong oversight. The government's sunset time period was 10 years; I would have liked to see a review by the parliament every two to three years. The government has agreed to every four years. This is a good outcome for two important reasons: firstly, to ensure that no inefficiencies or misconduct have crept into the administration and delivery of these laws over time; and to respond to the rapidly changing types and levels of threat posed by the terrorists, their allies and their agents.

Our defence experts tell us that we are in for a long fight—it could be 100 years—against the Islamic terrorists, so a shorter period of review than 10 years contained in this bill would be an appropriate amendment to this legislation. In other words, the sunset clause must allow for review every three years. It is also worthwhile to note in the context of this debate that this legislation and its specific measures are a reaction to an aggressive, hostile ideology which has been adopted by brutal Islamic foreigners and their supporters and allies in Australia. If we are going to find a cure for the disease of extremism, we must attack the extremists’ ideology and we must root out and expose the extremists supporters who are living among us, who are more than likely sustained by our welfare entitlements.
This legislation is clearly an attempt to regain control over the radical Islamic groups in Australia. The PM could also regain control over the radical Islamic groups in Australia who are freely preaching hate and urging their followers to strengthen their allegiances to foreign powers. This is by introducing new laws which strip them of the right to vote and receive public benefits. It is easy for the PM to order troops to the Middle East and make out that he is tough on terrorism; but as witnessed by an Islamic radical group's recent rally in Western Sydney and their public statements from its leaders, the PM has for a long time turned a blind eye to the real threat of home-grown terrorism in our own backyard.

Mr al-Wahwah, the president of the radical Islamic group Hizb ut-Tahrir—if the media has reported correctly—has made a speech which contains implied threats of violence against the Australian people and has clearly declared his personal allegiance and his group's allegiance to an anti-democratic foreign power. Under section 44 of the constitution he and his group's members would not be allowed to stand for the Australian parliament because of their divided loyalties and obvious allegiances to foreign powers.

Therefore the Prime Minister should introduce new laws which expand the legal principle of non-allegiance to a foreign power found in section 44 of the Constitution, which strips people who are members of groups like Hizb ut-Tahrir of their Australian citizenship and right to vote. I wonder how many of the people at Mr Al-Wahwah's rally in Western Sydney who are advocating for sharia law and loyalty to foreign powers enjoy Australian social services payments, entitlements and democratic freedoms? If they are going to carry on with that sort of rot the first thing we should ensure is that they do not receive any government funds or entitlements, that they do not have the right to vote and that they are deported immediately. Our taxes should be exclusively reserved for people who love Australia, who have undivided loyalties to our nation and who do not have formal or informal allegiances to foreign powers. They should not be used for those whose loyalties are clearly with foreign religious leaders and foreign anti-democratic laws. I will repeat what I have said before: if your loyalties and allegiances to foreign powers are so strong that you want to live under a foreign law and antidemocratic customs then please leave us in peace and get out of Australia.

These laws are dealing with the symptoms of sick, depraved minds driven by perverted ideology. I think there is also an opportunity to introduce new laws based on section 44 of our Constitution, which says that you cannot have 'allegiance, obedience or adherence to a foreign power' and expect to represent the Australian people in this parliament. These new laws could strip people of their Australian citizenship, right to vote, right to receive Australian taxpayers' money and, in some cases, deport or jail those who clearly have allegiance, obedience, or adherence to a hostile foreign power.

After those general comments and overview of the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 I now turn to the specific provisions of the bill. Following the passage of this bill, an organisation can be listed as a terrorist organisation if the organisation directly or indirectly counsels, promotes, encourages or urges the doing of a terrorist act. Item 64 of schedule 1 would amend the criteria by which an organisation can be listed as a terrorist organisation under the Criminal Code. Paragraph 102.1(1A) of the Criminal Code will be amended by the addition of the words 'promotes and encourages'.

The control order provisions in division 104 of the Criminal Code allow a range of restrictions to be placed on an individual's liberty for the purpose of preventing terrorist acts.
For example, an individual subject to a control order may be required to remain in a specified place at specified times and to wear an electronic monitoring device. They may also be prohibited from being in certain areas or from communicating or associating with specified individuals.

Currently, a senior member of the Australian Federal Police may seek the Attorney-General's consent to request an interim control order from an issuing court if he or she (a) considers on reasonable grounds that the order would substantially assist in preventing a terrorist act; or (b) suspects on reasonable grounds that the person has provided training to, or received training from, a terrorist organisation. The issuing court may then make an interim control order if it is satisfied, on the balance of probabilities, of either of those grounds. Where subsequently confirmed by the issuing court, a control order may last for a maximum of 12 months.

The bill would expand the grounds on which a senior AFP officer may seek the Attorney-General's consent to request an interim control order. It would do so with regard to both grounds (a) and (b) set out above. First, with regard to ground (a), the officer would need only suspect—rather than 'consider'—on reasonable grounds that the order would substantially assist in preventing a terrorist act.

Regular search warrant schemes require the officers executing a warrant to provide a copy of the warrant to the owner or occupier of the premises and allow that person to observe the search. This means that once a search is conducted, suspects are aware of police interest in their activities. This can present difficulties for law enforcement, particularly in the context of investigations into multiple suspects over an extended period.

A submission made to the parliamentary joint committee says:

If members of a terrorist group are alerted to investigator's knowledge of their activities, the success of the law enforcement operation could be jeopardised. For example, a suspect whose premises are searched under the current regime would be notified of police interest in their activities. A suspect could then undertake counter-surveillance measures, change their plans to avoid further detection, relocate their operations, or relocate or destroy evidence of their activities. It would also provide a suspect with the opportunity to notify their associates, who may not yet be known to police, allowing the associates to cease their involvement with the known suspect, destroy evidence or avoid detection in other ways.

As the name suggests, 'delayed notification search warrants' fall between regular search warrant schemes and covert search warrant schemes. Covert search warrant schemes allow searches to be conducted without any notification of the owner or occupier of premises in the same fashion as other covert methods, such as surveillance devices and telecommunications interception. Victoria, Queensland, Western Australia and the Northern Territory provide for covert search warrants for suspected terrorism offences.

Like control orders, preventative detention orders—PDOs—were introduced in the Commonwealth jurisdiction by the Anti-Terrorism Act (No. 2) 2005, following on from the COAG agreement. The purpose of the PDO regime in division 105 of the Criminal Code is to allow a person to be taken into custody for a limited time period in order to either prevent an imminent terrorist act from occurring or preserve evidence of, or in relation to, a recent terrorist act.

A member of the AFP may apply to a senior member of the AFP for a PDO against a person 16 years of age or older, for an initial period of 24 hours. An order extending the
period of detention to 48 hours may only be granted by certain members of the judiciary and certain members of the AAT.

In 2005, the PDO regime was reviewed by the Independent National Security Legislation Monitor—the INSLM—and the COAG review committee, both of which recommended the repeal of the provisions. Under the bill, the PDO regime would be retained and amendments made that would make them more accessible. The INSLM made three recommendations for amendments to the PDO regime if it were, against its main recommendation, retained. The bill would implement one of them in full and another in part.

For entering or remaining in a declared area, the bill would create a new offence punishable by 10 years imprisonment which would be made out where a person enters or remains in a declared area. The Minister for Foreign Affairs would be able to declare an area in a foreign country as a declared area where he or she is satisfied that a listed terrorist organisation is engaging in hostile activity in that area. It would be a defence under subsection (3) for the person to show that they entered or remained in the declared area solely for a legitimate purpose. The legislation provides a list of legitimate purposes, such as providing humanitarian aid, making news reports or making bona fide visits to family members.

While the government is not technically reversing the onus of proof, as the prosecution must still prove the elements of the offence beyond reasonable doubt, the offence is framed in such a way that it has essentially the same effect. Criminal liability will be prima facie established wherever a person enters or remains in a declared area. No other physical elements of the offence are required. The government need not establish, for example, that the person travelled to the area for the purpose of engaging in terrorism or some other illegitimate activity. This is problematic because it is that purpose, rather than the mere fact of travel, which renders the conduct an appropriate subject for criminalisation.

The bill would establish a new offence that would be made out where a person advocates the doing of a terrorist act or a terrorism offence and is reckless as to whether another person will engage in that conduct as a result. This offence would be punishable by a maximum of five years imprisonment. To the extent that the proposed offence encompasses genuine cases of incitement—namely, where a person urges or encourages another person to commit a terrorism act or offence and does so intending that the conduct will occur—it is superfluous. By virtue of section 11.4 of the Criminal Code, it is already an offence to incite a terrorist act or a substantive terrorism offence.

Currently, section 102.1(2)(b) of the Criminal Code provides that an organisation may be listed by the Governor-General as a terrorist organisation if it advocates the doing of a terrorist act. An organisation advocates terrorism where it directly or indirectly counsels or urges the doing of a terrorist act; or directly or indirectly provides instruction on the doing of a terrorist act; or directly praises the doing of a terrorist act in circumstances where there is a substantial risk that such praise might have the effect of leading a person, regardless of his or her age or any mental impairment that the person might suffer, to engage in a terrorist act. The bill would amend this definition in line with the offence for advocating terrorism so that it also includes the promotion and encouragement of terrorism.

Part 3 of the Foreign Evidence Act 1994 currently provides for the admission of evidence received from foreign countries where the Attorney-General makes a formal request for that material, the evidence has been taken on oath or affirmation, and the material purports to be
signed or certified by a judge, magistrate or other officer of the foreign country. As noted by the INSLM, such requirements are not practical where the foreign country in question does not have the same levels of government administration—for example, because the country is in a state of civil war.

The bill would overcome these limitations by explicitly allowing foreign material to be adduced in terrorism related proceedings. It would give Australian courts the discretion to exclude that material where it would have a substantial adverse effect on the defendant's right to a fair hearing. Furthermore, the material could not be adduced where the court is satisfied that the information was obtained through torture or duress. The safeguards included in the bill relating to the defendant's right to a fair trial and material obtained through torture or duress are positive inclusions.

Currently, section 6 of the Crimes (Foreign Incursions and Recruitment) Act 1978—the foreign incursions act—provides a maximum penalty of 20 years imprisonment where a person enters a foreign state with intent to engage in hostile activity. Hostile activity is defined as including the overthrow of the government, armed hostilities and the unlawful destruction of property belonging to the foreign state. Section 7 provides a maximum penalty of 10 years imprisonment where a person does any act that is preparatory to that substantive offence. The bill would repeal the foreign incursions act and recreate these offences in the Criminal Code with some amendments. First, it would raise the penalty for both offences to a maximum of life imprisonment. It would also expand the definition of hostile activity to include subverting society. It would encompass serious damage to any property, serious interference with any electronic system or serious harm to any person. The section could apply, for example, to a private dispute between individuals where one person seriously damages another person's house and endangers the person's life in doing so. Such conduct might be criminal, but it should not attract a maximum penalty of life imprisonment under the foreign incursion offences.

I note and applaud that, for those persons whose passports have been cancelled or refused or visas have been cancelled under this legislation, the government can end all governments payments they are making to the person. The government is not required to provide reasons for its decision to cease the payments where doing so would require them to release security sensitive information.

In closing I note that changes are being made in passport suspension, emergency visa cancellation and Customs powers, which the Palmer United Party supports. We support this legislation after careful consideration. I end as I began by making the point that the Palmer United Party is very reluctant to support legislation which brings about the lessening of fundamental democratic rights and freedoms for Tasmanians. However, with the recent and unprecedented rise of Islamic extremism, their vile killings, torture and beheadings of innocents, and their declaration of war on Australia and other Western nations, the Palmer United Party is left with no other option but to support this legislation in its entirety.

Senator FIERRAVANTI-WELLS (New South Wales—Parliamentary Secretary to the Minister for Social Services) (19:06): I am pleased to have the opportunity to rise to speak in support of the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014. This is of course the second tranche of the government's national security legislation. This legislation is comprehensive and reflects the extensive work of the Attorney-General and this
government to protect Australians. It is important that as a government we do everything we reasonably can to protect our people. That is why we are urgently updating counter-terrorism legislation.

This bill, the foreign fighters bill, as it has come to be known, fills the most pressing gaps and will tailor many of our existing powers and offences to address the new threat of home-grown terrorism. It focuses on measures that will have the greatest impact on prevention and disruption of domestic threats. The government has accepted all the recommendations of the Parliamentary Joint Committee on Intelligence and Security report on the foreign fighters bill. This legislation has some urgency as it deals with a clear and immediate threat for the safety of Australians. This legislation tackles the escalating threats posed by persons who have participated in foreign conflicts or undertaken training with extremist groups overseas and also by those whom they influence. The government is determined to give our law enforcement, intelligence and border protection agencies the necessary tools to militate against such threats. This bill has a direct impact on their ability to protect the Australian public.

It amends 22 acts to respond to the threat posed by Australians engaging in, and returning from, conflicts in foreign states by providing additional powers for security agencies; strengthening border security measures; cancelling welfare payments for persons involved in terrorism; and implementing recommendations made by the Independent National Security Legislation Monitor's second and fourth annual reports and the report of the Council of Australian Governments review of counterterrorism legislation. The legislation also repeals the Crimes (Foreign Incursions and Recruitment) Act 1978. I commend the work of the Parliamentary Joint Committee on Intelligence and Security inquiry into the bill. Their report provided a thorough consideration of the bill and the issues raised in evidence by a wide range of stakeholders. Those stakeholders who participated also made a valuable contribution to those deliberations.

We have accepted all of the committee's 36 recommendations outlined in its unanimous bipartisan report. Let me repeat: this committee was unanimous in its support and recommendations. The recommendations focused on improving the clarity of provisions in the bill and ensuring that the powers provided for in the bill are used appropriately and subject to proper review. Implementing the recommendations will further strengthen the provisions of the bill including the safeguards, transparency and oversight mechanisms. Most of the recommendations do not suggest amendment to the legislation itself. Importantly, the committee does not recommend against any of the substantive provisions of the bill but makes suggestions largely on definitional and process issues. Now it is time for us in the Senate to add our weight to the committee's recommendation, accept its 37th recommendation—its principal recommendation—and pass the bill.

This legislation is the product of a lot of community consultation, of which I have also had the privilege of being part. Unlike most legislation, which is inquired into after tabling by the minister, the Attorney-General took steps to consult about this legislation before tabling. This was an important step, given the sensitivities surrounding the proposed measures and their community impact. I stress that our security measures at home and abroad are directed against terrorism, not against religion and not against any sector of the community. Regrettably, though, it is the Muslim communities that have been affected, given that it is their young
people who have been targeted by ISIL, or Daesh. For this reason, it was important to engage in consultations with the Muslim communities regarding aspects of concern about the legislation.

Having stated what this legislation does, I will correct some misconceptions about this bill. Firstly, it does not target journalists and freedom of the press. Despite the misgivings of a few journalists, they are not the target of these laws, and these provisions are not new to Australian law. This law only relates to special intelligence operations. As Parliamentary Secretary to the Minister for Social Services with special responsibility for multicultural affairs and settlement services, I reiterate that this legislation is not intended to target the Muslim communities. I want to reassure these communities that this government appreciates that the actions of a few should not overshadow the valuable contribution that so many in these communities have made to Australia. It is important to reiterate the work that has been done by many people in the Muslim communities in supporting, counselling and, in some cases, stopping disaffected youth from travelling overseas or being caught up in attempts to radicalise them. Much of this work has been done discreetly and quietly, away from the public gaze, by imams, families and community leaders.

This is the most significant risk to Australia's domestic security that we have faced in many years. There is a real risk that foreign fighters returning from abroad not only will become further radicalised but will seek to radicalise others, thereby enhancing the real prospect of terrorist attacks on home soil. I acknowledge the contributions made during the community consultations that the Attorney and I attended and those which I attended on my own. I believe those consultations have assisted in the refining of the legislation before us. Behind the scenes, I have appreciated the advice and counsel of many in the Muslim communities. I particularly acknowledge the women and the youth who have been so forthcoming with their experiences, challenges and advice.

I conclude by talking more generally about what has happened overseas and how it relates to us here in Australia as a free multicultural society. The overwhelming majority of Australians find the barbarism of the terrorist group ISIL, or Daesh, absolutely and utterly abhorrent. One of Australia's greatest strengths is our harmonious, diverse, multicultural, multi-faith community. We need to preserve and protect that. It is critical that at this time all Australians remain tolerant and respect our cultural diversity. To turn on each other on the basis of religion or race would be to play straight into the hands of ISIL, or Daesh, who want to divide us. Freedom of thought, speech and beliefs are important rights in our society and radical thinking can positively transform a country's political and social landscape. However, using violence or supporting its use to achieve ideological, political or social change is not acceptable; this is violent extremism. Australian law enforcement and intelligence agencies are continuing their work to prevent and disrupt any individuals who may be becoming radicalised or who are planning terror in Australia. The Australian government, in consultation with its state and territory counterparts, is taking all necessary steps to keep Australians safe here and overseas. Our counter-terrorism arrangements are well entrenched and they need to remain robust, contemporary and relevant in the current threat environment. As the number of Australians with hands-on terrorist experience is now several times what it was in Afghanistan, the challenge now is that much greater.
I will conclude my contribution with some comments on our community engagement and the way forward in dealing with radicalisation. We all know that terrorists and violent extremists represent a small, fringe minority of Australian society. Community leaders have made clear their opposition to the involvement of Australians in Syria and Iraq conflicts and have expressed their abhorrence at the devastating actions of ISIL or Daesh. Let us not forget that many of the innocent people killed or affected by these conflicts are Muslims. The Australian government will continue to do all we can to support community leaders who play a critical role in dissuading young Australians from becoming radicalised and travelling to the conflict zone to fight. Ongoing engagement with communities on the new counter-terrorism measures is a high priority. The government is committed to working with our communities to combat the radicalisation of young Australians and violent extremism. We have consulted with experts and with representatives of the community on the best way to keep our Australian community safe. As part of the recent measures announced by the government we have committed $13.4 million to working with communities on a new program for countering violent extremism.

In a democracy, Australians are free to express their opinions through peaceful and constructive methods. All Australians are free to choose their religion and should be able to express and practise their religion and their beliefs without intimidation and without interference, as long as those practices are within the framework of Australian law. Individuals and organisations are encouraged to engage with our democratic processes and to make a positive contribution to public debate.

As part of our $13.4 million commitment, we are developing a package of measures in consultation with communities to address the particular requirements of young Australians at risk. This may include youth diversion activities, health care, mentoring, employment and educational pathway support and counselling, or potentially a combination of these. There will also be referral and support processes for individuals at risk to help them disengage from their activities. We will also combat online radicalisation with education programs and by working with communities, industry and overseas partners. The intervention framework will provide resources and support services to help communities work with individuals who are radicalised or who are at risk of radicalisation to violent extremism.

Having been involved in community activities for over 30 years, including four years on the board of Father Chris Riley's Youth Off The Streets and two years as its chairman, I have observed firsthand the effectiveness of tailored intervention programs. Young people go off the rails for any number of reasons, and, when they do, they become disenfranchised; they turn to drugs, alcohol, gangs, crime or other activities. In this case, we are seeing the disenfranchisement manifest itself in radicalisation. Accordingly, our assistance to these young people needs to be targeted and needs to be developed and delivered in close collaboration with the communities affected. A key lesson from the previous program is that the most effective and financially beneficial way to progress our efforts in countering violent extremism is to work directly with communities to jointly develop and deliver resources and support services that more effectively target young Australians at risk of radicalisation. This is an important bill at a very critical time in Australia's history.

Senator XENOPHON (South Australia) (19:18): I will indicate that I will not be supporting this bill as it stands. I do acknowledge that we face a threat from ISIL, or Daesh,
but any response we make to that threat needs to be measured and considered and needs to be effective, not counterproductive. My concern is that the provisions in this bill put in place increased security measures without the equivalent necessary oversight to make sure they are not abused. And I agree with the simple proposition put by Senator John Faulkner that enhanced power requires enhanced accountability. My concern is that there are enhanced powers. Some of these enhanced powers I believe are justified, but not having the framework of enhanced accountability is very dangerous in a democracy.

I commend the contribution Senator Fierravanti-Wells made in this debate. I think she is absolutely right: you need to engage with communities, not alienate them—and I think it is very important that we do not do so. I commend the tireless work Senator Fierravanti-Wells has done in engaging with the Muslim community in Australia in a way that is inclusive, in a way that is welcoming, in a way that I think is the right approach. And I will address that, because the programs to assist in the de-radicalisation of youths are important. But I worry that we need to do more and spend more to get the results that are required, because we are up against an enormous machinery of hate that is trying to brainwash young people, particularly young men, to commit acts of violence against others.

Let us put this in perspective in terms of our law enforcement and intelligence agencies. They already have significant powers. More worryingly, we have seen recently an example of an agency misleading the Inspector-General of Intelligence Services, the independent body to which these agencies are supposed to answer for their actions. This intentional misleading—which relates to an officer of ASIS, the Australian Security and Intelligence Service, allegedly pointing a gun at another government official who happens to be a member of the ADF in Afghanistan while intoxicated—clearly shows that there is very little respect for the IGIS amongst intelligence services. If you read between the lines, it seems that there was misleading—arguably intentional misleading—in respect of that.

This example of apparently lax oversight and negligible accountability is not what we need if we are going to hand over a new range of powers to our intelligence services. I thank Laura Tingle for her article in the *Australian Financial Review* last Friday headed 'Asking the question of who guards the guards'. Ms Tingle made the point that the Inspector-General of Intelligence and Security had just 13 staff at June last year yet was expected to be the watchdog on the activities of organisations that now employ thousands. ASIO alone had 1,900 staff at June last year. This is not a criticism of IGIS, as such, but it is a criticism of the lack of resources and the lack of powers to ensure accountability.

During the debate on the previous national security legislation, I moved a second reading amendment calling on the government to investigate establishing an independent committee to oversee Australia's intelligence services. In the second reading amendment, I pointed to the current examples of similar entities of some of our closest allies—the United States, the United Kingdom, Germany and elsewhere. There is, in the United States, judicial oversight, albeit secret. But there is a court that looks at these matters specifically. There is a parliamentary committee in the United Kingdom which has much more power than our equivalent parliamentary committee. That needs to be looked at very closely.

In Germany, for instance, the Federal Intelligence Service is the sole foreign intelligence service of the Federal Republic of Germany. As such, it reports directly to the Federal Chancellor. Oversight is as follows: firstly, article 10 of the German Constitution stipulates
the privacy of correspondence—post and telecommunications. Exemptions may be granted only due to specified reasons. The G10 Commission is named after this article. Its monitoring activities consist not only of reviewing ministerial instructions to perform surveillance measures but also of collecting, processing and utilising personal data gathered by the intelligence services using these measures, as well as deciding on whether to inform those affected.

Article 45d(1) of the German Constitution says that the parliament shall appoint a panel to scrutinise the country's intelligence activities. Therefore, the intelligence agencies regularly submit to the Parliamentary Control Panel comprehensive justifications for their activities and for any matter of particular interest to the legislative branch. The Parliamentary Control Panel can also request additional reports on issues of concern, and employees of the intelligence services may contact the panel directly—a very, very important safeguard so employees of intelligence services can go directly to this parliamentary oversight panel. Further, the budget of the Federal Intelligence Service is kept secret, but a confidential committee, as part of the parliament's budget committee, is responsible for consulting on this budget and for monitoring expenses. It is comprised of nine members of the budget committee.

So there is an additional level of oversight in Germany, in the United States and in the United Kingdom—three of our closest and strongest allies—where they understand the need to have appropriate oversight. Again, I hark back to what Senator Faulkner said in a very good essay in the Financial Review last Friday. He worked from the simple proposition that enhanced power requires enhanced accountability.

In my view, there is a vital need to establish a committee based on the best of the best practices of the United States, of Germany and of the United Kingdom and elsewhere—democracies that understand the threat of terrorism and democracies that actually have a level of judicial and parliamentary oversight that we do not have. The PJCIS, while it does excellent work, has membership limited to the major parties, and it conducts many of its briefings and hearings in secret. I can understand that, but my concern is that it cannot comment on or inquire into operational matters. That does concern me.

While I understand the need for secrecy measures in some instances, I do believe that we could all benefit from more transparency, openness and accountability. I would also like to endorse Senator Faulkner’s comments from earlier in this debate. He called for a comprehensive review of the oversight of Australia’s intelligence agencies and recommended to the Senate proposals that have already been made by other organisations. We must act on these as a matter of urgency.

It is also important to remember that the changes proposed in this bill will not take place in a vacuum. That is why Senator Fierravanti-Wells’ contribution was so important—about the need to engage with Muslim communities. This must not be seen as targeting a specific group, a specific religion, or people of specific ethnicities. It ought to be about targeting behaviour that is dangerous to Australia. The environment in this country can sometimes border on the febrile, and I think that we must act in a way so that—and I think Senator Fierravanti-Wells has been consulting, along with the Attorney-General, with communities around the country—we can diffuse those aspects of this debate.

I would like the quote from the human rights lawyer Geoffrey Robertson QC, during his appearance on the ABC’s Q&A last night. Robertson said:

---

CHAMBER
Australia has more anti-terrorism laws than any other country in the world. We've had 62 terrorism laws since 9/11. We don't need more. What our laws don't have are two things. The first, they don't have independent oversight. We don't have impartial judges giving orders and directing and approving warrants. It's entirely done within the intelligence establishment. But, secondly, and I think this is the important thing about the question, we don’t have, because law can't solve the problem of terrorism, we have to turn to community service. We have to turn to anti-jihadi organisations, de-radicalisation programs and this seems what Australia doesn't have.

He continued speaking of deradicalisation programs run in Britain:
But there is a de-radicalisation program that anyone who is - passport is cancelled is immediately put on. It involves, not only police, but the local imams, parents, social workers, psychologists, even a couple of returned jihadis are part of that program and I think this is what Australia is lacking at the moment - a proper de-radicalisation program that plugs into those who are identified as being vulnerable and on the - in danger of being lured overseas.

I think what Senator Fierravanti-Wells outlined—some $13 million spent by the government in terms of deradicalisation programs—is a good thing. That is welcome. I wonder whether we need to spend more. I believe that we do need to throw everything at this considering that we will be spending half a billion dollars in terms of the latest campaign in Iraq and in Syria in respect of combating the threat of ISIL—the real existential threat of ISIL. We need to look at that as well.

We also need to learn from the lessons of the past. We were part of the coalition of the willing back in 2003 when Saddam Hussein was toppled in Iraq. We all agree that Saddam Hussein was a dictator who was responsible for massive human rights abuses. But when I speak to people who come from Iraq and who despised Saddam Hussein, they say that, as a result of the American intervention of which we were part of, matters got much worse. Hundreds of thousands of Iraqis were killed in the sectarian violence that broke out. We need to learn very, very carefully from the recent lessons of history when it comes to what we do and how we do it to combat what is, clearly, a threat in the region and further abroad.

The government wants to put in place incredibly broad laws—ones that have raised specific human rights concerns—to address the specific problem of so-called home-grown terrorists. I want to make this clear so that it is not misunderstood by anyone: I believe there is merit in some of the proposals the government is putting up. I think there ought to be a reverse onus of proof in relation to someone being in a designated area then coming back to Australia. I think that it is very important that we make clear that you have to have a very good reason for being there—humanitarian purposes, you are there is a journalist reporting on the conflict zone. Anyone who spends six or 12 months in one of these designated areas ought to have a very good reason for doing so, and it is important that that is a watertight provision.

Going back to the previous bill, which I also opposed, I also want to make it clear that I did support the Palmer United Party's amendment to increase the penalty for someone disclosing the identity of an ASIO agent working in a covert operation or someone working with ASIO who may have been supplying them with information. If you identify someone in the middle of a covert operation, that could well be a death sentence for that person. So it is appropriate to have a maximum penalty of 10 years. My concern in respect of the previous piece of legislation—as it is with this—is that we have a situation where I believe the press is being unnecessarily muzzled, and I will address that briefly.
I think we also need to have a much greater emphasis—alluded to by Senator Fierravanti-Wells—in engaging with communities that are vulnerable to infiltration from terrorist groups. I think that you cannot sow hate and expect to reap love further down the track. You need to make it very clear—as I believe the government has begun to do with its deradicalisation program and its method of engagement—that we need to change the tone of our public discourse from exclusion to inclusion. We need to reach out, not pull away, and we need to build allegiances, not walls. So these are some of the crucial matters that we must address.

If it is the view of the government and the opposition that we need these laws in place, I believe that there are some measures that are justified. But without that additional oversight and accountability and scrutiny, these laws ought not to be passed. We must have that appropriate oversight. I have spoken before about my concerns, in national security terms, regarding the new offence outlined in section 35B of the recent legislation that was passed. This was the amendment that outlined the offence of disclosing information relating to a special intelligence operation. Media outlets have quite rightly been very concerned about this. I am very concerned about the impact this new offence will have on journalists' ability and willingness to report stories covering special intelligence operations. We must not forget—we must never forget—that the media plays a vital role in our democracy. Appropriate oversight by the media ensures that the public remains informed.

My amendments to this section of the previous bill were rejected in the Senate, and I am working now on further amendments to ensure that there is a public interest defence. I would urge when those amendments are drafted and prepared next week for the third tranche of national security legislation that they are looked at very closely by the government and the opposition because there has to be a bipartisan consensus in respect of this. For instance, in relation to section 119.7 subsection 3 of this bill, which relates to the offence of publishing recruiting information in Australia, one journalist has raised with me concerns about how that would be applied and whether that could be misapplied in a way that would muzzle journalists from reporting how terrorist organisations operate—even if they were not reporting in a way to encourage people joining those terrorist organisations but to warn of the sinister recruiting techniques. There are real concerns in respect of that. There must be a public interest defence for journalists. It is very important in our democracy that we have this.

Last week, News Corp group co-chairman, Lachlan Murdoch, delivered the Keith Murdoch Oration at the state library of Victoria. In it he muses whether his grandfather Keith Murdoch's famous letter to then Prime Minister Fisher about the disastrous Gallipoli campaign would have landed him in jail if it had occurred today. He said:

… our Government is introducing legislation that includes jailing journalists for up to 10 years if they disclose information that relates to a "special intelligence operation".

Of course, it is left ambiguous what a "special intelligence operation" is, as it is left up to government agencies to decide.

Lachlan Murdoch poses a very pertinent question. Would the Gallipoli campaign have been a special operation, he asks. Would Keith Murdoch have been arrested with Ashmead-Bartlett's letter and spent the next 10 years in jail? As Lachlan Murdoch rightly identified, his grandfather's letter was a declaration that our nation had a right to know the truth. He also pointed out this year's Freedom House annual index of media freedom found that global press freedom has fallen to its lowest level in more than 10 years. Twenty years ago, Australia was
listed ninth on the index. Today we are 33rd, just behind Belize. We cannot afford to limit these freedoms any further.

I cannot support this bill as it stands for a number of reasons. The overarching reason is that, with these increased powers, we do not have increased levels of accountability for our intelligence agencies and increased levels of scrutiny and checks and balances on our freedoms. For me, it is a limitation on human rights and on the freedom of the press which only emphasises the idea that we can sacrifice anything in pursuit of national security. Without proper oversight and limitations I cannot support this bill. I call on the government and the opposition to address these concerns as a matter of urgency, particularly in respect of section 35P which I see as interrelated in respect of this. I look forward to debating these make matters in the committee stage. I will, of course, consider every amendment on its merits. These are matters which we must deal with sooner rather than later because if we do not ask the question of who guards the guards then our democracy is the lesser for it.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (19:36): May I take this opportunity to thank honourable senators for their contributions to the second reading debate on the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014. I single out for particular thanks and mention the contributions of Senators Fawcett and Senator Faulkner. As members of the Parliamentary Joint Committee on Intelligence and Security, Senators Fawcett and Faulkner made important observations and contributions that have resulted in recommendations that the government has decided to implement through a series of government amendments, which have been circulated and which I will shortly move.

May I say that Senator Faulkner—and, Senator Xenophon, you mentioned this in your contribution—published last Friday, through the Lowy Institute for International Policy, a very thoughtful paper on this area of policy, extracts of which were published in Friday's Australian Financial Review. The approach which the government, with the support of the opposition, has taken to the preparation of this bill reflects the attitude and approach outlined by Senator Faulkner in that paper, which, if I may summarise it, is the approach of saying: we do, in this dangerous time, need to give the law enforcement and national security agencies strong powers but we also need to balance those strong powers with strong safeguards and strong oversight mechanisms. I believe that this legislation achieves both of those objectives and meets both of those criteria. And the fact that the opposition have decided to support this bill reflects the fact that they are of the same view. Both sides of politics accept that the right balance between necessary powers and appropriate safeguards has been achieved.

In particular, one of the recommendations of the PJCIS, which the government has accepted, is that that committee, rather than the Parliamentary Joint Committee on Law Enforcement, should have oversight over the Australian Federal Police's counter-terrorism function. That is new in our system of parliamentary oversight and it will mean that the PJCIS will have complete visibility of the terrorism environment and the counter-terrorism efforts of all relevant Australian authorities.

A number of senators in their contributions expressed confusion about the nature of the security threats that we all face and therefore the necessity of the legislation. I might say, in particular, that confusion was evident from contributions made by senators from the Greens party. It is not surprising that senators from the Greens party misunderstand, underestimate
and naively disregard the significance of the threats that Australians face. I suspect that the specialists in this field and the good men and women who staff Australia's law enforcement and national security agencies, in particular ASIO, are in a better position to make an informed and mature judgement about that matter than the Greens party.

As Attorney-General, I have accessed daily intelligence reports that over recent weeks and months have pointed to an increasingly concerning picture. The government has attempted to be transparent but measured in sharing this picture with the entire Australian community. We operate in this chamber in a political environment, but there are many respects in which this debate transcends politics and that is why, more frequently than is customary, the government has decided to ask not ministers—I have chosen not myself as the Attorney—but, rather, people who are not political at all, the Director-General of ASIO, first Mr Irvine and now Mr Lewis, and also the Commissioner of the Australian Federal Police, Commissioner Colvin, to explain to the Australian people in a measured, judicious, informed and professionally expert way their assessment of the terrorist threat. These people are not politicians. Politicians are sometimes accused—and sometimes, I am sorry to say, correctly accused—of rhetorical exuberance, but not the Director-General of ASIO, not the Commissioner of the Australian Federal Police. They serve no political masters. The views that the government expresses in this debate are not political views; they are the views of people like Mr Irvine, Mr Lewis and Commissioner Colvin.

What I hope unites all of us in this chamber is a belief that our first priority as a government is to ensure the safety and security of our citizens and, by securing that, ensuring the safety and security of our liberal democracy.

On 12 September, as you know, Mr Acting Deputy President, the Prime Minister announced that, based on an assessment by the security and intelligence agencies, the government had raised the national terrorism public alert level from medium to high. Raising the national terrorism public alert level was to ensure that Australians were aware of the increased likelihood of a terrorist attack occurring in Australia and that they remained vigilant. Of course, articulating the nature of the threat is a role not confined to government. On an almost daily basis the media is reporting about the activities of Australians and other nationals in Syria and northern Iraq, activities that are horrifying and abhorrent to all Australians.

Those who take a naive and insouciant view of the nature of the terrorism threat evidently regard what is plain for all to see in our media, as well as what has been emphatically warned of by our national security experts, as unreliable or unworthy of being taken seriously.

If I may say to senators of the Greens party, who will never have the burden and responsibility of government: it is the burden and responsibility of government to take seriously matters that they treat flippantly.

We are increasingly witnessing the activities of people who have returned to their home countries from the conflict zones or who have been prevented from travelling and have turned their ambitions on their home countries. That is a problem that Australia suffers, along with other western democracies. Make no mistake: returning and frustrated foreign fighters represent a threat to us all.
Up to this point, domestic counterterrorism investigations have mainly concentrated on local actors who have shown the intent to act on Australian soil but lacked or required time to develop the necessary capability. The Syria and Iraq conflicts have changed the terrorist threat environment, providing a significant opportunity for Australians to travel overseas and develop the necessary capability to undertake terrorist attacks. In addition to that capability, operational agencies are concerned that Australian foreign fighters will return further radicalised and hardened by their experiences fighting overseas. There is a wealth of intelligence product that indicates that is so. To that end we must prevent the creation of a cadre of Australians willing and able to engage in terrorism in Australia, to recruit others to travel overseas and engage in hostile activities and to raise funds for terrorist organisations. This bill provides important measures that will enhance the capability of Australia's law enforcement, intelligence and border protection agencies to protect Australia from the threat posed by returning foreign fighters and those individuals within Australia supporting them.

Following the introduction of the bill, on 24 September 2014, I referred it to the Parliamentary Joint Committee on Intelligence and Security. That committee conducted hearings under the chairmanship of Mr Dan Tehan, the member for Wannon. I want to take this opportunity to thank all members of that committee and in particular the chair, and the deputy chair, Mr Anthony Byrne, from the Labor Party, for the hard work they put into that task and the very conscientious and thoroughgoing way in which they acquitted it.

The committee made 37 recommendations, concluding in a recommendation that the bill be passed. The report was tabled out of sittings on 17 October last. It recommended a number of amendments that will improve the clarity of the provisions of the bill and ensure the powers provided for in the bill are used appropriately and subject to proper review.

As I announced on 22 October, the government has decided to accept all of the amendments, and I will shortly move amendments to give effect to them. In addition, the government will table a replacement explanatory memorandum consistent with the recommendations of the PJCIS that further elaborate on the justification for various of the measures in the bill. In particular, the government has responded to recommendation No. 4 by amending the explanatory memorandum to clarify that it is open to the Commonwealth Director of Public Prosecutions to have regard to any public interest in the disclosure of information when considering whether to initiate a prosecution from a disclosure of information in relation to a delayed notification search warrant. I can inform honourable senators that I have written to the Commonwealth DPP to confirm that instruction.

The government's response to PJCIS recommendation No. 31 advised that I should provide to the parliament a further explanation of the necessity of the proposed definition of 'serious Commonwealth offence', for the purposes of the Customs Act, and how it would enable a greater role of Customs in dealing with national security threats or terrorist activities. Let me now do so.

The current definition of 'serious Commonwealth offence' is limited to types of offences listed in section 15GE of the Crimes Act, and to those offences that carry a maximum penalty of three years. The proposed definition of 'serious Commonwealth offence', which would capture offences that carry a maximum penalty of 12 months, is required to enable the Australian Customs and Border Protection Service to effectively deal with national security threats and terrorist activity, as well as enhancing its capacity to respond to broader criminal
activity. Examples of offences that currently would not be captured are: where a person travels on a false passport, which is prohibited by sections 31 and 32 of the Australian Passports Act; where a person fails to report movements of physical currency or bearer negotiable instruments, in contravention of the Anti-Money Laundering and Counter-Terrorism Financing Act; and where a person imports, introduces or brings into a port or other place in Australia a disease, pest or substance containing a disease or pest, in contravention of the Quarantine Act. This is particularly sensitive at the current time, considering the threat posed by diseases such as Ebola. As the first point of our border security, it is appropriate for the ACBPS to be able to investigate suspected criminal activity, to ensure the integrity of our borders.

In addition, the government supports PJCIS recommendation No. 8, for that committee to be notified of any proposed regulation to alter the listing of a terrorist organisation by adding or removing a name or alias, and allow the PJCIS to review any proposed change during the disallowable period.

Finally, I want to take the opportunity of closing the second reading debate to clarify a reference in the government's response to PJCIS recommendations 13 and 21, which deal with the dates for the various provisions to sunset. The PJCIS recommended sunset and statutory reviews occur within set periods from the date of the next federal election, having regard to the need for certainty when providing a sunset for extraordinary powers. The government has opted to sunset the provisions two years after the third anniversary of the 2013 federal election—the government believes this gives effect to the PJCIS recommendation, while providing certainty regarding the duration of these powers—so that the actual date on which the sunset will occur is specified in the bill.

I note that a number of honourable senators have expressed their support for the implementation of the committee's recommendations. We look forward to working constructively with members of this chamber on the relevant amendments to the bill in committee.

Might I conclude by observing that as with the first tranche of national security legislation—the National Security Legislation Amendment Bill—so too this bill is a fine example of the parliamentary process working as it ought to work. The government sent this bill, as it sent the National Security Legislation Amendment Bill, to the relevant joint committee of the parliament, a committee that, if I may so say, comprises many of the most senior statesmen from both sides of parliament. That committee had a very close look at the legislation. It proposed recommendations which, in every respect, if I may say so, were constructive. Although in many respects they were matters of relatively slight degree, they were nevertheless constructive. The government, in a spirit of cooperation, accepted all the recommendations on this occasion, as we accepted the recommendations last time. That, as I say, is the way parliament is meant to work: there is a dialogue, a dialectical process, between the executive government and the parliament—particularly the more serious-minded members of parliament, speaking through the committee system. So once again I want to thank the Parliamentary Joint Committee on Intelligence and Security for its work. I also want to thank a number of individual crossbench senators who have been good enough to speak to me about certain provisions of this legislation. These include Senator Lazarus, Senator Lambie, Senator Leyonhjelm, Senator Day and Senator Xenophon.
The work in which we are engaged tonight is the work of patriots. It is the work of both sides of this parliament addressing in a timely but considered, methodical, purposeful and calm way an immediate threat to the safety of our nation, by a process of fine tuning proposals, at the executive government level, at the parliamentary level—in particular, through the committee system—to ensure that the right balance between security and freedom is maintained. I thank all honourable senators. I should also go out of my way to thank my opposite number from the Labor Party, the shadow Attorney-General, Mr Dreyfus, with whom I have had meetings and with whom my officers had many meetings concerning this legislation, for his very greatly appreciated contribution to the process.

We have, I think, landed where we ought to land in dealing with this problem. The recommendations of the PJCIS which require amendment to the bill, I will move momentarily as we proceed into the committee stage. Those that require further explanation through the explanatory memorandum have been addressed through the latest iteration of the explanatory memorandum, and those which required explanation by way of comment from government I have sought to address in these second reading remarks. On that note, let me close the second reading debate, and thank all of those colleagues in this place and in the other place who have made a constructive contribution to the process.

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson): The question is that the bill be now read a second time.

The Senate divided. [19:59]

(The Acting Deputy President—Senator Whish-Wilson)

Ayes ...................... 46
Noes ...................... 12
Majority ................... 34

AYES

Bernardi, C
Brandis, GH
Bullock, J.W.
Cameron, DN
Carr, KJ
Collins, JMA
Day, R.J.
Fawcett, DJ
Gallacher, AM
Ketter, CR
Lazarus, GP
Lundy, KA
Madigan, JJ
McEwen, A
McKenzie, B
Moore, CM
Nash, F
O'Sullivan, B (teller)
Reynolds, L
Ruston, A
Singh, LM
Sterle, G
Wang, Z

Bilyk, CL
Brown, CL
Bushby, DC
Canavan, M.J.
Colbeck, R
Dastyari, S
Edwards, S
Fierravanti-Wells, C
Heffernan, W
Lambie, J
Lines, S
Macdonald, ID
Marshall, GM
McGrath, J
McLucas, J
Muir, R
O'Neil, DM
Polley, H
Ronaldson, M
Seselja, Z
Smith, D
Urquhart, AE
Williams, JR
Question agreed to.
Bill read a second time.

**In Committee**

Bill—by leave—taken as a whole

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:05): I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill and seek leave to move all government amendments together.

Leave not granted.

**The CHAIRMAN:** Minister, we do have the running sheet. I do not know if you want to follow it in that order.

**Senator BRANDIS:** Mr Chairman, I will follow the running sheet. I think that is a shame because, given there are so many amendments, in view of the limitation of time in the debate I am sorry to say that the Greens denial of leave to move the government’s amendments and get them out of the way together means a lot of the amendments will not be able to be debated at all, in all likelihood. I seek leave to move government amendments (1) to (3) on sheet ZA358 together.

Leave granted.

**Senator BRANDIS:** I move government amendments (1) to (3) on sheet ZA358:

(1) Schedule 1, item 21, page 7 (line 20), omit “ASIO”, substitute “The Director-General of Security”.

(2) Schedule 1, item 21, page 7 (line 21), omit “it”, substitute “the Director-General”.

(3) Schedule 1, item 21, page 8 (lines 1 to 5), omit subsection 22A(3), substitute:

(3) If an Australian travel document of a person has been suspended under subsection (1), another request under subsection (2) relating to the person must not be made unless the grounds for suspicion mentioned in subsection (2) include information first obtained by the Director-General of Security or an officer or employee of ASIO after the end of the suspension.

(4) The Director-General of Security may, in writing, delegate his or her power under subsection (2) to a Deputy Director-General of Security (within the meaning of the Australian Security Intelligence Organisation Act 1979).

(5) In exercising power under a delegation, the delegate must comply with any directions of the Director-General of Security.

Amendments (1) to (3) implement Parliamentary Joint Committee on Intelligence and Security recommendation 26 by only allowing the director-general of security—or a deputy
director-general of security, if delegated the power by the director-general—to make a request for the suspension of an Australian travel document under section 22A of the Passports Act, rather than ASIO as an organisation, as provided for in the bill. It is an amendment, essentially, of a technical character. As I say, it gives effect to PJCIS recommendation 26.

Senator JACINTA COLLINS (Victoria) (20:08): The opposition was not opposed to dealing with all of the government amendments in one batch. I will confine my comments on pretty much all of those amendments to the general comments that I will make at this stage.

The government amendments reflect the outcome of the hard work of the Labor members of the intelligence committee. We ensured full scrutiny of this bill and we insisted that the government fully implement the broad and important recommendations that the intelligence committee came to. We will support these amendments, which reflect the conclusions of the committee. It is important that amendments to legislation like this are preceded by rigorous committee consideration.

Labor's further amendments, which I will deal with when they arrive in the running sheet order, reflect concerns noted in the intelligence committee's report which have not been fully addressed by the government's response to the discrete recommendations. I indicate that the opposition will be supporting all of the government amendments.

Senator WRIGHT (South Australia) (20:09): The Australian Greens indicate that these proposed amendments from the government are positive steps forward in limiting how powers can be delegated and putting some outer limits on how long a security assessment can remain in force, but they certainly do not go as far as the Australian Greens' proposed amendments. Again, I will be dealing with those when we come to them on the running sheet.

The particular concern that we have in relation to the suspension of Australian passports is that the bill seeks to supplement existing travel document cancellation powers by empowering the minister to suspend Australian and foreign travel documents for 14 days at the request of an ASIO officer where that officer believes on reasonable grounds that the person may leave Australia to engage in conduct that might prejudice the security of Australia or a foreign country and suspension of travel documents is necessary to prevent the person from engaging in the conduct. While the Australian Greens accept that a range of experts, including the Independent National Security Legislation Monitor, have agreed that this provision is needed to fill a genuine legislative gap, we are concerned about the way that the new power has been drafted. We have concerns that the proposed new power does not fully conform to the relevant recommendations of the INSLM, which specifically recommended an initial suspension period of 48 hours which could be extended by further suspensions of up to 48 hours at a time for a maximum period of seven days. We believe that the bill, even with the amendment, would still contain insufficient safeguards to prevent ongoing multiple suspensions.

We consider that the new powers should be amended. I seek the guidance of the chair or the Clerk as to whether or not it will be possible to move the Australian Greens' amendments in this regard, as it is indicated that there is some conflict with the Australian Greens' amendments (5), (6) and (8) on sheet 7594.

The TEMPORARY CHAIRMAN (Senator Smith): Senator Wright, it does not prevent you from moving your amendments. The committee will decide which to agree to.
Senator WRIGHT: I appreciate that the committee will always decide whether to agree with amendments. We will still have an opportunity to move those amendments even if these government amendments are passed—is that correct?

The TEMPORARY CHAIRMAN: That is correct.

Senator WRIGHT: Thank you. I will speak further to this when we get an opportunity to move our amendments.

The TEMPORARY CHAIRMAN: The question is that government amendments (1) to (3) be agreed to.

Question agreed to.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:13): I move government amendment (4):

(4) Schedule 1, item 25, page 10 (after line 16), after subsection 48A(6), insert:

(6A) Before the end of the following periods, the Minister administering the Australian Federal Police Act 1979 must consider whether to revoke a certificate under subsection (4) (if the certificate remains in force):

(a) 12 months after it was issued;

(b) 12 months after that Minister last considered whether to revoke it.

Government amendment (4) implements recommendation 28 of the Parliamentary Joint Committee on Intelligence and Security by requiring that a certificate issued by the minister responsible for the Australian Federal Police Act under section 48A(4) of the Passports Act be reviewed within 12 months of the issuing of that certificate and then every 12 months after it has last been reviewed.

The TEMPORARY CHAIRMAN: The question is that government amendment (4) be agreed to.

Question agreed to.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:14): I move government amendment (5):

(5) Schedule 1, item 26, page 10 (lines 25 to 27), omit the item, substitute:

After subsection 51(1)

Insert:

(1A) The Minister may, in writing, delegate to the Secretary of the Department the Minister's power under subsection 22A(1).

Government amendment (5) implements recommendation 27 of the Parliamentary Joint Committee on Intelligence and Security by providing that the Minister for Foreign Affairs can only delegate the power to suspend a person's Australian travel documents to the Secretary of the Department of Foreign Affairs and Trade rather than delegate that power more broadly, as had been initially provided for in the bill.

The TEMPORARY CHAIRMAN: The question is that government amendment (5) be agreed to.
Question agreed to.

Senator WRIGHT (South Australia) (20:15): by leave—I move Greens' amendments (4) to (8) on sheet 7594 together:

(4) Schedule 1, item 21, page 7 (lines 17 to 19), omit subsection 22A(1), substitute:

(1) The Minister may, on request under subsection (2), suspend for up to 48 hours all Australian travel documents that have been issued to a person.

(1A) The Minister may, on request under subsection (2A), extend a suspension under subsection (1) for an additional period of 48 hours.

(1B) The Minister may extend a suspension under subsection (1) more than once, but must not do so if the extension would result in the total length of the suspension being longer than 7 days.

(5) Schedule 1, item 21, page 7 (line 20), omit "ASIO", substitute "An officer of ASIO".

(6) Schedule 1, item 21, page 7 (line 21), omit "if it suspects", substitute "if the officer suspects".

(7) Schedule 1, item 21, page 7 (after line 28), after subsection 22A(2), insert:

(2A) While the Australian travel documents issued to a person are suspended under subsection (1), an officer of ASIO may request the Minister to extend the suspension if the officer suspects on reasonable grounds that:

(a) the person may leave Australia to engage in conduct referred to in paragraph (2)(a); and

(b) it is necessary to extend the suspension in order to prevent the person from engaging in the conduct.

(8) Schedule 1, item 21, page 8 (lines 1 to 5), omit subsection 22A(3), substitute:

(3) If an Australian travel document of a person has been suspended under subsection (1), an officer of ASIO must not make another request under subsection (2) relating to the person unless the grounds for the officer's suspicion mentioned in subsection (2) include information ASIO obtained after the end of the suspension.

Note: Subsection (3) does not prevent a request for a suspension to be extended under subsection (2A) being made during the suspension.

The Greens oppose item 26 of schedule 1 in the following terms:

(9) Schedule 1, item 26, page 10 (lines 25 to 27), to be opposed.

As I indicated before, there are some concerns about the bill and, indeed, even with the amendments that have just been passed with the bill. These concerns have led the Australian Greens to recommend that the new powers be amended to provide for an initial suspension period of a maximum of 48 hours, which could be extended by further suspensions of up to 48 hours at a time for a maximum period of seven days; to remove the power for the Minister for Foreign Affairs to delegate his or her passport suspension powers; and to make it clear that a request to suspend a travel document must be made by an individual ASIO officer, so as to ensure appropriate oversight of relevant processes by the inspector-general. The expert advice which we have relied upon in supporting the position that we have brought, in terms of moving these amendments, are recommendations that have been made previously by the Independent National Security Legislation Monitor, the Inspector-General of Intelligence and Security, Law Council of Australia, the Gilbert and Tobin Centre of Public Law and the Castan Centre for Human Rights Law.

I would like to address a question to the Attorney-General in relation to the effects of the bill. The proposed new powers to suspend travel documents have the potential to seriously
disrupt people's lives, particularly those who need to travel as a matter of urgency—for example, to visit a dying relative or to secure a business deal. My question is: will there be redress for those who have their travel document suspended under these powers, but are later found not to be a risk to Australia's national security, as the bill does not currently provide for that possibility occurring?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:18): Considerations of the kind to which Senator Wright refers are considerations that would be taken into account in making the decision whether to suspend a person's passport. I should say that this is a power that would not be exercised lightly. It would be exercised having regard to all relevant personal circumstances of the passport holder, including personal circumstances of the kind to which you refer. It will only be made if there is a clear necessity to do so for national security reasons.

**Senator JACINTA COLLINS** (Victoria) (20:18): These amendments proposed by the Greens would limit the power for an interim suspension of a passport to only 48 hours, as Senator Wright has indicated. They would be able to be extended for additional periods of 48 hours, but no longer than one week. The committee agreed that the interim suspension power was an important and key issue and that the need to improve powers to suspend powers was flagged by the Independent National Security Legislation Monitor last year.

Labor believes the best action we can take to address foreign fighters is to stop Australian citizens ever going to fight, not only because of the damage they may do overseas but also because we know the skills and mindset they may return to Australia with. It is for these reasons that we think these powers need to be improved and we will be opposing amendment (4). With respect to amendments (5) to (8), these would alter the passport suspension process. The same points apply in part to what I have indicated in relation to amendment (4), but we note that these are important concerns being raised by the Greens.

We are, however, satisfied by the amendments reflected in the Intelligence Committee's recommendations and it is important to mention that those amendments include review of the passport suspension provisions. There is an important opportunity now to highlight, as I did in my second reading contribution, the important progress that has been made in relation to sunset clauses and review in the Intelligence Committee's recommendation. We will be opposing these Greens' amendments as well.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:20): I might take the opportunity, if I may, to indicate the government's attitude to the Greens' amendments. These amendments will all be opposed. The government opposes Greens' amendment (4) because, although the amendment would, as Senator Wright has said, implement the time period suggested by the Independent National Security Legislation Monitor, what she omitted to say is that the INSLM also noted in his report that his suggested time frames were 'somewhat arbitrary' and should be 'the subject of further discussion'—his words, not mine.

After further discussions with agencies, it was concluded that an initial suspension period of 48 hours, up to a maximum of seven days, would be too short to give practical effect to the suspension power. In its report on the bill, the PJCIS considered that the 14-day suspension
period appropriately balances the need to allow sufficient time for ASIO to conduct a full assessment of the person with the impacts on the individual passport holder concerned. The government also opposes amendments (5) and (6) among the Greens' amendments. Those amendments would allow an officer of ASIO to make a request for the suspension of a person's Australian travel documents. They are not necessary, as government amendments to the bill implementing PJCIS recommendation 26, with which we have dealt, will limit the requesting authority for the suspension of a person's Australian travel documents to the Director-General of Security. The Director-General may delegate this power to a Deputy Director-General of Security.

I might say, in passing, that it rather surprises me, given the overall position that the Greens party has taken in relation to this bill, that they would allow for a much wider delegation of power—as their amendments contemplate—than the much narrower and more heavily safeguarded provisions of the government's amendments, which confine the requesting authority to the Director-General of Security or to one of the Deputy Directors-General of Security.

The government also opposes Greens amendment (7), which will allow an officer of ASIO to apply for an extension of the suspension of a person's Australian travel document, for the same reasons as our opposition to amendments (5) and (6). The government opposes amendment (8), which is consequential upon proposed amendments (5) and (6).

Senator WRIGHT (South Australia) (20:23): First of all, in relation to the point that the Attorney-General made about the fact that the government's amendments now—very late in the piece, and only recently circulated—propose an amendment to allow the Director-General of Security to be the person to whom the Minister for Foreign Affairs may delegate his or her passport suspension power, in its first iteration of the bill, which is what we had notice of until late today, it was to any person. That obviously caused great concern. Because it would have allowed the Minister for Foreign Affairs to delegate the power to an officer of ASIO, ASIO could be a law unto itself. In fact, that could still be the case.

I think it has been misleading all along for the government to suggest in its explanatory memorandum, and to continue to suggest, that this provision of the bill actually implements the recommendations of the Independent National Security Legislation Monitor. Even if the time frames that the monitor initially proposed were, as asserted, somewhat arbitrary, the concern that the Australian Greens have now is that this proposal means that there could be multiple suspensions. There is no real limit on how many times the suspension period can be repeated, and there are insufficient safeguards to prevent that from occurring.

Overall, the Australian Greens say that while some additional powers are needed there is great concern that this new power could be misused, overused or subject to inadequate oversight. That will essentially leave the Australian community at risk of having their legitimate, and possibly urgent, overseas travel unnecessarily or disproportionately disrupted. While the Attorney-General seeks to reassure me, as is the case in relation to quite a few of the provisions in this bill, that they will only be exercised rarely and seriously, there is a large amount of discretion. That is not reassuring. That does not provide the certainty that people need.

What I took from the Attorney-General's response to my first question was that there will be no provision for any compensation made where, even if the decisions are made rarely and
seriously, there is a mistake made. Sometimes, we know, mistakes can be made and if a person's life or travel is disrupted to their detriment there will be no compensation. Unless the Attorney-General suggests that that is not the case, then clearly that is the position that will come about if this amendment is passed.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:26): I might just respond to Senator Wright's remark that the government amendments have been circulated late in the piece. Senator Wright, the committee stage of this debate began at about eight o'clock this evening. The government's amendments were circulated at lunch time. It is not late in the piece for amendments to be circulated some hours before the committee stage of debate comes on. But, more importantly, the government announced its decision to accept the recommendations of the Parliamentary Joint Committee on Intelligence and Security last Wednesday.

So the government's intentions in relation to this, as in relation to all the other matters before the committee this evening, have been known for nearly a week. That is hardly late in the piece.

The TEMPORARY CHAIRMAN (Senator Smith): The question is that amendments (4) to (8) be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN: The question is that item 26, as amended, of schedule 1, stand as printed.

Question agreed to.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:27): by leave—I move government amendments (6), (8) to (10), (26), (27), (31), (32) and (40) together:

(6) Schedule 1, item 33, page 12 (lines 4 and 5), omit the item, substitute:

33 Section 34ZZ

Omit "22 July 2016", substitute "7 September 2018".

(8) Schedule 1, item 43, page 13 (line 27), omit "15 December 2025", substitute "7 September 2018".

(9) Schedule 1, item 44, page 14 (line 3), omit "15 December 2025", substitute "7 September 2018".

(10) Schedule 1, item 45, page 14 (line 6), omit "15 December 2025", substitute "7 September 2018".

(26) Schedule 1, item 86, page 70 (line 18), omit "15 December 2025", substitute "7 September 2018".

(27) Schedule 1, item 87, page 70 (line 21), omit "15 December 2025", substitute "7 September 2018".

(31) Schedule 1, item 107, page 75 (line 20), omit "15 December 2025", substitute "7 September 2018".

(32) Schedule 1, item 108, page 75 (line 23), omit "15 December 2025", substitute "7 September 2018".

(40) Schedule 1, item 110, page 83 (line 32), omit "10 years after it commences", substitute "at the end of 7 September 2018".

This bracket of amendments deals with the sunset provisions. They collectively implement recommendations 13 and 20 of the Parliamentary Joint Committee on Intelligence and Security. The amendments reduce the sunset period for the stop, search and seizure powers in
division 3A of part IA of the Crimes Act, control orders, preventative detention orders and the new declared area offence in the Criminal Code and the ASIO questioning and detention powers.

Although the PJCIS recommended setting the sunset at two years after the last federal election that would result in uncertainty about the period of operation of these important powers. Accordingly, a date that would meet the intent of the recommendation but provide certainty was selected. That date, 7 September 2018, is two years after the third anniversary of the last general election—that is, the general election prior to 2018. So the two-year period is kept, but a date has been selected that enables that period of two years to be reflected in the date most approximately likely to be the actual date of the two-year anniversary.

Although the sunset could have been set as late as 14 January 2019, because that is two years after the very last date on which parliament could be dissolved, being the three-year anniversary of the first meeting of the House of Representatives after the previous election, the earlier date is more consistent with the intent of reduced sunset periods, more content with the spirit of the PJCIS report and means, as I said, Senator Wright, that the sunset provision will likely take effect sooner rather than later.

Senator WRIGHT (South Australia) (20:30): I have some questions for the Attorney-General in relation to the sunset provisions. These serve to extend control orders, preventative detention orders and other powers. The former Independent National Security Legislation Monitor recommended that control orders and preventative detention orders be abolished. The government is now seeking to extend the sunset provisions for these powers when the current sunset provisions still have at least a year before they expire. I am interested in understanding: did past independent expert inquiries by the monitor and, in fact, the COAG review of national security legislation get it wrong when they recommended that the preventative detention order regime be removed and that the control order regime be reformed?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:31): Senator Wright, I am aware of the view that preventative detention orders and control orders ought to be repealed. That was a view of the previous INSLM. It is not a universal view, nor was the INSLM’s review the only review of these powers. The report of the COAG review, for instance, Senator Wright, with which perhaps you are familiar, recommended that control orders be continued.

I might say that the recommendation that the government has adopted, coming from the PJCIS, brings forward the sunset period by many years beyond what was initially contemplated. It was initially contemplated that the sunset period be extended by another decade. The original sunset period, after the Howard government introduced these provisions in 2005, was for them to sunset after a decade. When this legislation was prepared, a view was taken by the government, consistently with are COAG review, that control orders ought to remain a part of the apparatus available to the intelligence agencies. The utility of control orders is something that has been demonstrated, but they have been used sparingly in only the most extreme cases. There have only been two control orders sought and obtained in that decade: one in relation to David Hicks and the other in relation to Jack Thomas, both notorious terrorists, or, in Mr Hicks’s case, an admitted terrorism supporter who trained with terrorist organisations in Afghanistan.
So the rather exuberant and in some cases hysterical language in 2005, that these control orders might be used oppressively, was proven to have been a false concern. They have been used rarely, selectively and, indeed, on only two occasions in the decade since. So, when the government considered the matter, the question we had to ask ourselves is: would we follow the view of one INSLM or would we follow the view of the COAG review? We decided to follow the view of the COAG review and keep control orders as part of our apparatus. But, in deference to the views of the members of the PJCIS, we have brought the period of the control orders back from a further decade to a date two years after the date of the next federal election, so they will sunset then and can be reviewed on that occasion.

In relation to preventative detention orders, that is also a very rare thing. There has never been a preventative detention order issued under the Commonwealth Criminal Code. There was recently a preventative detention order issued under the analogous or the complementary provisions of the New South Wales criminal law, which I understand is the first occasion on which that device has been resorted to. So, once again, the suggestion that these mechanisms might be used oppressively has not been realised. I note it was before you were in the Senate, Senator, so I do not blame you for this sentiment, but the fears of those who thought that this extraordinary power would be use gratuitously or arbitrarily have not been realised. The fact that on very rare occasions the authorities have felt the need to resort to them demonstrates their utility as a last resort in our apparatus.

As a further token of our concern to ensure that powers as unusual as this are not used excessively or arbitrarily or allowed to lie on the statute books unnecessarily, we have, as I said, foreshortened the extended sunset period from a decade hence to two years after the next federal election.

**Senator WRIGHT** (South Australia) (20:35): Thank you, Attorney-General. Can I just clarify with you: whose idea was the 10-year extension to the sunset clause that was initially proposed and then, as you said, wound back after the PJCIS recommendations?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:36): That was a view initially taken by the government. The mischief, the threat, that this legislation primarily concerns and seeks to address—the threat of foreign fighters—is, I am very sorry to say, not a threat that is likely to disappear any time soon. Senator, you do not have to be privy to the intelligence to understand that. You merely have to look at the assessment in some of the quality commentary on this issue and some of the quality open source media to know that this is a problem that those who profess to be specialists in this field predict will be with us for some years yet. Given that the view was taken that the threat is likely to be with us for some years yet, the government decided that an appropriate thing was to replicate the initial sunset period, to roll it forward, but still leave a sunset mechanism in place. However, as I say, in deference to the views of the PJCIS, we have foreshortened that in the manner I have indicated.

**Senator WRIGHT** (South Australia) (20:37): It seems somewhat ironic that the government of its own idea and thinking—not with recourse to any recommendations from any of the other bodies that you have been citing in relation to justifying the continuation of the regimes—came up with 10 years, and you are suggesting that it is a virtue that you have been prepared to wind it back to four years on the recommendation of PJCIS. You are
preferring to take the recommendation of that body as opposed to following, as you said, the recommendations of the Independent National Security Legislation Monitor. I put to you that not only COAG and the Independent National Security Legislation Monitor have expressed concerns about this regime and, indeed, the time frame; a very strong view has been put out there by organisations that I will cite in a minute that it is completely unnecessary and inappropriate to use this particular bill—which we are told it is an urgent matter to get through the parliament. That has therefore led to a lot of concerns about the speed with which it has been analysed.

It is complex legislation, and a lot of people who made submissions to the PJCIS said that they had limited time. Some people said that they did not have enough time to analyse the consequences of this legislation properly. Nonetheless, the justification by the government is that this is an urgent matter that has to be got to straightaway; yet we know that there was at least a year to allow some more careful and slower reflection on the consequences of extending the sunset provisions in relation to the PDOs, the control orders and the other powers. So there is a view that it is completely unnecessary and inappropriate to use this bill to extend the sunset clauses attached to powers like control orders, preventative detention orders and ASIO’s questioning and detention warrant powers, because they would have remained in place for at least another year regardless of the passage of the bill.

These are exceptional powers that allow authorities to operate outside the traditional criminal justice process. They permit the restriction of liberty of people who have not been charged with—and, in some cases, are not even suspected of engaging in—a criminal offence. Under these powers, a mother or a father or a teenager could be detained and questioned by ASIO or the police and provided only limited access to loved ones and legal representation without the authorities needing to charge the person with any criminal offence or establish that the person is a threat to national security. As you point out, they have only been used very rarely in the past, but that is one of the concerns that has been reflected in some of the commentary around the necessity to maintain these very, very restrictive regimes, because having excessive and restrictive laws on the books for which there is not a clear need is dangerous in itself.

These powers have been subject to review, as we have said. Both the COAG review of counterterrorism measures and the INSLM considered whether these powers remain necessary and effective tools to counter terrorism. They had regard to whether and when they had been used and to information provided by law enforcement and intelligence agencies. Both the INSLM and the COAG review recommended that the preventative detention order regime be repealed, describing the PDO regime as being ‘at odds with our normal approach to even the most reprehensible crimes’ and may be thought to be unacceptable in a liberal democracy. The INSLM also recommended substantial reform to the control order regime. Similar comments were previously made by the former Parliamentary Joint Committee on ASIO, ASIS and DSD in an earlier inquiry about ASIO’s questioning and detention powers.

There are many concerns on the record about these regimes. There are concerns about the unnecessary extension of the sunset clauses not from 10 years—which is what the government was initially proposing—but even to four years, when there was time to consider these in a more careful and thoughtful way.
It is a fairly easy argument to make—it is a fairly flippant thing to accuse someone who is disagreeing with your stance of being naive in some way. The Australian Greens have been at pains to consult carefully with those in this area that are considered to be experts in the consequences of changes to laws on human rights and civil liberties in Australia. We are aware of advice from organisations in relation to these regimes including the INSLM; the COAG Counter-terrorism Review Committee; the Gilbert and Tobin Centre of Public Law; Human Rights Watch; acknowledged human rights academic Professor Ben Saul; the Human Rights Law Centre; the Castan Centre for Human Rights Law; and, of course, the PJCIS, which, when it had a short time frame to consider this legislation, also had a view about the government’s proposed time period. For those reasons, the Australian Greens say that we need to remove these clauses from the bill and take some time and carefully assess whether these are needed and for what period of time they should be on the books before they are reviewed again.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:43): Senator Wright, I do not for a moment dispute that there are a variety of views on this matter, and all you have done is recite the views of some who have been well-known advocates of that particular point of view for a very long time. I suspect that the sorts of bodies or individuals to whom you have referred because of the particular approach they take to this debate would never be happy with any extension of the powers of the national security agencies. They are entitled to take that view, but the government has to do what human rights lawyers and academic lawyers like Professor Saul never have to do—that is, consider as well the safety of the public.

These measures are extraordinary measures. That is why they are sunsetting. That is why the government is of the view that, from time to time, we ought to ask ourselves the question as a result of the mechanism of this legislation whether they are still needed. The time arose this year for us to ask ourselves that question. And in view of the events which I will not be tedious and describe again but of which we all know, the government concluded that those powers were necessary—indeed I dare say more necessary now than they were in 2005.

Therefore, really all we are doing is having a discussion about whether four years or 10 years is the right period, and the government has acknowledged that it would do no harm at all to bring these powers back for review again four years hence, which is why I am moving this amendment. It seems to me, Senator, that when you say that the powers are very seldom used you go very close to complaining that what is wrong with the powers is that they are used too seldom. My rejoinder to you is that the fact that the powers are used so seldom shows that they have not been used arbitrarily. The fact that on rare occasions they have been used is proof enough, I think, that they do have a utility.

There are some who would like to see these powers not sunsetting at all. There are some who consider them a sufficiently important apparatus that they should be a permanent feature of our law. I am not one of those. Because these are unusual powers, they should, in my view, be sunsetting, and that is what the government is doing.

Lastly, Senator, let me address your criticism that because the sunset period in this case does not run out until 2015 the powers ought not to have been included in this piece of legislation but in another piece of legislation. I see some merit in your point of view, but there
are two problems with it. First of all, it assumes that there has not been careful deliberation about the validity and utility of extending these powers in preparing this legislation. I can assure you that the same care and deliberation and prudence that would have been brought to bear on this exercise had it been undertaken in 2015 has been brought to bear on the exercise having been undertaken in 2014. Secondly, Senator Wright, I am sure you will see the point of dealing with these national security legislation issues in a comprehensive way. We have already had one tranche of legislation about the agency powers. This tranche of legislation is designed particularly to deal with the threat to our safety of returning foreign fighters. And there will be, as the government has announced, legislation in the near future concerning the mandatory retention of metadata.

It is not a healthy thing for the parliament to spend all its time dealing with national security legislation. We want to get this right by dealing with all of the various aspects of this complex body of legislation in a coherent debate that brings all the elements together as well as we may, in the same debate or the same series of debates, rather than doing it piecemeal.

Senator WRIGHT (South Australia) (20:48): Thank you, Attorney-General. I do not really understand the logic of that. You say that you want to have everything dealt with together and you want to get it right. And I suppose the argument is that in fact you cannot necessarily do both at the same time. They are inconsistent, given that there is significant concern about the speed with which this complex legislation is being rushed through the parliament, where, on my calculation, given the gag order—the guillotine order that has now been passed by this Senate through the agreement of the government and the opposition—we will have less than eight hours to consider what are some of the most significant counter-terrorism law changes that I will witness in my lifetime.

So, the idea that you can do it all nicely and neatly together quickly and get it right is what I would be contesting there. My question is: if Australia's national security environment has changed to such a significant degree, why isn't the remaining 12 months left on the current life span of these regimes being used to evaluate their effectiveness in light of the changed environment? They will still be in place. There would be time to seriously look at the concerns that have been raised previously. And the observation that they have rarely been used is actually an observation that has been made by the INSLM in the past to query the wisdom of keeping extremely extensive and intrusive laws on the books when there does not appear to be a legitimate need for those to be there.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:50): I do not want to prolong this. I was first asked by the National Security Committee of cabinet to develop these proposals in the middle of the year. It is now 28 October. I do not know what you mean by doing something very quickly, Senator Wright, but I am bound to say that in the time that has been available in the last several months there has been more than sufficient time for me and for those who advise me within the Attorney-General's Department and within ASIO and the national security agencies and for my own staff to look with great care and deliberation at these proposals. What we bring to the parliament is the result of an enormous body of work that has been undertaken in a very thorough and calm and professional and methodical way. So, the suggestion that this has been done quickly, with respect, is not right.
It is an urgent matter, but an urgent matter can still be done with appropriate careful deliberation and an enormous body of work, for which those who advise me have been responsible, and I will at the end of this debate take the opportunity to thank them. But Senator, what you have in this, as in the first tranche of legislation and as you will see soon in the next tranche of legislation, is the fruit of very careful, methodical and professional deliberation by those who are skilled in this field.

Senator WRIGHT (South Australia) (20:52): I am interested to know about the efforts that have been made to reassure certain groups within the Australian community, such as Muslim Australians, that these extraordinary powers—which, under the foreign fighters bill, if passed, will be easier to obtain and will attract a broad range of enforcement mechanisms—will only be used as a last resort.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:52): They will only be used where appropriate. Because of the way in which these powers have been expressed in the act—and this is a continuation, with some refinements, of course, of powers that were first legislated in 2005—it is obvious, to anyone who is capable of reading the act, the way in which the capacity to obtain a control order or a preventive detention order, the tests that must be satisfied, the caveats and the red lines, as it were, in the legislation which prevent the obtaining of orders of this kind except in very unusual circumstances, are actually written into the law. So this is not a matter of executive discretion, Senator Wright. You have read the relevant provisions of the Commonwealth Criminal Code, I am sure, so you would have seen for yourself how many safeguards are built in, how high the thresholds are, how limited the circumstances are in which orders of this kind are obtained, how rigorous the accountability mechanisms are—in particular, the need to go back to the issuing officer in a very short span of time—and the limitations on the renewal of orders of this kind, and so forth. I suppose, therefore, the immediate answer to your question is: it is there for you to see in the act for yourself.

However, let me take the opportunity of your question, Senator Wright, to remind you, or to acquaint you with the fact that the government has taken an enormous amount of time and effort to meet with community groups most immediately affected. These groups are not directed at any particular community; they are laws of general application. But it is a sad fact, as we all know, that at the moment the threat of foreign fighters is inspired by those young men and women who are ensnared by ISIL and Jabhat al-Nusra and other organisations, and that, in the name of the Islamic faith—although it is a claim that the mainstream of practitioners of the Islamic faith, of course, utterly reject—are encouraged to go to Iraq and Syria to fight in wars being conducted by ISIL. ISIL is a barbaric death cult which is at war with a Muslim nation—the nation of Iraq.

I and my colleague Senator Concetta Fierravanti-Wells, who has particular portfolio responsibility for multicultural affairs, have had many meetings—some of which the Prime Minister has participated in himself—with leaders of the Islamic community. At those meetings, I have engaged in very frank discussions with the leaders of that community in the preparation of this bill. I have said to them, in Canberra, in Sydney, in Brisbane and in Melbourne, 'We want to engage you in the preparation of this bill, because the main beneficiaries of this bill at the moment, at this bank and shoal of time in our nation's history,
are you, because it is your communities, primarily, that are the victims of those who would prey upon them.' As I have said many, many times, we see the Islamic communities of Australia as our partners in shaping legislation to protect their communities from predators, to save their young men and also, in some cases, their young women from being ensnared by these false siren voices.

We are discussing at the moment the sunset clause. Can I tell you, Senator Wright, that in an early iteration of this bill there was not a sunset clause. At an early iteration of the bill, the government was provisionally of the view—for the purposes of the discussion—that perhaps these unusual measures in all the circumstances did need to be made a permanent feature of our law. I remember very clearly the meeting in Melbourne that I attended with Senator Fierravanti-Wells at which there was a long discussion about the removal of the sunset clause in an early draft of the bill. Members of the Islamic community said to me, 'Attorney-General, the removal of the sunset clause is a big issue for us. We believe that it would send a very, very strong signal to this community if the government were to reinstate the sunset clause.' I can tell you, Senator Wright, that it was as a direct result of the argument that it was put to the government by leaders of the Islamic community at that particular meeting, and then at another meeting about a week later in Brisbane, that I took the view that I ought to take that suggestion on board. So I inserted the sunset clause.

As we know, the sunset clause has now been foreshortened as a result of a recommendation of the PJCIS. I do not know how you could have a better example of the government engaging with a community with a particular interest in this legislation, listening to its concerns, embracing its concerns and acting to give effect to its concerns than by the decision that I made, on the specific advice of those community leaders, to keep the sunset provision in operation.

Senator WRIGHT (South Australia) (20:58): Thank you, Attorney-General, and if that is the case, then it is commendable that you were prepared to meet and listen in that way. Certainly, it chills me to think that there was some consideration of removing the sunset clause totally. Going to a 10-year time frame is also a great concern. Making a virtue of bringing it back to four years, I suppose, is certainly better than 10 years or having no sunset clause at all. This very debate, as tiresome as it may be to some who want to get the legislation right through, given the extraordinary and intrusive law-enforcement and intelligence-gathering powers that we are actually talking about here, I think is evidence of the value of constantly being vigilant not only about terrorism but about the very freedoms that make our vibrant democracy such a wonderful place that people want to live in. The idea that we would have sunset clauses is necessary so that we are required, on a regular basis, to keep reassessing the freedoms that we perhaps are giving up, the risks that we are running and whether or not they are necessary, given the particular environment that we are living in.

I am going to seek the guidance of the chair at this stage. The Australian Greens, in this case, are in a difficult position because we certainly do not want to have the sunset clause extended at all. We feel that a year would give sufficient time to seriously evaluate and have proper scrutiny of the regime and then make a thoughtful, considered and methodical decision. However, the bill in its first iteration did propose 10 years and this amendment is going to reduce it to four years. So that is a less undesirable outcome than 10 years.
The Australian Greens amendment would seek to have extension of the sunset clause removed completely. With respect, is it possible to have that amendment put first? If that amendment is not successful—which I envisage it will not be—then I will be in a position to know that I am able to be in favour of what is a better situation: a four-years extension of the sunset clause rather than 10 years?

The TEMPORARY CHAIRMAN (Senator Smith): Senator Wright, it is the government amendments which are before the chair at the moment. So the proposal is to deal with those, and then we can come to your amendments. The question is that amendments (6), (8) to (10), (26) and (27), (31), (32) and (40) be agreed to.

Question agreed to.

Senator WRIGHT (South Australia) (21:01): by leave—The Greens oppose Schedule 1 in the following terms:

(10) Schedule 1, item 33, page 12 (lines 4 and 5), to be opposed.
(11) Schedule 1, items 43 to 45, page 13 (line 25) to page 14 (line 6), to be opposed.
(14) Schedule 1, items 86 and 87, page 70 (lines 16 to 21), to be opposed.
(15) Schedule 1, items 107 and 108, page 75 (lines 18 to 23), to be opposed.

I really do not need to speak much more to these amendments. I think I have been making the case for the removal of the clauses within the bill that would seek to extend the sunset clauses as they are in effect now, which would, essentially, finish in December 2015 or July 2016. This would give the government and important stakeholders, including security agencies and human rights organisations, sufficient time to consider the efficacy and the necessity and the proportionality of the regimes that are being considered and allow them to make a serious decision about whether the sunset clause should be extended or not.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (21:02): The committee has just resolved to have a four-year sunset clause two years after the anniversary of the next election in 2018. These amendments would remove the sunset clause. So they are inconsistent with the resolution of the chamber which has just been carried, and for that reason the government, of course, opposes them.

Senator JACINTA COLLINS (Victoria) (21:03): With respect to these Greens amendments, (10) and (11) would prevent extension of the sunset provision to ASIO powers—questioning warrants and detention warrants. Labor believes that we do face an especial security threat at this time and we are willing to extend extraordinary measures in order to equip our agencies to deal with this. We do not accept that these powers must stand for all time, and they must be subject to sunsets and to reviews, which has now been resolved. The intelligence committee substantially wound back the proposed ten-year period to just two years after the next election. We insisted on shorter sunsetting and on statutory review. This is the right and responsible approach to the present special security challenges.

Regarding amendments (14) and (15), these would prevent the extension of sunset provisions to AFP powers—preventative detention and control orders. Again, I highlight the special security threat that we face at this time and that we are willing to extend extraordinary measures in order to equip our agencies to deal with this. We do not accept that these powers must stand, as I have said, for all time. They are subject to sunset and review, as I have
mentioned, two years after the next election or on the date Senator Brandis has highlighted, rather than the originally proposed 10 years or, indeed, as was discussed earlier, the potential that there be no limit at all. We believe these are sensible and balanced measures that ensure that we do have a review and a sunset. For that reason we are opposing all of these Greens amendments.

**The CHAIRMAN:** The question is that items 33, 43 to 45, and 86, 87, 107 and 108, on schedule 1, stand as printed.

The committee divided. [21:10]

(The Chairman—Senator Marshall)

Ayes .....................36
Noes ......................12
Majority ...............24

**AYES**

Brandis, GH  
Bullock, J.W.  
Bushby, DC (teller)  
Cameron, DN  
Canavan, M.J.  
Carr, KJ  
Colbeck, R  
Collins, JMA  
Day, R.J.  
Fawcett, DJ  
Fierravanti-Wells, C  
Gallacher, AM  
Ketter, CR  
Lambie, J  
Lazarus, GP  
Lines, S  
Lundy, KA  
Macdonald, ID  
Madigan, JJ  
Marshall, GM  
McEwen, A  
McGrath, J  
McKenzie, B  
McLucas, J  
Moore, CM  
Muir, R  
O’Neill, DM  
O’Sullivan, B  
Reynolds, L  
Ruston, A  
Seselja, Z  
Singh, LM  
Smith, D  
Sterle, G  
Urqhart, AE  
Wang, Z

**NOES**

Di Natale, R  
Hanson-Young, SC  
Leyonhjelm, DE  
Ludlam, S  
Milne, C  
Rhiannon, L  
Rice, J  
Siewert, R (teller)  
Waters, LJ  
Whish-Wilson, PS  
Wright, PL  
Xenophon, N

Question agreed to.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (21:12): I move government amendment (7), on sheet ZA358:

(7) Schedule 1, page 12 (after line 10), after item 34, insert:
At the end of section 38

Add:

(7) Before the end of the following periods, the Attorney-General must consider whether to revoke a certificate certifying in accordance with paragraph (2)(a) (if the certificate remains in force):

(a) 12 months after it was issued;

(b) 12 months after the Attorney-General last considered whether to revoke it.

Application

Subsection 38(7) of the *Australian Security Intelligence Organisation Act 1979* applies to certificates issued on or after the commencement of that subsection.

Amendment (7) implements recommendation No. 28 of the PJCIS by requiring that a certificate be issued by the Attorney-General under paragraph 38(2)(a) of the ASIO Act and be reviewed within 12 months of the issuance of the certificate and then every 12 months after it has been last renewed.

The effect is to ensure annual review of certificates that would enable silent passport cancellations. This is another of the safeguards, Mr Chairman, that have been accepted by the government as prudent measures, following the PJCIS recommendations. The powers under paragraph 38(2)(a) of the ASIO Act are extraordinary powers. They are only exercised in very exceptional circumstances. But it is appropriate that a certificate issued by the Attorney-General under that provision be reviewed and only, if necessary, renewed on an annual basis.

Question agreed to.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (21:14): by leave—I move government amendments (11) to (13) together:

(11) Schedule 1, item 51, page 20 (line 28), omit "member;", substitute "member."

(12) Schedule 1, item 51, page 20 (lines 29 and 30), omit paragraphs ZZAF(1)(c) and (d).

(13) Schedule 1, item 51, page 20 (lines 32 and 33), omit "part-time senior member or a member", substitute "full-time senior member".

Amendments (11) to (13) implement the first recommendation of the PJCIS report by limiting the AAT members authorised to issue a delayed notification search warrant, and to perform related functions, to the deputy president and full-time senior members. But for this amendment those functions could be performed by all members of the AAT. The government is convinced and accepts the view that, given the gravity of the powers exercisable under a delayed notification search warrant, the authorisation should only be made by a relatively senior member of the judiciary, and therefore only members of the AAT who serve at the most senior tiers of that tribunal ought to be issuing authorities.

Question agreed to.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (21:15): I move government amendment (14):

(14) Schedule 1, item 51, page 44 (line 18), omit "18", substitute "12".

Government amendment (14) implements PJCIS recommendation No. 2 by reducing from 18 months to 12 months the maximum period before which the occupier of premises that have
been the subject of a delayed notification search warrant, or the occupier of adjoining premises, be notified. Any extension beyond 12 months would require ministerial authorisation. Once again, this is an additional safeguard or a confinement of an extraordinary power. The government is of the view that the period should in all the circumstances be foreshortened from the initial period specified in the bill to 12 months.

Question agreed to.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (21:16): by leave—I move government amendments (15) and (16) together:

(15) Schedule 1, item 51, page 59 (after line 32), after paragraph 3ZZHA(2)(a), insert:

(a) the disclosure is for the purposes of obtaining or providing legal advice related to this Part;

(16) Schedule 1, item 51, page 60 (after line 13), after paragraph 3ZZHA(2)(d), insert:

(da) the disclosure is made by anyone to the Ombudsman, a Deputy Commonwealth Ombudsman or a member of the Ombudsman’s staff (whether in connection with the exercise of powers or performance of functions under Division 7, in connection with a complaint made to the Ombudsman or in any other circumstances);

Amendments (15) and (16) implement recommendation 3 of the PJCIS report by strengthening the unauthorised disclosure of information offences. The amendments exempt disclosure in the course of obtaining or providing legal advice, and disclosure of warrant information to the ombudsman from the disclosure of offences in the bill.

Question agreed to.

Senator LEYONHJELM (New South Wales) (21:17): I move amendment (1) on sheet 7597:

(1) Schedule 1, item 51, page 60 (line 19), at the end of subsection 3ZZHA(2), add:

; (g) the disclosure is made reasonably and in good faith, and in the public interest;

(b) the disclosure concerns corruption or misconduct in relation to the issuing or execution of a delayed notification search warrant.

Very simply, this amendment ensures that the public interest defence, and also the conduct or misconduct defence, are in the bill and not in the explanatory memorandum. The significance of this is quite simply that the explanatory memorandum is not referred to unless the bill is poorly drafted—unless the meaning is unclear. The explanatory memorandum is not the law. The law is what is in the bill. It does not help to go adding things to the explanatory memorandum, except in cases where the law is not clear. The law is clear. Therefore, the public interest defence for a disclosure of delayed notification, or instances of corruption or misconduct, will not be available to defendants as a defence under normal circumstances. Indeed, it would only be available to defendants under circumstances where the court felt that the bill had not been drafted sufficiently accurately. Therefore, it is important that it be in the bill and not left to the explanatory memorandum.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (21:19): I accept what Senator Leyonhjelm says about the relationship between the bill and the explanatory memorandum. I think that that which ought to be in the bill should be in the bill, and it is no sufficient correction to put it into the explanatory memorandum. So, Senator Leyonhjelm, I
agree with you that that is good drafting practice. However, that is really not the point here. What the amendment would do would be to introduce two additional exceptions to the unauthorised disclosure offence in the delayed notification search warrant regime. That regime is to be provided for by a new section, 3ZZHA, which sets out the offence and then sets out six circumstances that constitute exceptions to the offence. Those circumstances are various. I think it might be useful for this part of the debate if I read them to the chamber. The exceptions for the unauthorised disclosure of a delayed notification search warrant are that:

(a) the disclosure is in connection with the administration or execution of that part of the act;
(b) the disclosure is for the purposes of any legal proceeding arising out of or otherwise related to that part of the act or of any report of any such proceedings;
(c) the disclosure is in accordance with any requirement imposed by law;
(d) the disclosure is for the purposes of:
   (i) the performance of duties or functions or the exercise of powers under or in relation to the relevant part of the act; or
   (ii) the performance of duties or functions or the exercise of powers by a law enforcement officer, an officer of ASIO, a staff member of ASIO or a person seconded to either of those bodies;
(e) the disclosure is made after a warrant premises occupier’s notice or an adjoining premises occupier’s notice has been given in relation to the warrant; or
(f) the disclosure is made after a direction has been given under subsection 3ZZDA(4) or 3ZZDB(4) in relation to the warrant.

Those are the six exemptions from the operation of the offence-creating provision by subsection (1), and it is the view of the government, and it was the view of the PJCIS, that those are the only exemptions that should be provided for. The PJCIS did explore the appropriateness of the exemptions in the bill; it recognised the importance of striking a balance between allowing for appropriate disclosure while maintaining the integrity of sensitive terrorism investigations. Taking the appropriate balance into account, the committee recommended taking additional exceptions to the offences to address disclosure in the course of obtaining legal advice and disclosure of warrant information to the Ombudsman. The government accepted that recommendation, and is introducing amendments to address it. The amendments are intended to ensure that persons who wish to report misconduct have an appropriate avenue to do so. In addition, the Commonwealth DPP is required already to take the public interest into account in deciding whether or not to prosecute someone for the offence. The government does not consider that further amendments are necessary, given the significant safeguards that will apply to the delayed notification search warrant regime.

So Senator Leyonhjelm, as I say, public interest is already part of the law, and disclosure concerning corruption or misconduct—which is the point of your proposed subsection, paragraph (h)—is already dealt with by government amendment. For that reason and the reasons explained by the PJCIS, while having a degree of sympathy, if I may say so, with what you are seeking to achieve, what you are seeking to achieve is already achieved by existing law or by government amendments.

**Senator JACINTA COLLINS** (Victoria) (21:24): Labor understands the points that Senator Leyonhjelm has raised, and we understand his strongly-held views about these issues. However, we oppose this amendment, which cuts against the purpose and effectiveness of the
delayed notification warrant scheme, in our view. It is worth turning to the intelligence report, which says of this scheme at 2.47:

According to the Explanatory Memorandum, the scheme will differ from the existing search warrant provisions so as to enable

AFP officers to covertly enter and search premises for the purposes of preventing or investigating Commonwealth terrorism offences, without the knowledge of the occupier of the premises.

And at 2.48:

The ability to conduct a covert search is considered important because it will ensure that the investigation remains confidential. This is considered critical to the success of certain investigations by the AFP, particularly when carrying out investigations of multiple suspects over an extended period…

Operational experience has shown that the individuals and groups who commit such offences are highly resilient to other investigative methods and pose significant threats to the Australian community.

On this basis, though it took into account the sorts of concerns raised here by Senator Leyonhjelm, the intelligence committee decided against any such exception being inserted into the bill. A similar scheme has operated without any apparent difficulty in the Crimes Act, and we are satisfied that the general safeguards which apply to the AFP—and with the passage of this bill, the new oversight powers of the intelligence committee—that there is no need for this amendment.

Senator WRIGHT (South Australia) (21:26): I want to indicate that the Australian Greens will be supporting Senator Leyonhjelm's amendments in relation to the delayed notification search warrant regime. This regime really is unprecedented in many ways in that it allows someone's premises to be searched and that they would be unaware of the basis and authority for the search, and they would be unable to challenge or make a complaint about the issue of a warrant to allow it, or about the method of execution. In fact, they may not even become aware of the fact that someone has been in their premises for up to six months. Perhaps even more alarming—police would be allowed to enter premises by the premises of a third party to whom no concern or interest attaches at all, except that their premises are attached to the premises to be searched.

In scrutinising these sorts of provisions I am always conscious of taking the frame that, while we need to ensure that we can be protected from people who have malicious intent, and as careful as processes might be, we cannot assume that the person whose premises are searched is always the right person—that there is always, in fact, a legitimate reason to search those premises. So I am always conscious about how this will impact on people who happen to be caught up in a regime which is so intrusive. The Australian Greens will support Senator Leyonhjelm's amendments because they aim to ensure that someone who discloses information about a delayed notification search warrant as a matter of public interest, or who is a whistleblower, is not caught by criminal offences that prohibit disclosure of the search information in the bill. I am also satisfied that it is appropriate to have a sunset clause to the regime that is consistent with sunset clauses for other aspects of the bill, where we have such unprecedented and intrusive incursions into the liberties of people living in Australia.

The CHAIRMAN: The question is that amendment (1) on sheet 7597 be agreed to.
The committee divided. [21:32]
(The Chairman—Senator Marshall)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>Noes</th>
<th>Majority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day, R.J.</td>
<td>Di Natale, R</td>
<td></td>
</tr>
<tr>
<td>Hanson-Young, SC</td>
<td>Leyonhjelm, DE (teller)</td>
<td></td>
</tr>
<tr>
<td>Ludlam, S</td>
<td>Mline, C</td>
<td></td>
</tr>
<tr>
<td>Rhiannon, L</td>
<td>Rice, J</td>
<td></td>
</tr>
<tr>
<td>Siewert, R</td>
<td>Waters, LJ</td>
<td></td>
</tr>
<tr>
<td>Whish-Wilson, PS</td>
<td>Wright, PL</td>
<td></td>
</tr>
</tbody>
</table>

AYES

<table>
<thead>
<tr>
<th>NOES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bilyk, CL</td>
</tr>
<tr>
<td>Brown, CL</td>
</tr>
<tr>
<td>Bushby, DC</td>
</tr>
<tr>
<td>Canavan, M.J.</td>
</tr>
<tr>
<td>Collins, JMA</td>
</tr>
<tr>
<td>Edwards, S</td>
</tr>
<tr>
<td>Ketier, CR</td>
</tr>
<tr>
<td>Lazarus, GP</td>
</tr>
<tr>
<td>Lundy, KA</td>
</tr>
<tr>
<td>Marshall, GM</td>
</tr>
<tr>
<td>McGrath, J</td>
</tr>
<tr>
<td>McLucas, J</td>
</tr>
<tr>
<td>Muir, R</td>
</tr>
<tr>
<td>O'Neill, DM</td>
</tr>
<tr>
<td>Peris, N</td>
</tr>
<tr>
<td>Reynolds, L</td>
</tr>
<tr>
<td>Seselja, Z</td>
</tr>
<tr>
<td>Smith, D</td>
</tr>
<tr>
<td>Wang, Z</td>
</tr>
</tbody>
</table>

Bilyk, CL          Brandis, GH
Brown, CL          Bullock, J.W.
Bushby, DC        Cameron, DN
Canavan, M.J.     Colbeck, R
Collins, JMA      Dastyari, S
Edwards, S       Fawcett, DJ
Ketier, CR        Lambie, J
Lazarus, GP       Lines, S
Lundy, KA         Madigan, JJ
Marshall, GM      McEwen, A (teller)
McGrath, J        McKenzie, B
McLucas, J        Moore, CM
Muir, R           Nash, F
O'Neill, DM       O'Sullivan, B
Peris, N          Polley, H
Reynolds, L       Ruston, A
Seselja, Z        Singh, LM
Smith, D          Urquhart, AE
Wang, Z           Williams, JR

Question negatived.

Senator LEYONHJELM (New South Wales) (21:36): by leave—I move amendment (2):

(2) Schedule 1, item 51, page 61 (after line 22), at the end of Division 9, add:

3ZZIC Sunset provision

A delayed notification search warrant cannot be applied for or issued after the end of 7 September 2018.

This amendment introduces a sunset clause into the delayed notification warrants scheme similar to others which were recommended by the joint committee and accepted by the government in relation to control orders and preventive detention orders. It prevents a new delayed notification search warrant being issued after the sunset date. It does not prevent a warrant that was issued earlier being executed. This is appropriate in context because delayed notification search warrants expire 30 days after being issued. Also, after a warrant is
executed, there remain a number of ongoing obligations, such as the requirement to eventually give notification. This, in my view, should remain in force as a protective measure. In other words, this introduces the same sunset provision that the government has already accepted in relation to control orders and preventive detention orders, and simply brings delayed notification warrants under the same system.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (21:37): The government will be opposing this amendment. Senator Leyonhjelm makes the reasonable point that delayed notification search warrants are an unusual mechanism. He goes on to say—by analogy with the treatment of control orders and preventative detention orders—that they, too, ought to be sunsettled. But, Senator Leyonhjelm, there are gradations of exceptionalism, as it were, in these powers. Control orders and preventative detention orders are very, very unusual powers. As I keep saying, they ought to be— and have been—used extremely rarely. Delayed notification search warrants are somewhat less unusual. They are a standard feature of the criminal justice system of most states and territories, and have been so for a number of years.

Delayed notification search warrants are needed, and perhaps I might take the opportunity to explain the rationale for introducing this measure with the bill. Delayed notification search warrants are needed to enable the Australian Federal Police to investigate and prevent serious terrorism. They strengthen the legislative framework for Commonwealth investigations into terrorist threats. Under current Commonwealth search warrant provisions in the Crimes Act, the occupier of premises to be searched must be given a copy of the warrant if they are present, which means that a search cannot occur without the occupier being made aware that the search is taking place. That is the standard situation with the execution of a search warrant, of course. However, sometimes it is necessary—particularly in terrorism investigations—to keep the fact that a search has been conducted under warrant confidential. Keeping the existence of an investigation relating to terrorism offences confidential can be critical to their success, particularly when the investigation involves multiple suspects or multiple terrorist cells, or is conducted over an extended period of time.

Let me give an example of what I mean. Let us say that the Australian Federal Police were aware of a series of groups who were networked within a capital city, or perhaps between different capital cities, and they wished to carry out a search of the premises of one of the individuals who was a member of that network. If the standard procedure of the execution of a search warrant were to be observed, then the police would have to notify that suspect of the fact that they were conducting a search of his premises, and there would be nothing to stop that suspect then alerting other members of his network that they might imminently be the subject of a search warrant as well or of some other form of investigation. That could potentially substantially defeat the benefit of the investigation by denying the authorities the benefit of surprise. By the way, it is for that reason, Senator Leyonhjelm, that delayed notification search warrants are pretty much a standard feature now of investigation into various types of organised crime, for example, carried out by state and territory police forces. That is their rationale, and I am sure that you can understand that rationale.

The option of delayed notification search warrants will, therefore, enable AFP officers to conduct investigations without a suspect being aware of their interest, providing a significant
tactical advantage in an appropriate case. It will avoid suspects taking steps to avoid
detection, relocate their operations or relocate and destroy evidence. It will also avoid
suspects notifying their associates of police interests in their activities, as in the example that I
gave you.

The types of terrorism activities that could be investigated under this scheme may be—and
very often are—sophisticated networks involved in financing terrorism, recruiting for a
terrorist organisation and providing training for terrorist acts. Delayed notification search
warrants will increase the opportunity for successful investigations of terrorism offences and
enhance the ability of the AFP to gather information about planned operations with a view to
preventing a terrorism offence from being committed.

Senator Leyonhjelm, I think that in explaining to you the rationale for having, in
appropriate circumstances, a delayed notification scheme for search warrants I have also
explained to you why it is not appropriate that it be sunsetted. The investigative need for such
a capability is not something that is going to diminish over time. We have sunsetted control
orders and we have sunsetted preventative detention orders—the most unusual tool in the
apparatus—because we hope that maybe the day will come that orders of that kind will no
longer be needed. For as long as criminals act in networks, for as long as criminals act
covertly and for as long as criminals—not necessarily terrorists—act in a sophisticated
manner, the need on occasions to be able to conduct a search of one member of that network
without alerting other members of that network to the fact that they have been sprung is not
going to go away. I think as a matter of common sense, Senator Leyonhjelm, you would see
that. That is why, in the government's view and in the committee's view, it is not appropriate
that a mechanism of this kind be sunsetted.

Senator JACINTA COLLINS (Victoria) (21:44): Labor takes a different perspective to
Senator Leyonhjelm on the delayed notification warrants scheme. Some of the powers
conferred in this bill are clearly extraordinary, and, accordingly, are subject to sunsetting—
sunsetting which Labor has brought back to just four years.

However, some parts of this bill are structural reforms. That is, enhancements to agency
powers which are intended to be ongoing. The delayed notification warrant scheme is one
such agency power. There is no need for this scheme to be sunsetted. This part of the bill
brings the powers of the AFP into line with the other Australian police forces. I will quote
from the Intelligence Committee again here:

While the Committee notes that delayed notification search warrants do represent a significant
departure from the normal search warrant scheme provided for in the Crimes Act, it also notes that
many other Australian police forces have access to similar, if not more intrusive, powers. Given the
threat posed by terrorism and foreign fighters, the Committee considers it is appropriate that the AFP
have access to these powers for serious terrorism offences.

Because we think that the balance has been struck on these issues in the Intelligence
Committee's consideration, Labor opposes this amendment. The delayed notification warrant
scheme is an important tool for the AFP in its counter-terrorism capacity.

Senator LEYONHJELM (New South Wales) (21:46): I cannot help but remind the
Attorney-General that we have dealt with criminals at a Commonwealth level now without
delayed notification warrants since we have had Commonwealth criminal law. The trouble I
have with this provision is not that delayed notification warrants might be needed under the
current circumstances; I do not find the argument that we anticipate that these will be needed for the indefinite future at all compelling. If it is anticipated that there will be any need for them in four years' time, they can be re-enacted.

If it is felt that preventative detention orders and control orders are serving a useful purpose—and the evidence suggests so far that that is not the case, but perhaps they will be shown to be serving a useful purpose—then they will also have to be re-enacted. There is nothing wrong with legislation that lapses unless it is felt that it is serving a useful purpose and therefore is justified and maintained. The assumption that we know what will be the circumstances relating to terrorism, or whatever else the law is intended to apply to, in years ahead cannot be made today. We do not know.

It is perfectly legitimate to argue on the one hand that delayed notification warrants can be justified. I am really not disagreeing with that, although I certainly will vote against the bill itself—but for other reasons. But to suggest that we can anticipate that this is going to be required indefinitely into the future is illogical. I would ask the Attorney-General to reconsider.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (21:48): Senator Leyonhjelm, I am perplexed. I thought you were a libertarian. Yet the argument that we have just heard from you characterises you as the most rock-ribbed conservative; because if your argument were to be taken to its logical conclusion, we would never legislate for anything because we could never be completely certain about what might happen in the future. We would never reform the law and we would never have amended the Commonwealth Crimes Act since its first iteration in the first parliament 112 years ago.

The fact is that we, as legislators, have to make judgements about how to put the law in the best shape possible in various areas of public policy. When it comes to criminal law, it is possible to identify a gap—as there is here—in law enforcement techniques and capabilities and to say that because we have identified that gap, the law stands in need of reform not for a few years hence but because we have actually identified a gap that is not likely to go away.

I pose to you, Senator Leyonhjelm, once again, the rhetorical question: do you really think that we will ever see the day when some kinds of criminals—not just terrorists—will not operate in networks? Because I do not. If it is in the nature of criminal conduct that criminals, particularly sophisticated criminals, will operate in networks, then there is a rational argument for configuring our search warrant powers in such a way that the execution of the search warrant against one member of that network will not expose the operation so as to enable other members of that work to be tipped off to escape or to rid themselves evidentiary material that might be incriminating or would otherwise degrade the capability of the criminal investigation.

I think that is in the nature of sophisticated organised crime, including terrorist crime. Senator Leyonhjelm, if you think that those considerations are likely to disappear in four years' time, 10 years' time or ever, then I beg to disagree with you. This is a permanent reform to our law, the utility of which—with respect—is obvious.

The CHAIRMAN: The question is that amendment (2) on sheet 7597 be agreed to.
The committee divided. [21:55]

(The Chairman—Senator Marshall)

Ayes ...................... 14
Noes ...................... 40
Majority ................. 26

AYES

Day, R.J.  
Hanson-Young, SC  
Ludlam, S  
Rice, J  
Waters, LJ  
Wright, PL

Di Natale, R  
Leyonhjelm, DE (teller)  
Madigan, JJ  
Rhiannon, L  
Siewert, R  
Whish-Wilson, PS  
Xenophon, N

NOES

Bilyk, CL  
Brandis, GH  
Brown, CL  
Bullock, J.W.  
Bushby, DC  
Cameron, DN  
Canavan, M.J.  
Colbeck, R  
Collins, JMA  
Conroy, SM  
Dastyari, S  
Edwards, S  
Fawcett, DJ  
Gallacher, AM  
Heffernan, W  
Ketter, CR  
Lambie, J  
Lazarus, GP  
Lines, S  
Lundy, KA  
Marshall, GM  
McEwen, A (teller)  
McGrath, J  
McKenzie, B  
McLucas, J  
Moore, CM  
Muir, R  
O'Neill, DM  
O'Sullivan, B  
Peris, N  
Polley, H  
Reynolds, L  
Ruston, A  
Seselja, Z  
Singh, LM  
Smith, D  
Sterle, G  
Urquhart, AE  
Wang, Z  
Williams, JR

Question negatived.

Senator WRIGHT (South Australia) (21:58): I intend to move Australian Greens amendments (12) and (13) on sheet 7594 separately and speak to them separately. I will start by moving amendment (12) on sheet 7594:

(12) Schedule 1, item 61, page 63 (line 11), omit "reckless as to whether", substitute "with the intention that".

This is an amendment to a provision in the bill for the new offence of advocating terrorism. Under this provision, a person would commit a new offence if they intentionally counsel, promote, encourage or urge the doing of a terrorist act or the commission of a terrorism offence and the person is reckless as to whether another person will engage in a terrorist act or commit a terrorist offence.
This is a significant serious new offence as it carries a maximum penalty of five years imprisonment. The Australian Greens amendment seeks to—

The CHAIRMAN: Order! It being 10 pm, the committee will now report progress.

Progress reported.

ADJOURNMENT

The PRESIDENT (22:00): Order! I propose the question:

That the Senate do now adjourn.

Emergency Services Levy

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (22:00): Tonight I rise to speak on a matter of extraordinary concern to many of my fellow citizens in South Australia, and that is the extraordinary increase in the emergency services levy that came out in the South Australian state budget. By way of background, in 1999 the South Australian Liberal government introduced a levy specifically to replace an insurance premium levy with a broader emergency services levy to cover the cost of looking after the issues of our emergency services. When they introduced the levy, they made a decision that they would exempt a large number of organisations from the full impact of that levy, recognising the contribution that they made.

In the 2014-15 budget, the government sought to remove the remission of this levy from a number of properties, except for the principal place of residence for pensioners and concession card holders. At the time they introduced this particular piece of legislation they forgot to realise that people who lived in retirement villages were not actually property owners and would be exposed to the removal of the remission of the emergency services levy. I am pleased to say that they have seen the error of their ways subsequently. It probably just goes to show how ill-informed this particular levy was. They subsequently tried to find blame for the change in the levy structure that was specifically for assisting emergency services personnel and operations in South Australia.

I thought it would be interesting to put on the record that, in 2010, the Henry tax review came out and said that a land tax on the family home as part of state taxation reform was a good idea. At the time, the then Treasurer, Kevin Foley, made this comment: A broad-based land tax would be a punitive tax on families and households and won’t be supported by this government … we have no intention of adopting any of the land tax recommendations in the report. A broad-based land tax, be it on commercial or industrial, will be levying taxes on people who have not previously paid them and we don’t think that’s the right way to go forward.

That is really quite interesting, given that the government that he is part of and is now in government has chosen to do exactly the opposite. You would be excused for being a little confused because the now Treasurer in South Australia, Tom Koutsantonis, on ABC morning radio the other day, when questioned about whether a tax on a $400,000 property would increase by 163 three per cent, said no, it would not increase by 163 per cent, but his very own Treasury figures, as are witnessed by his Treasury document, show that if you have a property with a capital value of $400,000 you will indeed have an increase in your emergency services levy by 163 per cent.
Probably the most concerning of the impacts that this proposed increase in the emergency services levy has had in South Australia was shown very recently when there were two grassfires on the west coast, at a place near Ceduna. The CFS volunteers for the first time in history that I can remember refused to attend those fires. They had a reason for refusing to attend those fires. Since they have to pay this extraordinary increase in their emergency services levy—and some of them are paying 400, 500, 800 or 1,500 times as much as they paid last year for their emergency services levy—they said, 'Why would we go and fight a bushfire if they are collecting that much money to assist us in our emergency services activities? Why wouldn't the government be able to afford to pay full tote odds for every person who turns up to a fire? They don't need to worry about volunteers anymore because the government is taking this much money.' Farmers and business people cannot afford to let their employees go to fight these fires on a voluntary basis and accept the responsibility of continuing to pay these employees if they have to pay the exorbitant emergency service levy costs. It is an absolute disgrace and the South Australian government should be condemned for what they have done.

Camdenville Public School

Senator RHIANNON (New South Wales) (22:05): I would like to bring to the attention of the Senate some letters I recently received from a group of primary school students. They are all in the 3/4 Fiji class at Camdenville Public School in Sydney. The letters are notable for the complex and timely topics they address and the heartfelt opinions which are expressed. Bronte, Kira, Jenny, Bella, Ruby, Ellie and Kayla voiced their concerns over animal welfare. Looking to the ocean first, they argue that killing sharks and whales is an unnecessary act of cruelty—concerns that my colleagues Senators Peter Whish-Wilson and Rachael Siewert also feel passionate about and have taken up many times. I think they would like to know that the International Court of Justice banned whaling in the Antarctic.

Regarding domestic animals, they urge dog owners to act responsibly and care for their pets. They also spoke with great concern about farm animals. They make a passionate case on factory farming, detailing how it is... bad for chickens and other farmed animals as it is cruel. Chickens are probably the most abused animals on the planet.

I will let them know about the recent ban on caged egg production in the ACT, a reform led by the Greens.

Riley, Adam, Ethan, Jonathon, Nicholas, Cooper, Shakeel and Tiago protest the recent agreement to sell uranium to India. They wrote in their letter: One nuclear missile could blow up an entire city and you know how bad that would be.

They warn of the catastrophic danger of nuclear weapons and note that the Indian government has not signed the non-proliferation treaty. Senator Ludlam has long argued that this is one of the biggest reasons to tear up the deal with India—and in my reply I will expand on that.

Roxy and Rizal took up another issue close to my heart, Australia's treatment of asylum seekers. They wrote: We would be delighted if Australia could accomplish a law of freedom to refugees. We hope you can support our arguments and help refugees all over our world.
They note that, despite international conventions, refugees are still suffering. These students highlight that the Australian government is failing to honour our agreements, increasing suffering for those who have already suffered so much. Roxy and Rizal could be two international human rights lawyers in the making. Seeing young students tackle such a topic makes me optimistic about the future. Not only are they thinking deeply about issues which many adults struggle to address but they have taken the time to organise together and voice their concerns. One of the best things students can learn at school is the importance of engaging with the community. If we see something wrong, the future calls on us to voice our concerns and fix it. This is certainly what I believe, and it was heartening to receive these letters.

These letters also make clear the failings of our education system under successive governments. Just imagine the support that students like this could receive with a properly funded public education system. Instead of splashing out public funds on private schools, we could be ensuring that these bright minds get the resources and the teachers they deserve. If these students want to pursue their higher education in 10 years, what sort of higher education will await them? The Liberal government in New South Wales is well on its way to gutting TAFE, pushing students into private providers, where quality runs a distant second to profit. Our university system already loads up students with tens of thousands of dollars of debt, with massive increases on the cards.

Despite the damage that Liberal-National governments and Labor governments have inflicted on public education over the decades, these letters do make me optimistic that the future is in safe hands. I thank the students from the Fiji class for their correspondence and congratulate the whole team at Camdenville Public School, the students, the teachers and all the staff. I appreciated receiving your letters, and I hope this is just the start of an illustrious letter-writing future for all of these students.

Water Infrastructure

Senator CANAVAN (Queensland) (22:10): Thank you, Mr Acting Deputy President—

Senator CANAVAN: and thank you, Senator Mason. I was just speaking to Senator Day, from South Australia, about a fellow state person of his, Bert Kelly, who used to be the member for Wakefield for a long time. He would be familiar to many people in this house. Along with his many other achievements, statements and successes over time, Bert Kelly also had an aphorism that, when you heard a politician or a government announcing a new dam, you could smell an election just around the corner. That was very true perhaps in Bert's time, but things have changed greatly since that time. It is not the case now that you would be able to time elections on the announcements of dams. This is for the simple fact that we have not built—nor announced the building of—a major dam in most parts of this country for more than 20 years.

There have been a few dams built in that time—the Burdekin Falls Dam in North Queensland is one—but they were generally announced a long time before that. Dams take a long time to build, they take a long time to think through, they have a big impact on the environment and communities and they need to be thought through. That is why governments need to show vision and foresight in getting behind these projects so that we can have a strong
agricultural sector, so that our mining sector can have water and so that our towns and communities—particularly in regional areas—can have access to affordable water too.

I want to spend a bit of time tonight talking about the prospects for new dams in one part of our country—that is, in central Queensland in and around the Fitzroy Basin. The Fitzroy Basin should be better known to all Australians, but it is probably one that most would not be familiar with. It is alone the biggest water catchment on our eastern seaboard. More water flows out of the Fitzroy River into the Pacific Ocean than from any other river in this country. Most people would not know that. The flows in that region of itself equal about one-fifth of the Murray-Darling.

The Murray-Darling is a huge area which covers four states—and services the ACT, where we sit tonight—and its flows are only five times larger than that of the Fitzroy Basin, which is a much smaller area. We have developed the Murray-Darling over many years and now have the capacity to store around 70 per cent of the flows of the Murray-Darling. Each year around 33,000 gigalitres flow out of the different areas of the Murray—most of them eventually find their way down to the mouth in South Australia. We can store around 80 per cent of that flow, and that gives us great security in this part of our country, because we can store water in the wet times so that we can use that water in the dry times to grow food.

We need to do that in this nation, because we have very variable water flows. The city of Melbourne can store enough water for 10 years. If it got no rain for 10 years and all its dams were filled, it could still supply itself with water. In London, they can only store for a couple of years. It rains a lot in England, so they do not need that storage. We need that storage here in this nation because of that variability. But, in the Fitzroy Basin, we can only store around 30 per cent of the flows of the Fitzroy Basin. It is an undeveloped and untapped resource for our country.

A couple of weeks ago when we were on a break from work and from down here, a few members of the LNP did a tour around the Fitzroy Basin: me; the member for Capricornia, Michelle Landry; and the member for Flynn, Ken O'Dowd. We jumped in a plane and flew around some of the sites in this catchment. We also went to see the towns of Moranbah and Emerald to talk to those communities about what they wanted in terms of water storage. I want to briefly describe some of the potential opportunities. You hear from people that all the good dam sites in this nation are gone—all developed. That is rubbish. Some of the good sites have gone, in some parts of our country. But there remain untapped areas on the frontiers of our nation where we can grow new food bowls.

We have one very good food bowl here in the Murray-Darling, but I think we need a second food bowl in our nation. I think we are big enough to have a second food bowl somewhere in our nation, and I think the Fitzroy Basin could potentially be that place. There is a dam site on the Connors River, which is in the northern part of the Fitzroy catchment. It is a dam that could potentially store 375,000 megalitres, a pretty big dam—not the biggest, but a good size dam. It has already achieve state and federal approval for environmental purposes. So, it has already gone through all the environmental assessment processes. Most senators would be familiar with how onerous those are these days. It took years, but it has gone through those processes, so even the Greens should be supporting this particular dam.

That water could be used for some agriculture in the local area, but it will also be very crucial for coalmining in the Galilee Basin. Coalmining needs water too—about 100 or 200
litres for every tonne of coal you mine, to wash that coal. There are some big projects going ahead in the Galilee Basin. But because this dam is going to be used for that, I am sure the Greens will oppose it. They do not want to see those 10,000 jobs that would be provided in Central Queensland. But if we want those jobs we need the dam.

There is another site called the Nathan Dam, which is on the southern end of the Fitzroy Basin. It is a much bigger dam. It could potentially store almost 900,000 megalitres—quite a large dam. It does not have its environmental approval yet, but the Queensland government is hopeful that it will receive that next year. The dam has been held up for about five years because of a snail—a community of Boggomoss snails that was discovered in 2008 or 2009 on the site. They discovered 850 of them, and I do not have time to go into the whole saga, but they have since discovered 18,000 nearby. I do not understand how they missed the 18,000 snails on their first pass, but the dam has been held up for five years because of this environmental red tape.

Senator Mason: It's moving at a snail's pace!

Senator CANAVA N: That comment has been made before, Senator Mason. It is indeed moving at a snail's pace; you are absolutely right. But with the new one-stop shops that the government has implemented, we have signed an agreement with Queensland. Unfortunately the Labor Party do not want to see dams built; they do not want to see a streamlined environmental approvals process. We have not got the legislation through this place, but there should be some benefit through that one-stop shop that Minister Hunt has put in place. That dam will be used for agriculture and is very important for the cotton industry in Central Queensland, around Emerald. It could really increase the efficiencies and scale of that industry.

Two other sites I want to mention tonight are Eden Bann and Rookwood. Eden Bann is already a weir, but we can expand that weir, and Rookwood would be a new weir. All up they would store around 200,000 megalitres—pretty large. And they principally would be used for local agriculture in the Rockhampton region, largely horticulture, and also to supply Gladstone with water for its industrial needs, which are getting to be pretty scarce at the moment.

All in all, there are plenty of very good sites in this region. It is an untapped resource that I hope the government will now focus on. The Minister for Agriculture, Barnaby Joyce, released a green paper last week in which he says he wants to build dams. All these sites are listed among those 27, so I hope we can see them come to fruition—and so do the people of Emerald and Moranbah; they want these dams to come to fruition as well. Firstly, they will be great construction projects to provide jobs in this region—jobs that are sorely needed given the slowdown in the mining sector and the coalmining sector in Central Queensland. More importantly, these projects will provide reliable, consistent and affordable supplies of water for these towns and communities. In Moranbah they rely on mining companies to provide them with water. It is not a very secure position for them to be in, and, as I said, with these new mine developments water is becoming scarce for those industries. And Emerald, while its water will not benefit directly from these dams, is at risk. If we cannot find new sources of water these new mines will come to Fairbairn Dam near Emerald and seek to take the water from there, and that will mean lower agricultural production in the Emerald region, and fewer
jobs. And it will not be expanding our agriculture or our food bowl but detracting from it, and I do not want to see that.

I think we have outlined an agenda as a government to build dams, and we need to try to see these come to fruition now. Dams are hard things for the private sector to do alone, because they are very large projects that pay off over many years and they are exposed to great regulatory risks from government, both around the quantity of water that is provided and around the pricing of that water over time. That is all regulated by governments. There is therefore a need for the public sector to take some of those risks, to share those risks with the private sector to ensure that these viable projects which are going to provide great community benefits in terms of jobs, in terms of food and in terms of better water security go ahead.

Police Violence

Senator MARSHALL (Victoria—Deputy President of the Senate and Chair of Committees) (22:20): On the night of 22 August last year a resident of Hillside, in Melbourne's western suburbs, was turning his car into his driveway when he was rammed from behind. The force of the impact slammed his car into his corner fence, causing extensive damage to his car and property. The driver of the other car then leapt out and assaulted Mr Vittori, including punching him in the face up to six times.

What makes this case so disturbing is that this attack was carried out by members of the Victorian police force. Police officers had been following Mr Vittori for around two kilometres because the car he was driving was unregistered at the time. Mr Vittori testified that he was unaware that he was being followed. After the vicious assault Mr Vittori was taken back to the station and left in a police cell for four hours. He was then charged with reckless conduct endangering life by the local police.

The truth of what actually happened that night may never have been known if it was not for the confession made by one of the police officers four days after the incident. The junior officer confessed to a supervisor that he and the senior officer had concocted a story. What actually happened that night was partially revealed via the onboard camera in the patrol vehicle.

Footage shows the police car ramming Mr Vittori's car into the brick fence. However, before he jumped out of the car and assaulted Mr Vittori, the senior constable and driver of the car deliberately switched off the patrol car camera. He then, at a later date, tried to delete the footage, but investigators found a copy on a backup disk. Footage then captured audio of the senior constable telling his partner what to tell their boss, ordering him to say the victim had aimed his car at them and had heavily rammed their car while they were in it. This concocted story would explain the damage to the patrol car and justify the charges laid on the victim.

On 16 October this year, the junior officer faced court for his role in fabricating the story. He was fined $3,000 and released without conviction on a charge of making a false report. In handing down his decision, Magistrate Charlie Rozencwajg said Victoria Police appeared to suffer from a similar culture of silence to the criminal world. Magistrate Rozencwajg said that, in the criminal underworld, informing on a colleague was known as being a 'dog'. 'A similar culture for whatever reason existed in the police force,' Magistrate Rozencwajg said. The junior officer's defence lawyers said that, if not for Roberts coming clean to a supervisor,
it would have been unlikely the truth of the incident would ever have emerged. The victim, Mr Vittori, was charged by police for ramming their patrol car when, in fact, the opposite was true. Police were comfortable fabricating the charges and would have assumed that their joint testimony would see the victim prosecuted. They would have put Mr Vittori through months, if not years, of pain and suffering as he tried to defend himself against the charges that may have even seen him sent to jail.

As I have said in previous speeches, it is common for individuals to be further charged by police where there are complaints made about police assaults. The Flemington & Kensington Community Legal Centre says there have been 10 cases since 2006 in which African-Australians were charged with hindering police after they made an official complaint. In the subsequent court cases, magistrates ruled that officers had used inappropriate force against them, entered property without proper warrant or stopped suspects without due cause. In every case, police charges were thrown out of court and compensation paid to the victims.

Another example of violence concerns a case in April 2009. Eight police officers investigating the theft of two bags of chips from a nearby 7-Eleven entered the rear of a Williamstown property without a warrant. They attacked three teenagers of African descent who were hanging out in the rear bungalow. According to one of the victims, Kenyan-born Zacharia Matiang, a police officer demanded he tell him who stole the chips and then assaulted him. He said:

Out of the blue he took a pepper spray can and put it into my face and just started spraying, like I was some type of insect. Everything went blank in my head. There was screaming and yelling and pepper spray cans going off like fire hoses.

I saw them drag one of the boys out of the room and they were stomping the hell out of him, kicking him on the floor and everything.

A police officer was on my back putting handcuffs on me, dragging me to the front yard and he did assault me with his baton and punched me, too. He took me to the side of the house and punched me.

In addition to the attack on the individuals in the bungalow, an officer sprayed capsicum spray into the main house. A mother and three infant children, the youngest of whom was just three months old, were in the room at the time.

Lawyers from the Flemington & Kensington Community Legal Centre assisted the victims to make an official complaint and launch a civil case against the police involved. The complaint was ultimately investigated by the Office of Police Integrity. They dedicated two full pages of their 2010-11 annual report to the matter. To quote the report:

This case study clearly raises concerns about 'over-policing' associated with racial targeting. Eight police personnel and two paramedics were involved in pursuing a shoplifter who had been caught on CCTV stealing goods worth $10.65 … The leading senior constable knew the occupier of the bungalow was a minor, but rather than approach him in the presence of his mother, he initiated a confrontation that involved four innocent young people.

The OPI found that the officers had used excessive force and forwarded its investigation to police for action. However, even after the damning findings of the OPI, the force ethical standards division conducted its own review and found that many of the OPI findings were not valid. No officer was charged or reprimanded for their role in the assault. Victoria Police completely ignored the findings of the body established to oversee its activities. The civil lawsuit launched in parallel to the complaint was settled confidentially before it reached court.
We do not know if compensation was paid to those assaulted by police but what we do know is that no police officer has had to answer for their actions.

Fitzroy Legal Service, another community legal service, raises the case of a Somali man, Mohamed Hassan. Mohamed Hassan was pulled over for speeding by a senior constable. Mohamed was punched in the head, which fractured his jaw, was forced to the ground, was handcuffed and then taken to a police cell. Hassan faced several charges from police, including disturbing the good order or management of the police jail—and that was for spitting blood on the floor of a holding cell. Mohamed made a complaint against the police, which was investigated by the police ethical standards division. The complaint was not substantiated after the local police were tasked to investigate it. But, in 2012, Magistrate Peter Couzens ruled that Hassan had been unlawfully punched by the senior constable. Magistrate Peter Couzens told Mr Hassan:

I'm satisfied that you were a victim of an assault on that day by a police officer.

He found that the senior constable had acted unlawfully. Still, to this day, no action has been taken against the police officer who assaulted Mohamed.

I think it is clear from these cases and the other cases I have previously raised in the Senate that we have a systemic problem in the Victorian police force. The lack of an independent investigation of complaints made against police has led to a culture where it appears some police feel their actions are not subject to any real review or oversight, and, in the case where they overstep the mark, they can lay charges on the victims of their assaults and rely on support from colleagues to back their version of events. In this culture, most victims are unwilling to press charges or make complaints. Victims are all too aware that the most likely outcome will be further charges laid against them.

The power granted to police by the community must not be abused. Policing can—and must—be done with integrity. No-one in our state should be above the law. Police will continue to operate without the threat of real penalties for their actions until we have an independent investigation of complaints made against them. I again call for the establishment of a fully independent body to oversee the complaints against police and that this body be well funded and have a number of investigation teams that have the power to press charges against police for misconduct. What we know in Victoria is that if we expect justice to prevail, we cannot rely on police to investigate police. We must have an independent body that can not only investigate police but lay charges against police for their misconduct.

**Australian Defence Force**

**Veterans**

Senator LAMBIE (Tasmania—Deputy Leader and Deputy Whip of the Palmer United Party in the Senate) (22:30): I rise to bring to the attention of the Australian parliament a petition at the change.org website titled: 'Don’t send our defence forces to war on a pay cut! Show our ADF the respect it deserves.’ There are more than 19,000 electronic signatures on this petition, including my own. I have now placed that petition on my Facebook page and website, and I encourage every Tasmanian and Australian to visit and register their electronic signatures.

I would like every Australian who can operate a computer or smartphone to show solidarity with members of our Defence forces and their families as they face the very real prospect of
being forced to endure a cut to their pay and conditions. The petition, posted by Tony Dagger from Sydney, Australia, sums up the situation very powerfully and succinctly:

The government have announced that they propose to give the ADF a pay offer for the next three years that doesn't even meet inflation. That means in real terms—it's a pay cut!

The offer is currently 1.5% for the next 3 years, and they're asking ADF members to give up 6 days leave to pay for even that! It's an absolute insult.

My son's in the RAAF, and with all of the things happening in the world right now, life for defence force families is starting to get very tense again.

The idea that the government would not only offer a measly 1.5% increase to their pay right now, but also try and cut leave, giving them less time with their family, is outrageous.

The remuneration for our ADF personnel should reflect the value and respect we as a Nation have for anyone who is prepared in whatever capacity to put themselves and their own wellbeing and safety second to serving their country to make it a safe and better place for all of us to live in.

Offering a pitance with an excuse of "current economic times" is disgusting and an insult to these brave men and women.

We need to ensure that our Defence Forces are remunerated at a level that reflects their importance and respect we as a country and community have for them.

Please sign this petition and your support will be forwarded to the Federal Government Ministers responsible.

In defence of the senior officers and government ministers who are in charge of Australia's military, I would like to say to this parliament that this mean and insulting pay offer to members of our Army, Navy and RAAF is an act which is out of character for those responsible and that somehow it is an uncharacteristic stuff-up from a group of competent, honourable people who have a distinguished management record. However, I am sad to say, for the ordinary diggers, sailors and airmen and women—and their families—I cannot say that truthfully.

This despicable wage offer is just one bastard act in a long list of bastard acts carried out by senior ADF officers who have lost the respect of their troops as they have fallen over themselves to forward their own careers at the expense of their mates while they suck up to two of the most incompetent and uncaring Defence and veterans' affairs ministers that Australia has ever seen in history. I am sickened by the performance of the senior officers in charge of our ADF. They are smug, self-serving, gutless individuals who have dishonoured their own uniform. If they had any honour they would resign from their positions rather than be part of the Liberal-National government's plan to take leave, entitlements and, effectively, money out of the pockets of their own troops.

Shame, Binskin! Shame, Griggs! Shame, Morrison! Your years of service will be rightly tainted and stained by your compliance with a despicable government wage offer to people you are supposed to support and protect at all times. How dare you present yourselves before this parliament and in public and allow yourselves and, worse still, your uniforms and high positions in our ADF to be the mouthpieces and apologists for despicable and incompetent politicians whose actions prove they do not know the meaning of service, trust, loyalty and honour.

If the government have their way and their wage offer of 1.5 per cent for the next three years and loss of six days leave remains, then I am going to start a public campaign which
will call on all Australians to turn their backs on any government minister or backbencher who decides to give a speech and presentation on Anzac Day for the centenary next year. If Liberal or National party members think that they can be part of a government which takes money and conditions away from members of our military and not feel any political pain then they have got another think coming. Every chance I get I will be urging Australian citizens who want to help our Defence Force members receive a fair pay offer to shun and turn their backs on government ministers and backbenchers who try to deliver speeches, especially on Anzac Day for the centenary.

I turn now to the cover-up of veteran suicide rates. Why have successive Liberal and Labor federal governments made it so hard for the widows and dependents of veterans who take their own lives to make a claim for compensation? The Abbott government was forced to admit recently that in the past 14 years since 2000 only 13 official compensation payments were made to the dependents of veterans who committed suicide.

Sadly, everyone in the ex-service community knows that, since 2000, hundreds of veterans who saw active service in East Timor, Iraq and Afghanistan have committed suicide. So how have senior military officers, politicians and Commonwealth public servants been able escape being held to account for this national disgrace? Our senior military officers and government bureaucrats know that Australia has never had enough troops and military resources to safely carry out the orders given to them by our politicians.

All public service and military leadership know that, in the last 15 years, a relatively small number of combat troops were expected to carry a massive active service workload and that the present veteran suicide crisis is a direct result of military leadership silence and compliance with orders from politicians who overcommitted our underresourced Defence Force to foreign wars. Why else would the top brass and politicians allow our soldiers to have their active service deployments increased from six to eight months; complete up to 13 tours of active duty in just over a decade; and go on armed, combat patrols while officially receiving antipsychotic medication?

The reason all political parties, senior military and government bureaucrats want to cover up veteran suicide rate is that it is damming proof of their incompetence and failure to stand up for our diggers. Today, the Minister for Veterans' Affairs, Senator Ronaldson, rose in this place and talked about mental health, trying to give the impression he cares about veterans living with mental health illnesses.

I almost bought what he was selling—the deep voice, the measured delivery. I have to admire the minister: he has almost mastered the art of faking sincerity. But he and I both know that he does not care one little bit about people with mental disabilities. After suffering from mental illness in the past, brought on because of a vicious battle with the Department of Veterans' Affairs—as has been the case for many former members of the ADF—I have tried to show respect, care and consideration to people who live with mental disabilities. Indeed, I have tried to employ people who are living with forms of mental disabilities so that I could create a workplace with diversity and that is free from discrimination.

This government, through Minister Ronaldson and the Prime Minister, despite a wonderful antidiscrimination policy, have gone out of their way to prevent me from employing people with disabilities. They have placed unreasonable work conditions and travel restrictions on the people whom I chose to work with me.
One prospective employee was a commando—that is right—who served his time for our country, had his head almost blown off in battle and suffered immense brain damage. The government refused to accommodate his modest travel and living requests so that he could continue serving his country in a different form.

Another is a nationally acclaimed whistleblower, who has risked her career to save the lives of thousands of Australians and, in so doing, has suffered terribly. Once again, this government and this vindictive minister have refused to accommodate her reasonable travel requests, which would save the government $5,000 a year. I am putting this minister and government on notice.

Mr President, I will not accept any more of the Prime Minister's or the Minister for Veterans' Affairs spiteful, illegal and discriminatory attitude towards people with mental illness or other disabilities. I look forward during this week to detailing to the chamber the appalling discriminatory behaviour of Minister Ronaldson and Prime Minister Abbott, whose actions contradict their worthless and insincere words in this chamber.

The Maldives

Senator McGrath (Queensland) (22:40): Like many in the Senate I am a great believer in freedom. In Australia we are fortunate to have constitutional government and strong democratic institutions to uphold and protect our freedom. Sadly, in today's troubled world, there are peoples who cannot boast of such things.

Tonight, I wish to draw attention to the challenges confronting the people of the Maldives as they seek their own democratic future.

The story of their struggle, a political fairytale where the prisoner defeated the jailer, of the fall of dictatorship, the establishment of a nascent democracy and the gradual slide back towards tyranny is a reminder to each of us that safeguarding freedom is a perpetual battle.

When people think of the Maldives, they think of a far-flung tropical island paradise: of white sandy beaches, blue lagoons and vibrant coral reefs. But under former dictator Gayyoom, Asia's longest serving dictator, the Maldives was renowned for harsh treatment of political opponents, including imprisonment and torture, curtailments placed on freedom of speech, freedom of the press and freedom of association.

In 2008, in that country's first free multiparty elections, Mohamed Nasheed was elected, a reformist president. I should declare a conflict of interest; I worked on that campaign. He introduced pensions, health insurance for all, disability allowances, inter-atoll transport and democratic reforms to freedom of speech. He also fought drugs. Under President Nasheed, international measures of freedom of speech and freedom of the press improved markedly.

Interestingly, as a very peaceful person, he refused to punish those miscreants, those criminals, who transgressed under the former regime. But in February 2012 there was a coup. And, no matter how it is dressed up, a democratically elected president was removed from power.

Tonight, in the time allotted to me, I want to talk about judicial corruption, political violence, suppression of the media and the abduction and possible murder of journalist Ahmed Rilwan Abdulla. Following Nasheed's departure from power, the political situation in this island paradise began to deteriorate and slide into authoritarianism and religious
extremism. There were police crackdowns on Maldivian Democratic Party supporters. Over 800 supporters of the MDP were arrested in the first year following President Nasheed's resignation. President Nasheed himself faced arrest and had to flee to the Indian High Commission for sanctuary.

However, let us talk about the judicial process in the Maldives. A worrying trend has been for the Supreme Court to violate the separation of powers outlined in the 2008 constitution and interfere with electoral and human rights organs of state.

The presidential election in 2013 was held amidst controversy, with the Supreme Court and the independent Electoral Commission clashing over who had constitutional authority over the elections. The Supreme Court of the Maldives ultimately prevailed, whereby it twice cancelled and delayed elections that it appeared Nasheed would win. Indeed, *The Economist* magazine noted that the Maldives held as many elections as were needed to stop President Nasheed from winning power. The third attempt at the election was won by Abdulla Yameen, younger brother of former dictator Gayyoom.

Prior to the parliamentary elections in 2014 the Supreme Court, under unusual procedures which allowed it to initiate proceedings, prosecute and pass judgement, took action against the Maldives Elections Commission. The four commissioners were charged with contempt of court and disobeying orders for not following the Supreme Court's election guidelines.

More recently, in September 2014, the same Supreme Court, filled with appointees of the former dictator, issued similar proceedings against the Human Rights Commission of the Maldives for their report submitted to the UN on the deteriorating human rights position in the Maldives. The Human Rights Commission of the Maldives is charged with undermining the constitution and sovereignty of the Maldives.

We move from judicial corruption into political violence. In September this year the MDP headquarters, in capital, Male, and President Nasheed's family home were vandalised. That same day individuals were seen to destroy the security cameras of Minivan News, an independent news website, with a machete left in the office door. In October, only days ago, the MDP held a rally in Addu City, an MDP stronghold. The rally was attacked by masked men with wooden planks, iron rods, and stones. The same night, the MDP office in Addu City was torched.

In October this year, Amnesty International, the Inter-Parliamentary Union, and the European Union all expressed concern over the violence prevalent in the Maldives, noting it posed a critical test of the Maldivian government's will to maintain democracy. Only days ago, members of the Majlis, which is the parliament of the Maldives, were urged not to go out at night, amid the growing threats of violence and risks of attack upon elected officials.

This leads me to the suppression of the media and free speech. In July 2012, there was a near fatal attack on a blogger, Hilath Rasheed, an Amnesty International prisoner of conscience, which it is claimed was carried out by Islamic extremists. Journalist Aswad Ibrahim Waheed of Raajje TV, the MDP-aligned news channel, was nearly beaten to death in February 2013. This same TV station was torched in October 2013.

In June of this year vigilante groups abducted young men identified for promoting secularism on social media. The democracy focused Facebook page 'Colorless' had its administration hijacked by vigilante justice groups. But most concerning of all, apart from the
violence that is being let upon the people of the Maldives, and especially the journalists of the
Maldives, is that in September of this year the government announced regulations requiring
government approval to publish poetry and literature, allegedly to protect social etiquette and
align publications with religious codes, a move widely condemned as censorship and a blatant
attack on free speech and in stark contrast to progress made under Nasheed.

Most concerning of all is that on 8 August 2014 Maldivian journalist, blogger and social
media activist Ahmed Rilwan Abdulla was abducted outside his apartment. He has not been
seen or heard from since. Rilwan had received numerous death threats from religious
extremists for several years for his views on tolerance and freedom of expression, and
advocacy against religious extremism. Shortly before he disappeared, Rilwan wrote about 15
Maldivian journalists who had received death threats over their coverage of gang related
violence. The abduction of Rilwan is an attack on free press. It is an attack on freedom of
expression, a right Maldivians have long fought and struggled for. Human rights NGO
Maldivian Democracy Network commissioned a UK based private investigator to conduct an
investigation into the journalist's disappearance. The investigator concluded that radicalised
criminal gangs were involved in the abduction, with the help of corrupt government and
police officials likely.

As a friend of the Maldives I say to the government of the Maldives that your country
might be small but your people are strong-hearted and stand tall in the fight for freedom. The
world is watching you, President Yameen. Be a true leader and let your people be free. Let
them speak freely. Let them be without fear of violence. Let them have rights of association.
Let them talk, write and join together as free peoples. Do not lead your country into the
shadows of fear and hate and violence. Stamp on ISIS and other agents of hate. Let the
Maldives be free. President Yameen, the world is watching you.

Ebola

Senator SINGH (Tasmania) (22:48): I rise to bring to the Senate's attention the tragedy
occurring in West Africa with the outbreak of the Ebola crisis. In doing so I recognise that yet
another day has passed with more Ebola infections in West Africa, another day of more
deaths due to Ebola in West Africa, and yet another day of the Abbott government sitting on
its hands and failing to take the advice of the medical experts and provide the assistance on
the ground to support those in West Africa.

I also bring to the attention of the Senate the important work that is being done by a small
group of dedicated members of the Sierra Leonean community in Australia, many of them
based in my home state of Tasmania, responding to the worsening Ebola crisis in West
Africa. Whilst in the midst of this humanitarian and medical emergency facing the world,
there has been this widespread concern about the Australian government being slow to take
action and to respond to the crisis with the seriousness that it very much deserves, one group
has not been slow to react, and that is SEAGA, the Salone Ebola Action Group Australia.
SEAGA has been formed by concerned and active members of the Sierra Leonean
community. It has chapters throughout the states and territories. Through their networks of
family and friends in West Africa, these are the people who have been most aware of what is
happening on the ground and they have decided that they themselves must take action to
address the terrible developments they have been hearing about.
The depths of the losses felt in Sierra Leone and their impact on the community here cannot be overstated. Many individuals have had loved ones who have fallen victim to the epidemic. One particularly tragic example of this is Isaiah Lahai, a member of the community in Hobart. Four months ago his nephew in Sierra Leone contracted Ebola after visiting a hospital to help victims of the disease. He died soon after. Since then, the outbreak has spread more widely and has claimed a further seven members of his family. The impact on Mr Lahai, and on his wife and five children is understandably very deep. He is in constant contact with his relatives to monitor their situation, fearing their loss. Despite these shocks Isaiah has responded to the crisis not by retreating into grief—I am sure, though, that he is suffering grief—or by being dispirited by the inaction of Australian government authorities. Instead, with his fellow members of SEAGA, he has been taking constructive and concrete action to assist the Sierra Leonean government and its health workers to combat the spread of the epidemic and care for its victims.

On Wednesday, 22 October, I met with Isaiah and with the national coordinator of SEAGA, Mr Ansumana Usman Koroma, in my office in Hobart to hear about the work the association is undertaking and what they need from the Commonwealth to assist them in helping the effort over there.

The Ebola outbreak has reached a point that is beyond the capacity of the government of Sierra Leone to contain on its own. The weakness in the current health infrastructure is made worse by the shortage of medical staff and basic protective gear like gloves, aprons, face masks and so on to control the disease, as well as equipment like IV fluids and cannulas.

Sierra Leone's chief medical officer, Dr Brima Kargbo, has provided SEAGA with a list of medical equipment and supplies that are needed for the set-up of treatment centres and to support the ones already in existence in the virus epicentre districts of Kailahun and Kenema. Working off this list—which I saw—and engaging with international donors, SEAGA has filled a shipping container with supplies and equipment that has now, as we speak, been sent off across to Freetown, the capital, by sea. With more assistance from the Australian government they may have been able to send all of this equipment via air to get the supplies there faster and to meet the urgent need for them. The national medical associations like the Australian Medical Association and the Public Health Association of Australia, as well as international ones like Medecins Sans Frontieres, have called for the Australian government to do more to assist in this crisis—and rightly so. The United States Security Council and President Obama have called explicitly for personnel to go to West Africa. Labor has written to the Abbott government to give its backing to the AMA's request for support for the recruitment and deployment of volunteer doctors and other health professionals to West Africa, and to provide ongoing practical support such as the provision of medical equipment and supplies, and transport and accommodation.

We already have Australians volunteering on the ground, and we need to both ensure that they are properly looked after and to expand their numbers by giving other prospective volunteers the assurance that they will also receive appropriate assistance. Labor has also supported the AMA's call to deploy the Australian Medical Assistance Teams—AUSMAT—that include doctors, nurses, paramedics, fire fighters and allied health staff who can rapidly respond to crises like this one. The government, however, has still not taken action in response to these calls. Instead it is falling to the community and to groups like SEAGA to
step into the breach and to provide the sort of help that the people and the governments of Sierra Leone, Liberia and Guinea desperately need. We cannot simply sit back and wait for the Ebola crisis to resolve itself without intervention and assistance from Australia and the international community. The idea that it is acceptable to hold back until it comes to our region is both dangerous and unrealistic.

I very much pay homage to the hard work of Mr Isaiah Lahai, Ansumana Koroma and SEAGA in their organisation to give aid to Sierra Leone, and I also offer my condolences to Mr Lahai for the losses in his family. After fundraising $7,000 for the first container, they are now working on the next one. And until the Abbott government steps up and starts fulfilling its international obligations to address this global crisis, it is small dedicated community groups like the Salone Ebola Action Group Australia that we must rely on to undertake essential tasks and to provide an important part of our contribution to the international effort. Certainly though, it is not good enough—especially when the Abbott government did, in fact, support the resolution stating that it would indeed provide more assistance. In that I very much support my parliamentary colleagues—the deputy opposition leader, Tanya Plibersek; and the shadow minister for health, Catherine King—who have been calling for more substantial Australian involvement for several months. They have written to the Abbott government requesting immediate arrangements to deploy Australian Medical Assistance Teams to West Africa and to support other specialist Australian personnel such as doctors and nurses who are willing and able to assist in preventing the spread of Ebola.

It is through the work that these shadow ministers have done that it was revealed at Senate estimates that the US and the UK, two of Australia’s most important international allies, had asked Australia to give greater assistance over a month ago, and yet we have still done nothing. While the British are reportedly sending 750 people to help in Sierra Leone and the US has dispatched 3,000 people to Sierra Leone, as well as personnel from South Africa, China and Cuba, the Abbott government is still ignoring advice to assist in putting people on the ground. So tonight I urge the Abbott government to put people on the ground, to join with its international partners, like it does on so many other issues, and to give the necessary support and help that is needed to end this Ebola crisis before it becomes even worse, but, more importantly, to give the support necessary to the people in West Africa who are suffering and who continue to suffer every day as they continue to contract this deadly disease and lose their loved ones.

Senate adjourned at 22:58

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) 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—Torres Strait Protected Zone Joint Authority—Report for 2010-11.

Australian Bureau of Statistics Act 1975—
Australian Communications and Media Authority Act 2005—Australian Communications and Media Authority (3.5 GHz frequency band) Direction 2014 [F2014L01399].
Australian National University Act 1991—
Academic Board and Committees Statute 2014 [F2014L01340].
Programs and Awards Statute 2013—Honorary Degrees Rules 2014 [F2014L01341].
Staff Superannuation (Repeal) Statute 2014 [F2014L01337].
Superannuation Funds (Investment and Management) (Repeal) Statute 2014 [F2014L01338].
Banking Act 1959—
Banking exemption No. 2 of 2014 [F2014L01401].
Banking exemption No. 3 of 2014 [F2014L01402].
Civil Aviation Act 1988—Civil Aviation Safety Regulations 1998—
Approval — to conduct flight tests for a training endorsement mentioned in Table 61.1235 of CASR 1998—CASA 255/14 [F2014L01350].
Exemption — Employment of part-time check pilots (Capiteq Limited)—CASA EX116/14 [F2014L01313].
Exemption — from requirement to register an emergency locator transmitter with the Australian Maritime Safety Authority—CASA EX123/14 [F2014L01369].
Hub Cracking—AD/PHS/18 Amdt 4 [F2014L01324].
Part 145 Manual of Standards Amendment Instrument 2014 (No. 1) [F2014L01316].
Repeal — exemption from standard take-off and landing minima (Air New Zealand)—CASA EX129/14 [F2014L01370].
Commissioner of Taxation—Public Rulings—
Class Rulings—
Addendum—CR 2009/78.
Notice of Withdrawal—CR 2013/65.
Excise Ruling—Addendum—ER 2012/1.
Goods and Services Tax Advice—Notice of Withdrawal—GSTA TPP 032.
Goods and Services Tax Determination—Addendum—GSTD 2013/1.
Goods and Services Tax Rulings—
Addenda—GSTR 2000/19 and GSTR 2001/1.
GSTR 2014/1.
Product Rulings—
Addenda—PR 2008/23 and PR 2013/16.
PR 2014/17.
Taxation Determination—Notice of Withdrawal—TD 2012/19.
Corporations (Aboriginal and Torres Strait Islander) Act 2006—Corporations (Aboriginal and Torres Strait Islander) Determination 1/2014 [F2014L01315].
Corporations Act 2001—ASIC Class Orders—
CO 14/827 [F2014L01345].
CO 14/829 [F2014L01347].
Currency Act 1965—
Currency (Perth Mint) Determination 2014 (No. 4) [F2014L01317].
Currency (Royal Australian Mint) Determination 2014 (No. 6) [F2014L01333].
Defence Act 1903—
Section 58B—
Deliberately differentiated offer for members—Defence Determination 2014/51.
Foreign language training—Defence Determination 2014/50.
National ADF Family Health Program—Defence Determination 2014/49.
Post indexes and hardship allowance—amendment—Defence Determination 2014/52.
Woomera Prohibited Area Rule 2014—
Determination of an Exclusion Period for the Green Zone [F2014L01403].
Determination of Exclusion Periods for Amber Zone 1 and Amber Zone 2 for Financial Year 2014-2015 [F2014L01354].
Suspension of Standing Permission in the Woomera Prohibited Area [F2014L01404].
Diplomatic Privileges and Immunities Act 1967—Diplomatic Privileges and Immunities (Indirect Tax Concession Scheme) Amendment Determination 2014 (No. 1) [F2014L01394].
Environment Protection and Biodiversity Conservation Act 1999—
Section 269A—Instrument Adopting and Revoking Recovery Plans (WA) (21 October 2014) [F2014L01397].
Terms of Reference for the Expert Panel on a Declared Commercial Fishing Activity (2 September 2014).

Fair Work Act 2009—Direction to Inspectors (1 October 2014) [F2014L01374].


Fisheries Management Act 1991—


Health Insurance Act 1973—

Health Insurance (Diagnostic Imaging Services Table) Regulation 2014—Select Legislative Instrument 2014 No. 148 [F2014L01362].

Health Insurance Legislation Amendment (General Medical Services Table and Other Measures) Regulation 2014—Select Legislative Instrument 2014 No. 149 [F2014L01360].

Health Insurance (Pathology Services Table) Regulation 2014—Select Legislative Instrument 2014 No. 150 [F2014L01367].


Higher Education Support Act 2003—VET Provider Approvals—

No. 58 of 2014 [F2014L01357].
No. 59 of 2014 [F2014L01366].
No. 60 of 2014 [F2014L01351].
No. 62 of 2014 [F2014L01352].


Land Transport Infrastructure Amendment Act 2014—Land Transport Infrastructure Amendment Commencement Proclamation 2014 [F2014L01325].

Lands Acquisition Act 1989—Statement describing property acquired by agreement for specified purposes.

Migration Act 1958—
Migration Amendment (Bridging Visas) Regulation 2014—Select Legislative Instrument 2014 No. 144 [F2014L01321].
Migration Amendment (Temporary Graduate Visas) Regulation 2014—Select Legislative Instrument 2014 No. 145 [F2014L01320].
Migration Regulations 1994—
Access to Movement Records—IMMI 14/058 [F2014L01314].
Class of Passports—IMMI 14/073 [F2014L01319].
Transit Passengers who are Eligible for a Special Purpose Visa—IMMI 14/090 [F2014L01322].
Visas attracting a Subsequent Temporary Application Charge—IMMI 14/091 [F2014L01355].
National Health Act 1953—
National Health Determination under paragraph 98C(1) (b) Amendment 2014 (No. 10)—PB 83 of 2014 [F2014L01393].
National Health (Paperless Prescribing, Dispensing and Claiming Trial) Special Arrangement 2014—PB 71 of 2014 [F2014L01336].
National Health (Pharmaceutical Benefits—Early Supply) Amendment Instrument 2014 (No. 7)—specification under subsection 84AAA(2)—PB 84 of 2014 [F2014L01392].
National Land Transport Act 2014—
Roads to Recovery Funding Conditions 2014 [F2014L01359].
Roads to Recovery List 2014 [F2014L01318].
National Vocational Education and Training Regulator Act 2011—
Standards for Registered Training Organisations (RTOs) 2015 [F2014L01377].
Standards for VET Regulators 2015 [F2014L01375].
Advice of decision to pay assistance—21 October 2014.
Consolidated statement of expenditure—16 October 2014.
Radiocommunications Act 1992—Radiocommunications (Field Trial by Corrective Services NSW of PMTS Jamming Devices at Lithgow Correctional Centre) Exemption Determination 2014 [F2014L01398].
Remuneration Tribunal Act 1973—
Telecommunications Act 1997—Telecommunications Service Provider (Mobile Premium Services) Amendment Determination 2014 (No. 1) [F2014L01396].
Veterans’ Entitlements Act 1986—
Statement of Principles concerning anxiety disorder—
No. 102 of 2014 [F2014L01389].
No. 103 of 2014 [F2014L01390].
Statement of Principles concerning leptospirosis—
No. 94 of 2014 [F2014L01385].
No. 95 of 2014 [F2014L01386].
Statement of Principles concerning malignant neoplasm of the breast—
No. 96 of 2014 [F2014L01383].
No. 97 of 2014 [F2014L01387].
Statement of Principles concerning malignant neoplasm of the lung—
No. 92 of 2014 [F2014L01382].
No. 93 of 2014 [F2014L01384].
Statement of Principles concerning osteomyelitis—
No. 90 of 2014 [F2014L01380].
No. 91 of 2014 [F2014L01381].
Statement of Principles concerning osteoporosis—
No. 98 of 2014 [F2014L01388].
No. 99 of 2014 [F2014L01391].
Statement of Principles concerning rotator cuff syndrome—
No. 100 of 2014 [F2014L01376].
No. 101 of 2014 [F2014L01379].


Work Health and Safety Exemption (Construction induction training — ASC AWD Shipbuilder Pty Ltd and overseas technical specialists) (September 2014) [F2014L01195]—Revised explanatory statement.


Work Health and Safety Exemptions (Diving by members of the Australian Defence Force) (July 2014) Amendment Notice [F2014L01326].