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**SITTING DAYS—2015**

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FORTY-FOURTH PARLIAMENT
FIRST SESSION—SEVENTH PERIOD

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

Senate Office holders
President—Senator Hon. Stephen Parry
Deputy President and Chair of Committees—Senator Gavin Mark Marshall
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 Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator 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 Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator Hon. Stephen Conroy
Leader of the Australian Greens—Senator Richard Di Natale
Co-deputy Leaders of the Australian Greens in the Senate—Senator Scott Ludlam and
Senator Larissa Joy Waters
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

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

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<td>CLP</td>
<td>Peris, N. M.</td>
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(1) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice R. Carr), pursuant to section 15 of the Constitution.

(2) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice J Faulkner), pursuant to section 15 of the Constitution.

(3) Chosen by the Australian Capital Territory Legislative Assembly to fill a casual vacancy (vice K. Lundy), pursuant to section 15 of the Constitution.

(4) Chosen by the Parliament of Queensland to fill a casual vacancy (vice B. Mason), pursuant to section 15 of the Constitution.

**PARTY ABBREVIATIONS**

AG—Australian Greens; ALP—Australian Labor Party;
AMEP—Australian Motoring Enthusiast Party; CLP—Country Liberal Party;
FFP—Family First Party; IND—Independent, LDP—Liberal Democratic Party;
LNP—Liberal National Party; LP—Liberal Party of Australia;
NATS—The Nationals; PUP—Palmer United Party
Heads of Parliamentary Departments
Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Acting Secretary, Department of Parliamentary Services—D Heriot
Parliamentary Budget Officer—P Bowen
### ABBOTT MINISTRY

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<tr>
<td><strong>Prime Minister</strong></td>
<td>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><strong>Minister Assisting the Prime Minister for the Public Service</strong></td>
<td>Senator the Hon. Eric Abetz</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister on Counter-Terrorism</strong></td>
<td>Hon Michael Keenan MP</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister for Women</strong></td>
<td>Senator the Hon. Michaelia Cash</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>Hon. Charles Porter MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>Hon. Alan Tudge MP</td>
</tr>
<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
<td>Hon. Warren Truss MP</td>
</tr>
<tr>
<td>(Deputy Prime Minister)</td>
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<tr>
<td>Assistant Minister for Infrastructure and Regional Development</td>
<td>Hon. Jamie Briggs MP</td>
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<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>Hon. Julie Bishop MP</td>
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<tr>
<td><strong>Minister for Trade and Investment</strong></td>
<td>Hon. Andrew Robb AO MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Foreign Affairs</strong></td>
<td>Hon. Steven Ciobo MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Minister for Trade and Investment</strong></td>
<td>Hon. Steven Ciobo MP</td>
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<tr>
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<tr>
<td>(Leader of the Government in the Senate)</td>
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<tr>
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<td>Hon. Luke Hartsuyker MP</td>
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<tr>
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<tr>
<td><strong>Attorney-General</strong></td>
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<tr>
<td><strong>Minister for the Arts</strong></td>
<td>Senator the Hon. George Brandis QC</td>
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<tr>
<td>(Vice-President of the Executive Council)</td>
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<td><strong>Treasurer</strong></td>
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<td><strong>Minister for Small Business</strong></td>
<td>Hon. Bruce Billson MP</td>
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<td><strong>Assistant Treasurer</strong></td>
<td>Hon. Joshua Frydenberg MP</td>
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<td><strong>Parliamentary Secretary to the Treasurer</strong></td>
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<tr>
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<td>Senator the Hon. Michael Ronaldson</td>
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Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Human Services in the Social Services portfolio and a Department of Veterans' Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases.
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The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 10:00, read prayers and made an acknowledgement of country.

PARLIAMENTARY REPRESENTATION

Tasmania

The PRESIDENT (10:01): I inform the Senate that I have received a letter from Senator Milne resigning her place as a senator for the state of Tasmania. Pursuant to the provisions of section 21 of the Constitution, I have notified the Governor of Tasmania of the vacancy in the representation of that state caused by her resignation. I table the letter and a copy of my letter to the Governor of Tasmania.

CONDOLENCES

Randall, Mr Donald James

Schultz, Mr Albert (Alby) John

The PRESIDENT (10:01): It is with deep regret that I inform the Senate of the death on 21 July this year of Donald James Randall, a member of the House of Representatives for the division of Swan, Western Australia, from 1996 to 1998 and member for the division of Canning, Western Australia, since 2001. Also with deep regret I inform the Senate of the death on 14 July 2015 of Albert John Schultz, a member of the House of Representatives for the division of Hume, New South Wales, from 1998 until 2013. I ask honourable senators to stand with me in silence as a tribute to the memory of these two former members.

Honourable senators having stood in their places—

The PRESIDENT: Thank you, senators.

DOCUMENTS

Tabling

The Clerk: I table documents pursuant to statute and returns to order in accordance with the lists circulated in the chamber.

Details of the documents also appear at the end of today's Hansard.

COMMITTEES

Meeting

The Clerk: Committees have lodged proposals to meet as follows: the Economics References Committee for a public meeting today from 3.30pm, and the Parliamentary Joint Committee on Intelligence and Security for a public meeting today from 4pm.

The PRESIDENT (10:03): Does any senator wish to have the question put on either of those motions? If not, we will proceed.
Debate resumed on the motion:
That this bill be now read a second time.

Senator MOORE (Queensland) (10:03): Labor does not support the Social Services Legislation Amendment Bill 2015 in its current form. As all senators would be aware, this bill was referred to the Senate Community Affairs Committee for consideration. There was a hearing, and most of the arguments were worked through at that hearing, which is indeed the strength of the committee process. We received submissions from state and territory governments, statutory and advisory bodies, peak and representative groups, service providers, clinicians and patients. The one thing that all these groups had in common was that they opposed this piece of legislation. The only group that put forward any arguments in favour of the legislation was the department, and I imagine that will be something the government is very pleased about.

In regard to the issues, we believe there are real concerns, in the way this legislation was brought forward, about the definition in the legislation of 'serious offence'; about the financial impact of the bill and, also, the number of people it will impact on; about the impact on delivery of clinical services and on reintegration of people who have been already defined as some of the most vulnerable in our community; and about the definition of the period of reintegration.

One of the most important elements was for us, as senators, to understand through this process is exactly who the people are who would be impacted on by this bill. A number of pieces of evidence to the committee talked about the kinds of people who would face changes from this legislation. I think the New South Wales Mental Health Review Tribunal pointed out in a very strong way who these people are:

Forensic patients are amongst the most challenged and vulnerable persons in our society. They are not criminals and should not in any way be regarded or treated as such. They have never been the subject of a formal criminal conviction. This is because the law has for centuries accorded them a very different status.

Those found unfit for trial have been so found because, due to their particular condition (usually a mental illness or an intellectual disability) it is not possible for them to receive a fair trial [through the justice system]. Some persons who have been found unfit for trial may, in truth, be innocent, but are incapable of presenting to the court why this may be so.

These are the people about whom we are talking.

The government states that the bill 'represents a return to the original policy intention for people in these circumstances'. However, a number of submitters actually refuted this particular premise. The Victorian Institute of Forensic Mental Science stated that:

... forensic patients have remained eligible for social security payments throughout the various legislative changes, with the exception of a fifteen month period in 1985/6. However, the 1986 amendments applied retrospectively, so in effect forensic patients had full entitlement to social security payments up until 1985 after which time the payment of social security was limited to forensic patients who were undertaking a course of rehabilitation.
In its submission the Queensland government also rebutted the assertion that the measure in the bill represented a return to the original policy. They said, and this was actually talked about in Queensland at the time:

… Queensland’s experience is that for at least the last 12 years, and (anecdotally) since the Blunn v Bulsey decision in 1994, forensic patients have received benefits while they are detained in psychiatric institutions under mental health legislation. It has not been Queensland’s experience that payments have routinely or regularly been ceased for patients upon the making of a forensic order or when an involuntary patient is charged with an offence.

Also, one of the things that is specifically pointed out in this legislation is a definition of what is a 'serious offence' as opposed to what is not. A number of submissions received by the committee raised concerns about the distinction between serious and non-serious offences, which is a question the department was not able to answer to our satisfaction. The concerns related to both the appropriateness of making the distinction between the legal status of all forensic patients and the appropriateness of the range of offences that could be captured by definition, as proposed in the bill.

The National Mental Health Commission actually put forward the case that no clear rationale is given for why a person charged with certain offences, but not convicted for them, should be taken to be in psychiatric confinement rather than undertaking a course of rehabilitation, while others charged with offences that do not classify as serious are still taken to be undertaking a course of rehabilitation. The point being made is that for people who have been defined as having a serious offence, as pointed out in this bill, would not be able to receive payment while taking up rehabilitation, whilst people who are defined as having been committed because of a non-serious offence will. So the issue is not whether or not it is serious. It is about the rehabilitation process.

We believe the issue should be that people who have been determined not to be fit for trial should be treated the same way. A core aspect of our argument is that, should they be undertaking a rehabilitation process, which is essential to their wellbeing, and in fact making them able to reintegrate into society, they should be treated in the most sensitive and forensically proven way, based on evidence. We believe that by withdrawing social security payments this actually creates an added barrier, an added restriction, to that which they are already facing.

Some submitters were also concerned that the definition was too broad, including acts that posed risk of injury or property offences that endangered a person. In very telling evidence by Mrs Alison Xamon, President of the Western Australian Association for Mental Health, she highlighted this really important concern by saying:

… damage to property and the sort of scenario where people lash out in periods of great distress under psychosis unfortunately do occur, and yet there is no intent behind it. These are not people who are intrinsically dangerous in the sense that they are morally culpable; these are people who are in the grip of being seriously unwell. That is the sort of scenario that is very likely to occur, and I think that there are going to be a number of people who will be captured as a result.

The definition of serious is based on potential to do harm and potential of illness. A core element of the reason why we are not supporting this process is the strong accent on there being no real intent behind it. They could not be morally culpable; they were acting under psychosis.
We heard a range of evidence about the kinds of people who could be caught up in this. I take the point that was raised in some evidence that as we discover new types of conditions that are diagnosed—and I point out most particularly the issue of foetal alcohol spectrum disorder, FASD, where we know that there are strong limitations on people being able to make clear definitions of right and wrong and an inability to filter action—it would be a tragedy if people who have such a diagnosis, who are being in a way treated and working through a process, were suddenly deprived of social security payments which could help their rehabilitation and reintegration into the community, which is the ultimate point. The ultimate point is that people are able to have effective treatment and effective protection and to work through the issues with the kinds of medical and psychiatric support they need, with the intent of becoming well and able to come back into society. This legislation, by removing social security entitlement, automatically places them in the same grouping as people who have a legal conviction and, again, also puts up another range of barriers that could prevent these people from having the support they need.

I was deeply impressed not just in the inquiry—because I have been fortunate enough to work with people over a number of years who are significantly effective advocates and professional supporters of people who have psychiatric illness and who are in some cases detained for long periods of time simply because society and our system just does not have an effective place for them to have the support they need. Through this inquiry and also through their general advocacy, these groups have worked extremely hard to bring forward the voices of people whose voices are not often heard. This legislation attacks the group who are and have been diagnosed as ill. That is the purpose for which their offences have been defined; they have not been judged through the justice system, because they have been found incapable of having that process relate to their circumstances.

In relation to the general process there was a lot of information brought forward by states and territories about the lack of effective consultation in the development of this legislation. As I have said, we had evidence from the Western Australian and Queensland governments in particular about the financial impact of such a change. Currently the process is that social security payments are made to people who are in psychiatric facilities and are receiving treatment as they work through rehabilitation and preparation for reintegration. The people from the state governments have said that this is a cost-shifting exercise. The financial impost, which is now shared with the federal government, will be slated home exclusively to the state government. That is something that needed more effective consultation leading to a decision so that, most importantly, the people who would be impacted by the legislation would be protected as strongly as they could be and they would not suddenly be in the financial situation where their support was going to be in question in any way, which would affect their access to available services. The evidence was that this degree of effective consultation did not occur prior to the legislation being put forward and there had not been an assessment of the impact, including the financial impact on budgets, both at the state and the federal level.

That is important. We are reliant, in so many of our services delivery mechanisms, on effective consultation and negotiation throughout the COAG process. If we are going to make changes to legislation at the federal level which will have significant impact on state budgets, that should be openly discussed and negotiated before decisions are made. We rely on
effective communication and negotiation in our Constitution across our Federation. We expect cooperation—which we must have—through a whole range of service delivery. Bringing forward one element of legislation in this way which did not have that consultation makes it harder to have the kinds of negotiations that we must have to ensure that people do receive the services they need. We consistently mention in this place the importance of an effective COAG process.

Most of the inquiries that we handle in the Community Affairs process involve shared responsibilities between states, territories and the federal government. That relies on an element of trust and open consultation. This bill has not met that test. In fact, it has put that form of consultation in the sensitive area of psychiatric services, and that is not a good precedent for the ongoing discussion that has to happen after this. No matter what happens with this bill, the discussions about how people are treated, the effect of processes and reintegration in community will continue. There will be costs involved with all of those processes and they will need to be effectively negotiated between the Commonwealth, states and territories. That means that that model must be strongly in place. We cannot always guarantee agreement—we know that—but we should be able to guarantee respect and open discussion about exactly what the cost are, what the background is and who is responsible.

In this particular piece of legislation, a significant element is left to a legislative instrument. Again, we did not have that legislative instrument in front of our committee when we were considering the impact of the process. The legislation works with the instrument to come up with the full package. We say it consistently: when we are looking at changes in legislation, it is important that we see the full range of legislation and regulation that will impact on the people who are reliant on the process.

Participants in the inquiry raised concerns about the definition of the period of reintegration. The bill allows for payment of social security payments while active integration back into the community is taking place. That is good, but we do not know what that defined time is. We do not know how it is going to work. We also do not know who is going to be responsible for making the communication work when someone is moving into that period. We were told by the department that this detail would be included in the legislative instrument, and that was also advised in the explanatory memorandum. The department told us that the definition in the explanatory memorandum was not settled and that further consultation would be undertaken. Not only do we question the term 'further', in terms of what I said earlier about the consultation that had gone on beforehand, but it means that we are looking at something that will come into place immediately should this parliament agree to it.

The original date was going to be July 2015, but that will be amended, of course. You will introduce a significant change to the way people who have currently been determined unfit for trial will receive payment, because this particular bill takes away their access to social security. It also says in the bill that, should these people be involved in a formal reintegration process, they will have access to social security payments, but we do not know how that is going to happen. We do not know who is going to be the advocate for that or the delegate for that.

Again, this was something that could well have been part of the information that was put before the Senate before we were in the place of having to make a decision. We believe that is not good enough, particularly in this case, when we are talking about removing an entitlement
and then giving it back. This should have been able to be agreed before it came into this place for decision. It is an issue about not having regulations that augment legislation available at the time of decision. We believe that it is important that the consultations around what does define the period of reintegration must continue—of course they must. We also believe that this bill should have further consultation against the other elements that are in the process, not just the process of integration.

We oppose the bill because we think that it is not clear. We oppose the bill because we think that the impact on the people who are going to be subject to the loss of payment will be traumatic at a time when trauma is something that they do not need amidst the other processes that they are going through. We oppose the bill because there has not being effective consultation between the people who are going to be relied on to make payment. They will not know exactly what is going on and what kind of money is involved.

This bill will have an impact on a relatively small number of people. The financial savings are not great, and it is hard to see that there is any justification for this change except for a savings measure under this portfolio. We believe, as Labor senators, that the quantum of the saving is far outweighed by the impact on people who are already intensely vulnerable. As put forward by the people who gave evidence to our committee, it could also have a negative impact on their clinical treatment and put them in even more danger of not being able to regain their health and place in society.

There was a number of objections put forward by the people who came before our committee. Those objections seemed to be known to the department when they gave their evidence, but their responses did not meet our need to know why it was so important to make such a significant change to a process that had been working since the mid-eighties. We oppose the bill and we seek the support of the Senate to do so as well.

Senator SIEWERT (Western Australia—Australian Greens Whip) (10:22): I rise to speak on the Social Services Legislation Amendment Bill 2015 and in doing so express the Greens' strong opposition to this bill. It seeks to punish those whom a court has already found not guilty on the grounds of mental illness, and in doing so express the Greens' strong opposition to this bill. It seeks to punish those whom a court has already found not guilty on the grounds of mental illness, and in doing so it flies in the face of hundreds of years of jurisprudence. This is mean and it is cruel—for saving, in budget terms, a measly amount of money. It seems to me more that the government seeks to punish and demonise people who have a mental illness who are in psychiatric confinement. That is the only reason I can think of for them pursuing this bill, given the overwhelming evidence-based opposition—I will say that again: evidence-based opposition—from everybody who made a submission, other than, as Senator Moore pointed out, the department. It makes a completely arbitrary distinction about those who can access federal income support and equates psychiatric care with prison. This is a dangerous road we are going down—effectively criminalising people with mental illness and setting aside decades of mental health reform.

We are now fortunate in this country, where we recognise that mental illness is a very significant issue. We have ads on television and we have community awareness raising programs. And here we go with this bill, saying 'It is okay to punish people who are in psychiatric care.' In doing so, it fails to recognise the important role that access to income support payments plays in ensuring that people can transition from care to community. In attacking this group of people by means of this poor budgetary measure, the government will worsen the mental health outcomes of people who are caught up by this measure, rather than
providing necessary support. Expert evidence—I say again, 'evidence'—to the Senate inquiry outlined that an income is vital in enabling people to access the basic necessities of life and to engage in rehabilitation, recovery and return to community living. We know that access to accommodation is essential. It is also profoundly important for a person's sense of dignity, autonomy, sense of control and decision making. Again, there is plenty of evidence that shows that is an essential part of people getting well and being empowered.

This will achieve relatively small savings for the government but will have a significant impact on the lives of those who are affected by it. As was pointed out in the committee inquiry, it is critical to understand that:

Those found not guilty on the grounds of mental illness have, since medieval times in English law (whose traditions Australia has long followed on this point) been regarded as 'not morally blameworthy' because of the illness from which they suffer, and no conviction is entered against them. They are detained for the purpose of therapy and treatment, not because they are guilty, but because they are unwell and need to be detained until they can be safely managed in the community.

Often the indefinite incarceration of an individual who has been charged with a crime but considered incapable of facing a court comes after a difficult life journey to that point, marked by a lack of personal support and poverty. For many individuals, for many years, there was simply no next step, no way forward after being placed in a secure mental institution. This, in and of itself, represented a serious failure of our justice system where individuals who had no mental capacity to understand the seriousness of their behaviour were simply locked up.

A number of advocates have done incredible work to reverse this situation, by bringing it to the attention of state and federal parliaments and building a coalition that fights for the rights of those who are indefinitely detained without a conviction. They have spent years fighting for these people. This is a step backwards. The Australian Greens acknowledge the tireless work of these under-resourced advocates and thank them for providing detailed submissions to the committee inquiry into this bill. Their work has resulted in the creation of many more options being available for those charged, but never convicted, of a crime due to cognitive impairment. This has in turn created a range of new challenges for state and federal governments in funding appropriate rehabilitation services. It seems that state governments are slowly rising to the challenge. Take, for example the Western Australian government's creation of disability justice centres. Disappointingly, the federal government's response appears to be to try and devolve all its caring responsibility to the states by denying its obligations under the Social Security Act.

The evidence provided to the Senate committee inquiry has thoroughly demonstrated that through this bill the federal government is abandoning its responsibilities to a relatively small group of people who are already marginalised and clearly in need of government and community assistance. It is also worth noting that this legislation will have a disproportionate impact on Aboriginal and Torres Strait Islander peoples. The Aboriginal Disability Justice Campaign estimates that a third of those detained under the various state mental health laws are Aboriginal and Torres Strait Islander people. This legislation will affect those most vulnerable and disadvantaged and it is likely that those most disadvantaged have not had access to mental health services. For these individuals, and many others in psychiatric facilities who have been charged with a serious crime but who have not been
convicted on mental illness grounds, the relatively small Centrelink payment is a critical form of financial support.

It is a federal responsibility to provide basic living costs to those not convicted of a crime. This bill represents an attempt by the government to equate psychiatric treatment with prison, and to transfer the responsibility for providing accommodation and basic living costs to state governments. But in order to be convicted and confined in a prison at the expense of the state government, an individual needs to be legally responsible. This is clearly not the case here. The government is trying to imply that people who are in psychiatric care are the same as those in prison. It is simply not the case. The New South Wales Mental Health Review Tribunal set this out very clearly during the inquiry by saying:

Forensic patients are amongst the most challenged and vulnerable persons in our society. They are not criminals and should not in any way be regarded or treated as such. They have never been the subject of a formal criminal conviction. This is because the law has for centuries accorded them a very different status.

Those found unfit for trial have been so found because, due to their particular condition (usually a mental illness or an intellectual disability) it is not possible for them to receive a fair trial. Some persons who have been found unfit for trial may, in truth, be innocent, but are incapable of presenting to the court why this may be so.

Given that psychiatric care is clearly not akin to prison and that there is a clear distinction between being convicted and being detained for therapy, the Australian Greens do not believe that there is any evidence whatsoever as to a legal basis for the withdrawal of federal assistance to individuals detained in psychiatric care. It is also completely inappropriate to justify this bill as a punitive measure intended to punish the individual by withdrawing their rights because they have been charged with a 'serious enough' crime. This takes on a new level of significance when we consider cases such as that of Mr Noble in Western Australia, who was recently released from 10 years in involuntary psychiatric care after it was established there was no evidence of his having committed the serious offence of which he was accused.

The bill requires staff both in the care facility and at Centrelink to be able to make a judgement as to whether the conditions of someone's involuntary detainment in a care facility are enough like a criminal conviction to justify the withdrawal of federal support. It is inevitable that a number of people will be assessed incorrectly given the jurisdictional inconsistencies in defining a serious crime across the country. This assessment cannot be considered in any way equivalent to a ruling of a court with its built-in safeguards, burdens of proof and clear rights of appeal.

The evidence supplied to the committee suggests that the department is aware of these natural justice failures. The department officials told the Senate inquiry that they did not mean for the measure to be punitive, but in practice it clearly will be and, intended or not, the unfair, punitive nature of this bill is a key reason why it should not be supported by the Senate.

The Senate inquiry also thoroughly demonstrated that Centrelink payments are a key part of the exit pathway for an individual who has been in a psychiatric institution. The WA Association for Mental Health told the inquiry that transition will generally begin with one or two nights a fortnight in a non-institutional setting and gradually build up to a point where the
individual is spending the majority of their time in the community. These transitions can be incredibly slow. For example, it is often the case in WA that an individual can spend years on a leave of absence order for fewer than six nights. Yet under this bill the individual can have access to Centrelink payments only after spending six nights of the fortnight in the community. There is no reason, other than administrative complexity, why payments cannot be pro rata based on the time spent in the community. It is clear that the government prefers an arrangement that is administratively straight forward rather than one that is fair and rather than looking at supporting and caring for an individual.

Being able to pay for accommodation and other basic needs is a critical component of transitioning out of care. Many individuals on a leave of absence order have no personal support people able to fund or contribute to the purchase of daily necessities and have extensive barriers to employment. The bill's explanatory memorandum notes that these needs can be funded by state government agencies. However, we do not consider this appropriate as no state government agency had previously considered this its role nor is it a mandated requirement if a person's access to social security is removed by this bill.

For some individuals detained in my home state of WA without access to income support we understand that in recent years the Disability Services Commission has attempted to break the deadlock by funding the purchase of daily necessities on their release until that person is able to access income support. However, this was not the case in the past and is not guaranteed for the future. It is not a mandated requirement. It is not a legislative requirement. The federal government cannot rely on that to justify this bill. This highlights the paradox of this situation where neither state nor federal governments will accept a legal responsibility to support individuals in transitioning from a psychiatric institution. The Australian Greens believe it would be far better for payments to continue and for a different way of sharing the costs of basic living between state and federal governments to be established.

For all the reasons outlined above, this bill should not be passed by the Senate. This is not in the spirit of the Social Security Act of this country. Nor does it reflect Australia's commitment to those living with disability as a signatory to the UN Convention on the Rights of Persons with Disabilities. Having a basic living allowance—that is, a social security payment—that is attached to an individual rather than a facility or service provider also ensures that the individual or their guardian is able to exercise choice and control, albeit within the confines of limited options. They need this sense of control and they need to be able to decide where and how they receive their rehabilitation or care. As I said earlier, it is an essential part of their rehabilitation. This means that their slow reintegation into the community is not reliant on first jumping through hoops to secure funding. A broader range of options become available if basic living costs are automatically covered by social security arrangements.

The parliament recently reaffirmed its commitment to these principles of individual control, including for those experiencing cognitive impairment or mental health problems, by creating a transformative National Disability Insurance Scheme. The very essence of that scheme is about choice and control for people with disabilities. This bill is going in the opposite direction. It takes away any ability to exercise choice and control by punishing the people caught up under this bill. This bill completely fails those with mental illness and cognitive impairment.
The Australian Greens recognise that those affected by this bill have a very difficult treatment and rehabilitation journey ahead of them. It is the community's responsibility to care for them and not to abandon them. This bill fails completely in this regard. It seeks to punish people who have not been convicted of a crime and contravenes hundreds of years of jurisprudence. It does not reflect the intention of either the Social Security Act or the UN declaration on the rights of people with disabilities and will result in significant additional barriers to reintegrating those who have been in care back into the community. It is also likely to result in further financial strain on state mental health budgets and will limit the resources available to provide appropriate care to those who are most in need.

This is an insidious and harsh measure that will save a relatively small amount of money but will have a dramatic impact on the lives of people with disability and mental illness. It clearly undermines recovery orientated mental health policy. I can only think that the government seeks to demonise people who are caught up under this measure. The government should abandon this counterproductive measure and look towards the viable budget savings in many areas that I and my colleagues have outlined in this place on many occasions.

It is a cruel, harsh measure. It will be a bad reflection on decision makers if this bill passes, because, as the evidence highlights, it will have negative impacts on those most affected. It overturns centuries of jurisprudence. The key tenet of our justice system is that somebody can understand the charges being brought against them. These people have not been charged with a crime. It should not be up to care facilities and others to determine what a serious crime is. We should be helping people to recover and to reintegrate into our community, not punishing them. We will be opposing this measure and urge the Senate to vote against and oppose this measure so we can focus on helping those with mental illness, those who are in psychiatric care, so that we are able to offer the best supports for people to reintegrate into our community, to exercise choice and control and to find accommodation. Not having resources, not being confident that you have got resources, as you leave psychiatric care means that you will not be able to find secure accommodation, once again undermining your ability to leave and slowly reintegrate into the community. The evidence to the committee on this measure was overwhelming: it is bad legislation and should be rejected.

Senator WILLIAMS (New South Wales) (10:40): I rise to speak in support of the Social Services Legislation Amendment Bill 2015. Senator Siewert was just saying that these people were not charged with a serious crime. I do not know whether that is the situation but, on the issues of psychiatric confinement raised in the Senate inquiry, the department said:

The proposed amendment to the social security law will only capture those persons who have been charged with a serious crime. I do not know whether that is the situation but, on the issues of psychiatric confinement raised in the Senate inquiry, the department said:

So, yes, they will have been charged with a serious offence, in contrast to what Senator Siewert just said. The amendments define a 'serious offence' as a murder or attempted murder—

Senator Siewert: Well, they won't have been found guilty.

Senator WILLIAMS: This is what we are talking about, Senator Siewert. We are talking about people being charged and found not guilty because of their mental state. This is what we are talking about. The amendments define a serious offence as murder or attempted murder, manslaughter, rape or attempted rape, and other violent offences that are punishable
by imprisonment for life or for a maximum period of at least seven years. The department said:

It is estimated that this measure will affect approximately 350 people on implementation and 50 people each year afterwards.

So I agree with Senator Siewert that it does not affect a lot of people: about 350 people now and about 50 people each year afterwards.

On the human rights issue, the department says:

The Bill is compatible with human rights because people in psychiatric confinement receive 'benefits in kind' in lieu of a social security payment. Their basic needs are provided by the relevant State or Territory government through the hospital or psychiatric facility. The current arrangements for social security payments adequately provide for partners and children of people in psychiatric confinement. This is very important in this whole debate. I do not think anyone in this chamber—and I do not think anyone in Australia—would think that someone whose mental state puts them in serious need of help has not got to have a room, to have a roof over their head, to have a bed, to be fed and to be clothed. Those things are essential for life, and they are provided by the states. The department says:

Article 28.1 of the Convention on the Rights of Persons with Disabilities provides for … the right of persons with disabilities to an 'adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions'.

It also says:

Individuals affected (and their families) will have their rights to an adequate standard of living, and to adequate health … and rehabilitative care services fulfilled.

The department also said in its submission:

The Bill provides for circumstances in which a person is not taken to be undergoing psychiatric confinement (meaning that a social security payment will be payable) during a period that is ‘a period of integration back into the community for the person’. This will ensure that the person's right to an adequate standard of living are provided for the period that a person is re-establishing themselves in the community. What constitutes a period of integration will be defined in a legislative instrument. The instrument may provide, for example, that a period of integration is where the person is spending six nights or more in a fortnight outside of the psychiatric institution.

Let me just summarise this. This measure will cease social security payments to certain people who are in psychiatric confinement because they have been charged with a serious offence. Yes, they may not have been found guilty. The jury has said, 'Look, they're in a serious state of mental illness', and hence they have been exonerated as far as the guilt goes. But they were charged and found not guilty because of that mental state. Of course that would have been the reason. The amendments define a serious offence as murder, attempted murder, manslaughter, rape or other offences punishable by imprisonment for life or for a period of at least seven years. There are provisions for social security payments to be made if these people are undertaking a course of rehabilitation. That is most important. If they are looking to improve their mental state, to get back on the right track, there are provisions for social security payments to be made if those people are undertaking a course of rehabilitation.

The present arrangements under which most people confined in a psychiatric institution may be considered to be participating in a course of rehabilitation and therefore attract social security payments are based on a 2002 Federal Court decision. Prior to this case, many people
in psychiatric confinement because of criminal charges could not receive social security payments. Prior to the Federal Court decision of 2002, many of these people could not receive social security payments. Then the Federal Court made a ruling. Guess what: we are simply wanting to bring it back to how it was before that Federal Court decision. The amendments contained in this bill represent a return to the original policy intent for people who have been charged with a serious offence, so that a person cannot access social security payments while in psychiatric confinement as a result of criminal charges.

People in jail and in psychiatric confinement are provided with accommodation, food and other essentials by the state or territory. After being charged with an offence a person becomes the responsibility of the state or territory government, which is then responsible for taking care of their needs, including funding their treatment and rehabilitation. Some state and territory governments are currently using people's income support to help fund their confinement. For example the Queensland government takes 67 to 80 per cent of a person's pension while they are in psychiatric confinement. You can understand why Queensland said what they did in this inquiry: Queensland is broke. The Queensland government probably has $84 billion of debt now, and it is going up. They have a population of more than 4½ million people. They are in huge debt. So they will get what they can out of this place just to try to keep their books a bit in order. We know which direction their books are heading in now. So it is no surprise that the Queensland government opposes this. They want to keep the money going into their coffers.

As the Senate Community Affairs Legislation Committee inquiry into the bill heard, most Victorian forensic confinement centres charge up to 85 per cent of a person's income support payment. This is common practice across the country. People who are confined in prison because they have been convicted of a criminal offence and are on remand are not eligible for social security payments. Under current social security law, those same provisions apply to people who are in psychiatric confinement because they have been charged with a criminal offence but are unfit to plead or have been found not guilty due to mental impairment. This is the point. No-one is saying, 'No, they didn't commit the offence' if some bloke who is mentally unstable rapes a young woman. He may be let off by the court in the sense of not being found guilty, but the offence was committed.

This change will only impact a small number of people charged with the most serious of offences, such as rape, murder and other violent crimes. The measure represents a return to the original policy intent for people in these circumstances—as I said, back to 2002 prior to the Federal Court ruling. This measure is not intended to punish people or negatively impact on their rehabilitation. The government understands that social security payments are vital to help people transition back into the community. That is why there are provisions in this bill that provide for circumstances in which a person is not taken to be undergoing psychiatric confinement, meaning that a social security payment will be payable during a person's period of integration back into the community. The measure applies while they are in the institution. When they are looking to rehabilitate, to get back on track, then the payments are available to them. Further demonstrating that this measure applies only to serious crimes, a social security payment will continue to be payable where a person is undergoing psychiatric confinement because they have been charged with a non-serious offence—I have already mentioned some of the serious offences—as long as they are undertaking a course of rehabilitation, or where a
person is undergoing psychiatric confinement for reasons unrelated to the commission of an offence. This measure will only apply to people who have been charged with a serious offence that is punishable by imprisonment for life or for a maximum period of at least seven years and are held in psychiatric confinement due to their inability to plead or where they have been found not guilty by reason of mental health.

The reason, as I said, why some of the states oppose this amendment is that they want the money. I find it unacceptable if, for example, a young woman is walking home from work—she has done a full day's work—and some horrid person attacks and rapes her. He is in a bad state of mental health. Then he is sent off to a psychiatric institution to be confined there, yet the young woman who was the victim pays taxes to give him social security payments. I think that is unacceptable.

We are talking about 350 people here in the case of this amendment and about 50 a year from then on. Tragically, these things do happen in our lives. I wish we lived in a perfect world, but we do not. This is a situation where of course it is a saving to the federal budget. It is up to the states to look after these people when they are in these institutions, as they do. We spend enormous and growing amounts of money on social security each year. I am very concerned about where this budget is leading us at the federal level to get that under control in the years ahead, when we have to look after our pensioners, our sick and those who cannot get a job and are genuinely looking for work. If the budget is not in order then in 20, 30 or 40 years time these things will be removed from this country, and that would be a tragedy. It is up to us to get the budget in order now. This is a small budget saving, but I do not think it is unfair at all in the circumstances I have explained in this presentation to you, Mr Acting Deputy President. I think it is a fair situation of simply going back to 2002, before the Federal Court made its ruling, and I see nothing wrong with that, and the department supports it.

Senator CAROL BROWN (Tasmania) (10:50): I rise to speak on the Social Services Legislation Amendment Bill 2015. Senator Williams's contribution here today seems to be a bit like, 'Lock 'em up and throw away the key.' That is the contribution we have just heard here today. What we have heard is that it does not matter whether these people have been found guilty or not. He has decided—the government has decided—that they are guilty and they do not deserve to have the entitlements that are available for every other Australian that needs to access our social security system.

This legislation, as you have heard, seeks to cease the social security payments to people who are in psychiatric confinement because they have been charged with a serious offence, notwithstanding the many, many problems that were uncovered during the inquiry into this bill, where the department had no answers or very little information as to what they meant about 'reintegration' and about what would constitute a serious offence. It was obvious from the very beginning that there had been little consultation about this piece of legislation. It was obvious from the very beginning that this piece of legislation was designed as a money saver for the government. It was not about good policy. It was not about achieving the best you could for forensic patients. It was not about whether the system that was currently in place was working. It was all about savings. One of the witnesses that came and gave evidence essentially said it was quite obvious that this piece of legislation had been put together by someone with absolutely no knowledge in this field whatsoever. So we had a bean counter come along and say, 'Okay, we can save some millions of dollars here by just taking away this
payment that was designed to help with the rehabilitation of forensic patients and also to help with the reintegration of those patients into society.'

These people are undergoing psychiatric confinement because they were having their fitness to stand trial assessed, have been found unfit to stand trial or have been found not guilty of the charge because of their mental impairment. These are people who experience very serious mental health issues like schizophrenia or bipolar disorder, or who have intellectual disabilities or an acquired brain injury. These are some of the most vulnerable in our society, and the government is seeking to have these people in psychiatric confinement treated in the same way as a person in jail who has been convicted of their crime.

But in doing so the government has failed to recognise the difference between those convicted of a criminal offence and those who were not convicted due to mental illness or intellectual disability. We heard that with Senator Williams's contribution here today. It does not matter whether they have been convicted or not; the government has decided that they are guilty. As the chair of the National Mental Health Commission, Professor Allan Fels, explained in his submission to the inquiry of the Senate Community Affairs Committee into this bill:

Persons found unfit to stand trial or who have not been convicted due to a mental impairment have been found not legally (or morally) culpable of the offences with which they were charged. This vital distinction, which has a long history in English and Australian law, is not acknowledged in this bill. That was one of the issues that Senator Siewert raised in her contribution. So here we have a piece of legislation striking out a very important tenet of Australian law.

In his second reading speech, Minister Morrison said that the proposal in this bill 'represents a return to the original policy intention for people in these circumstances'. We also heard Senator Williams say it in his contribution. But it is not correct. We heard from witnesses about the government's argument that, prior to the 2002 decision of the Federal Court, many people in psychiatric confinement because of criminal offences did not receive social security payments. However, that argument has been refuted by a number of organisations that have been active in this area for decades. In fact, since 1986, the legislation has provided that a person undergoing psychiatric confinement who is undertaking a course of rehabilitation can receive income support payments. In their submission to the Senate inquiry into the bill, the Victorian Institute of Forensic Mental Health, a provider of adult forensic mental health services in Victoria, stated:

... forensic patients have remained eligible for social security payments throughout the various legislative changes, with the exception of a fifteen month period in 1985/6. However, the 1986 amendments applied retrospectively, so in effect forensic patients had full entitlement to social security payments up until 1985 after which time the payment of social security was limited to forensic patients who were undertaking a course of rehabilitation.

So the real policy intention behind this bill is clear. The bill is not about returning to some previous policy on the provision of social security to forensic patients. Rather, it is about saving money for the Commonwealth government.

In his submission to the inquiry, Professor Dan Howard, NSW Mental Health Review Tribunal wrote:
I fear that the real motivation behind the proposed bill is to shift, as far as possible, the cost of supporting forensic patients from the Commonwealth to the States and it is in reality doing so by misconceiving the status, and the needs of forensic patients in psychiatric detention.

This is something we should be very familiar with by now. It seems to be the Abbott government's modus operandi: save money by shifting costs onto vulnerable people and their families, and onto the states. In his submission, Professor Howard pretty much summed it all up when he wrote:

The proposal, if passed, would have a seriously detrimental impact upon the wellbeing and therapeutic progress of this group of forensic patients, who are one of the most vulnerable (and most poorly understood) groups in our society. I can only assume that the proposal, however well-intentioned in pursuit of budget savings, has been put forward by persons who have little, if any, understanding of how the forensic mental health system in Australia works.

I think anyone looking at this legislation would absolutely agree that whoever put this legislation forward, whoever came up with this policy suggestion, has very little understanding of how the forensic mental health system works in Australia.

The Senate Community Affairs Legislation Committee inquiry into the bill heard significant evidence about the costs incurred by forensic patients and the importance of meeting those costs as part of a patient's rehabilitation. The assistance that this government is seeking to deny forensic patients is used to fund additional rehabilitation costs to meet everyday costs and to support patients' families. This income support enables forensic patients to participate in a range of daily activities to promote recovery, rehabilitation and community participation. Patients use the support to meet basic expenses—to pay for transport, pay bills and buy clothes. Patients use the support to take part in external therapeutic and education programs. Patients use the support that they receive to assist in maintaining relationships with their family and friends and to maintain contact with their children.

The submission from the Queensland government outlined some of the costs that forensic patients would be expected to self-fund while they are confined to a facility:

These include payment for telephone calls, course costs and study materials for a range of skills training and study options. Consumers commonly incur other costs through participation in a range of other community activities. The cost of public transport and the purchase and maintenance of a mobile phone (which may be required to access unescorted day leave) are met by patients.

The submission from the Queensland government went on to say:

The absence of a source of income for forensic patients would preclude engagement in community activities. Being unable to meet the costs of these items and activities will seriously jeopardise forensic patients' ability to engage in activities necessary for their rehabilitation, and it will severely hinder their ability to access leave. I think any fair-minded member of the community would understand that, if you take away the payments and their financial supports, it leads, obviously, to the fact they will have to limit the activities that they participate in in terms of their rehabilitation.

Essentially, this piece of legislation will change the rehabilitation program for forensic patients, because they will not be able to support and pay for the number of activities that their doctors believe that they need to participate in. They will not be able to maintain that vital contact with the outside community—be it through their family or friends—because they...
will not have access to funds to support that. That is what this piece of legislation is doing. Just by the government seeking to save some money, they are severely impeding the rehabilitation of some of the most vulnerable patients that we have in the mental health system. Ultimately, this bill will hinder the patients' recovery and ultimately it will delay their release, which obviously will incur extra costs which now will be passed on solely to the states.

Not only does this bill risk long-term institutionalisation of people with mental illness and intellectual disability but it also, as a consequence, will increase the cost of care and the rehabilitation of these people. The government, obviously, does not have any concern about the increase of costs and has no concern about the fact that the rehabilitation of these patients will be impeded and most likely will delay their release. There has been no concern about that at all.

Certainly, there were not any answers from the department when questions were posed as to the ramifications of this bill. The department had no answers. In fact, it is probably one of the worst contributions from a department. I hate to say that, but they could not answer very basic questions. They either did not consult to a degree where they could answer those questions, or they were still in the process of consulting, which is really pretty poor form when we are talking about a very vulnerable group of patients in Australian society. It is very poor form by the government, who have decided to proceed with this bill. And, of course, they really did not consult the sector either. I think they announced this measure in the MYEFO, and that was pretty much the first the sector had heard about it.

Those opposite have argued—and I listened to Senator Williams's contribution—that these people are not vulnerable people, that they are not people who should be supported by the Commonwealth, that they have committed serious offences and that they should be provided for by the states and territories. That is the argument that we have heard from those opposite, and essentially that is the reason they are doing it: it is easy for them. It is easy to stereotype and demonise forensic patients, and that is what we are hearing. That is the argument from the government. This is an easy target, and that is why they are doing it. They are saving money. They have chosen what they believe to be an easy target. These are a group of people they believe they can easily stereotype and demonise.

Those opposite will highlight at length that this bill will only apply to those who have been charged with serious offences, but this is a completely arbitrary and ill-advised distinction. As I mentioned earlier, forensic patients are those who either have been found unfit to stand trial or have been found not guilty of the charge because of their mental impairment. Under the law, there is currently no distinction. As Mr Matthew Lawrence, Principal Lawyer, Welfare Rights Centre, National Welfare Rights Network, stated in his evidence to the committee:

In [the National Welfare Rights Network's] view, there is no acceptable justification for this distinction. All persons in psychiatric confinement have been found not culpable by the criminal justice system, and it is unacceptable for social security law to distinguish between them in this way.

Not only is the government's distinction between 'serious' and 'non-serious' offences irrational but it is also misleading because the definition of 'serious offence' as set out in the bill is very broad.

As I said before, those opposite will seek to demonise this group by describing them as murderers and rapists. The reality of the situation will be much broader. The definition of
'serious offence' in the bill extends to acts that pose 'risk' of injury or property offences that endanger a person. Any mental health expert or clinician will tell you that property damage and similar acts are an unfortunate reality when people in a psychotic state are distressed and lash out. People do not intend this to happen—they may not even know it has happened—and under the law these people are not culpable. The people are not necessarily inherently dangerous. What they are is unwell. They are vulnerable. They need support and rehabilitation. They do not need to be abandoned or punished. But this is exactly what those opposite are proposing to do.

In explaining what would constitute a 'serious offence' under the definition in the bill, Mrs Alison Xamon, President of the Western Australian Association for Mental Health, provided the committee with an example of a man living with schizophrenia whom she had assisted:

He had been living successfully in the community for a long time, but unfortunately he went through a period of decline. The neighbours were alarmed that he seemed to be not coping so they called the police to see if the police would intervene and take him to a mental health facility, as per the Mental Health Act. He was undergoing a very severe psychosis at the time. He actually struck a police officer because he thought he was being attacked. He did not even recognise them as police. He was subsequently charged with assault of a public officer. Now that is a serious offence that would be captured under these provisions.

Those opposite would understand this—or at least know this—if they had consulted anyone before they announced this measure in the MYEFO. They might better understand the impact this bill would have on service provision if they had spoken to psychiatric institutions or the state and territory governments. They might better understand the impact this bill would have on the rehabilitation of forensic patients if they had spoken to mental health advocacy organisations or clinicians. They might have some understanding of how this bill will impact on people's lives if they had spoken to the carers and families of forensic patients. But unfortunately they did not. They did not speak to anyone. This is an unfortunate bill that has been put forward for money saving, without any care as to the ramifications of the measure.

(Time expired)

Senator WRIGHT (South Australia) (11:10): I rise to speak in relation to the Social Services Legislation Amendment Bill 2015, yet one more piece of harsh, punitive and mean-spirited legislation proposed by this government, which will once again unduly hurt some of the most disadvantaged people in Australia. It is a short bill, with big consequences for a particularly vulnerable section of our community. It is also a bill that crosses over two of the portfolio areas I hold on behalf of the Australian Greens, those of mental health and legal affairs. This bill will affect people who are undergoing psychiatric confinement because they have been charged with a serious offence but have been found not guilty because of mental incapacity or because they have been found unfit to plead to the charge. As a result of this bill, relevant social security payments will no longer be payable to the person while the person is undergoing that psychiatric confinement.

There are serious concerns flowing from this. First of all, by stopping people's Centrelink payments when they have not actually been found guilty of any crime, this bill undermines the presumption of innocence by punishing people have not been convicted of an offence. Further, by stopping Centrelink payments to people in psychiatric confinement, this bill also risks putting already vulnerable people—because many of the people, statistically, who suffer from severe mental illness and end up in these sorts of situations are already some of the most
impoverished, marginalised and isolated people in Australia—in a dire financial situation, where they may well lose their only source of income. Of course then no income can lead to loss of housing or accommodation while in psychiatric confinement and so homelessness when they are released.

These issues have been explored in some detail by the Senate Community Affairs Legislation Committee, and I certainly know of the work that my colleague Senator Siewert has done on that committee in relation to that inquiry. One of the submissions to that inquiry by the community affairs committee was made by the South Australian Public Advocate, a man whom I know and for whom I have great respect, Dr John Brayley, who has vast experience and expertise in dealing with these issues. Dr Brayley shares the concerns of many others in the sector that the bill may operate to punish people who have not yet been convicted of a criminal offence and jeopardise their chances of successful reintegration into the community following psychiatric treatment. If, as a community, we want anything in terms of our own self-interest, surely it would be successful reintegration of people in this situation, leaving aside any inherent compassion or understanding for the people who are in these circumstances.

Dr Brayley has noted that there is an important distinction to be made between a person who is undergoing psychiatric confinement because they are unfit to stand trial, or who has been found not guilty of the charge because of the person's mental impairment, and an individual who is in jail. In the latter case, a person has either been convicted of an offence or is on remand, which is not comparable to someone who is undergoing psychiatric confinement because they have been charged at least with a serious offence. An individual who has been convicted has received a trial and had the ability for their case to be heard at least. While removing Centrelink benefits from an individual who has been remanded in custody is also problematic, in my view, because they have not yet had a trial, they will at least in the future have that opportunity. In comparison, someone who is found unfit to stand trial or not guilty by virtue of mental incapacity has not had the case tested against them at all. They have not been considered guilty by the courts.

It is not just Mr Brayley who has concerns about this bill, of course; other legal, mental health and disability experts have lined up around Australia to condemn this mean-spirited and ill-conceived legislation, which will also be counterproductive if we are looking at the national interest. If we consider the very likely loss of accommodation that would stem from the loss of income while someone is in confinement or detention for a period of time, that is one issue, of course; there is also the risk that this will lead to longer periods of detention anyway.

Mr Peter McGee of the Intellectual Disability Rights Service has pointed out that withdrawing payment from patients may lead to indefinite detention for people—for instance, with intellectual disabilities—because courts will be unlikely to release them into the community without stable housing. He is quoted as saying:

"Access to disability support pensions allows people to plan a way out of detention and back into the community. Removing that access, obviously, makes that plan much less viable and that would be something that would have to be in the minds of those who are determining what the outcome of someone's detention will be."
Other senior mental health experts say that these charges risk forcing people into homelessness and hunger. As reported in a thorough *INDAILY* article in South Australia by journalist Bension Siebert on 24 March 2015, when these concerns were first being advanced, Dr Paul First, the deputy chair of the Royal Australian and New Zealand College of Psychiatrists, is quoted as saying:

Forensic patients are the patients who have been found not guilty of an offence—they require these funds for their lives after they are released from hospital.

Dr First went on to say:

What you would see effectively is people going to court, getting released and having no savings, no money, no things for their home that they require, no fridge, no microwave, none of the things that we need to live a normal life in the community.

He said:

These people … from an ethical point of view, should be entitled to their disability support pension.

I am alarmed to note that there will be significant effects on state governments' capacities to provide the rehabilitation and care that these vulnerable people need. For instance, I know the South Australian government have said that this will cost South Australian taxpayers about $1 million per year in additional expenses because much of a person's social security benefits go towards an accommodation charge for state-run mental health institutions. Of course, this is at a time when billions have been pulled out of state health systems by the federal government in previous budget decisions. South Australia Health have said that these changes will impact on the quality of care for the majority of the state's forensic patients and increase the burden on the South Australian health system.

It is also important to note that this bill seeks to sidestep a sensible and far-sighted Federal Court ruling that found that most people confined in a psychiatric institution may be considered to be participating in a course of rehabilitation and therefore attract social security payments. This case created a fairer precedent and now the government is seeking to tear that down.

The situation we have here is that this bill is yet another example of the government's counterproductive and cruel strategy to look for meagre savings in areas that hit the poorest and the most vulnerable members of our community the hardest—those least able to speak up for themselves. It also carries with it a taint of punitive action that is a hallmark of much of the legislation that this Abbott federal government have been bringing in over a period of time. Some of it, I think, stems from sheer ignorance, and I will come back to that in a minute, and the suggestion that somehow people who have been charged with serious crimes should be differentiated from those who have not.

Yet, at the base of this is the principle that someone has been found unfit to plead by virtue of mental illness or someone has been found not guilty by virtue of mental incapacity. That is the principle that we should be looking at here. It is the degree of responsibility that can be attributed to the actions of a person who has not been able to rationally make a decision about the actions that they are carrying out. It is not the degree of the crime; it is not the degree to which the community might be upset by the offence with which they have been charged; it is the fact that under our legal system we have had an ability to say that some people cannot take responsibility and cannot be held responsible for their actions where it is shown that they have not had the mental capacity to form an intention to carry out those actions. So there is a
misguided aspect to it. As well as that, I think it is true, and other people have named it here today, that this is another example of a government that has a punitive approach: the theory that if you use a bigger stick and you punish people harder, they will somehow do what you want them to do. It goes against all the evidence.

I would like to share with the Senate and anyone who might be listening to this speech some insights that I gained from being a deputy president of the guardianship board in South Australia over a period of about 13 years. During that time, it was my job to go into psychiatric institutions, including the main forensic psychiatric institution in Adelaide—James Nash House—and conduct legal hearings in relation to appeals against detention by some of those people who were patients in those institutions. As a result of that quite amazing and unique experience, I came to understand the absolute tragedy that mental illness and mental incapacity is for people.

Mental illness is an illness like any other illness, like diabetes or asthma; it is not selective in who it targets. It is not selective in those whose lives it affects. No-one asks to experience mental ill health. There is no shame or degree of it being deserved in some way or merited. It hits some people; it does not hit others. It does not hit the lucky. I have seen time and time again people whose lives have been devastated by the onset of mental illness that they neither deserved nor asked for.

I would ask people to think about increasing the awareness and understanding that we have about mental ill health in Australia, something that many of us have been striving to increase—I think there is a lot of rhetoric about awareness and understanding now—and to cast their minds back to the very impressive film called A Beautiful Mind, which featured the Nobel prize-winning mathematician John Nash who experienced severe schizophrenia during the course of his life. If you have not seen the film, I would really encourage you to, because it gives an amazing insight in a dramatic way into the life of someone who lives with a difficult illness like schizophrenia. Those of you who have seen it will remember that over a period of time it became clear that John Nash was experiencing incredible degrees of paranoia and psychosis. He was delusional about enemies that he had.

One of the effects of someone who is living with an illness like that is that they then act in ways that are rational, given the strong belief structure that they have. Unfortunately, that belief structure is informed by the illness that they have. It is not actually reality but, for the person who is living that experience, it is absolutely a reality and the way they behave, given that reality, is totally logical.

This kind of situation can often result in people committing offences that are then subject to our criminal justice system. As I said, traditionally, the law has understood that someone who is acting under the influence of a mental illness cannot be held responsible for their actions in the way that someone who is acting in a rational way can be held responsible. That is why in some cases confinement or psychiatric detention and treatment are absolutely required. But it is also why, when that person leaves hospital—hopefully, having been assisted, helped, treated and rehabilitated—we need to set up every condition possible to make sure that they can then be reintegrated into the community, start to fulfil their potential and live a participating life.
We must remember that those in psychiatric confinement, following criminal charges, have rights. They are patients, not prisoners. They are human beings. They are affected by circumstances they did not ask for and do not deserve. We all have a shared interest in ensuring that they have the best possible chance of successful rehabilitation before release.

We know that stable accommodation is one of the most important determinants of someone being able to recover from mental ill health and mental illness. We also know that unstable accommodation—or homelessness—is one of the most important social determinants of people having poor mental health. Why would we agree to a system that will deprive people of the income support they need to be able to set them up with the best possible chance of success when they finish their period of confinement and return to the community? I am very proud to say that the Australian Greens will not be supporting this legislation.

Senator CANAVAN (Queensland) (11:25): I want to start by saying that I think one of the most unfortunate tendencies of some on the other side of this chamber—some, not all—is the propensity or the reflective instinct to question the motives and intentions of people on this side of the chamber.

I personally think all of us come to this place with good intentions. I believe all 226 elected members of parliament, including the 76 in this chamber, have come to this place to try and make this country a better place, to try and provide for all Australians and to do so in a way consistent with their own philosophies and values. We will often disagree, and rightly so, on those values, the philosophies and the ways and means of achieving those objectives. I think it would be a better starting place if we actually all accepted that we do want to make this country a better place and we do have good intentions.

The effects of our policies might not accord with those intentions. The wisdom of what we want to do may be incorrect, and it is right and proper for people to try and point that out; however, a number of speakers on this bill have not sought to question the impact or the effects of the bill but have actually sought to question the intention behind it: that there is some notion that we are doing this not because we think it is a good and a proper policy but because we are just simply mean-spirited individuals.

Senator Wright, who has now left the chamber, I think I am a good person. I try and do good in my life. I am sure I am not always successful at that but I try; and I believe Senator Wright is a good person as well. I think all of us here are genuinely good people. The reason this bill is being put in place is not in any sense a vindictive or, in the words of Senator Wright, mean-spirited policy; it is simply an adjustment to the way we pay social security at the moment. There have always been provisions in the Social Security Act to restrict payments to those in confinement. Indeed, I am informed that since 1908 there have been provisions in social security law that restrict payments to persons undergoing psychiatric confinement.

Currently, the Social Security Act 1991 restricts certain social security payments from being made to persons who are in gaol or psychiatric confinement following being charged with any offence. There have been similar measures in social security law since at least 1947. This is simply an adjustment to provisions that already exist in our law that have persisted through governments of various colours and changes, and we have a very specific instance here of payments being made to individuals that are in confinement.
I accept at the outset that people could disagree on these adjustments but, again, I make the point that these are not being made in a mean-spirited way. They will in fact affect 350 people currently in Australia and, if they are put in place, around 50 people per year, depending of course on convictions, will be affected going forward. It is not an enormous number of Australians but of course, for those individuals affected, it is not an insignificant issue.

The bill would save around $30 million over the forward estimates—again, not a substantial amount of money in the context of a close to $1.5 billion budget over the forward estimates. Again, we are making this change not because of the money, the savings or some vindictive notion; it is an adjustment to properly reflect who and, particularly, which level of government should be responsible for the rehabilitation of individuals in confinement.

I will go to that. These 350 individuals who are currently in confinement for serious offences are the responsibility of the state governments. They have been confined because they have been convicted of an offence and in this case are also mentally incapacitated, so they are in some kind of psychiatric confinement. They are the responsibility of the state governments, not the federal government. Indeed, that goes for other prisoners in confinement not in psychiatric institutions: they are the responsibility and in the care of our state governments, and that has always been the case.

The Department of Social Services provided evidence to the committee that inquired into this bill. The department—and this was in regard to social security payments generally—said:

These payments should not be made where a person is confined under state and territory law and their basic needs, such as food and accommodation, are being met by the state and territory, as is currently the case for those imprisoned. Corrections health and residential mental health services are a state and territory responsibility.

It is very important to focus on that point. Why do we provide disability support pensions, which are often the ones in question in this case, to individuals in our community? We provide those pensions to give them the resources to look after themselves and particularly to fund their food and accommodation costs. There are a few things that you need in life. You need food; you need accommodation; you need clothing; you need your basic healthcare and education needs looked after. A few of those things are not looked after by state governments through the provision of public services, particularly food, accommodation and clothing, so we provide a disability support pension or, in other instances, other forms of pensions to help people provide for those services. That is why we provide the payment. It is set—I do not have the number it is set at, but it is in the hundreds of dollars a fortnight—to help people provide for those costs. That goes to individuals who largely, of course, are not in confinement and have to meet their food, accommodation and other costs.

People who are in confinement—in carcerated or in a psychiatric institution—clearly, often do not have to pay for their food, accommodation and clothing costs. Indeed, the practice is that those services and goods are provided by the state governments. A state government will provide someone who is in psychiatric confinement with their food. They will usually provide them with standard issue clothing and, of course, by definition, they provide them with their accommodation. So these people do not have those extra costs that an individual outside confinement would have in our community.

The question then has to be asked: why is it fair to provide a certain level of payment to somebody in our community who, yes, may have a mental health disability or any kind of
disability that prevents them providing for themselves? They have to meet all of their essential and non-discretionary costs from that payment. Why is it fair then to provide that payment to someone else who is in confinement with perhaps exactly the same disability but who has their needs and care taken care of by the state? Why do they get exactly the same payment as another person who has much higher non-discretionary costs than the person in confinement? That is an anomaly. It is a clear anomaly. We can disagree over how we might want to rectify that anomaly, but it is a difference. It is a clear and definable difference between two people, both with disabilities. One is in confinement, in this case for committing a serious offence, and another clearly has not. But that person who has committed a serious offence is actually advantaged relative to the person who has not, because they have a bunch of costs looked after for them, and then we give them the same payment on top.

In fact, often they do not receive that same payment on top, as evidenced in evidence provided to the Senate committee. It would be clearly unfair to provide them all of that payment on top. They do not often receive that. In evidence to the Senate committee, which I think was chaired by you, Mr Acting Deputy President Seselja—it was the Senate Community Affairs Legislation Committee so, yes, it certainly was chaired by you—inquiring into this bill, the committee found that in many instances state governments are actually charging people in confinement for their food, accommodation and other costs.

I do not disagree with state governments doing that, because, as I said earlier, the alternative would be to provide somebody in confinement with many more resources than someone not in confinement, and that would clearly be unfair. To rectify that, the various state governments do often charge individuals in confinement—I suppose the term would be 'dock their pensions'—to cover these costs for the goods and services they provide them. In the case of Victoria, in the past they have charged people in a mental health facility around 75 to 80 per cent of their disability support pensions. I also note here on page 12 of the committee report:

The committee notes that in jurisdictions where a person was paying 85% of their Disability Support Pension to the mental health institution … that person would be left with a maximum of $63.45 per week …

As I said, I am not arguing against the practice of state governments. Also, the Queensland government reported that, after their deductions, mental health consumers have around $42 per week.

One consequence of this bill clearly will be that those individuals in confinement will not have access in Queensland—in my state—to that $42 per week. The question then is: who should provide that? I do not disagree that people in confinement deserve some allowances to cover certain incidental expenses; indeed, my understanding is that that is often the practice with people in confinement in state jurisdictions. People in non-psychiatric confinement, incarceration, are often provided a small allowance to help pay for various incidental costs. There are often shops and those things. They can use that money in those facilities. That is, of course, provided by state governments. They provide inmates with those allowances, and they set those allowances according to the needs of inmates in the particular correctional facility for the goods and services and the prices charged in that facility. They are in the best situation to judge what that potential allowance should be.
So what we are arguing about here is not whether or not someone deserves a potential allowance; it is whether it should be funded through a disability support pension—which is a largely blunt way and not a particularly fair way, at least to start off with, of doing it—or whether it should be the responsibility of the state government to provide for the people under their care. This is a judgement call. As I said, this is not about whether we are intentioned in a certain evil or malicious way; it is a judgement call about which level of government should be providing that level of support. It seems to me that, on balance, it is very clear that the state and territory governments are in the best position to do that. The state and territory governments are in the best position to judge what the particular needs of their inmates are. We are not talking about a huge amount of money. It is something like $40 a week for 350 people. The state and territory governments are in a much better position, as the carers and the people responsible for these people, to make a judgement on this.

I did note that, in the various contributions from other senators, they reported that various state governments had made submissions to the committee inquiry and other forums saying that they were very concerned about the impact on the welfare of people in psychiatric confinement if this assistance were taken away. They have within their remit to provide for people. If the state governments in question are that concerned about the welfare of people under their care they have the resources and the power to provide something like $42 a week for 350 people. I note that various state governments are in budget difficulties, but $42 or something in that order for 350 people surely is not beyond the resources of a state government that apparently says it cares. If the state government does care for the welfare of these people, it can do an assessment of what is needed for those particular people and provide those payments. It would be a much simpler and more rational approach than the current approach, where we provide people in confinement with a large sum of money and then the state governments have to make various deductions from that for their nondiscretionary expenses.

I will move to a couple of other detailed issues in this bill that have arisen. I should say from the outset that the bill does make some provision to provide Commonwealth assistance to people in confinement in a psychiatric institution. Specifically, it makes the exception that any pension would continue to be provided where a person is going through a period of reintegration. That integration will be defined as the number of nights that person would spend outside of the mental health institution. So, as someone is transitioning from a mental health institution to the general community, the Commonwealth government will restart the pension payments, which seems fair and reasonable.

Apparently, the Department of Social Security consulted with state governments about whether that reintroduction should be done on a transitional basis—that is, that a certain percentage of the pension is increased as they integrate more into the community—or whether it should be either on or off. Apparently the feedback from state and territory governments was that it would be best to make a straight definition, that once a certain number of nights is hit the full payment will be reintegrated. Again, that is clearly a matter of judgement. This is of course something that reasonable people can disagree on but it is something that, in this position, in this parliament, we have to make judgement calls on. That provision will also come into effect in the situation where a person is in a mental health institution for a reason not related to the offence that they were convicted for. If they are there because they simply
cannot function in the community generally, the pension from the Commonwealth will be reactivated and continue.

During the inquiry, issues were raised about the definition of a serious offence. This bill will only affect those who have committed a serious offence, and they have been defined as including murder, manslaughter, rape or attempted rape as well as other violent offences that are punishable by imprisonment for life or for a period of at least seven years. Again, a judgement call has had to be made here. I do not think it would be fair to restrict payments to all people confined in a mental health facility for the reason of a conviction, particularly those who are convicted of offences with a term of imprisonment of less than seven years.

That goes back to the point about integration. If they are imprisoned for a period of fewer than seven years, clearly a process of integration or rehabilitation needs to start almost immediately, because it is not that long before they will have served their sentence, particularly given parole periods and those things. So there is very little value and, indeed, very little saving of money, in restricting payments to people imprisoned for a period of fewer than seven years. So, again, a judgement call has been made. Again, reasonable people can disagree on whether that period is too much or too little. I certainly believe that we should not make it blanket across all people in an institution and that, therefore, we have to specify a cut-off point. Certainly people who have committed those sorts of violent offences and who have those periods of imprisonment need to be properly cared for by the state governments and do not deserve to continue to receive Commonwealth government payments.

The final thing I want to address is the emotional and overwrought commentary being made here on this bill. Senator Brown said earlier that these people do not deserve to be punished. That is a very simplistic way of looking at this. These people have committed serious offences, including murder and rape. Of course, in this instance, these offences have been committed under periods of mental incapacitation. It is a very tricky issue, but do they not deserve to be punished at all? Do they deserve to just continue on with their lives as before?

*Senator Carol Brown interjecting—*

*Senator CANAVAN:* Clearly they are not, Senator Brown, because through you, Chair, we do incarcerate them. We have laws that incarcerate people who commit—

*Senator Carol Brown interjecting—*

*Senator CANAVAN:* Yes, they are confined for a mandatory period, so clearly decisions are made at state government level that there is some penalty to be paid. Again, this is a very difficult area, but it is not helped when individual senators decide to question the bona fides and intentions of individual senators, as has happened in this debate. It is particularly unhelpful because these are very complex issues that require considered judgement by all governments. Various state and federal governments have had to make these judgements over the entirety of our Federation, and this is another judgement being made by this government. It is a reasonable and moderate adjustment to our system that should be supported. *(Time expired)*

*Senator GALLAGHER* (Australian Capital Territory) (11:45): I welcome the opportunity to speak on the Social Services Legislation Amendment Bill 2015 this morning. This bill should be opposed in line with the additional comments that have been provided to
the Senate Community Affairs Legislation Committee's report on the Social Services Legislation Amendment Bill 2015.

One can only imagine how the origins of this bill arose. We know there is a process that all governments go through in terms of identifying savings, going through an ERC process, ultimately getting it ticked off and then finding their way into drafting legislation that comes before this chamber. This bill reeks of a government without any understanding of mental illness. But perhaps that is too generous. Maybe the government do understand and the decision that was taken around this bill and the savings it incorporates is just another example where the government identify a vulnerable group, then go out and seek to demonise that group and attach savings to it at the same time.

In his address Senator Canavan argued that this is simply an adjustment and he kept using the term 'adjustment': 'It's just a straightforward adjustment.' But each of the 350 people whom this bill will affect—and the 50 people it will affect every year after year after that, and their families and carers—would see the impact of this bill as much more than simply an adjustment. If 'adjustment' means the entire removal of income support, then I agree it is an adjustment. But let's not try to dress this up by using language that seeks to misrepresent what this bill actually does for a very, very vulnerable group in our community.

Last year ACOSS released a report around members of the community experiencing poverty. When you look at that report you will see that it found that under half of people on disability support pensions were living in poverty, one quarter of Australians receiving carers payment were living in poverty and 15 per cent of those receiving the age pension were living in poverty. Again, the vulnerability of the group is well understood when they are living in the community but, when they are living in a forensic mental health unit, that vulnerability remains with them.

I have read the Senate committee report on this legislation and it identifies some of the concerns that have been raised by other members today, particularly this notion of defining serious and non-serious offences as part of mental health policy. As anyone who has worked in mental health policy and planning and delivery of services knows, as it relates to forensic services, it is unusual to provide a distinction between a serious and a non-serious offence. I think the general understanding of people living with mental illness and committing those sorts of offences is that they are not deemed to be morally culpable, or indeed responsible, for their crimes. They often have no intention to commit those crimes and definitely—as found by a court—have limited, if any, understanding of the impact of those crimes. Again, to determine someone's income or lack of income—that is, to provide some income or none at all—based on the activity that led them to their sentence or the term they are to serve in a forensic mental health unit really flies in the face of modern understanding of mental health service delivery and the policy that is put in place around that.

When we look at the issues of cost shifting, which again probably rank No. 2 in terms of (1) saving money and (2) the ability to cost shift through this bill, the arguments are identified in the Senate report and in the additional comments provided by Labor members. It is important to understand that, while members from the government talking on this bill today are arguing that it is a relatively minor amount of money, essentially the debate in this chamber today is: who is going to pay that money? The federal government seeks to save $29½ million over the forward estimates, but there is an acknowledgement that those costs do
not disappear. They do not vanish. The costs of providing accommodation, other services and reasonable living expenses for these individuals are still incurred; they are just not incurred by the federal government anymore. This bill, in a sense, really does sum up some of the major problems there have been over the last 10 to 15 years with how governments work together to deliver a seamless mental health services system for the people who need it in this country. They are the people who have a mental illness, who live with a mental illness and the families and carers who support them.

Too often we have seen completely disjointed decision making happening between state and territory and federal governments where, in most cases, the federal government will take a decision. They might announce it to the newspapers or they could just slip it in the MYEFO, as they did in this instance, and not tell anyone. The decision is taken, it is out there and then state and territory governments invariably are on the back foot, looking at what the impact is, what it means to them and where they will find the money. It has happened time and time again.

I recall opening a newspaper one morning, when we used to open the newspapers and before we swiped them, to see a decision by the Prime Minister of the time, John Howard, about putting $2.9 billion into the mental health system. It was a big announcement which was welcomed by many. They were additional resources to fund a range of services by going around state and territory governments which were delivering a lot of those services. So it was quite different from the times we live in now. I think everyone worked around that example because it meant there was more money going in and the impacts are much more severe when it is money going out.

The National Partnership Agreement on Preventive Health had money going into quite a number of early intervention mental health programs. That was gone in the first budget—I think $368 million. Then there was the $50 billion cut to hospitals. That funding does go to support acute mental health units across the country. So state and territory governments were already reeling with those kinds of cuts and then on top of that here comes another one. I imagine the policy makers, the advisers, the people sitting in the minister's office all thought, 'This is one we can get through. These are only 350 people who do not have a voice.' They do not have a voice because they have a chronic and serious mental health illness and they are residing in a forensic mental health unit. So they are hardly the most vocal group. You are not going to get them campaigning in the streets to retain their income support. So, 'Here we have this particularly vulnerable group. Are they being rehabilitated? Probably not, so let's take away their income.' It could slip through pretty easily. That is why it is announced in the MYEFO and not through the budget process. At the end of the day, someone is going to have to pick up the tab and it will not be the federal government. That, I think, says in a nutshell how the mental health system, at a government level, is working at the moment—that is, an announcement is made, money is removed and the other funding partner, the one which has to deal with people when they have nowhere to live or need to be integrated back into the community, they can deal with all of this because we are not the government which has responsibility.

I disagree with that. I think the federal government, the national government, does have a responsibility not only through the social security system but also as the national government of this country to care for people in this most vulnerable of groups. We know they are going
to be young men who perhaps are going through their first psychotic episode with terrible consequences, we know it is going to be disproportionately Aboriginal and Torres Strait Islander people and we know it is going to be people with drug and alcohol addictions. That is the group for whom, if this bill is passed today, we will be turning off the tap. There will be no income support for them while they undertake rehabilitation. As to the government where they reside, 'Good luck with that.' And the governments where these individuals reside will have to pay, not only while people live in the forensic units or the secure mental health units but also while people are transitioning, once they are rehabilitated, into the community.

I wonder whether a social impact analysis or any other cost-benefit analysis was done for this bill because the cost of accommodating a forensic mental health patient—they are patients; they are not criminals—can exceed $1 million a year per person. So when you crunch through the numbers and have a look at them, I wonder how much money the bill will save and who it saves the money from.

This bill flies in the face of current thinking on mental health policy and planning. I note the references in the department's advice to the committee that, 'This was one of the original intentions but it was never intended for the 1986 amendment to work this way and we are making it very clear for those who have committed less serious offences,' as defined by this bill, 'to have their income protected.' So it is a good thing we are doing today by specifically including this group who are deemed to have committed not serious offences. When you look at mental health policy and planning, what actually works—read any policy document from any government, probably including the federal government's own mental health policy guidelines—is early intervention, mental health expertise in determining the policy, diversion, support programs, restorative justice, supporting people and investing in frontline workers to provide key services to people. Those are the strategies which help people with their rehabilitation, with their recovery and with their reintegration into the community.

This is also about observing people's rights. I know it is very easy to demonise this group. Many of them, in their psychotic state, have engaged in terrible crimes that hurt people. The court has a way of dealing with that but it is easy to demonise them. It is harder to paint a picture that creates understanding, care and compassion for this most vulnerable group, but that is what works in mental health planning and policy. These are the key ingredients in building up a mental health system that is going to work.

Concerning consultations with governments—and I concede again that this has been raised by submitters and I touched on it before—it is very difficult for state and territory governments to always be on the back foot when these announcements are made and where the consultation starts from the point that the decision has been made. So, 'Here is our decision and now we are going to open up discussions around it.'

I have been a part of many COAGs and many ministerial councils where that is the beginning of the discussion: 'This is what the federal government has decided. Now all of you tell us how best we implement this, because it is a bit tricky and we have not actually thought it through.' And that goes to the department's willingness to engage with what 'reintegration' means. Clearly, they have no idea on how to run that side of the implementation of this bill. They would need the state and territory governments to work with them to identify the individuals and also to make sure that, presumably, those individuals can start or recommence income support when they are released from their mental health units.
I note that the ACT government provided a submission to the bill, along with other governments and the quite eminent tribunal from New South Wales—people with experience in delivering services and understanding people with a mental illness. I do not believe there was one of them that supported the bill in all of the submissions provided. The ACT government itself sent a letter that I would probably have signed off on as well if I were in the role that I had been in, overseeing the mental health system. The ACT government raised concerns and believed that it would unfairly discriminate against and disadvantage people with a disability and people who have not been found guilty of an offence. The ACT government's concern centres on individuals suffering an immediate disadvantage associated with being deprived both of their liberty and a source of income during their confinement period.

It goes on to talk about the imposition of financial hardship upon individuals and how that will transfer those residual support costs to the states and territories. I think the submission from Queensland talk about having to find an additional $2 million, and South Australia talks about having to find an additional $1 million.

This bill fails in being able to argue around any of the public policy arguments for the rationale for this bill. I do not think that any government members have attempted to argue the public policy imperative. It is a bill designed to save $29 million, it is a bill designed to cost shift and it is a bill designed to take money away from a group that have no voice. They do not have a voice because they are the most vulnerable members of our community.

The bill is trying to diminish the impact it will have. Sure, if this bill is passed it will not stop people at the watercooler like other discussions have over the winter recess; it will not stop them. But that is exactly why the debate on this bill should be extensive, so that everyone voting on this bill today understands that for those people who have no voice in the mental health service system, and who are about to lose any income support—and I think the original intention was to have that commence on 1 July 2015—there are people who believe that this bill is unfair; that it is mean and that it is a sign of a government that is prepared to attack the most vulnerable in order to elicit modest savings. While it will make Senator Cormann's budget look a little better over the out years, the costs will still be incurred. And they will be incurred by cash-strapped state and territory governments, which are already dealing with the larger cuts that are coming from the Commonwealth in relation to health services.

This bill should not be supported today. There needs to be a lot more work done. I think there needs to be a lot more discussion around the definitions of 'serious' and 'nonserious' offences and their role in mental health policy and decisions. If this is going to be the first step into governments and parliaments forming judgements which have already been well understood around people who have little or no understanding of their behaviour—that we are now putting them into two different groups—there needs to be a clear plan in place as to how these costs will be met. And for people leaving under their reintegration into the community and how that is managed, there should be agreement reached through the Commonwealth, states and territories—before it is announced, ideally. But, now that it has been announced, how will that actually be worked through?

If you do not agree with any of those arguments: if you have the slightest interest in mental health policy and how we treat people with a mental illness in this country, then question what role this is going to have in encouraging rehabilitation for people experiencing severe
and chronic mental illness across the community. I do not think that it is going to advance in one way the rehabilitation needs of this most vulnerable group. It is going to have the opposite effect, and the bill should not be supported today.

**Senator FAWCETT** (South Australia—Deputy Government Whip in the Senate) (12:05):
I too rise to speak on the Social Services Legislation Amendment Bill 2015.

There has been a lot of discussion around the implications for people with mental illness, and I understand that, because it is a serious issue that our community needs to address. But there are also some issues of principle that at a macro level our federation is starting to try to come to grips with in an intelligent and considered manner, with the federation white paper looking at who pays for what and where accountability should lie. To a large extent, this debate falls into that category: how do we shape our federation and the interaction between federal authorities and state authorities when it comes to payments and support for people, whether they be people who are inside or outside a mental health institution, a prison system or, in fact, any other part of our society. My comments today are going to be largely around the factual nature of the bill, but also the principles that underpin it.

Firstly, the principle that applies here is that we are talking about social security payments. Social security payments, such as the disability support pension, are intended as a safety net for people who are in need—whether somebody is unemployed, cannot work because of disability or for some other reason. This is a payment from the federal government that is intended to provide for their basic needs so that they can provide for things—food, accommodation et cetera. These payments are not, according to the department, to be made where a person is confined under state or territory law and where their basic needs, such as food and accommodation, are being met by the state or territory.

That is currently the case, for example, for someone in prison. If you were receiving social benefits and you ended up in prison, then, because the state is providing for those basic needs for you, you would cease to receive those payments from the Commonwealth, which are social security payments. If it is through Corrections or Health or residential mental health services—being state and territory responsibility—they are the ones responsible for paying those costs.

So the government understands that those supports are there for people who are incarcerated or receiving care. But we also understand that, when people are looking to transition back into the community, they need support beyond just the basics. That is why the government has made provision in this legislation for circumstances where a person is not taken to be undergoing psychiatric confinement. A person will receive their social security payment during a period of integration back into the community as well. We recognise there will be a period of crossover where they may spend some time, or even the majority of time, in the institution, but they are going through a period of reintegration and they need support beyond that which the state or territory government is responsible for while they are in that institution.

So the government is trying to apply a broad principle relating to: who is responsible for looking after the individual during their period of confinement; who is then responsible for looking after the individual or for supporting that transition back into the community? This is an important element for somebody who is suffering with a mental health condition, so that
they can receive the support they need, from community and from professionals. It is important that they have the means at their disposal to assist that transition.

At a principle level, this bill seeks to better align responsibilities between the federal government and state and territory governments—specifically:

6 After subsection 23(9) Insert:

(9A) Subsection (9) does not apply in relation to a person whose confinement in a psychiatric institution is because the person has been charged with a serious offence. It goes on to define serious offences, which I will come to later.

(9B) The confinement of a person in a psychiatric institution, because the person has been charged with a serious offence, during a period that is a period of integration back into the community for the person is not to be taken to be psychiatric confinement.

So, again, we have that clear delineation between a period where the person is confined and the responsibility for support is with the state government, and not the purpose of the social welfare payment; and the period of transition. Those are two very clear sections which address the principles we are talking about.

Further, in terms of refining the group this will apply to, section 9E goes to the definition of a serious offence. A serious offence consists of three subelements:

(a) murder or attempted murder; or
(b) manslaughter; or
(c) rape or attempted rape.

9F goes on to clarify:

(9F) An offence is also a serious offence if:

(a) it is an offence against a law of the Commonwealth, or a State or Territory, punishable by imprisonment for life or for a period, or maximum period, of at least 7 years; and

(b) the particular conduct constituting the offence involves:

(i) loss of a person’s life or serious risk of loss of a person’s life; or
(ii) serious personal injury or serious risk of serious personal injury; or
(iii) serious damage to property in circumstances endangering the safety of a person.

So we have defined a fairly small group in the Australian population that this applies to, and that gives lie to comments from those opposite that this is all about cost-saving. It is a small group and it is not a large cost; so it is an issue of principle that is being applied here, as opposed to any mean-handed cost-saving measure as the sole purpose. Importantly, the statement of compatibility with human rights states in conclusion:

… the legislative instrument did not give rise to human rights concerns because people in psychiatric confinement receive ‘benefits in kind’ in lieu of a social security payment by having their basic needs provided for by the relevant state or territory government. Additionally, the partners and children of people in psychiatric confinement are adequately provided for under existing social security arrangements.

So again it comes back to this principle of providing care to the people who need care through the appropriate mechanism.
In this case, the person who is confined is receiving that care via the state or territory government; but, for other dependants—family and children—the federal government still provides support through social welfare. That is the purpose of social welfare; to provide for those people who have no other means of providing for their care. This is consistent with the intent of the bill, which is to apply this principle of making sure that the appropriate responsibility in payments is met.

There has been some concern raised that the removal of pension is triggered by a mental health order, but it is clear from the department's submission that the removal of payments is not triggered by the mental health order itself but whether the cause of the mental health order was a criminal charge for a serious offence. There has been consultation with the states and with Centrelink about the mechanisms for this. There are actually a fairly small number of institutions around Australia where these provisions would apply. The department has made clear in its submissions, or highlighted in the committee examination of this matter, that there are appropriate measures in place to use the trigger of the charge as opposed to the mental health order. The department also explained that providing a distinction between serious and non-serious offences was to protect the continued payments of social security for people who had not been charged with a serious crime. It is more likely that those who have not been charged with a serious crime could be entering that transition period sooner when we have already seen that there are provisions made for people to receive payments to assist with that transition. The department highlights:

The distinction between serious and non-serious crimes protects those people with disability who are charged with less serious offences and yet are confined. It is acknowledged that, in rare cases, certain individuals who have been accused of lesser offences may be confined for extended periods because there are not suitable services to support them in the community.

The government recognised that that is an unusual case, as opposed to the more serious offences where it is expected that people will be confined for a much longer period.

The Social Security Act 1991 currently restricts payments to a person in psychiatric confinement as a result of being charged with an offence. But this bill amends the law to expand the eligibility of payments to people in psychiatric confinement who have not committed a serious offence. That means we are actually providing more access to people who are likely to be entering that transition period sooner so that they get that support.

The part about cost shifting that has come up is important to consider in that, at present, people who are in-patients in that kind of a scenario are often charged up to 85 per cent of their Commonwealth payments by the state and territory mental health institution. We saw that a number of organisations presenting to the inquiry highlighted that they took payments from the people who were in detention.

We even had one case that I outlined where the Victorian Institute of Forensic Mental Health, Forensicare, charged fees during 2012-13, so people who had been there for more than 30 days were asked to pay between 75 and 80 per cent of their pension. That was challenged by a patient and Forensicare had to actually cease those fees because of litigation. Part of the settlement was that they ceased those fees. What we see there is that there is some contention, even within the courts, in terms of whether or not the federal government payments should actually be going to the institutions paying for the care.
Clearly, the responsibility for the payment of that care rests with the state institutions. In fact, the submission from the Queensland government Department of Health outlines that not only do they provide that care for the daily requirements, accommodation and food but also they provide an ‘indigent allowance payment of approximately $42 per week to mental health consumers who have no access to social security benefits.’ So we see there that already state governments have recognised that there is an obligation on them to provide that support to people who are in those facilities, rather than relying completely on federal government support.

This bill is about the principle of saying who is responsible for payments. It is very clear that social welfare payments from the federal government are for providing support for people who have no other means of receiving that support. It is clear that state and territory governments have the responsibility of providing for those daily living needs of people who are under their care. And this bill provides certainty that, for people who are in there long term, we go back to the original intent of the legislation, which was in place before the 2002 court decision which changed the rules. And it goes back to say that those people who are there long term will be provided for by the provisions of the state or territory government when they are at the point where they are looking to reintegrate with community or, if they are likely to be there for a shorter term, as in for a less serious offence, the federal government will continue to make those payments so that it optimises the reintegration outcomes for people who are going to come back into community.

This is not about penalising people, this is not purely about cost savings; this is about an attempt to make sure that in our Federation the relationship between the states and the federal government has a consistency and a continuity in the way that we support people, and that we make sure that we do not have overlaps between levels of government. I commend this bill to the house.

Senator McALLISTER (New South Wales) (12:20): I rise to speak in opposition to the Social Services Legislation Amendment Bill 2015. I think people understand that this bill will prevent people who have been charged with a serious crime from accessing a social security payment for their period of psychiatric confinement.

My concern is that this bill has nothing to do with good or fair public policy outcomes. My concern is that, contrary to the assurances of those opposite me, the bill is simply an attempt to find a quick and easy budget saving without regard to the potentially serious impact that these changes would have on the people who are confined to psychiatric treatment and without regard for the principles of law that have been in place for many centuries and that govern the treatment of the mentally ill in criminal cases. The bill removes access to social security payments for individuals with serious mental health conditions who have been charged with a serious crime and who are subsequently subjected to a period of psychiatric confinement. I have a range of concerns about this bill. I am concerned about the impacts that the measure will have on the rehabilitation outcomes of the affected individuals, I am concerned about the clear attempt to shift the ongoing costs from the Commonwealth to the states and territories and I am concerned that that has been undertaken without adequate consultation with the states and territories, who will ultimately bear the costs associated with these measures. I am even more concerned about the lack of consultation with affected people, with their families or with the system that supports their rehabilitation.
But as I said at the outset, what concerns me most is the attempt to liken people with a mental illness and no criminal conviction to people who have been convicted of a crime. I think it is important to start with the principles that underpin the law in relation to these matters. To be very clear, the forensic patients affected by this bill have not been found guilty of an offence. They are patients that have been found unfit to stand trial or have been found not guilty on the basis of mental impairment. To the extent that they are detained, the reason they are in psychiatric detention is not to punish them; it is not intended to be punitive; it is intended to be rehabilitation. And yet Senator Canavan, in his contribution, acknowledged that this is indeed a punitive measure. And in his remarks—setting aside centuries of jurisprudence—he asked, 'Do they not deserve to be punished? Is there not some penalty to be paid?' Well this is completely at odds with the history of our laws.

At common law, a person who is unfit to stand trial cannot be tried. The justification for this rule has been stated in various ways including as to be used to avoid inaccurate verdicts by potentially forcing the defendant to be answerable for his or her actions when he or she is incapable of doing so, and the risk is that that will lead to an inaccurate verdict. It is possibly also to maintain the moral dignity of the trial process. Requiring that a defendant is fit to stand trial recognises the importance of maintaining the moral dignity of the trial process, ensuring that the defendant is able to form a link between the alleged crime and trial or punishment and be accountable to his or her actions. It is also to avoid unfairness. It would be unfair or inhumane to subject someone to the trial process who is unfit. That is how the Australian Law Reform Commission described it when they considered these issues last year.

The Victorian Supreme Court has set out six factors that are relevant to the test of whether someone is able to stand trial. The individual must have an understanding of the nature of the charges, an understanding of the nature of court proceedings, an ability to challenge jurors, the ability to understand the evidence, the ability to decide what defence to offer and the ability to explain his or her version of the facts to the counsel and the court. This is not an easy standard to establish. Rarely are people granted or considered unfit to stand trial. But when they are, it is because these rigorous requirements cannot be met and to proceed with the trial would be to risk some of the things that I outlined earlier.

These people who were found to be unfit in this way do not deserve to be punished. They are not people who are considered guilty in our system. In fact, our system recognises that forensic patients cannot bear responsibility for criminal acts, and yet this bill seeks to do exactly that—to punish people who have not been found guilty of any criminal offence. Even more bizarrely, it does so by arbitrarily distinguishing between two classes of people experiencing psychiatric confinement in relation to criminal offences. It says that there are some whose offences are so serious that they will be punished in this way by the withdrawal of their benefits and there are some who are not. This simply does not make sense. It is not logical and it is not consistent with the principles of law that we are considering in relation to this bill.

At a more practical level, I am concerned about the impact that these measures will have on the ability of these patients to pursue rehabilitation. Arguably for these categories of persons more than any other kind, it is in the community's interest that these people seek rehabilitation, that they undertake rehabilitation and that they move themselves towards a situation where they can exist within the community safely for themselves and for the rest of
us. Many of the submissions to the Senate committee inquiry have outlined the likely detrimental effect that these changes will have on the rehabilitation and reintegration outcomes that are currently being pursued within the mental health system.

Patients are using these payments to assist with the cost of their care. Now the government and the government members have asserted that the costs associated with this period are met by the state and territory governments while providing this rehabilitation. However, as you can see if you peruse the submissions to the Senate inquiry, many patients in these facilities routinely access their social security payments to contribute to the costs of their rehabilitation.

I have here a letter that was prepared from a group of patients within the Bunya Unit at the Cumberland Hospital in Parramatta in the state of New South Wales. They say:

We are allowed to spend our money on essential items and activities. One of the main things is clothing. All of us come from correctional centres where we are provided with jail-issue clothes. Once in the hospital centre, we have to acquire our own clothing. We would never be able to do this without our allowances. We also have to buy our own toiletries: soap, toothpaste, shampoo, razors, feminine hygiene products, hairbrushes. How would we do this without our pensions? Is the government going to require these underfunded facilities to manage … as well as to start providing us with clothing and toiletries?

Additionally, our therapeutic treatment is geared towards rehabilitation and re-integration back in to the community. For this purpose we are given various levels of leave where we are supposed to regain social and day-to-day skills. This involves community contact and activities. We are encouraged to learn how to budget our money and shop, clothe and cook for ourselves. Our spending money goes towards public transport, food and leisure activities such as films and very modest lunch/dinner outings. All of us are required to participate in vocational training. Many do TAFE and tertiary study. For this we spend our allowances on fees, books, stationery and other study expenses. Without our allowances we would not be able to pay for our courses.

It is true that we were charged with serious offences but we have been found by the criminal justice system to require therapy and treatment rather than punishment. It is only through rehabilitation that we can overcome the illness that caused our previous dysfunctional behaviour in the first place as well as preventing it from recurring.

It is difficult to read those words and listen to the sincere desire from these patients to recover and not be moved. In that context it is difficult to understand why a measure such as this is being prepared in such a hasty way with so little engagement with the individuals concerned or the institutions currently responsible for their care.

There are provisions, I understand, in the legislation to allow for some payments to be made for individuals who have reached a certain level of integration within the community. However, there is very little detail about the actual way that these provisions will work. The bill, as I understand it, provides that the definition of when a payment might resume is to be made by legislative instrument by the minister, and there is some suggestion that the threshold for this question would be at the point when the patient is spending six days away from the care facility in which they are presently incarcerated. This does not recognise the gradual way that patients under these circumstances are reintroduced back into the community.

The process at present is that individuals might be granted a short period of leave, a short opportunity to visit the community and to participate. And over time, as they demonstrate an ability to integrate themselves, as their condition improves and as their skills improve, they will be granted increasingly longer periods to be absent from the facility. However, to do that
requires some measure of independent resources. It is true that the costs of housing in many cases will not be borne by the patient while they are in the facility. But, for a patient who is progressing well and—it has been determined—is allowed to be away from the facility for, say, three days at a time, the question then obviously arises: where will that person sleep? How will that person purchase food for themselves? These costs are not trivial, and there is presently no mechanism contemplated for them to be met.

I have heard those opposite say that this, in the ordinary business of the federation, is something that simply ought to be picked up by the states and territories. It strikes me that if that were the case then perhaps some serious consultation with the states and territories might have been in order. When we see what the states and territories have to say about this, they do not support these provisions. It is for the very good reason that, at the moment, states and territories are already coping with an extraordinary impact to their budgets caused by the decisions of this government, particularly in relation to health and education.

Senator Canavan said that state governments are in the best position to judge what resources might be necessary for these patients, and that may well be true, but it is a disingenuous assessment of the capacity of states to actually meet the requirements of these patients even if they do so assess them. State governments of all persuasions are pleading with this government to take a reality check on what is possible in terms of their existing revenue streams and to recognise the reality that our Constitution places most of the revenue-raising functions with the Commonwealth government.

We do not need to look just to the Labor premiers and to the Labor states to find this plea. Just look to the Treasurer of New South Wales. What did Gladys Berejiklian say recently? She said that the changes to health and education were ‘not sustainable’ and she went on to say:

… we will be fighting for the people of NSW to ensure this state gets its fair share both now, and into the future …

When we have complaints like this, when we understand that the current level of funding and the projected level of funding are insufficient to meet the current health demands of states and territories, then it does not seem reasonable to blithely assert that the additional costs caused by the measures provided in this bill should simply be picked up by the states and by the territories without any real consideration being given to additional resources to meet these costs.

As I said earlier, these things have real impacts on the people concerned. They have impacts on the individuals who are presently confined and in the potential for them to move from their current situation back into a position where they are able to contribute to the community. Recall that these are not people who have been convicted of any criminal offence. These are people who have been found to be so unwell that they are unable to be held accountable for their actions within the criminal justice system. This will have impacts on our community, on the families of these patients and also more generally on the community's confidence that the system that is in place to support people in this situation is functioning well and is able to deliver on the promise that it ought to make to all of us, which is that where people are mentally ill the resources will be provided to rehabilitate them and to help them to return to health.
As I said at the outset, my overarching concern is that this bill contravenes longstanding principles in relation to criminal justice and the way that we deal with the mentally ill. The distinctions in this bill which provide that someone who has not been found guilty of any criminal offence will nonetheless be subjected to a financial penalty—have the financial resources of government withdrawn from them—cause me great concern. They are an unhappy precedent. They represent a precedent we should all be deeply concerned about. I do not support this bill. I encourage others in the chamber to oppose this bill. It is my hope that, if people want to have a sensible conversation about the responsibilities of federation, that might be done in genuine consultation with the states, not through arbitrary measures such as these.

Senator LAMBIE (Tasmania) (12:38): I rise to briefly contribute on the Social Services Legislation Amendment Bill 2015. In Australia we have legislation which allows people in psychiatric confinement to receive income support payments after they have been charged with a serious offence. These Australians with severe mental health illnesses receive this payment because they have not been convicted of any crime and, as Australian citizens, like all of us they have the right to a presumption of innocence until proven guilty and therefore the same access to income support payments that other Australians with mental health illnesses have. As the Parliamentary Library study on this legislation states:

This can happen when they are found unfit to stand trial because of mental impairment or are found not guilty because of mental impairment. People in this group are referred to as forensic patients.

Essentially this government legislation before the parliament today allows the government to cut the disability support pension to psychiatric or forensic patients who have been accused of serious and sometimes horrendous crimes. It is very easy to take a populist position and vote for legislation which takes a hard line against people who are alleged to have committed terrible crimes and who have serious mental illnesses. The harder position is to oppose this legislation on the basis that it undermines basic civil rights and the chance of a quicker recovery for people who are very sick with mental illness.

I am going to take the hard road on this issue and vote against this government legislation. In this debate, I think the government has forgotten that the people affected by this legislation have already been assessed by the courts and found to be mentally very ill. It seems that the government is trying to undermine the courts' rulings and punish these people. There is a bigger principle than just saving government funding and punishing bad people. It is about the government respecting our courts, due process and natural justice. As a politician, I know it is very difficult to be on the side of a debate which calls for a protection of natural justice for people accused of brutal and horrible crimes. But we must always remember that these people are in a special category: our courts and best medical experts say the accused criminals have severe mental health injuries and sicknesses and therefore are not in control of their own actions.

Unfortunately, with our ice epidemic these sorts of crimes committed by people who are mentally damaged will only become more common. I expect that to escalate very quickly—like it already has over the past few years—as the harmful effects of highly addictive, very dangerous, cheap, easily accessed drugs are felt on our sons, our daughters and our grandchildren. This mental health crisis will continue and grow unless both federal and state
governments take very strong measures to prevent mental health injuries in our young people.

One of the provisions that the JLN wants all political parties to consider is national legislation which makes detox for children who are drug addicted mandatory. My research to date in preparing a private member's bill shows that mandatory detox is available in every state of Australia, with New South Wales enforcing it only for as long as the withdrawal period and Tasmania having the capability to enforce it for six months if a medical professional recommends it. However, this is only used as a last resort, and it should be used as a first resort. Mental health legislation provides for people to be treated under an involuntary order but distinguishes addiction from mental illnesses.

There is no specific legislation for compulsory treatment for minors. The JLN will fix that glaring problem. Usually the law says the parent or guardian can make decisions on their behalf, but Australian legislation and common-law principles are increasingly recognising the developing competency of adolescents to make decisions with regard to their own medical treatment. Sweden has had a program in place since 1982 where forced drug treatment was provided for six months to users who were a threat to themselves and others, with the hope that, following the six months, the person would be in the right frame of mind to continue their treatment voluntarily.

Australian parents deserve the right, if their children are addicted to lethal and harmful drugs like ice, to involuntarily detox them. Australian parents deserve the right to speak to their children, not the drug, when they are trying to put them back on the straight and narrow. I have to say that down there in Tasmania we have a massive ice problem. I am a senator of Australia and I have a 21-year-old son that has a problem with ice, and yet even with my title I have no control over my son. I cannot involuntarily detox my own son. I am not talking to my son anymore; I am now talking to a drug. And I can tell you I am not the only parent out there; there are thousands of us.

So, in addressing this Social Services Legislation Amendment Bill 2015, I would ask senators to think more broadly about the issue of mental health and how injuries and harm are caused in individuals. I ask you to do that because the way that ice is affecting these kids is phenomenal and it is a very, very bad result. These kids will have three or four choices in their lives. They will either end up on a slab, end up in a mental institution or end up killing somebody else because of their actions because they do not have control of the drug. This is where this society is heading, and we are sitting here and we are not doing anything about it. When we realise that this ice is a major problem in our society, it will be all too late.

Media reports indicate that the Social Services Legislation Amendment Bill will reap $29.5 million in savings for the federal government over four years. This, of course, means that if this bill is passed, that $29.5 million cost will be shifted back onto the states. The federal government has already taken $80 billion in health and education funding from our state governments—and I sure as hell know that Tasmania cannot afford that—and the federal government continues to place a greater health burden onto the states. Tasmania's health system is in a terrible crisis. They are some of the reasons I refuse to support this government bill.

Senator BACK (Western Australia) (12:45): I thank Senator Lambie for the comments she has made with regard to methamphetamine and the personal message she has conveyed to...
the chamber. Of course, we are all deeply concerned. There is no community in Australia that is protected or immune from this absolute scourge.

In rising to support the Social Services Legislation Amendment Bill 2015, I do want to place a few facts before the chamber and put this back into some perspective. Since 1908, for 107 years, there have been provisions in social security law to cease payments for people undergoing psychiatric confinement. The Social Security Act 1991 provides if a person is in psychiatric confinement and has been charged with an offence, they are to be treated the same as a person in jail. There have been other provisions similar to that section 1158(b) in social security law since 1947, going back some 70 years. In fact, in 1966 a new section was added to the legislation so that the bar to payment of an income support payment would not apply to a person undergoing psychiatric confinement who is undertaking a course of rehabilitation.

The previous speaker quite correctly made the observation that people who find themselves in psychiatric confinement do so because a competent court has determined that they are not competent to stand trial as a result of a psychiatric or other related impairment. But we know that had that person been competent to stand trial and had they been found guilty in a court of law of the crimes of the seriousness to which I will refer in a moment, in all probability they would be incarcerated in the criminal justice system, which in the main is a state or territory based system, and in that case their needs would be met by the state of the territory.

The only difference in this circumstance, despite the protests of others during this debate today in the chamber, is that the people about whom we speak have been determined to not be able to stand trial. Therefore, the decision of the court is that they are confined in a psychiatric institution because of the seriousness of the nature of the crime for which they have been charged. Therefore, there is absolutely no difference at all. If they were competent and were found guilty, they would be dealt with in a prison and their needs would be met by the state. In the case of which we speak now and up to 2002, I will remind you exactly of the circumstance of people confined in a psychiatric institution for which the state or territory had responsibility. This particular bill places that responsibility correctly back onto the state or territory.

What happened in 2002? In 2002, a decision of the Federal Court, Franks v Secretary to the Department of Family and Community Services, found that a course of rehabilitation could now include a broad spectrum of treatments. Prior to 2002, most people undergoing psychiatric confinement could not receive social security benefits. What was the impact of the 2002 judgement? It said that if somebody is actually able to participate in some form of treatment for their condition then the matter should be changed. But in this legislation we are not dealing with the sort of people for whom there may be some consideration of a course of rehabilitation. This brings me to the next point: who is it that we are speaking about in this circumstance?

We are speaking about a limited number of very, very serious crimes: those who have been charged with serious offences defined in the amendments as murder or attempted murder, manslaughter, rape or attempted rape and other violent offences that are punishable by imprisonment for life or for a period of a maximum of at least seven years. Therefore, we are not dealing with people who, in the course of events, as per the judgement in Franks in 2002, would have been in all likelihood eligible for some course of rehabilitation. We are speaking about a very limited number of people. We are speaking about people who, should they have
been competent to go before a judge and/or a jury and had they been found guilty of the charges that I just read out, would in all likelihood end up in jail where their needs would be met by the state or territory—those needs being the normal human functional needs of protection, of housing, of clothing, of food and of incidentals. I remind you again that prior to 2002, before we had the Federal Court judgement, which was around issues associated with rehabilitation, that is exactly what happened. It is to that that this legislation intends to return.

There are provisions in the legislation that should a person, because of an improvement in their psychological or psychiatric condition, be able to be released for periods of time by way of a transition back into the community that they can be released for a number of nights—and I think, if my memory serves me correctly, it is up to six nights in a fortnight—that indeed there would be provision of funding under the legislation. They would—as Senator McAllister indicated a few moments ago—in that circumstance where, if they were able to be released into the community for limited periods of time, have costs associated with public or other transport. They may have costs associated, for example, with a different form of clothing. They may be able to go into a cafe and buy a coffee, so, yes, the legislation does provide for that circumstance should there be a transition for such a person going back into the wider community.

But, contrary to what Senator McAllister said in this place a few moments ago, when Senator McAllister was referring to needs such as toiletries, toothpaste and other needs that they might have, these are met by the relevant state and/or territory instrumentality which has responsibility for the care of these people. Should this legislation pass—in other words, should we return to pre-2002 for these people charged with serious offences such as murder or attempted murder, manslaughter, rape or a crime attracting a seven-year or related penalty—it is no different then to the protection of people in jail.

I refer again to the judgement—and the 2002 judgement was based around a course of rehabilitation—and we are not talking about the prospect of a possibility of a course of rehabilitation in the circumstance, so why would the states and territories be so anxious for this legislation to not pass? As has been indicated, Queensland is only one example where 67 to 85 per cent of the social security payment to the individual is removed by the state system and absorbed by the state. So, in that circumstance, the best they would be getting would be 15 per cent of the social security payment that is now due to them. Not all jurisdictions take that much, but it is a very, very good indicator that in that situation the state does recognise it has an obligation to house, feed, clothe, maintain and look after those people.

So there is that recognition and acknowledgment, and of course this is what this legislation allows: that we return to a circumstance that had its origins 107 years ago that has been amended over time and, obviously, takes account of the needs of a person. It has been then said: what about the families of these people who may in fact be dependent on such a person? You will of course understand—and those who may be interested in this debate should be affirmed and reassured—that the current arrangements for social security payments to partners and to children are adequate to meet their needs and provide appropriate safeguards. So, if such a person is in jail or such a person is in a psychiatric institution, this community looks after those who may otherwise have been dependent on them. While a recipient's partner is imprisoned or in psychiatric confinement, because the partner has been charged with committing an evidence, the recipient can indeed be paid a higher partnered rate of social...
security payment—a higher payment, not no payment—and, where a recipient was a carer for a child or another person and that caring responsibility has passed onto another person, that other person is able to claim the income support in respect of the child or the other person for whom they were caring subject to all the standard eligibility criteria. This of course may include the parenting payment, payment of the family tax benefit, the carer payment and the carer allowance.

This is entirely reasonable legislation. It places back to the states and territories the responsibility which they of course had previously and still should have. In fact, if a competent court finds that somebody who has been charged with one of those heinous crimes is competent to stand trial and is found guilty in a court of law, automatically that payment will be required to be made by the state, because the person will be in jail.

So therefore let us understand very, very clearly that the bill provides for circumstances in which a person is not taken to be undergoing psychiatric confinement—meaning that a social security payment will be payable during a period that is a period of integration back into the community for that person—and there will be provisions made during that transition phase.

Let me summarise with the numbers of people likely to be affected around the nation: evidence to the committee that investigated this question was that there would be some 350 people in institutions around Australia currently and that it would affect, from the time the legislation is passed, about one person in Australia each week—about 50 people a year. Remember, again, these people's needs will be fully met in the institution in which they are held. Had they been competent to be tried in a court of law and found guilty, they would of course be being dealt with by the criminal justice system. Their dependent partner and/or children at home are still well catered for. Of course, should they find themselves in a circumstance in which they can transition back to the community, this legislation picks up that protection for them—and that is of critical importance.

This is an emotional issue. I listened very carefully to Senator Siewert in her contribution, knowing her deep interest in these areas, but I say to Senator Siewert—as I would also say to Senator Brown, whose contribution I had the opportunity to listen to, and to Senator McAllister particularly—that this legislation does not in any way adversely impact on the person who finds themselves now confined in a psychiatric institution. They are still looked after; they are still fed, housed and protected, and their needs are met. This is simply a case of reflecting on the 2002 Federal Court case which was directed to the question of a person undertaking a course of rehabilitation, and it has been extended and expanded over that 13-year period to a situation which was never the original intent of the legislation. I urge my colleagues in the Senate that this legislation should be passed.

**Senator SINGH** (Tasmania) (13:01): I rise to speak in opposition to the Social Services Legislation Amendment Bill 2015, along with all of us here in the opposition in the Senate, because of three factors. The first of those factors is that this bill will clearly have a detrimental effect on the rehabilitation and recovery of people with serious mental illness in psychiatric care. The second reason is the lack of consultation: it will leave patients, their families and carers, and facilities for the psychotic, unprepared for this change. Thirdly, it is fundamentally discriminatory to people who have been determined to be suffering from a serious mental illness.
We know that this bill will take income support payments away from people in psychiatric confinement who have been charged with a serious offence and who are undergoing a course of rehabilitation. Yes, it is that rehabilitation that is, in effect, of gravest concern here for their ongoing recovery path, but more so is the fact that the bill is addressing the psychiatric confinement of people charged with a serious crime, treating them in the same way as a person who is in jail, convicted of an offence, of a serious crime. That should not be the case. It is right that social security payments may not be paid to a person in prison, but we are not talking here about people in prison. We are talking about people who have been charged with a serious offence. There is indeed a significant difference between people in psychiatric confinement who have been charged with an offence and who because of mental impairment are found not criminally responsible for their actions and people in prison who are responsible for their actions.

For some of these reasons, Labor will not be supporting this bill. I want to thank for their contributions particularly Senator McAllister, Senator Moore and Senator Siewert, who I know have had a lot of interest in and perhaps have participated in the inquiry into this bill. I have had some regard to the Labor senators' dissenting report. There are clearly a lot of issues in this bill from a technical and practical point of view, such as the definition of 'serious offence', the financial impact of the bill, the impact of clinical service delivery and reintegration, and the definition of 'a period of reintegration'. I notice from Labor's dissenting report the fact that there were an overwhelming number of submissions raising concerns about the distinction, for example, between serious and non-serious offences, which I understand the department was not able to satisfactorily address. I also understand that many participants raised concerns about the financial implications in this bill. In particular, submitters raised concerns about the possibility of increased costs for service provisions due to the impact on the forensic patients' rehabilitation.

Of course there are concerns, quite rightly, that have been expressed by various state governments as well because it is very much a cost-shifting mechanism. I cannot really understand, to be honest, the point of this bill coming before the Senate, other than to say it is about cost shifting. I think that is the only real rationale behind the government bringing this bill forward. I cannot find one other than that. Cost shifting to the states is of course being done by also cost shifting to the most vulnerable in our community.

I guess I am fairly cynical about the broader response through the media on this bill because there has been little of it. We are talking about some of the most vulnerable people in our community, but perhaps some may say that, because of that, some outlets simply do not care about this bill and the impact it will have on some of those most vulnerable individuals, their families and their carers, because I have seen little reporting about this.

I would hope that, as a compassionate society, as a humane society, we would stand up for the most vulnerable in our community and provide them with the protections that they need. One of the protections people with a mental illness need is rehabilitation. Rehabilitation is the fundamental thing when we talk about supporting those vulnerable individuals who are suffering from mental illness. In this country at the moment there are waiting lists all over the country for those needing to access rehabilitation. Taking income support payments away from people who are in desperate need of rehabilitation, who are subject to psychiatric confinement and who have been charged with a serious offence, is no way to treat those
people. It is no way to treat people who are vulnerable in our community. But this is what we have come to expect from this government—attempts on the most vulnerable; attacks on those in our society who can least afford to pay. Yet those who can afford to pay get away scot-free and get away with not paying their fair share of tax and continue to grow their profits to the detriment of those who are most vulnerable in our community. So, of course, as you would expect, the Labor Party does not support a bill that does that.

Since something like 1986 this legislation has provided that a person undergoing psychiatric confinement and undergoing a course of rehabilitation can receive this type of income support payment. That is an incredibly long time that has crossed both Labor and Liberal governments since 1986. So why is it now, under this Abbott government, that this bill has come before us to take that income support payment away? For the miniscule saving that this Commonwealth government will make, does it really think that it is in the best interests of our society, of those families and carers of those individuals in this particular category who are undergoing this rehabilitation, to take that income support payment away? For the life of me, I do not understand the rationale behind this government in doing this to some of the most vulnerable.

There is another thing I do not understand, and why I am so perplexed as to why we are debating this—and I really do encourage those crossbench senators to not support this bill, so it does not become law. If the government wants to get this through parliament and make its pittance of savings in this way, why did it not consult with some of these families and carers? Why did it not consult more extensively with some of the service providers? Clearly there needs to be a lot more discussion and a lot more meaning behind what it is talking about in this legislation and this opaqueness around 'serious' and 'non-serious' offence. As Senator McAllister said, I just cannot see any good public policy outcome coming out of this piece of legislation.

There has been no consultation. This government did not speak to patients or, in fact, to anyone impacted by the outcomes of this legislation. It did not speak to families. It did not consult with state or territory governments. It did not speak to psychiatric institutions that provide the care. This shows that there has been no genuine effort made by this government to communicate its decision and to ensure that those impacted by the measures in this bill are aware of the change and can then of course make some preparations accordingly. And we are talking about incredibly vulnerable people, people who rely very much on every cent of their income support payments and the rehabilitation connected to that. I think the government is really doing an incredible disservice to the mentally ill in our country and to their families and to their carers in the way it has gone about this. It is simply not good enough. Proper consultation and discussion is so needed for such a complex, sensitive and serious matter.

I understand the Senate inquiry was robust in the sense that there was a submission process. But not one of those submissions supported these changes in this bill. That in itself tells the government something. It tells the government that it is on the wrong end of the stick with this piece of legislation. There is no support in the community. We know the government did not consult, but thank goodness we do have in this part of our democracy the Senate committee process that does allow for a public inquiry and public hearings and that kind of level of consultation, which of course is a cross-party committee. But not one submission
supported this bill. In fact, Minister Morrison's own department's submission provides no justification for this bill. There is no evidence that these measures will assist in the rehabilitation of people in psychiatric confinement and therefore there is no justification for supporting this bill.

Finally, out of the three issues that I raised at the beginning of my address as to why Labor would not support this bill, I want to go to the issue of rehabilitation, because this bill particularly undermines rehabilitation. Again, the submissions to the inquiry suggested that the bill very much undermines rehabilitation efforts of people in psychiatric confinement. The training, employment and other community links put in place whilst a patient is in psychiatric confinement to help ensure a successful transition at the time of discharge are incredibly important. Access to income support is absolutely crucial to establishing these links. Patients self-fund their external rehabilitation activities—their transport to attend activities and any supplies required to carry them out—from their income support payments. So you can see how, on the path to rehabilitation, those links to training, employment and ongoing rehabilitation can be broken if that income support payment is not there for them to get transport to attend their various activities. The cost of accessing general health care and purchasing medications in the community is also met by the patient, obviously with the concessions from their healthcare card. Access to income support is also essential for patients to secure and maintain their community accommodation and the things they need in order to be granted leave and, eventually, to be discharged.

Yet this proposed bill suggests income support payments will not be made available to a patient charged with a very serious offence until they have been granted three nights per week of overnight leave. I understand that, in Victoria, that is the maximum leave that is able to be granted by a psychiatric institution. Again, you can see how this lack of consulting with, say, a Victorian psychiatric institution or the Victorian government shows just how thought-bubbled this legislation is and how it does not work in the real world. And if it does not work in the real world it will lead to a breakdown in the rehabilitation path for that individual who is so in need of it. I think the chair of the Mental Health Commission, Professor Allan Fels, really summed up these issues in the commission's submission to the Senate inquiry:

The practical effect of removing access to social security payments would be detrimental to rehabilitation and recovery for people with a mental illness, especially without close consultation with the States and Territories.

On every yardstick this government is completely out of touch with community expectations, with the care and understanding of people confined for psychiatric treatment and with public policy outcomes, because there simply is not one good one in this piece of legislation. It will have detrimental effects on the rehabilitation and recovery of people with serious mental illness. These people should not be treated in the same way as those who have already been convicted and imprisoned. They have been charged and in this country, as I understand it, they are innocent until proven guilty.

The government has not consulted on this legislation. It is leaving patients, their families and their carers and psychotic facilities very underprepared about this change if it were to pass. It is my dear hope that it does not pass. Why? Because fundamentally, even though those points are enough in themselves, this legislation is discriminatory to people who have been determined as suffering from a serious mental illness. And what does it say about us as a
country if we want to pass legislation in this place that discriminates against people with a mental illness? We already know that they are some of the most vulnerable people in our country that so many, unfortunately, have already forgotten about. We on this side of the chamber have not forgotten about them. We very much stand with them in the hope that they are led to a path of recovery and they will only be led to a path of recovery if the right supports are in place. One of those supports, which has been in place since 1986, is this income support payment. It is crucial to build those links for rehabilitation along the pathway to their rehabilitation. There is simply no need on earth for this cruel, demonising Abbott government to bring legislation in this place that does nothing more than discriminate against some of the most vulnerable people in our community.

Labor will not support this bill. I stand with my fellow Senate colleagues and thank them for their work in Labor's dissenting report into the inquiry. I also stand with those in our community who find themselves in this situation in their lives, in the hope that they do recover through the support of rehabilitation and, most importantly, through the ongoing support of their income support payment.

Senator SESELJA (Australian Capital Territory) (13:20): I rise to speak in support of the Social Services Legislation Amendment Bill 2015. This bill returns the payment of social security to the pre-2002 position where payments were withheld from certain people who are in psychiatric confinement because they have been charged with a serious offence. However, this measure has been updated so that only those charged with a serious offence are covered by this bill. People who have been charged with a non-serious offence will not have their payments withheld.

This government believes that it is important to have a well-targeted social security service. We understand that sometimes people fall on tough times and need a hand to get through. We also understand that some people, for many reasons such as health concerns, are legitimately unable to work and also need a hand to get through. It is appropriate in these circumstances that the government provides a safety net and that is exactly what we are doing and will continue to do. But we also understand, and indeed there is a reasonable community expectation, that those who are receiving such payments also have responsibilities to the community. For those who are able to work we reasonably expect that they will try to find work so that the time they are receiving welfare payments is kept to a minimum, and so they can become self-sufficient and make a contribution to our community and our economy. In these circumstances we also expect that people will have respect for the law and will uphold their responsibilities as citizens. In that context, it is already the law that people convicted of a criminal offence who are serving prison sentences are not eligible for social security payments. This is because food, accommodation and other essentials are provided by the state or territory government by which they are being detained and funding of their treatment and rehabilitation is also covered by the state or territory.

This bill is not, as I said, a new measure. It reflects the approach to social security that has been in the law since 1947 whereby, if you are charged with a serious offence, you are not eligible for social security payments. In this instance, this will apply to those who are in psychiatric confinement because they have been charged with a serious offence. The amendments contained in this bill represent a return to the original policy intent for people who have been charged with a serious offence—so that a person cannot access social security payment.
payments while in psychiatric confinement as a result of criminal charges. At present, most people confined in a psychiatric institution may be considered to be participating in a course of rehabilitation and therefore attract social security payments, based on a 2002 Federal Court decision. Prior to this case, many people in psychiatric confinement because of criminal charges could not receive social security payments.

This change will affect only a small number of people charged with the most serious of offenses such as rape, murder and other violent crimes. It is estimated that this measure will affect approximately 350 people on implementation and 50 people each year following. This measure represents a return to the original policy intent for people in these circumstances. This measure is not intended to punish people or negatively impact on their rehabilitation.

The government understands that social security payments are vital to help people transition back to the community and that is why there are provisions in the bill that provide for circumstances in which a person is not taken to be undergoing psychiatric confinement—meaning that a social security payment will be payable—during a period that is 'a period of integration back into the community for the person'.

I note that in the Community Affairs Legislation Committee, which I chair, in the process of reviewing and consulting on this legislation, there were some concerns raised about the definition of 'serious offence'. I recognise both the concern showed by some of those giving evidence to the committee as well as by those in the Labor Party who took part in the inquiry. As noted in the committee report, the definition of who this bill affects focuses on serious offences:

The proposed amendment to social security law will only capture those persons who have been charged with a serious offence. The amendments define a serious offence as murder or attempted murder, manslaughter, rape or attempted rape as well as other violent offences that are punishable by imprisonment for life or for a period (or maximum period) of at least seven years.

Some of the submissions expressed concerned that the distinction between serious and non-serious offences was not necessarily appropriate in the context of dealing with mental illness. I understand that point of view and much of the time in the committee was spent on this issue, so I think it is important to spend some time on this issue in this place and to deal with some of the misconceptions about this bill.

In the first instance, I note the intent of providing a distinction between serious and non-serious offences is to actually protect the payments of social security to those people not charged with a serious crime. As noted by the Department of Social Services in their evidence to the committee:

The distinction between serious and non-serious crimes protects those people with disability who are charged with less serious offences and yet are confined. It is acknowledged that, in rare cases, certain individuals who have been accused of lesser offences may be confined for extended periods because there are not suitable services to support them in the community. The government was concerned that these individuals not be affected by this measure.

At present, the Social Security Act 1991 restricts payments to a person in psychiatric confinement as a result of being charged with an offence. This legislation in fact expands eligibility so that those charged with non-serious offences are expressly captured by this measure and can remain eligible for payments. The evidence given to the committee also made the important point that the distinction between serious and non-serious offences is not
meant to be punitive. Rather, it is intended to reflect that, where people are charged with a serious offence, the duration of detention without needing to pay for reintegration programs was likely to be a long period. As the department further stated:

People who are alleged to have committed serious crimes that do harm or are likely to harm others and who have been incarcerated by the state would usually be confined for a significant period due to the degree and length of time it takes for these patients to be ready to commence integration into the community.

Some submitters further raised concerns that the definition of what constitutes a 'serious offence' is too broad and might capture incidents which do not impose harm on another person or property. However, it is clear in the legislation that acts which do not result in actual harm or are not a property crime that endangers a person do not meet the 'serious offence' test. There were also concerns about the fact that often mental health orders are indefinite and this could impact people in confinement given their payments would cease. Once again, though, there is an important clarification in the legislation which states the removal of payments is not triggered by a mental health order itself, rather it is whether the cause of the mental health order was a charge for a serious offence. In this context, the department has done a lot of work consulting with states and territories to look at what offences would be captured by this legislation and the committee was satisfied that this was done well.

More broadly, there were some concerns raised about the financial impact of the bill as payments are sometimes used by mental health patients to meet ongoing financial obligations such as those to family. In these circumstances, though, it is important to be accurate and specific about the intention of certain government payments and how they are targeted.

In this case, the purpose of social security payments is to provide income support to meet people's daily needs. Where that person is confined by virtue of a state order, it is reasonable that those needs should be met by the state or territory. The Statement of Compatibility with Human Rights outlines that family members, where eligible, are able to receive social security payments in their own right.

I also note that in evidence to the committee it was made clear that many patients used up to 85 per cent of their disability support pension simply to pay for their ongoing treatment. This is an important point because effectively as it was before 2002, state governments, which often run these institutions, would pay for the care of these people. Now we have the situation where the Commonwealth government pays people while they are confined and most of that money goes to the state or territory government running the institution.

Effectively, the pre-2002 situation was that states handled it and that post-2002 we see that in fact it is Commonwealth payments that are being used to subsidise the responsibilities of state and territory governments. This is not the purpose of social security payments, and it is entirely appropriate for the cost of treatment for people in confinement to be met by the states and territories responsible. It simply does not add up that Commonwealth payments to a person should end up going straight back to state and territory governments to fund treatments. Once again, it is important to remember the intent of these social security payments. We as the government have a responsibility to ensure payments are being targeted and used appropriately. This context is also relevant in further concerns raised by submitters, such as the concerns that patients may be able to pay for rehabilitation activities.
Understandably, income support is part of the process of reintegration and rehabilitation. However, these payments are for basic living expenses, and the states and territories are responsible for rehabilitation of those charged with offences. It is important to note, then, that the majority of submissions provided evidence around the impact that the removal of social security payments would have on the general population of forensic mental health patients. However, no submission provided any details specific to the cohort of patients who would be affected by this bill—people who have been charged with a serious offence that involved risk of, or actual, personal harm.

In conclusion, this legislation only applies to people charged with a serious offence. It is a small cohort, and it is important to remember in the debate of this bill that this is who we are talking about. I understand the concerns from the mental health advocates and other organisations who submitted to the committee that people dealing with genuine mental health issues may be disadvantaged. But it is important to remember that this legislation is not new, and that social security law has included an approach such as this since 1947.

So, let's remember then the broader context here: people who commit serious offences and are imprisoned for a long period of time are not eligible for social security. This is appropriate and in line with community expectations that taxpayer support for people in need is targeted, responsible and goes to those who need it most and who take their responsibilities seriously. Social security payments are provided with the intention that they are for basic living expenses, such as food and accommodation. These expenses are covered by the state or territory responsible when someone is imprisoned or otherwise confined.

It was always the intention of the system that those in psychiatric confinement due to a serious offence would be ineligible. Their expenses are also being met by the state or territory. This legislation restores that intent to the system. Again, I emphasise in concluding that this only affects people who have committed a serious offence—murder or attempted murder, manslaughter, rape or attempted rape, as well as other violent offences that are punishable by imprisonment for life or for a period of at least seven years. People with genuine mental health issues who have not committed serious offences will not be affected.

This is reasonable and fair legislation. It reflects the intention of the original system and it reflects good responsible use of taxpayer money. We on this side support a substantial and well-targeted social services system. But we also respect the fact that the community expects us to target government payments appropriately. This legislation is a small step that helps us do the right thing by taxpayers, and I commend this bill to the Senate.

**Senator McLucas** (Queensland) (13:33): I also rise to speak today on the Social Services Legislation Amendment Bill 2015.

As you would have heard, Mr Deputy President, this is a complex piece of legislation that has a number of elements that I encourage my colleagues, particularly my colleagues who sit on the crossbench, to examine closely. It is a piece of legislation that is easily conflated into who is right and who is wrong. Rather, we need to think about the implications of what this legislation may mean if it is passed through this chamber today.

The Social Services Legislation Amendment Bill seeks to amend the Social Services Act 1991, to cease social security payments to people who are being held in psychiatric confinement because they have been found not fit to stand trial because of their mental illness,
or who are having their fitness to stand trial assessed or who have been found not guilty because of mental impairment. People in this group, as we have heard, are referred to as ‘forensic patients’.

Since 1986, legislation has provided that a person undergoing psychiatric confinement and who is undertaking a course of rehabilitation can receive income support payments. They are people who have been found to be suffering very serious mental health concerns. The people impacted by this measure will have been charged with very serious offences—very serious offences. That is why any change to arrangements for people in psychiatric confinement needs to be considered properly and any implications of these decisions assessed truly.

Wherever possible, forensic patients generally undergo a program of rehabilitation—by and large, most do—before they are released from custody. Not only does this help to reduce risk and increase adherence to treatment but it also serves to reduce further contact with the criminal justice system into the future. Currently, social security payments may be paid to forensic patients if they are undertaking a course of rehabilitation—and that is an important point in the legislation. This bill will change that for forensic patients who have been charged with a serious crime, effectively treating them in the same way as a person who has been found guilty and who is in jail. Payments, however, will continue to persons in psychiatric confinement as a result of being charged with so-called ‘non-serious offences’, again, if they are undergoing a course of rehabilitation.

The National Mental Health Commission made submissions to the Senate inquiry and said:

The nature of the offence with which a person was charged – but not convicted – should not define whether they are taken to be in psychiatric confinement or undertaking a course of rehabilitation, nor should it be relevant to whether they have access to social security payment.

The South Australian Public Advocate also argued to the inquiry that distinguishing between people charged with serious crimes and those charged with non-serious crimes undermines the government’s argument that state and territory governments should be responsible for the cost of supporting forensic patients. That is an important point to be made as well.

The bills digest makes a really important point, one that should be considered by the government and the crossbenchers. The bills digest quite neatly says:

Overall, however, arguments about the appropriate boundaries for ‘serious’ and ‘non-serious’ offences would seem to miss the key criticism of the Bill, which focuses on the principle that the offender in all these cases has not been found guilty of any criminal offence due to their psychiatric condition. Thus distinctions between serious and non-serious offences are immaterial, since none of the offenders can be regarded as ‘morally culpable’, however serious the offence. The offences were performed by a person who has been found incapable of bearing guilt on the grounds of their psychiatric condition and they do not, therefore, possess the requisite degree of moral culpability, however much the charge itself may reflect a distinction between serious and non-serious offences.

It is not totally clear why the government has adopted this approach, especially when they did not consult on the measure prior to announcing it. They have done little to communicate the decision to ensure that those impacted by the measure are aware of the change—particularly states and territories, who will have to change the arrangements if this passes. Rather, it has been left to mental health services to communicate with patients, families and carers.

As the shadow minister for mental health, over the past few months I have been contacted by many organisations in the mental health sector as well as consumer advocates because of
their serious concern about the impact of this bill on some of the most vulnerable people in our communities. Whilst people to be impacted by this measure have been charged with very serious offences, they are also people who are suffering significant mental health issues and need to be supported properly in their rehabilitation.

Forensicare, the state funded provider of forensic mental health services in Victoria, wrote to me, along with many others, to raise their concerns about the impact of the legislation. They believe forensic patients should not be treated differently to other patients in mental health facilities, particularly since their illnesses are so severe they are unable to understand the impact of their behaviour. Forensicare argues that, regardless of their offence, forensic patients should have the same right to social security benefits because they equally need rehabilitation and services which support a return to the community.

As I said earlier, the bill is not supported by the independent National Mental Health Commission. In their submission to the Senate inquiry into the bill, the chair of the commission, Professor Allan Fels said that the legislation is discriminatory and reinforces the stigma of mental illness and the view that confinement comes before rehabilitation. Under the proposals in the bill no income is proposed to be available to a patient charged with a serious offence until the person has had three nights per week of overnight leave.

In the second reading speech the minister said:

… it is the relevant state or territory government that is responsible for taking care of a person's needs while in psychiatric confinement, including funding their treatment and rehabilitation. There is a point of consistency here that we need to explore. Let's always remember: these people have not been found guilty; they are not in the prison system; they are still in the mental health system and they are not guilty.

Let's look at what happens when patients in state run hospitals, who have been deemed to be in need of residential aged care or community aged care, are unable to get that aged care. After a period of time, there is a payment that is required of that person—a patient in a hospital who should be in residential aged care. It is called the 'nursing home type contribution rate', and it is 85 per cent of that person's pension. So that person is in hospital—they are there because they cannot be anywhere else, just like the person who is in psychiatric confinement—and they pay a portion of their pension toward their accommodation and food, in the same way that happens for people in psychiatric confinement. DVA also is billed for some gold card holders who are in hospitals, but who should more appropriately be in residential aged care, for their accommodation and food.

If this bill passes, there will be implications in a number of areas. First of all, the costs for accommodation and incidentals which the Queensland government submission to the inquiry listed as: clothing; phone calls, including mobile phones that are needed when people have leave from confinement; court costs; costs of training that they are undertaking as part of their rehabilitation program; and public transport in particular. Those costs will now become the costs of a family.

For many of these people family support is not high; let's be frank. For many of these people, the capacity of their family to support them is also not high. So the opportunity for true rehabilitation, in the view of many of the advocates who have spoken to me, will be diminished to the point where it will not occur as well as it should, if at all.
The other point is the transition period for a person who has been charged with a so-called 'serious offence' to a 'nonserious offence'. In that time, people are able to leave the facility; they are being part of society. And that has to happen in a very managed and controlled way, so that there is safety for all people concerned. It has been put to me that, if there is no access to any funds to support that person's transition, the ability for success is not going to be high.

Without income, patients will not be able to access the accommodation necessary to commence overnight leave as part of a leave program, which Mental Health Australia has warned could leave people homeless. The ability of patients to obtain the accommodation they need in order to be granted leave and eventually be discharged from confinement to live in the community will be undermined. The rehabilitation and leave system relies on a gradual process to ensure that recovery and risk are safely managed for the person and for the community. Leave is granted in a graduated program where the amount of leave granted increases, as it is safe and appropriate to do so. Access to accommodation and increasing amounts of leave to reside in community-based accommodation is critical to eventual discharge.

Mental Health Australia is also critical of the government's plan to redirect savings of $29.5 million over four years to 'repair the budget' and, in its submission to the Senate inquiry, urges the government, should the bill be passed, to redirect the savings to mental health services for people in prison or transitioning back to the community. It will be interesting to see if that course of action is taken should this bill pass.

Advocacy groups have also warned of adverse impacts on levels of compliance with rehabilitation and treatment programs or on the integration of people later released back into the community. Without social security payments and related concessions, patients will have limited capacity to engage in external activities that assist in recovery, including education and training programs. The removal of all income support for patients who are not in a period of integration will leave this vulnerable group with no means to meet basic needs that are not provided by the psychiatric institution and which are necessary in order to commence or continue a period of integration.

As we have heard, this bill was opposed by all submitters to the Senate inquiry. The Queensland government, the Victorian government, the New South Wales government and the ACT government all oppose this bill, with their submissions outlining the significant impact this legislation will have on the recovery of individual patients.

This is a clumsy, misguided policy response. It will hurt more people than it will help. As we have heard, we are talking about 350 people who are very unwell and who have not been convicted of a crime. They have serious mental illness. They are required by the judicial process they have been through to stay in psychiatric confinement, often a hospital—and, yes, that is a better place for them than a prison. But in order for them to undertake a program of rehabilitation and to see a light at the end of what must be a very dark tunnel, the answer is not to take away their disability support pension. That is what this bill is doing. If this bill passes the potential for successful rehabilitation of this small number of Australians who have potentially committed, but have not been convicted of, serious crimes—and whom we would all want to recover—will be diminished.

The idea that we will save $29.5 million—nearly $30 million—over four years but potentially damage the lives of 350 people is a false equation. This is poor legislation. The
motivation for it has not been made, and I urge particularly the crossbench not to support the legislation.

Senator PERIS (Northern Territory) (13:48): I also rise today to speak on the Social Services Legislation Amendment Bill 2015. The bill seeks to amend the Social Security Act 1991 to cease social security payments to people who are in psychiatric confinement because they have been charged with a serious offence. As previous Labor speakers have said, we do not support the bill in its current form as it has unacceptable negative outcomes for those undergoing rehabilitation which do not assist them to get well and rejoin the community.

People in confinement are some of the most disadvantaged people in my constituency of the Northern Territory, and they do not deserve to be disadvantaged because of their illness. I see this amendment as mean-spirited and one which does not take into account the dignity of people who are sick. These people do not deserve to be treated as criminals. They must be recognised as people who are unwell, who are in need of medical help and who deserve to be treated with a bit of dignity. The reasons I do not support this bill are as follows.

Firstly, I do not support the criminalisation of mentally ill Territorians or mentally ill Australians. While I acknowledge that this amending legislation affects only those who have been found to have committed a serious offence, these people have also been found unfit to stand trial and so have not been found criminally responsible for that offence. As I said before, these people do not deserve to be treated like they are in prison. They deserve to get all the help they can to undergo the best rehab that they can get. That is the compassionate thing to do.

Hundreds of people in the Northern Territory, many of whom are Aboriginal, are already disenfranchised by the justice system. Many of these people suffer from serious mental impairments, such as foetal alcohol syndrome, impairments resulting from drug and alcohol abuse, and some effects of petrol sniffing. In the Northern Territory, the Country Liberal government have already criminalised alcohol addiction with their mandatory alcohol rehab program, which simply locks up alcoholics. Let us not follow their lead and criminalise other forms of mental or health impairment.

Rather than punish these people for their impairments, let us work to stop them from taking place in the first place. Let us educate the community and let us help the people in need of help. Alcohol and drug abuse, petrol sniffing and other forms of preventable impairment need ongoing funding and efforts put towards them. They are a scourge on communities in the Northern Territory.

In their recent submission to the Senate inquiry into health the Central Australian Aboriginal Congress recommended increased funding into the prevention of drug and alcohol abuse and petrol sniffing. These abuses do cause severe mental impairment, with foetal alcohol syndrome being one major issue. Many Territorians have mental impairments that have resulted from drug and alcohol abuse. Let us stop the problem before it occurs and not criminalise those who are suffering from those impairments. Let us educate our community on these effects.

Secondly, I take issue with this amending legislation because it would adversely affect the ability of sufferers of significant mental impairments to rehabilitate themselves. Many of these people are suffering from the illnesses because they were vulnerable and unable to
support themselves in the first place. This amending legislation seeks to make them even more vulnerable.

Finally, I oppose this amendment because there has been little or no consultation in the community. None of the submissions presented to the inquiry supported this amendment and the government has not consulted properly with the community or the industry. Those in psychiatric confinement are under medical care. Surely those in medical care cannot be legislated on without proper research and consultation.

I do not see the point of this amendment. While I understand that these people have committed serious offences, these people have also been found to be unfit for trial in relation to these offences. They do not know right from wrong; they are often unaware of their surroundings or have little control of their own actions. I do not see the point of criminalising these people. They should not be treated like criminals. Rather we should spend our time and money trying to rehabilitate these people, and prevent others from falling into the same situation.

Some of the most vulnerable people in the Territory suffer, as I said previously, from severe mental impairment, and many of them live in unsafe environments and have suffered abuse and mistreatment. This is a problem we need to fix. We do not need to punish them by taking away their income support, taking away their dignity and making it harder for them to rehabilitate themselves.

I do not support this amendment. I do not support criminalising mental illness or addiction. I do not support adversely affecting sick people's rehabilitation. And most importantly, I do not support passing amendments without consulting the community.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (13:53): I do not think there were any other colleagues who were seeking to make a contribution to the debate so I will sum up. As has been canvassed by colleagues, this bill will cease social security payments to certain people who are in psychiatric confinement because they have been charged with a serious offence. As announced in the 2014-15 Mid-year Economic and Fiscal Outlook, the measure will apply to people who have been charged with a serious offence and who, due to mental impairment, are in psychiatric confinement. This includes, as has been canvassed by colleagues, people who have not been convicted or are considered not fit to stand trial.

People confined in prison because they have been convicted of a criminal offence or who are on remand are not eligible for social security payments. Under current social security law, those same provisions apply to people in psychiatric confinement because they have been charged with a criminal offence but who are unfit to plead or have been found not guilty due to mental impairment. There are provisions for social security payments to be made if these people are undertaking a course of rehabilitation. A Federal Court judgement in 2002 broadened the definition of rehabilitation well beyond the original intent. As a result, almost everyone in psychiatric confinement is paid. The original policy intention will essentially be restored for people in these circumstances, which is that a person cannot access social security payments while in psychiatric confinement as a result of criminal charges. The exclusion of those who have not been accused of a serious crime is a beneficial measure.
The present arrangements under which most people confined in a psychiatric institution may be considered to be participating in a course of rehabilitation and therefore attract social security payments are based on 2002 Federal Court decision which, as I mentioned, broadened the definition of a course of rehabilitation beyond the original intent. Social security payments are, as you well know, Mr President, provided as a safety net for those in need to help meet daily living needs in the community.

Some state and territory governments are currently using people's income support to help fund their confinement. For example, the Queensland government takes 67 per cent to 85 per cent of a person's pension while they are in psychiatric confinement. A person's needs while in psychiatric confinement, including funding of their treatment and rehabilitation, are in fact the responsibility of the relevant state or territory government during that time.

The measure proposed in this bill will apply if the serious offence with which the person has been charged is a violent one including murder, manslaughter, rape or attempted murder. This change will only impact a small number of people charged with the most serious of offences, as I say, such as rape, murder and other violent crimes. This measure is not intended to punish people or negatively impact on their rehabilitation. The Department of Social Services has consulted with state and territory governments, advocacy groups and other stakeholders to reduce the impact on people's rehabilitation and also to reduce the impact on their reintegration back into the community.

The government understands that social security payments are vital to help people transition back to the community. In certain circumstances where people are integrating back into community, social security payments might resume. The proposition here is that the measure will apply from 1 March 2016.

Just by way of background, a further highlight of the consultation that there has been on this bill was that the Senate Community Affairs Legislation Committee held a public hearing into the bill on 21 March 2015. I understand there were 35-plus submissions. My department also made a submission to the committee and appeared at the hearing. The committee report was tabled on 15 June 2015. This will not come as a surprise but the Senate committee report recommended that the legislation be passed. However, I do acknowledge dissenting reports of the Australian Greens and Labor senators.

I know question time is about to start but just in the remaining time, let me quote from the Department of Social Services opening statement to the committee, which said:

It is important to note at the outset that the Commonwealth income support payments are not paid to support mental health recovery or rehabilitation plans. They are provided to eligible people to meet their daily costs of living in the community.

This is an important point in addressing many of the viewpoints made to the committee.

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Defence Procurement

Senator KIM CARR (Victoria) (14:00): My question is to the Minister representing the Minister for Industry and Science, Senator Ronaldson. I refer to the Prime Minister's announcement last week that South Australia will build Australia's future frigates. Given this government has sent the Navy's new supply ships offshore and walked away from a promise
to build future submarines in South Australia, isn't it clear that this announcement was
designed to save the jobs of the Prime Minister and Mr Pyne, even if that meant sacrificing
shipbuilding jobs around Australia?

**Senator RONALDSON** (Victoria—Minister for Veterans' Affairs, Minister Assisting the
Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:01): I thank
Senator Carr for his question. It is always nice to get an industry question from Senator Carr,
because they are very few and far between, which I am sure Australian workers will have
noted if they have been listening to question time. In fact, there are some in the gallery.

There were very significant announcements made last week in relation to the naval
shipbuilding plan.

**Senator Cameron:** The Pyne rescue package.

**Senator RONALDSON:** Either you are interested in hearing the answer or you are going
to make stupid interjections like that. If you are interested in shipbuilding in this country, if
you are actually interested in shipbuilding jobs, then rather than make very silly, stupid little
interjections, why don't you listen to what we have planned for the naval shipbuilding
industry? I will also be reminding you of what you did not do for six years in relation to the
naval shipbuilding industry.

Over the next two decades Australia will invest over $89 billion to acquire and sustain new
submarines, frigates, offshore patrol vessels and other specialist naval vessels. A significant
amount of the work to build these new ships will be undertaken in Australia. The Australian
naval ship—

**Senator Lines:** If it was true, we wouldn't have to read it.

**Senator RONALDSON:** Again, someone else who does not give a damn about
Australian jobs, with childish interjections. The naval shipbuilding plan will start the
implementation of an historic continuous build of service warships in Australia. It will begin
with the future frigates, which have been brought forward by two years to commence
construction in 2020. *(Time expired)*

**Senator KIM CARR** (Victoria) (14:03): Mr President, I ask a supplementary question. I
refer to the Prime Minister's statement that the frigates are coming 'as a first prize to Sout
Australia'. Why should South Australians believe this promise when the Prime Minister has
already walked away from his promise to build future submarines in South Australia?

**Senator RONALDSON** (Victoria—Minister for Veterans' Affairs, Minister Assisting the
Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:03): What
South Australian workers understand and what South Australian naval workers understand is
that under you, Senator Carr, they got the booby prize, not the first prize. They got the booby
prize, because you did not start the construction of one naval ship. In six years you did
absolutely nothing. As Vice Admiral—

*Senator Conroy interjecting—*

**Senator RONALDSON:** I think after what the shadow minister did in communications he
is probably best keeping very quiet about policy disasters. Vice Admiral Tim Barrett, the
Chief of Navy, said recently:
This provides certainty for not just the naval shipbuilding side of things but it also provides certainty for planning, not just within Navy, but within the Australian Defence Force.

Of course, Labor's valley of death, which we all know very, very well, has been described—

(Time expired)

Senator KIM CARR (Victoria) (14:04): Mr President, I ask a further supplementary question. Over the last two years we have seen 610 jobs at Forgacs in Newcastle and hundreds of jobs lost in Williamstown. One of the workers who lost his job is Ben Horan, who is in the visitors gallery today. Can the minister explain to Mr Horan and the other workers in Newcastle and Williamstown why the Prime Minister thinks his job is more important than theirs?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:05): I am sorry, Ben, that you have lost your job, my friend. But what you will understand is that you have lost your job as a result of the inactivity of the former industry minister and the inactivity of the former government. There is only one person in this chamber who owes Ben an apology, and that is Senator Kim Carr and the Australian Labor Party. It was you that created the valley of death. It was you that did nothing. It was you that sat on your hands and it is we who are going to address this situation. This is the way forward for the shipbuilding industry in this nation.

Senator Kim Carr interjecting—
Senator Conroy interjecting—

Senator RONALDSON: The valley of death and what hangs around your neck is plainly obvious for all to see. You should be ashamed of yourself. You should have resigned years ago. We will do something about it. You, my fine feathered friend, did nothing at all. (Time expired)

The PRESIDENT: Order! We need a bit of a lowering of the voices, on both sides of the chamber.

Defence Procurement

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:06): My question is to the Minister representing the Minister for Defence, Senator Brandis, and on the same topic of naval shipbuilding. Can the Attorney-General inform the Senate about the government's plans for a strong and sustainable naval shipbuilding industry?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:06): Yes, Senator Ruston, I can and, in doing so, I want to acknowledge the advocacy of yourself, Senator Sean Edwards, Senator David Fawcett, Senator Simon Birmingham over there and Senator Cory Bernardi. Their advocacy on behalf of their state, South Australia, contributed to the government's decision announced by the Prime Minister last Tuesday—the most important announcement of Australian shipbuilding in Australian history.

The biggest difference, Senator Ruston—you should know—is that we now have a government in Australia that does have a shipbuilding plan. As Senator Michael Ronaldson pointed out—and it cannot be repeated often enough—for six years the Labor government let Australian naval shipbuilding die on the vine. For six years not one warship was commenced
in Australia—delay, indecision and procrastination creating a valley of death which it falls to the Abbott government to repair.

What we announced last week was that, over the next two decades, Australia will invest over $89 billion to acquire and sustain new submarines, frigates and offshore patrol vessels and other specialised naval vessels. The centrepiece of the government's naval shipbuilding plan will be the implementation of a historic continuous build of service warships in Australia. That has never happened before, but, as a result of the historic decision announced by the Prime Minister last Tuesday, that will be the future of Australian shipbuilding and that will protect jobs for all time.

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:09): Mr President, I ask a supplementary question. Attorney, can you further advise the Senate how the government's plan will generate economic growth and create jobs, particularly in my home state of South Australia?

Senator Conroy: Save one job—Chris Pyne's!

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:09): The contempt with which Senator Conroy regards the workers of South Australia is manifest for all to see in the chamber today. Why do you so despise the workers of South Australia that you deride a decision which is what people in Adelaide, people in South Australia, have been waiting to hear for a very long time, when on your watch naval shipbuilding in Australia fell into a 'valley of death'?

Senator Ruston, I cannot do better in responding to your question than to quote the words of the Premier of South Australia, Mr Jay Weatherill, who, in response to the announcement, said that this 'creates the continuity and jobs that workers here in this state and around the nation want.' We have avoided the 'valley of death' left to us by the Australian Labor Party, with the announcement that was made by the Prime Minister last Tuesday. *(Time expired)*

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:10): Mr President, I ask a further supplementary question. Senator Brandis, could you further inform the Senate of the coalition government's naval shipbuilding strategy to overcome that 'valley of death' you describe, caused by the Labor Party?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:10): Senator Ruston, I am glad you acknowledge that the valley of death, as it has been called—that is, the point at which the expiry of existing contracts means that jobs fall away until the next program can be commenced—was directly a legacy of the Labor government. Both the Secretary of the Department of Defence, Mr Richardson, and the Chief of Defence Force, Mark Binskin, have said that it was necessary, if we were going to avoid the 'valley of death', for these projects to be brought forward. That is not what occurred. For six years nothing was done. So we have brought forward the commencement of the offshore patrol vessels to 2018. We have brought forward the construction of the future frigates to 2020. The future frigates will be built in Adelaide. The government will make decisions in the near future as to the location of the construction of the offshore patrol vessels. *(Time expired)*

The PRESIDENT: Senator Cameron?
Government senators: Wakey, wakey!

Workplace Relations

Senator CAMERON (New South Wales) (14:12): I apologise, Mr President—I was absolutely amazed by that answer. My question is to the Minister for Employment, Senator Abetz. I refer to Hutchison Ports Australia and the reprehensible sacking of 97 employees in five-minutes-to-midnight text messages on Friday night, effective immediately. I also refer to the minister's statement:

If the culture is that employees can text message the boss and they in fact expect the boss to text message them, then that may be an appropriate methodology.

Does the minister really endorse text messages as a means of terminating employment in this country?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:13): I thank Senator Cameron for the question. Not only was Senator Cameron asleep at the wheel when his time had commenced to ask the question; he also failed to tell the Australian people and the Senate the full quote. Where he conveniently stopped, he did that to try to—well, for whatever his purpose might be. I continued: 'I'm not going to comment on it other than, given whatever the culture might be, you want employees and employers to treat each other with respect and due consideration.' Why could Senator Cameron not bring himself to quote that to the Australian people and indeed to the Senate? Why is it not possible for Senator Cameron ever to honestly represent that which is said by those of us on this side? Quoting half-sentences might be your game, Senator Cameron—it diminishes you; it diminishes the Labor Party. From my perspective, what I have said at all times is—and I repeat—that employers and employees should treat each other with respect and due consideration.

Senator Moore: Mr President, a point of order on direct relevance to the question: the last part of the question was clearly, 'Does the minister really endorse text messages as a means of terminating employment?' I take the point the minister has covered his situation up to this point, but with 36 seconds to go that part of the question remains unanswered.

The PRESIDENT: Order! Thank you, Senator Moore, for your point of order. I believe the minister was directly relevant. He was addressing the quote that was referred to by the questioner. The minister has the call.

Senator ABETZ: I was about to continue to say that this matter is in fact before the Fair Work Commission. If we want to talk about respect, I would invite Senator Cameron to say to the MUA that they should respect the interim order of the Fair Work Commission. It would be interesting to see if Senator Cameron would support that.

Senator Cameron: Mr President, on a point of order: the question was, 'Does the minister really endorse text messages as a means of terminating employment in this country?' He has not gone to that question. He should answer the question.

The PRESIDENT: Senator Cameron, I have already ruled on that point of order. I believe the minister has now concluded his answer. But, in any event, the minister was directly relevant in relation to the quote that you quoted to him. He indicated with his answer, in completing the quote, about mutual respect from employer to employee. I believe he was directly relevant. Minister, am I correct or not, that you had concluded your answer?
Senator ABETZ: Given that I do have 14 seconds, allow me very quickly to indicate to Senator Cameron that, in fact, the particular EBA of which we speak suggests that text messages and emails are the preferred method of communication between the boss and the workers.

Senator CAMERON (New South Wales) (14:16): Mr President, I ask a supplementary question. Can the minister confirm that midnight text messages and emails have replaced balaclavas and dogs as the preferred method of sacking waterfront workers?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:17): As I understand the sorry history of Australia's waterfront over many decades, the balaclavas were, in fact, used by certain workers to protect themselves from being identified in retaliatory action by the MUA, which has the disgraceful history of even sabotaging our World War II effort and compromising the safety and security of Australian soldiers overseas. That has now been documented by Dr Colebatch in an excellent piece of work that I would recommend to all honourable senators.

But let's be very clear: I have not condoned in any, shape or form those matters to which Senator Cameron seeks to put into my mouth. I had been asked a particular question and I indicate that I was not aware of the circumstances but am aware that in certain EBAs these provisions apply. (Time expired)

Senator CAMERON (New South Wales) (14:18): Mr President, I ask a further supplementary question. Given the seriousness of the Hutchison dispute and the potential for it to disrupt Australian ports, will the minister abandon his confrontational and partisan approach to workplace relations and, instead, encourage a cooperative, negotiated settlement to the dispute in the national interest?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:18): If the honourable senator does not want disruption on the Australian waterfront, if he does not want this matter to escalate further, could I invite him to ring up the Maritime Union of Australia to abide by the Fair Work Commission decision in relation to the particular picket. If you have an independent umpire in this space, you have to accept the good decisions with the bad and you have to accept their decisions—right, wrong or indifferent—whether you like it or not.

Senator Cormann: This is Labor's system.

Senator ABETZ: You are quite right, Senator Cormann: Labor's Fair Work Act, Labor's Fair Work Commission—and they still complain about the decisions when they come out against their mates in the MUA.

The PRESIDENT: Pause the clock.

Senator Cameron: Mr President, I rise on a point of order on relevance. I asked the minister about his confrontational, partisan approach to workplace relations, which he has now just demonstrated again.

The PRESIDENT: Thank you, Senator Cameron. I will remind the minister that he has 10 seconds in which to answer the question that was asked.
Senator ABETZ: I am so confrontational that I said that employees and employers should treat each other with respect and due consideration. If that is confrontational, so be it. *(Time expired)*

Employment

Senator JOHNSTON (Western Australia) (14:20): My question is to the Leader of the Government in the Senate and Minister for Employment, Senator Abetz. Will the minister update the Senate on how the government's reform agenda will strengthen the Australian economy and create jobs?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:20): I thank Senator Johnston for that very important question. Everything this government does is about building a strong and prosperous economy, one that is growing jobs and strengthening communities. Australia is now one of the fastest growing economies in the world. Since the coalition was elected, 336,000 jobs have been created in Australia. The job creation rate is more than four times the rate seen in the last year of Labor in 2013. But there is more work to be done. That is why the government are setting about cutting red tape. That is why we have introduced the $20,000 small-business tax write-off. It is why the government are investing more than $50 billion in infrastructure, creating jobs during the construction phase and helping to enhance jobs and productivity for Australia's long-term prosperity.

It is why the government is negotiating free trade agreements. A recent report estimates that the China, Japan and Korea trade deals will create thousands of jobs.

Senator Cameron: Giving away jobs.

Senator ABETZ: Senator Cameron foolishly interjects. Say that to the former president of the ACTU and former Minister for Trade, Mr Simon Crean, who says this is good for jobs. Indeed say it to the various other Labor luminaries who have been talking about this very issue like John Brumby, Kevin Rudd, Bill Shorten, Penny Wong, Jay Weatherill, Daniel Andrews, Simon Crean, Jay Weatherill again, Michelle Rowland, Michelle Rowland, Craig Emerson—the list goes on of Labor luminaries supporting the Chinese free trade agreement. But of course what we have from the Australian Labor Party is the exact double-speak that was revealed in The Latham Diaries on page 318, where Mr Shorten says to Mr Latham at the time to support the free trade agreement with the United States, but they will oppose it to the workers. That is the double-dealing of the Labor Party. *(Time expired)*

Senator JOHNSTON (Western Australia) (14:22): Mr President, I ask a supplementary question. Will the minister inform the Senate how the government's employment programs support job seekers to find meaningful employment?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:22): Whilst we concentrate on revitalising and growing the Australian economy, we understand the need for programs to ensure that each cohort of job seeker is supported to find and keep a job. For job-ready job seekers, the new jobactive employment service links job seekers with employers to get the right job seekers into the right jobs.

For older Australians, the Restart program offers employers who take on mature age job seekers a generous $10,000 support payment. For job seekers who want to move to take up a
job, the government provides a relocation assistance scheme of up to $6,000; and for young Australians the $330 million Youth Employment Strategy will help to improve their job prospects.

In addition, work for the dole is giving job seekers the opportunity to learn new skills whilst giving back to the community that supports them. All of our employment programs are designed to—\(\text{(Time expired)}\)

**Senator JOHNSTON** (Western Australia) (14:24): Mr President, I ask a further supplementary question. Will the minister update the Senate on steps the government is taking to create jobs through its workplace relations reforms?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:24): The best way to create jobs is to build a strong and prosperous economy that promotes workforce participation, productivity and jobs growth. For example, the government is seeking to enhance productivity and jobs growth within the Australian construction sector. The return of the Australian Building and Construction Commission and the associated building code will restore the rule of law and reduce delays that cost jobs growth in the construction sector. Our building code will significantly reduce cost blow-outs on large construction building projects—money which could be better spent on other projects that would create even more jobs and even better amenities for our fellow Australians.

The coalition also has legislation to implement its election commitment to improve the fair work laws, which are designed to create sustainable and secure jobs. We are implementing a plan and, in the meantime, the Labor Party spent their national conference talking about the republic and condemning Martin Ferguson. \(\text{(Time expired)}\)

**Climate Change**

**Senator DI NATALE** (Victoria—Leader of the Australian Greens) (14:25): Mr President, my question is to the Minister representing the Prime Minister, Minister Abetz. I understand tonight that cabinet will be discussing its climate change targets—targets that have a very direct impact on whether this nation will contribute to tackling catastrophic global warming. Can you confirm reports that this government will be adopting climate change targets that are well short of the targets demanded by the science. And, if so, why is it that your government continues to hitch this nation's prosperity to those polluting coal and gas industries rather than the jobs-rich renewable future offered by renewable energy?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:26): Let me start by telling Senator Di Natale exactly what the proposal is for cabinet—I don't think so. You know very well, Senator Di Natale, that I am not in any position to talk about matters that are going to come up before cabinet later this afternoon upon which a decision may or may not be made; and I am not even going to confirm whether or not it is even on the agenda for today. As you well know, Senator Di Natale—a good try as the new leader of the Australian Greens, and I have to admire the pluck of the question—I am not going to go there.

In relation to the target we adopt and how that is going to be classified, I am absolutely resigned to the fact that no matter what target we, as a government, put forward, it will not be enough for the Greens because, no matter what we do, the Greens would want to see higher
cost of living and even greater job destruction—something which we, as a government, will not entertain.

As a government, what you need to do is get the balance right and that is why we will give all these matters due and careful consideration, keeping in mind that the Australian people overwhelmingly voted against the carbon tax that the Labor Party and the Greens forced through this place and which the Australian people cast a verdict about in September 2013.

Let us not also forget that other methodologies of energy production will lift thousands, indeed millions, of people out of poverty around the world, and we have got to keep that in mind as well. So what the Australian people can be confident about is that the coalition will take a very measured, sensible approach and not the extreme ideological approach of the Australian Greens. (*Time expired*)

**Senator DI NATALE** (Victoria—Leader of the Australian Greens) (14:28): Mr President, I ask a supplementary question. Talking about extreme ideology, we have got a coalmine in Adani that requires $16 billion of infrastructure to generate a return over the next 50 years and yet their biggest customer, the Indian government, has said it is not going to buy Australian coal—in fact it will stop importing coal in six years. Can I ask: is the government trying to convince Australian banks to bankroll this unfinanceable project?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:29): In relation to each and every project, commercial decisions will be made by the various parties but, I must say, I was somewhat excited by the prospect of a $16 billion infrastructure investment in our nation, but of course that means jobs and that is why the Greens are automatically opposed to it.

I say to the honourable senator that, if there is a viable $16 billion investment in the Australian resource sector, that means jobs, that means prosperity, that means wealth—it means that we have more money for the things that we need in this country.

**Senator Di Natale:** Mr President, I rise on a point of order going to relevance. I asked very directly at the end—and I accept that there was a preamble to my question but the question was very direct—whether the Australian government had been talking to Australian banks to convince them to bankroll this project.

**The PRESIDENT:** Thank you, Senator Di Natale. I remind the minister of the question, and he has 22 seconds in which to answer the question.

**Senator ABETZ:** As is always their wont, there are highly charged preambles by the Australian Greens, and then they get offended when you deal with the incorrect assertions that are the preamble to the question.

In relation to anybody speaking to the banks: I am not aware of that, but I will see if there is any further information that I can provide to the senator. (*Time expired*)

**Senator DI NATALE** (Victoria—Leader of the Australian Greens) (14:30): Mr President, I ask a further supplementary question. Given that China's coal imports have reduced by 40 per cent in the last six months, India has had an 11 per cent drop in one month, and we are seeing share values in coal companies around the world plummeting—in fact, Australian coal assets bought for $450 million four years ago are now worth a dollar—does the government...
stand by its forecast that thermal coal exports will keep rising into the future, and will it bet all of Australia's prosperity on this dying industry?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:31): Once again, there is the false assertion that we are betting the whole of Australia's future prosperity on the coal industry. Who has ever asserted that? Nobody other than the Leader of the Australian Greens, trying to put a false assertion into the ether and hoping that if it is repeated enough it will somehow get accepted as fact in the media and in the public. We will not allow the Australian Greens to so grossly misrepresent the Australian government's position on this or indeed any other matter.

Is the coal industry an important part of the Australian economy and an important part of our prosperity? Is it important for the jobs and wellbeing of many thousands of our fellow Australians? The answer to all the above questions is yes. We as a government support the coal industry, the jobs that it provides and the wealth that it provides to help pay off the Labor-Greens debt legacy that we have been saddled with. *(Time expired)*

**Carbon Pricing**

**Senator CANAVAN** (Queensland) (14:32): My question is to the Assistant Minister for Education and Training, Senator Birmingham, representing the Minister for the Environment. Can the minister update the Senate on the savings delivered to households from the repeal of the carbon tax?

**Senator BIRMINGHAM** (South Australia—Assistant Minister for Education and Training) (14:32): I thank Senator Canavan for his question. Indeed, I am pleased to tell Senator Canavan—because this applies to regional Queensland, which he represents so passionately, just as it does to the whole of Australia—that the repeal of the carbon tax has delivered the largest reduction in electricity prices on record, meaning good news for the cost of living for millions of Australian families and good news for Australian businesses of all sizes, the competitiveness of Australian businesses, the competitiveness of the Australian economy and, ultimately, the job prospects for growth around the Australian economy.

The Australian Competition and Consumer Commission have confirmed in their final carbon-tax-monitoring report that electricity prices are up to 12 per cent lower than they would have been with the carbon tax—12 per cent lower for Australian households and 12 per cent lower for Australian businesses across every state and territory. There is up to 12 per cent reduction in those prices, which confirms the Australian Treasury estimate that on average the carbon tax removal has saved Australian households $550.

Over the course of Labor's two years of the carbon tax, Australian households and businesses were slugged $15.4 billion in carbon tax fees. That was $15.4 billion less that households had to spend, $15.4 billion less that Australian businesses and industries had to invest in growing their businesses and in being competitive on the world stage. Ultimately we need to understand that the carbon tax removal is not just a saving to households but a saving to business. It makes our economy more competitive. It ties in with the rest of this government's job creation agenda by ensuring that our export and trading industries can best compete on the world stage by having the lowest-cost platform to do business.
Senator CANAVAN (Queensland) (14:34): Mr President, I ask a supplementary question. I note that the minister referred to the ACCC report of last month. I was wondering if the minister could provide some more details about how that report confirmed savings of $550 a year from the repeal of the carbon tax.

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:35): I can confirm that the report did identify that the $550 saving on average per year is genuine. It includes direct savings passed through to customers by electricity and natural gas retailers which range from $153 to $269 per household, as well as savings across a number of other sectors such as synthetic greenhouse gases, landfill, council rates and charges, food manufacturing, water charges, aviation fuel, liquid petroleum gas for non-transport use and off-road transport costs—a range of savings that are passed through the supply chain right across the economy to Australian households and businesses. Local councils are among some of the largest winners, with around $100 million of carbon tax charges to be returned to local councils and to be used to further help reduce Australia's emissions. Those councils will pass their savings through in further investment or through council rate reductions to their households. *(Time expired)*

Senator CANAVAN (Queensland) (14:36): Mr President, I ask a further supplementary question. Can the minister now please outline if there are any threats in the future to the benefits that have been delivered to households?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:36): There is one great big threat to Australian households and businesses, and that of course is Mr Bill Shorten and the Australian Labor Party and their proposal to bring back the carbon tax. Their proposal is to bring back a supercharged carbon tax, a carbon tax that will see prices skyrocket, not to the $24 that they charged when they were last in office but to an estimated $209 per tonne—under their own modelling. Modelling performed for the Labor Party when the Labor Party were in office demonstrates a carbon price hitting $209 per tonne.

That modelling, done by the Labor government for the Labor government, shows that their targets would see Australian income per person some $4,900 lower than would be the case without their new carbon tax. Real wages would be around six per cent lower. Australia's GDP would be around 2.6 per cent lower in 2030, hurting jobs growth in this country. *(Time expired)*

### Human Rights

Senator WRIGHT (South Australia) (14:37): My question is to the Attorney-General, representing the Minister for Justice. In August 2013 and in January 2014 Chile's Supreme Court issued extradition orders for Adriana Rivas, who has lived in Sydney on and off since 1978 and last arrived after fleeing Chile in 2010. Ms Rivas has been charged with crimes against humanity, including torture, kidnapping and murder, arising from her alleged activity as a torturer with the Pinochet regime. Eighteen months later, it is not clear what, if any, action has been taken by the government. Can the Attorney-General please advise the Senate what actions have been taken towards Ms Rivas's extradition?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:38): Thank
you very much, Senator Wright, for that question and thank you for the advanced notice you were good enough to give to my office. But, Senator Wright, I have to tell you that it is the longstanding practice of Australian governments not to comment publicly on extradition matters, including whether the Australian government has either made or received an extradition request, until a person is arrested or brought before a court pursuant to a request. You will understand I think, Senator Wright, that the purpose of that practice is to avoid giving a person who may be the subject of an extradition request the opportunity to flee and avoid arrest. So I am not in a position to respond to your question, Senator Wright.

Senator WRIGHT (South Australia) (14:39): Thank you, Attorney. Mr President, I ask a supplementary question. Given that this is clearly on the public record—there have been newspaper articles and an SBS television report on it—there are serious concerns that Ms Rivas could flee Australia while the government drags its feet in relation to her extradition. Acknowledging the weight of allegations being made against Ms Rivas, involving eight victims, one of whom was a pregnant woman, why hasn't the Australian government acted to provisionally arrest her while it investigates the case?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:39): I am aware of the press reporting around this case. But I think you will understand, Senator Wright, that the practice of Australian governments of both political persuasions not to comment on extradition matters is a practice which has to be applied uniformly, and it is going to be applied consistently with pre-existing practice on this occasions.

Senator WRIGHT (South Australia) (14:40): Mr President, I ask a further supplementary question. Given that the matter is on the public record and the government has sat on the extradition request from Chile for 18 months and has failed consistently to give any information to members of the Chilean community in Australia, who are understandably concerned, my question is: why is the government so opposed to transparency in this matter?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:40): The government is not opposed to transparency, but there are reasons that Australian governments do not comment on pending extradition requests. I have just explained those matters to you, Senator Wright, and I am afraid that there is nothing more that I can add.

Asylum Seekers

Senator BACK (Western Australia) (14:40): My question is to the Assistant Minister for Immigration and Border Protection, Senator Cash. Will the minister update the Senate on the success of the government's turn-back policy in halting the people-smuggling trade and stopping deaths at sea?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:41): I thank Senator Back for his question. I can inform the Senate that, despite the opposition from those opposite every single step of the way and despite their constant howls that it could never ever be done, since this government implemented Operation Sovereign Borders in December 2013, only one illegal entry arrival has arrived in Australia. When judging the success of Operation Sovereign Borders the statistics are irrefutable. Since December 2013 Operation Sovereign
Borders has safely returned 633 potential illegal arrivals aboard 20 ventures to their countries of departure. I again remind those listening that this is despite those opposite consistently saying day after day that it could never be done.

This government has also ensured that, since the commencement of Operation Sovereign Borders, there have been no lives lost at sea. Compare this fact with the policies of the former government, where we saw at least 1,200 people drown at sea as a consequence of the policies introduced by those opposite. In addition to that, who can forget that, at the height of the policy failure of the former government, a boat was arriving in Australia every 15 hours? You woke up in the morning and a boat had arrived; 15 hours later you were looking at going to bed and another boat had arrived; and you woke up in the morning and—guess what?—another boat had arrived. Despite this absolute travesty, those opposite are still hopelessly divided on border protection policy. (Time expired)

Senator BACK (Western Australia) (14:43): Mr President, I ask a supplementary question. I ask if the minister can inform the Senate why it is important for the Australian people to have faith in the integrity of our borders.

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:43): This government understands that it is essential that governments maintain control over their migration programs to ensure that Australians have faith in those same programs. An inability to execute what is a very basic responsibility, quite frankly, demonstrates an inability—as those opposite demonstrated—to govern the country. When those opposite were in power they ceded control of Australia's border protection policies to the people smugglers and, in doing so, they inflicted immense damage on the reputation of Australia's migration policies. This is often an underreported fact of the chaos overseen by the former Labor government. As has been reported, Australia is actually the world's most generous nation for resettling refugees as a proportion of both our population and our national wealth. This is something that, as Australians, we should all be very proud of. (Time expired)

Senator BACK (Western Australia) (14:44): Mr President, I ask a further supplementary question. Will the minister inform the Senate of any alternative approaches to the government's suite of measures to protect Australia's borders?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:44): I am disappointed to say so—but yes, I can. They were recently on display at the Labor Party's national conference where, yet again, we saw the Labor Left pitted against the Labor Right in relation to border protection policy. They, allegedly, have adopted the option of turnbacks. However, the Australian people know that Labor have been there before. In the lead-up to the 2007 election, what did Kevin Rudd promise the Australian people if he were elected to govern? That he would adopt the policy of turnbacks. Then once Mr Rudd was elected to govern, do we recall how many boats the Labor government turned back, given that their policy was to turn them back? The big zero.

Senator Abetz interjecting—

Senator CASH: That is right, Senator Abetz—the big zero. And we can rest assured and we know that if Labor are ever elected to govern again—and Senator Wong is the perfect
Workplace Relations

Senator McALLISTER (New South Wales) (14:46): My question is to the Minister for Employment, Senator Abetz. I refer to the recent release of the Productivity Commission's draft report into workplace relations, which called for cuts to penalty rates for workers on Sundays. Does the minister agree with the Prime Minister's view that there is a case for looking again at this issue?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:46): The Productivity Commission review of the Fair Work laws is something that we promised the Australian people. We believed that there had to be a proper, full review of the framework of our industrial relations system. The good news is that the Productivity Commission was of the view that it needed repair, not replacement, and that is of course the policy that we adopted going into the election. We also adopted the longstanding policy in this country that all matters in relation to wage setting should be determined by the independent umpire, namely, the Fair Work Commission. Interestingly enough, that is exactly what the Productivity Commission, in its draft recommendation—and I accept that it is only a draft at this stage—said that this matter should be put before the Fair Work Commission for their consideration.

Having said that, it is only a draft recommendation and undoubtedly the unions that helped to get you, Senator, into this place, will have views to put to the Productivity Commission. Then, after we have final recommendations from the Productivity Commission, we will determine that which we believe should be taken to the Australian people for a mandate in 2016. When the Productivity Commission—and, might I add, the three commissioners that were appointed—

Senator Moore: Mr President, I rise on a point of order on direct relevance to the question. I have let the minister go on with the background, but the specific question was: does the minister agree with the Prime Minister's view that there is a case for looking again at this issue?

The PRESIDENT: I will remind the minister of the question and indicate that he has 25 seconds in which to answer.

Senator ABETZ: The three commissioners who were tasked with this were, in fact, commissioners who were appointed under the previous Labor government. Mr Harris himself was appointed with a whole lot of—

Senator Moore: Mr President, I rise on a point of order—again on direct relevance, directly after you drew the attention of the minister to the question. Again, the question was: does the minister agree with the Prime Minister's view that there is a case for looking again at this issue?

The PRESIDENT: I will remind the minister that there is one question before him. He has 13 seconds in which to answer the question.

Senator ABETZ: As Labor's appointees to the Productivity Commission believed that it was a matter to be looked at, the Prime Minister has quite rightly adopted their approach. (Time expired)
Senator McALLISTER (New South Wales) (14:49): Mr President, I ask a supplementary question. I have a fairly direct question: does the minister support cuts to penalty rates and other working conditions?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:49): In very brief terms, the answer to that question is no, but we as a government want to see high wages and productive jobs in our economy. But we also want to see more jobs in the Australian economy. So what the Productivity Commission have said, in draft recommendations—and these were commissioners appointed by the Australian Labor Party, with all sorts of compliments on their appointment—is that in a very few particular sectors there might be an appropriate case to be made not to government but to the independent umpire, the Fair Work Commission, to make a determination on this matter. In relation to overtime there are no suggested changes. There are no changes in relation to a whole host of matters in the draft recommendations, but I stress again that these are only draft recommendations. (Time expired)

Senator McALLISTER (New South Wales) (14:50): Mr President, I ask a further supplementary question. I refer to the comments made by Liberal Senator Dean Smith, who says that young people and women are more likely to be those engaged in casual or part-time work where penalty rates apply. Why does the Abbott government believe that female and young workers deserve a pay cut?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:51): I fear that the honourable senator has taken her lead from frontbencher Senator Cameron and that is that you misquote to try to make your point. I can assure the honourable senator that Senator Smith has a great affinity for the young people of Australia and also for the female cohort of our society, which I note is the majority. We men are very wise to ensure that we do not get them offside, because they have more numbers than us blokes.

Senator Smith is motivated by trying to get as many people into jobs as possible, noting of course that the only person in this country who has traded away penalty rates is the leader of the Australian Labor Party who, when he was the secretary of the Australian Workers Union, ensured that money got paid into their coffers at the expense of—(Time expired)

Senator Sterle interjecting—

The PRESIDENT: Order! Senator Sterle, that is disorderly.

Trade

Senator SINODINOS (New South Wales) (14:52): My question is to my good friend and colleague the Minister for Human Services, Senator Payne, representing the Minister for Trade and Investment. Can the minister outline to the Senate how the government's trade policy is a vital part of our plan to create a strong and prosperous economy for all Australians, in particular, how the China-Australia Free Trade Agreement will create new jobs and opportunities for all Australians?

Senator PAYNE (New South Wales—Minister for Human Services) (14:53): Thank you, Mr President, and I particularly thank Senator Sinodinos for this extremely important question. Our trade negotiations are very important elements of our microeconomic reform
agenda and our trifecta of trade agreements with the major economies of North Asia are very powerful enablers and are part of this government's efforts to help diversify our economy. They are about placing us in the best possible position to take advantage of the opportunities that are coming down the line in the region all around us. These are agreements about empowering people, empowering our industries, our businesses, our farmers, our service providers and the people they employ. In particular, the landmark China-Australia Free Trade Agreement, the ChAFTA, will unlock substantial new benefits for Australians for decades to come. Even former Labor trade minister Simon Crean has said that:

This is a great deal for Australia.

Modelling conducted by the Centre for International Economics shows that ChAFTA will create almost 8,000 jobs in 2016 alone and close to 15,000 new jobs by 2020. In fact, 80 per cent of our economy is comprised of services and the ChAFTA provides unprecedented access for our world-class services into the world's biggest market. The opportunities for all Australians will be absolutely extraordinary in the decades ahead. The government is not the only one to recognise that, nor is former trade minister Mr Crean. But let me speak about Jennifer Westacott, CEO of the Business Council of Australia, who said in a recent weekend column:

In years to come we will look back and either see this as a time when Australia was finally in the right part of the world at the right time with the products to buy and sell or we will see it as a time when we let the biggest trading opportunity in our history slip by.

We do not intend to let that happen. (Time expired)

Senator SINODINOS (New South Wales) (14:55): Mr President, I ask a supplementary question. Can the minister inform the Senate of any threats to the implementation of the China-Australia Free Trade Agreement?

Senator PAYNE (New South Wales—Minister for Human Services) (14:55): I could just look across the chamber and suggest that it might be right there! We as a government have a very profound commitment to freer trade and investment. This is a very stark choice because, on the other hand, we have the Labor Party not backing opportunities from freer trade and investment but instead seemingly backing the most militant unions in this country, who are running a dishonest campaign against the China FTA and are trying to turn away the opportunities it is going to bring. They just want to turn their backs and walk away. They do not care about new jobs, they do not care about the opportunities for business and industry and, frankly, delaying the agreement is going to be an enormous cost to Australia and to the Australian economy.

I have already said that the former Labor trade minister Mr Crean—if you are not going to listen to us, at least listen to your own elders and betters—has urged the Leader of the Opposition to support the agreement, to pass the deal before the end of the year. (Time expired)

Senator SINODINOS (New South Wales) (14:56): Mr President, I ask a further supplementary question. Will the minister inform the Senate of the costs of any delays to the implementation of the China-Australia Free Trade Agreement?

Senator PAYNE (New South Wales—Minister for Human Services) (14:56): That is actually a very serious supplementary question from Senator Sinodinos because there are very
significant costs related to a potential delay in this. If we do not get the agreement signed by
the end of the year, the NFF, for example, says the delay will cost the agricultural sector alone
$300 million in 2016 and that will have untold flow-on effects to both rural and regional
economies. If they are not interested in agricultural, maybe the Financial Services Council
might get their attention. They have warned that if the ChAFTA is stopped, it would cost our
economy more than $4 billion and almost 10,000 jobs in financial services alone by 2030.
That is what the unions, currently backed by Labor, are apparently campaigning to stop. It is
incomprehensible. As Jennifer Westacott says, this is one of the greatest trade opportunities
this country will ever have. If we do not take it now, if we miss it now, we will have nobody
else to blame but those opposite.

National Security

Senator JACINTA COLLINS (Victoria) (14:57): My question is to the Attorney-
General, Senator Brandis. I refer to the Secretary to the Attorney-General's Department, who
says that officers of his department were running around like headless chooks following their
failure to provide the Monis letter to the Martin Place siege review and the foreign minister's
parliamentary mislead. If his department are headless chooks, does that make the Attorney-
General himself the chief rooster? More seriously, how can the Australian people have any
confidence in him and his department on matters of national security?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-
President of the Executive Council, Minister for Arts and Attorney-General) (14:58): Senator
Collins, can I tell you I do not think public servants are fair game to be mocked in question
time. You can have a go at ministers—they are fair game—but I do not think it is appropriate
to be mocking officers of the Australian Public Service, who do a very good job. Like fallible
human beings, they sometimes make mistakes but, frankly, Senator Collins, you should take
a good look at yourself when you decide to mock Public Servants and members of the
Attorney-General's Department or of any other department.

Senator Wong: You misled the parliament for three days! The first law officer of the
land! You're a disgrace, George!

Senator BRANDIS: Senator Wong, you are becoming hysterical! Just calm yourself,
Senator Wong. Just calm yourself.

Senator Collins, as I have said to you in answer to previous questions on this matter, I take
responsibility for everything that occurs in my department. So if you have a bone to pick, pick
it with me not with my officials.

Now, in relation to the matter that you have addressed: I understand that the Senate inquiry
into these matters is still current. How it can be, Senator Collins, that you, although a member
of that committee, can come into this chamber and announce conclusions before all the
evidence before the committee has been received mystifies me. Are you going to accuse
yourself, Senator Collins? Because you have plainly prejudged the issue.

Senator JACINTA COLLINS (Victoria) (15:00): Mr President, I ask a supplementary
question. How asking questions can be prejudging the matter is beyond me. There was no
mocking in these questions.

Let's see how the Attorney-General responds to this: does the Attorney-General agree with
the assessment of the deputy secretary of the Prime Minister's department that the Attorney-

CHAMBER
General's Department was ducking for cover following their failure to correct the record on the Monis letter for a full parliamentary week?

Senator Wong: You should just mislead the parliament all the time!

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:01): Senator Collins, let me make two points in response to your question, if I can be heard over the shrill, hysterical screeching of Senator Wong.

First of all, I will consider the evidence of all the witnesses before the committee when the evidence has been concluded. Secondly, Senator Collins, as I said to you a moment ago: as a member of this committee, how you can announce conclusions before all of the evidence has been received mystifies me. And, lastly, Senator Collins, you mislead the Senate. The matter was the subject of parliamentary scrutiny that week—

The PRESIDENT: Pause the clock! Senator Di Natale, do you have a point of order?

Senator Di Natale: I do have a point of order, Mr President. I would just invite Senator Brandis to reflect on some of the language he is using in this chamber. Calling Senator Wong 'shrill and hysterical' is language that is unbecoming of a government minister. I invite him to withdraw.

Honourable senators interjecting—

The PRESIDENT: Order! On my right! Senator Di Natale, there is no point of order. The minister is in order.

Senator BRANDIS: As Senator Wong well knows, because Senator Wong asked me detailed questions about the matter on the Thursday afternoon of estimates, the question was corrected in good time for those questions to be answered.

Senator Wong: Not in good time! Three days of covering up! It's an absolute disgrace!

Senator Ian Macdonald interjecting—

The PRESIDENT: Senator Macdonald and Senator Wong!

Senator JACINTA COLLINS (Victoria) (15:03): Mr President, I ask a further supplementary question. And perhaps the Attorney-General could encourage his government colleagues to even turn up and consider the evidence in this matter!

Senator Ian Macdonald: Nobody is interested! Least of all me!

Senator JACINTA COLLINS: As you can see.

Attorney-General: given that the secretary of the Prime Minister's department and co-author of the review, Mr Thawley, requested that the record be corrected on the evening of Monday 1 June, why did the Attorney-General and his department continue to delay correcting the record until the end of the parliamentary sitting week?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:04): Senator Collins, as you well know, the record was corrected at about 4 pm on the Thursday afternoon of that week. So the suggestion that the record was not corrected before the end of that parliamentary week is simply false. You should ask your friend Senator Wong, who asked me extensive questions in estimates—
Senator Jacinta Collins: Four question times! They are not extensive, George. You're misleading the Senate!

Senator BRANDIS: By the way—

The PRESIDENT: Senator Collins! You have asked your question.

Senator BRANDIS: By the way, Senator Collins, as you should well know, estimates being a much more effective occasion for forensic questioning, Senator Wong was given every opportunity to ask as many questions as she liked. If she did not ask the questions that you would have had her ask, that is hardly my responsibility.

Senator Wong: You misled the parliament, George. Why not just take it on the chin?

Senator BRANDIS: In any event, Senator Wong, I will wait until all of the evidence is received and I will study it carefully.

Senator Abetz: Mr President, to protect my hearing from opposition interjections I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator CAMERON (New South Wales) (15:06): I move:

That the Senate take note of the answers given by ministers to questions without notice asked by Opposition senators today.

What we have seen on display today is a government in decline, a government that has reached the end of being able to provide any answers to the big problems facing Australia; a government that relies on these three-line phrases. They run all their arguments based on rhetoric and spin, but they do not really care about the big issues—the big issues such as unemployment, the big issues such as jobs and the big issues such as rights for workers in this country.

And you only have to look at Senator Abetz's response to the problems that we have now in the waterfront at Hutchison Ports in Sydney and in Perth. We have a government now that initially said it was okay to be sacked by text message in the middle of the night. That is what they did. Then, when people were appalled by this, we had Senator Abetz issuing a statement the following day trying to explain what he meant. We know what he meant; he meant that you could be sacked by text message and this government did not really care. That is the reality of this government. On workplace relations they are really the people who do not accept rights for workers in this country.

Imagine being lectured by Senator Abetz. Imagine the Senate being lectured by Senator Abetz on extreme ideology. What a joke! All the extreme ideology on workplace relations has come from Senator Abetz in this place over many years. Senator Abetz was the chief proponent of Work Choices in this place; where penalty rates were ripped away from workers; where workers' rights were decimated by legislative action in this place. When the coalition had full control in the Senate, they set about trying to destroy workers' rights in this country under the guise of Work Choices.

They have also come here today and argued about employment. We hear the Prime Minister talk about employment. If the Prime Minister was really serious about employment, he would do something about the jobs in the shipbuilding industry; where 610 jobs have been
lost at Forgacs in Newcastle; where hundreds more jobs have been lost in Williamstown; where the supply ships for this country were sent over to Korea, and Australian shipbuilders were not given the opportunity to build them; where, as a direct result of decisions of this government in their budget, 400 jobs have gone at the ABC.

Prior to the election, they promised there would be no cuts to the ABC; yet 400 jobs have gone at the ABC. They told manufacturing workers that their jobs would be safe. Yet what do we have from this government when they came in? They actually chased General Motors and Toyota out of the country. Advanced nations all over the world want these jobs. Advanced nations know the importance of automotive jobs to their economies. Yet we chase them out of this country. Some estimates are that it will cost 200,000 jobs in the economy, with about $29 billion of lost economic activity in this country. That is this government's record on jobs. It is absolutely abysmal.

They said they would build 12 submarines in South Australia. That was another Liberal lie. It was not delivered when they came to government. Those submarines, as we all know, will be built in Japan if this government gets away with it. We are going to hold this government to account on jobs. We are going to hold them to account on industrial relations. We are going to hold them to account on the promises they have walked away from. No wonder the Australian public are saying they have had enough of this motley crew that call themselves a government. They are on their last legs. They are not supported by the country and they will not last very much longer. (Time expired)

Senator FIERRAVANTI-WELLS (New South Wales—Parliamentary Secretary to the Attorney-General and Parliamentary Secretary to the Minister for Social Services) (15:11): I always enjoy following Senator Cameron, because he is always so misinformed. That is probably your biggest problem, Senator Cameron.

But let me refresh your memory. Let me refresh your memory about the legacy and the mess that you left and that we are now cleaning up. It is very sanctimonious of you to come into this place and talk about jobs. Remember the legacy that you left. Remember the mess that you left. If we want to talk about jobs growth in this country, we can talk about how this year over 120,000 new jobs have been created. Since we were elected, over 290,000 new jobs have been created. We have stayed true to the promises that we made.

Can I also, Senator Cameron, correct another inaccuracy that you came in here with. I think you have not been accurate about the facts in relation to Hutchison Ports. Obviously you were not listening to Senator Abetz when he was speaking in question time. In that situation with Hutchison, employees received a text message last Thursday evening advising them to check their emails. As Senator Abetz has also correctly indicated, the use of text messaging at this workplace is not unusual and is in fact one of the expressly agreed modes of communication under the enterprise agreement with the Maritime Union of Australia.

That is the situation. So do not come in here, Senator Cameron, and misrepresent the situation. Can I also make some comments in relation to shipbuilding and shipbuilding jobs.

Senator Conroy: Yes, I hope so.

Senator FIERRAVANTI-WELLS: Thank you, Senator Conroy, for your interjections—

Senator Conroy: I am always happy to help you.
Senator FIERRAVANTI-WELLS: Over this time, let’s not forget the legacy of Labor in this area as well, and what has been described as the ‘valley of death’. Over the next 20 years this government will invest over $89 billion in ships and submarines for the Royal Australian Navy. In the short-term these two measures will mean 1,000 jobs which would otherwise be lost. Both these programs, when they are ramped up, will guarantee around 2,500 Australian shipbuilding jobs for decades. This is a historic agreement. It will ensure not just that Australia has a shipbuilding industry but that it has a fleet-building industry. This is a very critical investment and one which will generate significant growth in the shipbuilding industry for years to come.

I make some comments also in relation to the Productivity Commission review of the workplace relations framework and the draft report that has been delivered. The coalition made a commitment at the last federal election to ask the Productivity Commission to undertake an independent review of the workplace relations system. The terms of reference of that Productivity Commission report were carefully considered. They were also agreed to in consultation with unions, employers and state governments. We have received a 1,000-page report, which was consulted upon by the Productivity Commission with the unions, and 255 submissions were received and more than 500 individuals placed on record their views in relation to this.

We will now have a period of national consultation in relation to this report—to government; not of government—and will ask interested parties to share their views in relation to this important issue. Then a final report will be prepared for the government. So the government will not be drawing any conclusions from this draft report.

But that of course has not stopped those opposite and their union mates from scaremongering. Despite the scaremongering that has occurred, the Productivity Commission has done very good work. This is the same Productivity Commission that has done reports for both Labor and coalition governments in the past and, rather than playing politics, those opposite should be part of this good process. (Time expired)

Senator GALLACHER (South Australia) (15:16): I rise to take note of answers, and in particular Senator Ronaldson’s answer to Senator Carr. I do get that there is a bit of theatre in the chamber, but when you are asked a question as serious as Senator Ronaldson was asked today I do think it is incumbent on the minister to dispense with the waffle and attempt to answer the question.

The facts of the matter are that it is now August 2015 and that, prior to September 2013, there was a direct promise to build 12 submarines in Adelaide. There was a walking away from that promise. There was the sending of some shipbuilding contracts overseas. And the Prime Minister has been brought, kicking and screaming, to South Australia by all of the Liberal members of parliament, who know equally as well as I do, that you cannot find a South Australian who does not want this industry to prosper in South Australia and to interconnect with the rest of Australia.

We all know that is how manufacturing works, from long experience in the automotive industry. Transmissions are built in one part of Australia and engines are built in another part of Australia. They have been assembled for 50 or 60 years in South Australia and we know how integral manufacturing is to a small economy like South Australia.
We have a government that walks away from the automotive sector, that puts the boot into it, and then walks away from core promises to enhance, build and sustain ships and submarines in South Australia. Then the Prime Minister is brought, kicking and screaming, to the argument. Whether it is to save his own personal position as Prime Minister; the Hon. Christopher Pyne; the Hon. Andrew Southcott; the member for Hindmarsh, Matt Williams; Senator Edwards; Senator Fawcett; Senator Rushton; or anybody else who wants to get preselected in South Australia in the coming federal election, that is what has happened.

The Prime Minister has come very late to the argument. He has made promises which I, fervently, hope are kept, because they are good promises and they are jobs down the line. But they are well down the line—they are 2020. And when you know people who have lost their job in Adelaide, in shipbuilding, in the last few months, that is a long, long way away.

When there is no commitment from this federal government and there are these economic rationalists. I mean, he may as well take his script from Andrew Bolt, who said the other night, 'You can get a ship from Spain for $1 billion. Why did we spend $9 billion building three?' If that is the argument he is going to take in respect of building our future defence capability, if that is the attitude he is going to take to our future defence manufacturing capability, then he should come out and tell the Australian people that is what he is doing. Do not promise to do it, renege on the promise and then come in with another promise for 2020. It is a long way away for a young man or woman who lost their job in the last month. They may not even be in South Australia when those building opportunities come again. They will probably have moved somewhere else in the economy.

If you look around South Australia you will see that we have job losses at Alinta, job losses today at Olympic Dam, job losses in Whyalla and job losses in all the regional centres outside Port Lincoln. We have no investment from this federal government in regional South Australia and we have a terrible track record of investment in the city of Adelaide in the manufacturing sector, where we are going to see additional job losses with Holden closing. I do not think the government even care about the multiplier effects of that on small business and that is exceedingly strange for what is a coalition government that, supposedly, believes in small business. For every job that you lose in manufacturing—for example, if you lose 1,700 at Holden over the next 12 to 15 months—you are going to multiply that effect out in every small business and in every suburb the workers lived in. This government has come very late to the argument. And 2020 is a long time away. If he delivers on the promise—if he gets a chance to deliver on the promise—that will be good, but the destruction and havoc the government has caused to date is reprehensible and does not befit a Prime Minister.

Senator CANAVAN (Queensland) (15:21): What we have today is an opposition without a clue. They do not have a clue about what their plan is for jobs. They do not have a clue about how they are going to respond to the announcement made by the Prime Minister in the last few weeks about a new plan for South Australia. I have been listening to this debate, I heard the contributions in question time today, and I still do not understand where the Labor Party's position is on shipbuilding.

What policy do they have for building ships in Australia?

Senator Conroy: The one that was announced.
Senator CANAVAN: What do they have? What is your policy, Senator Conroy, through you, Chair? We know they did not have a policy in government. We know in government they had no policy on where and when and how and what ships would be built. They had no policy for six years. They had six years in government to come up with a plan to build ships in Australia and they did nothing over that time, although Senator Conroy would probably say they produced some consultancy reports. I think they spent something like $80 million or $90 million on reports. That is what they did in government for six years but they did not come up with a plan and they did not come up with a policy. Now, another two years since the last election and after two years in opposition, they still do not have a clear policy. They still will not come and be up-front about what their plan is to build ships in Australia for our defence and to provide jobs in South Australia and other areas of our country as well.

It is not surprising they have no plan; they have had so much time. They have got another year before the next election. I do not have a lot of hope that they will come up with a plan to build ships in Australia because their record was not just one of not building ships in Australia; the ships they did buy when they were in government were actually bought ships—from overseas. The three major ships they did procure while in government—two of them were not actually military vessels—were actually sourced from offshore. Two major Customs vessels were sourced from offshore as was HMAS Choules—I do not know how to pronounce it right. They have been coming into this chamber for the last year being all very worked up about the fact that there may be ships sourced from overseas from time to time, given our needs. There may be decisions that mean we cannot build every ship we need for our military here in Australia. While they were in government, they actually did exactly the same—they sourced ships from overseas.

I do not criticise that particular decision. The issue of the two supply ships procured was raised. I do not think that the decision has been made yet but I think a Spanish builder and a Korean builder have been tendering for that particular project. But that is not a project that we should build here. Clearly the advice from Defence is that that is not a continuous build program. We will probably need those every 15 or 20 years. So all that doing those here in Australia would do is create a temporary workforce while they are being built then those people would lose their jobs after that and we would have what we have right now, which is this valley of death, thanks to the Labor Party when they were in government. We need to focus on programs that provide continuous work for our shipbuilding industry so that it can build expertise and specialisation in particular areas and actually produce ships to budget over time. And indeed maybe one day, if we did specialise enough, we could have a thriving export shipbuilding industry in this country.

I do want to correct something that Senator Gallacher mentioned before, that these jobs are not starting until 2020. In fact, my understanding is that there were two particular build projects announced in the last few weeks. One was the Future Frigates program, which Senator Gallacher said starts in 2020, which has been brought forward three years. The other though was the new offshore patrol vessels, which the government has brought forward two years, to commence in 2018. So we will have a continuous build. The 2018 date is only three years away. There is still the Air Warfare Destroyer program ongoing at the moment.

There will be finally a continuous build for our shipbuilding industry. It will protect the thousand jobs that we have in this industry right now and, hopefully, over time with these
projects it may build a sustainable shipbuilding industry that will provide around 2,500 jobs for Australians. A good policy has been announced to create jobs in our country. The real question before this chamber now is: what is the position of the Australian Labor Party? Do they support the $89-billion build program announced by the government or do they want to keep carping on the sidelines with no plan for jobs in our country?

Senator McALLISTER (New South Wales) (15:26): I rise to take note of answers. I particularly wish to reflect on the answers provided by Senator Abetz to the questions relating to the coalition's approach to penalty rates and the recommendation presently under consideration from the Productivity Commission that penalty rates on Sundays be lessened and brought into line with penalty rates at other times.

Senator Abetz was very careful to provide limited information in relation to that question. It was not really any surprise. We had three questions and very little attempt to respond to the substance of those questions, with the minister simply saying that we want to see a high wage and productive economy and we want to see more jobs in the economy—something which everyone in this chamber can agree with.

But what is not clear is what the coalition actually thinks about penalty rates. Because for many years we know that this has been on the wish list for conservatives in this country, to reduce penalty rates. I want to talk a little bit about what the Productivity Commission is actually recommending in its draft report. It has recommended that the penalty rates which apply in the hospitality, retail, entertainment, restaurant and cafe sectors ought to be reduced on Sundays. It said that working on Sundays is no longer a special category of work and said that there is a case for this to be brought down. If we think about the evidence of who relies on these penalty rates, who relies on the special wages at this time, what we know is that 42.6 per cent of those people in a recent survey said that they absolutely rely on those rates to meet their household budget.

What we also know is that there are other sectors at the moment not under consideration by the Productivity Commission where penalty rates are very important and apply. If we think about nurses, if we think about bus drivers, if we think about people working in the agricultural sector, if we think about people working in transport, all of the people working in these industries are from time to time in receipt of the benefits that come from giving up your Sunday to work in the service of others in the community.

If we really think about who is benefiting from it, it is people that, frankly, need the money. Research tells us that the people most likely to be reliant on penalty rates are single parents and women. We know already about the gender pay gap and about how women in our economy are penalised simply for their gender; and we know that in some ways this arises from the concentration of women in particular industries with very low rates of pay. We know that the women in these industries, particularly the hospitality and retail sectors, are absolutely dependent on that little bit of extra money that comes in from working on a Sunday. Other groups that are particularly dependent on penalty rates are households that earn less than $30,000 a year. I think everybody in this chamber would understand that $30,000 a year is a tough number to get by on, and the idea that we would contemplate reducing the pay levels of those families is incomprehensible to me.

We know also that people who are likely to be reliant on penalty rates are the people who do not live in cities. I came to this chamber absolutely determined to defend the rights and the
needs of people in regional New South Wales. It is not right that people who live in regional Australia are financially penalised and penalised in other ways in their life chances, and it does not seem right to me that we would consider reducing the wages of families from those areas.

The other group of people, of course, who benefit from penalty rates are young people. Young people overwhelmingly are likely to work on weekends and evenings only. Those people are also dependent on those penalty rates for their weekly incomes.

Penalty rates are part of a broader commitment in this country to a reasonable rate of pay for workers across a range of industries and to a five-day week, which fundamentally allows people to contribute to their communities, to contribute to their families and to balance recreation and rest with their contribution to the workplace. We should not allow those values to be compromised or eroded in the pursuit of quick and unworkable fixes that ultimately will not do anything to support the Australian economy. (Time expired)

Question agreed to.

Climate Change

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (15:32): I move:

That the Senate take note of the answer given by the Minister for Employment (Senator Abetz) to a question without notice asked by the Leader of the Australian Greens (Senator Di Natale) today relating to emissions reduction targets.

Senator Di Natale, Leader of the Greens, put to Minister Abetz, 'Hey, what about that 70 per cent of Australians who actually want climate action, according to the latest survey, and who want our economy transformed to a pollution-free, job-rich economy?' Senator Abetz, somewhat perplexingly, started a tirade that, in fact, we were the ones with an extreme ideology, and he also claimed that the Greens would never be happy with any target that the Abbott government proposed.

Sadly, it seems that he was probably right about that last part, given that this government continues to ignore the scientific advice from a whole raft of sources but, most importantly, from the Climate Change Authority, which is the independent body that is set up to advise governments, no matter what political persuasion they are, on what the science says needs to be done so that we can tackle global warming and even take advantage of the ability to create new, clean jobs in renewables, in innovation and in ecotourism in the low-carbon economy.

The Climate Change Authority have recommended that this nation adopt targets of 40 to 60 per cent by 2030, based on the year 2000 as a baseline that Australia has been using for a long time now. Prime Minister Abbott, of course, is rumoured to be going absolutely nowhere near that. I hope that that reporting is inaccurate and I hope that, when cabinet have those discussions tonight, they do in fact pay attention to the science, maybe even follow the science and maybe even pay attention to that 70 per cent of Australians who support tackling global warming and genuinely retooling our economy for productivity in a clean future. Instead, we see rumours that in fact the Prime Minister will artificially inflate the figures by choosing a totally different baseline year. Prime Minister Abbott is now moving almost unilaterally to 2005, with no explanation. We know that 2005 was the year that Australia had
its highest carbon pollution, so of course the Prime Minister is trying to artificially inflate his likely pathetically low figures.

Senator Abetz also talked about energy poverty and how, somehow, Australia's coal is going to be a solution to energy poverty. If only that were the case. In fact, even the World Bank, joining a chorus of others, now says what we have known for a long time: coal is no solution to energy poverty—particularly not in India, where much of rural and regional India does not have an electricity grid and where, even if they did have a grid, that coal is going to be far too expensive for them to afford. The chorus of experts is that energy security and the solution to energy poverty is distributed, clean, renewable energy. That is where Australia could be not only pulling our weight globally but actually genuinely helping people and making money at the same time. That is the sort of positive, clean-energy economy that we could have. Instead, we have the Prime Minister with his wagon hitched just to coal. None of the science supports that and, clearly, the vast majority of Australians do not support that, so the only conclusion you can draw is that he has been bought by the fossil fuel industry, which makes very generous donations to his party and, I might add, to the other side of politics as well.

So, once again, we have faux outrage from Minister Abetz, making, sadly, all sorts of nonsense remarks. When we asked this question about climate change—and I want to flag this because this is an important point—one of the senators from the Nationals' quadrant here called out, 'You and your frogs!' That is the level of debate that a member of the government thinks of when we are talking about global warming that threatens our entire economy, our entire planet, our very way of life, human life and biodiversity—all of the things that we know. To that particular senator it was about 'you and your frogs'. Maybe this is what happens when you sack most of the CSIRO scientists, who were formerly advising the government on climate policy. You get this fundamental tinfoil-hat brigade and an absolute denial of climate science.

Senator Di Natale raised some very important economic figures on the drop in global coal demand. I do not know why the government will not listen to science, but usually they listen to money. In this instance they are not even listening to the money. They are not even factoring in that China's coal imports have reduced by 38 per cent and that India has experienced an 11 per cent drop in coal imports in just one month. The writing is on the wall. The opportunity here for Australia is to do our bit and to retool our economy positively for prosperity and a clean future. The government is not up to that job. *(Time expired)*

Question agreed to.

NOTICES

Presentation

Senator Wright to move:

That the Senate—

(a) recognises that:

(i) Australia signed the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (the Protocol) in 2009,
(ii) as a signatory to the Protocol, Australia has an obligation to establish a National Preventative Mechanism (NPM) with the power to inspect all places of detention, including prisons, police lock-ups, immigration detention centres and mental health facilities, and

(iii) the establishment of an NPM:

(A) had bipartisan support from the Joint Standing Committee on Treaties in 2009, and an implementation framework has been identified by the Australian Human Rights Commission,

(B) would help address serious allegations of cruel, inhuman and degrading treatment occurring in some prison facilities in Australia and immigration detention facilities in Nauru, and provide the required transparency to allow health care practitioners and legal advisors to attend to good professional and ethical conduct for clients in detention, and

(C) can also deliver improved workplace conditions for employees and efficiency dividends for the taxpayer; and

(b) calls on the Government to take immediate steps to fully ratify the Protocol, including by setting clear timeframes for the establishment of an NPM, and including the implementation of the Protocol on the next Council of Australian Governments’ agenda.

Senator Cameron to move:

That the Senate—

(a) notes the termination by Hutchison Ports Australia of 97 of its employees by notice given in text messages and emails sent late at night on Thursday, 6 August 2015;

(b) affirms that the method of giving notice of termination of its employees by Hutchison Ports Australia was callous and disrespectful to its employees, and has no place in any workplace; and

(c) having regard to the potential disruption to Australia’s ports the dispute may cause, calls on the parties to the dispute to respect pre-dispute employment arrangements and to commence co-operative negotiations to resolve the dispute as soon as possible.

Senators Collins, Wright and Lazarus to move:


Fifteen sitting days remain, including today, to resolve the motion or the instrument will be deemed to have been disallowed.

Senator O’Sullivan to move:

That the Senate endorses the Northern Australia White Paper that will unlock the capacity and capability of the north through increased investment in water infrastructure, including:

(a) $200 million of investment in water infrastructure in the north as part of a new National Water Infrastructure Fund;

(b) $15 million for water resource assessments to determine available water (and soils) for development in the Mitchell River (Queensland), West Kimberley (Western Australia) and Darwin (Northern Territory) catchments;

(c) up to $5 million for a feasibility study for Nullinga, and up to another $5 million for a soils analysis of the Ord Stage Three; and

(d) a feasibility study into the 4 metre extension on the Lake Argyle spillway that would increase storage capacity by nearly 5 million mega litres - the biggest increase in public water storage in Australia in more than 4 decades.
Senator Whish-Wilson to move:
That the Senate change the name of the Senate Select Committee into the Abbott Government’s Budget Cuts to the Senate Select Committee into the Scrutiny of Government Budget Measures.

Senator Lazarus to move:
That the Senate—
(a) notes the manner in which the 97 Australian workers (57 in Sydney and 40 in Brisbane) were sacked by Hutchison Ports Australia on Thursday, 6 August 2015, via text message and email;
(b) expresses concern:
   (i) for the workers, and
   (ii) that the sackings may be in breach of its Enterprise Bargaining Agreement registered with Fair Work Australia;
(c) acknowledges that business practices of this nature are not welcome or considered acceptable behaviour in Australia; and
(d) calls on the Prime Minister (Mr Abbott) and the Minister for Employment (Senator Abetz) to defend Australian jobs, and intervene in this unjust treatment of Australian workers.

Senator Fifield to move:
That—
(a) so much of the standing orders be suspended as would prevent the succeeding provisions of this resolution having effect;
(b) on Wednesday, 12 August 2015, the business of the Senate notice of motion proposing the disallowance of the Amendment to List of CITES Species, Declaration of a stricter domestic measure, standing in the name of Senator Leyonhjelm, for that day be called on no later than 6.15 pm; and
(c) if consideration of the motion listed in paragraph (b) is not concluded at 6.30 pm, the questions on the unresolved motion shall then be put.

Senator Fifield to move:
That on Wednesday, 19 August 2015 consideration of the business before the Senate shall be interrupted at 5 pm, but not so as to interrupt a senator speaking, to enable valedictory statements to be made relating to Senator Wright.

Senator Brown to move:
That the Joint Standing Committee on the National Capital and External Territories be authorised to hold private meetings otherwise than in accordance with standing order 33(1), followed by public meetings, during the sittings of the Senate, as follows:
(a) Thursday, 13 August 2015;
(b) Thursday, 20 August 2015;
(c) Thursday, 10 September 2015;
(d) Thursday, 17 September 2015;
(e) Thursday, 15 October 2015;
(f) Thursday, 12 November 2015; and
(g) Thursday, 26 November 2015.
Senator Lazarus to move:

That the Senate—

(a) recognises the need for the Australian Government to support and protect Australia’s shipbuilding and maintenance industry, Australian maritime jobs and to restore confidence in the sector;

(b) notes that:

(i) Cairns has a rich naval shipbuilding heritage, including the building of 14 Fremantle Class patrol boats, and is considered by many to be an ideal hub for the construction and maintenance of small war vessels, and

(ii) a Cairns consortium has submitted a bid for the Federal Government Pacific Patrol Boats Tender; and

(c) calls on the Prime Minister (Mr Abbott) to confirm that the Pacific Patrol Boats Tender, due to be announced in 2016, will be unaffected by his recent announcement concerning the proposed build of naval vessels in South Australia.

Senator Waters to move:

That the Senate—

(a) expresses its deep gratitude for the great and pivotal contribution to Australia’s environment movement made by the late Felicity ‘Flic’ Wishart; in particular, her contribution to campaigns to protect our rainforests, stop broad-scale land clearing in Queensland, protect our wild rivers, confront the threat of climate change, protect the marine environment and finally to the ongoing campaign to protect the Great Barrier Reef; and

(b) conveys its sympathy and condolences to her partner Todd and her two sons, Bardi and Clancy.

Senators Leyonhjelm and Muir to move:

That the Customs (Prohibited Imports) Amendment (Firearms and Firearm Magazines) Regulation 2015, as contained in Select Legislative Instrument 2015 No. 133 and made under the Customs Act 1901, be disallowed [F2015L01233].

Fifteen sitting days remain, including today, to resolve the motion or the instrument will be deemed to have been disallowed.

Senator Ludlam to move:

That—

(a) the Senate notes the non-transparent process the Barnett and Abbott governments have followed in relation to the Roe 8 Extension and Perth Freight Link; and

(b) there be laid on the table by the Minister representing the Minister for Environment, no later than 5 pm on Wednesday, 12 August 2015, the following documents which are not publicly available but crucial to the assessment process:

(i) the draft Strategic Environmental Assessment of the Perth and Peel Region, including any advice requested from the Western Australian Government on its progress;

(ii) evidence that the proponent’s offset proposal can be met,

(iii) any completed Aboriginal cultural heritage surveys and evidence of the Western Australian Department of Aboriginal Affairs’ Aboriginal Cultural Material Committee ‘sign off’ on the Roe 8 Extension,

(iv) evidence of formal consultation with Whadjuk Noongyar representatives,

(v) any evidence to support the proponent’s assertion on the Main Roads Western Australian website that the Whadjuk Noongyar people support the Roe 8 Extension and Perth Freight Link,
(vi) evidence that the Hope Road Swamp (Roe Swamp) site was deregistered during the time of environmental assessment on the Roe 8 Extension,

(vii) any survey work on the Mound (tumulus) Spring Inquiry post-September 2013, and any advice on exact weighting of various Mound Spring categorisation criteria,

(viii) the independent modelling on the increased traffic, diesel particulate pollution, and noise pollution due to the increased scale and size of the Perth Freight Link project since the project was submitted for assessment in 2009,

(ix) any material, including maps, relating to alignments for the Perth Freight Link through North Fremantle,

(x) evidence of consideration of alternatives to the proposed Perth Freight Link, and

(xi) the business case for the proposed Perth Freight Link.

**COMMITTEES**

**Select Committee on the Regional Processing Centre in Nauru**

**Appointment**

**Senator GALLACHER** (South Australia) (15:37): by leave—I move:

That

(a) the Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru, appointed by resolution of the Senate on 26 March 2015, be reappointed with the same powers and provisions for membership, except as otherwise provided by this resolution;

(b) the committee have power to consider and use for its purposes the minutes of evidence and records of the select committee appointed on 26 March 2015; and

(c) the committee report by 31 August 2015.

Question agreed to.

**NOTICES**

**Withdrawal**

**Senator LAZARUS** (Queensland) (15:39): I withdraw business of the Senate motion No. 768 standing in my name for today.

**Senator McEWEN** (South Australia—Opposition Whip in the Senate) (15:39): I withdraw business of the Senate motion No. 776 standing in the name of Senator Collins for today.

**COMMITTEES**

**Reporting Date**

**The Clerk:** Extension notifications have been lodged as follows:

Community Affairs References Committee—availability of cancer drugs in Australia—extended from 4 August to 9 September 2015.

Environment and Communications Legislation Committee—Landholders’ Right to Refuse (Gas and Coal) Bill 2015—extended from 31 August to 30 September 2015.

Environment and Communications References Committee—fin-fish aquaculture industry in Tasmania—extended from 10 August to 18 August 2015.

stormwater management—extended from 19 August to 14 October 2015.
Legal and Constitutional Affairs Legislation Committee—Australian Small Business and Family Enterprise Ombudsman Bill 2015 and related bill—extended from 11 August to 18 August 2015.

Legal and Constitutional Affairs References Committee—arts programs and funding—extended from 15 September to 14 October 2015.

The DEPUTY PRESIDENT (15:40): I remind senators that the question may be put on any proposal at the request of any senator. There being none, I shall now move on.

Legal and Constitutional Affairs Legislation Committee

Reporting Date

Senator DI NATALE (Victoria—Leader of the Australian Greens) (15:40): by leave—I move:

That the time for the presentation of the report of the Legal and Constitutional Affairs Legislation Committee on the Regulator of Medicinal Cannabis Bill 2014 be extended to 11 August 2015.

Question agreed to.

BILLS

Parliamentary Joint Committee on Intelligence and Security Amendment Bill 2015

First Reading

Senator McEWEN (South Australia—Opposition Whip in the Senate) (15:41): On behalf of Senator Wong, I move:

That the following bill be introduced: A Bill for an Act to amend the Intelligence Services Act 2001 and other legislation in relation to the membership, powers and functions of the Parliamentary Joint Committee on Intelligence and Security, and for related purposes.

Question agreed to.

Senator McEWEN: 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 McEWEN (South Australia—Opposition Whip in the Senate) (15:42): 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 McEWEN: 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—

At the outset, it is appropriate to acknowledge the contribution of former senator John Faulkner to the creation of this Bill, which represents an example of his longstanding efforts in protecting the role of the Parliament in the oversight of intelligence and security agencies.
Of all the responsibilities of the Australian Parliament, none is more important than ensuring the security of our nation and its people.

Today we confront emerging and serious threats to our national security.

The Australian Parliament's responsibility is clear.

It must ensure our intelligence and security agencies have the necessary powers and resources to protect Australian citizens and Australian interests. However, these powers can impinge on the values and freedoms on which our democracy is founded—values and freedoms which Australian citizens rightly expect Parliament to protect.

So Parliament must strike a balance between our security imperatives and our liberties and freedoms.

Key to achieving this balance is strong and effective accountability. Enhanced powers demand enhanced safeguards. Public trust and confidence in our security and intelligence agencies can only be assured through strong and rigorous oversight and scrutiny.

Since 11 September 2001, new threats to Australia's national security have emerged with Australians targeted by terrorist organisations at home and abroad.

Close to home, the threat of terror became a shocking reality with the 2002 and 2005 Bali bombings, the 2004 bombing of the Australian Embassy in Jakarta, the 2009 Holsworthy Barracks terror plot, and other planned attacks on Australian soil, prevented by authorities.

On 12 September 2014, based on advice from agencies, the Australian Government moved the Australian terror-alert level from Medium to High for the first time.

Over the thirteen years since the 11 September 2001 attacks, the Australian Parliament has debated and enacted 65 pieces of anti-terror legislation.

With the exception of the first ASIO Bill, which was laid aside in December 2002, there has been a high level of cooperation in the Parliament to secure bipartisan agreement on national security legislation.

The ASIO Bill as presented in 2002 would have given ASIO extraordinary powers with inadequate safeguards.

The Parliamentary Joint Committee on ASIO, ASIS and DSD (the PJC) considered the ASIO Bill 2002 and provided a unanimous and scathing Advisory Report on 5 June 2002. In the report, the Chairman of the PJC (the Hon. David Jull) noted:

_The Bill is one of the most controversial pieces of legislation considered by the Parliament in recent times... The committee has been confronted with the challenging task of balancing the proposals in the Bill with the need to ensure that the civil liberties and rights under the law that Australia provides as a modern democracy are not compromised. The Bill, in its original form, would undermine key legal rights and erode the civil liberties that make Australia a leading democracy._

These differences, between not only the government and opposition but also the cabinet and the government's own backbenchers, were the exception to the rule, and indeed an amended Bill was passed in 2003, providing ASIO with substantial new powers but with enhanced safeguards.

Parliament determined an appropriate balance.

Agencies are again seeking additional powers to meet the current enhanced threat of terrorism. If security powers are to be extended, scrutiny and oversight must again keep pace.

In recent years, Australia has benefited from professional and well run intelligence and security agencies; respecting the parliament, the government of the day and our laws. But effective safeguards against the abuse of security powers cannot depend on the personal integrity and quality of the leaders of our agencies. It is the responsibility of Parliament to prescribe safeguards that keep pace with the expansion of security powers.
The purpose of the Parliamentary Joint Committee on Intelligence and Security Amendment Bill 2015 is to ensure that the adequacy and effectiveness of Parliamentary oversight of intelligence and security agencies keeps pace with the agencies' enhanced powers. This Bill amends the Intelligence Services Act 2001, the Independent National Security Legislation Monitor Act 2010 and the Inspector-General of Intelligence and Security Act 1986 to change the membership, powers and functions of the Parliamentary Joint Committee on Intelligence and Security (PJCIS).

In Australia, as in many other similar democracies, the powers of intelligence and security agencies have changed dramatically in recent years - the product of an increasingly complex and unpredictable security landscape. The maintenance of public security in the current security environment does require enhanced powers for the agencies charged with this responsibility. However, the protection of our hard-won democratic freedoms equally demands enhanced oversight of the exercise of these powers. With legislative change extending the powers of security agencies, the requirement for reliable, effective external oversight arguably becomes more critical to maintaining an essential level of trust in the community about agency operations.

It is the parliament to which the agencies are accountable, and it is the parliament's responsibility to provide oversight of their priorities and effectiveness, and to ensure agencies meet the requirements and standards it sets. There is no greater or more important focus of political activity in this country than Parliament itself, and the Australian Parliament has no better or more authoritative forum than the PJCIS to do this job.

This Bill removes current constraints on the membership of the PJCIS to provide that except for a minimum representation of one Government Member and Senator and one Opposition Member and Senator the balance of the 11 member PJCIS can be drawn from either chamber.

Currently, the Intelligence Services Act 2001 mandates a composition of six House of Representatives Members and five Senators on the PJCIS.

Removing the current constraints will enable greater flexibility in determining PJCIS membership.

The Bill does not amend the requirement for the Government to hold a majority.

The Bill also:

- provides for the PJCIS to conduct own motion inquiries after consultation with the responsible Minister;
- authorises the Independent National Security Legislation Monitor to provide the PJCIS with a copy of any report on a matter referred to it by the committee;
- requires the Inspector-General of Intelligence and Security to give the PJCIS a copy of any report provided to the Prime Minister or a Minister within three months;
- gives the PJCIS the function of conducting pre-sunset reviews of legislation containing sunset provisions;
- adds the Independent National Security Legislation Monitor and the National Security Adviser to officers able to be consulted by the PJCIS.

In Australia, as in many other similar democracies, the powers of intelligence and security agencies have changed dramatically in recent years - the product of an increasingly complex and unpredictable security landscape.

The maintenance of public security in the current security environment does require enhanced powers for the agencies charged with this responsibility. However, the protection of our hard-won democratic freedoms equally demands enhanced oversight of the exercise of these powers.

With legislative change extending the powers of security agencies, the requirement for reliable, effective external oversight arguably becomes more critical to maintaining an essential level of trust in the community about agency operations.
The greater the 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. I do not believe that to be the case. But in the relatively recent past those powers were used inappropriately, with a consequent erosion of public trust, and we must be conscious that enhancements we agree to now may lend themselves to future misuse in the absence of appropriate and effective accountability mechanisms.

Of course, ultimately the constitutional duty to control executive conduct as to its lawfulness lies with the High Court of Australia. This is a fundamental but only partial aspect of the oversight of intelligence agencies. Australians need continuing assurance of much more than simply the absence of illegality. They need to be assured the agencies are serving the purpose for which they were created and that they are doing so in a cost effective way.

It is the parliament to which the agencies are accountable, not the judiciary, and it is the parliament’s responsibility to oversight their priorities and effectiveness, and to ensure agencies meet the requirements and standards it sets.

There is no greater or more important focus of political activity in this country than parliament itself, and the Australian Parliament has no better or more authoritative forum than the PJCIS to do this job.

The Parliamentary Joint Committee on Intelligence and Security Amendment Bill 2015 will enable the PJCIS to undertake its responsibilities and fulfil its critically important role more effectively.

I commend the Bill to the Senate.


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

Leave granted; debate adjourned.

MOTIONS

Charter of the United Nations: 70th Anniversary

Senator BACK (Western Australia) (15:43): I, and also on behalf of Senator Singh, move:

That the Senate—

(a) recognises the 70th anniversary of the signing of the Charter of the United Nations on 26 June 2015;
(b) notes that:
   (i) Australia was one of the 50 nations which signed the Charter that established the United Nations (UN) organisation,
   (ii) the UN came into being on 24 October 1945,
   (iii) the signatories to the Charter agreed:
      • to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and
      • to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and
      • to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and
      • to promote social progress and better standards of life in larger freedom, and for these ends:
      • to practice tolerance and live together in peace with one another as good neighbours, and

CHAMBER
to unite our strength to maintain international peace and security, and
• to ensure, by the acceptance of principles and the institution of methods, that armed force shall
not be used, save in the common interest, and
• to employ international machinery for the promotion of the economic and social advancement of
all peoples, and

(iv) the first meeting of the UN Security Council in January 1946 was chaired by the Australian
Ambassador, Mr Norman Makin, AO; and
(c) calls on all members and senators in the Australian Parliament to celebrate the achievements of the
UN over the past 70 years.

Question agreed to.

Genetically Modified Crops

Senator LEYONHJELM (New South Wales) (15:44): I, and also on behalf of Senators
Wang and Day, move:

That the Senate recognises that:
(a) genetically modified crops have higher yields per hectare than conventional crops and therefore
reduce the need for further land clearing;
(b) genetically modified crops generally require fewer pesticide applications and therefore reduce
farming costs and the environmental impact of farming practices;
(c) further adoption of genetically modified crops will increase productivity for farmers and provide
superior environmental benefits; and
(d) there is a need to maintain an independent, scientific based and evidence based regulatory regime
for genetically modified crops.

Notice of motion altered on 24 June 2015 pursuant to standing order 77.

Question agreed to.

Infrastructure

Senator LUDLAM (Western Australia—Co-Deputy Leader of the Australian Greens)
(15:44): I move:

That—
(a) the Senate notes the comments made by Productivity Commissioner, Mr Peter Harris, who said 'we
treat consumers like idiots if we don't publish [cost benefit studies]' in relation to Commonwealth
funding of major infrastructure projects; and
(b) there be laid on the table by the Minister representing the Minister for Infrastructure and Regional
Development, no later than 5pm on Tuesday, 11 August 2015, the following documents held or
prepared by Infrastructure Australia:

(i) the Infrastructure Australia Board evaluation of the Perth Freight Link project that occurred at its
meeting on 7 May 2015,
(ii) any business case presented by the Western Australian Government for the Perth Freight Link
project,
(iii) any other documents in relation to the Perth Freight Link project provided to Infrastructure
Australia by the Western Australian Government, and
(iv) any assessment of the proposed Perth Freight Link undertaken by Infrastructure Australia,
including the priority of this project as compared to other projects.
The DEPUTY PRESIDENT: The question is that general business notice of motion No. 781 be agreed to.

The Senate divided. [15:49]

(The Deputy President—Senator Marshall)

Ayes .................... 35
Noes .................... 27
Majority ............... 8

AYES

Brown, CL  Bullock, J.W.
Cameron, DN  Collins, JMA
Conroy, SM  Di Natale, R
Gallacher, AM  Gallagher, KR
Hanson-Young, SC  Ketter, CR
Lambie, J  Lazarus, GP
Leyonhjelm, DE  Lines, S
Ludlam, S  Ludwig, JW
Madigan, JJ  McAllister, J
McEwen, A (teller)  Moore, CM
Muir, R  O’Neill, DM
Peris, N  Polley, H
Rhiannon, L  Rice, J
Siewert, R  Singh, LM
Sterle, G  Urquhart, AE
Wang, Z  Waters, LJ
Whish-Wilson, PS  Wright, PL
Xenophon, N

NOES

Back, CJ  Birmingham, SJ
Bushby, DC (teller)  Canavan, M.J.
Cash, MC  Colbeck, R
Day, R.J.  Fawcett, DJ
Ferravanti-Wells, C  Fifield, MP
Heffernan, W  Johnston, D
Lindgren, JM  Macdonald, ID
McGrath, J  McKenzie, B
Nash, F  O’Sullivan, B
Payne, MA  Reynolds, L
Ronaldson, M  Ruston, A
Ryan, SM  Scullion, NG
Seselja, Z  Sinodinos, A
Smith, D

Question agreed to.

Beef Industry

Senator O’SULLIVAN (Queensland—Nationals Whip in the Senate) (15:52): I, and also on behalf of Senators Canavan and Williams, move:
That the Senate notes that:
(a) the Australian beef industry contributed $8.5 billion to the national economy in 2013–14;
(b) in 2014, the United States became our largest beef export market, worth $2.44 billion, or around 32 per cent of the total value of our beef exports; and
(c) this is an important sign of our rural producers capitalising effectively on opportunities in overseas markets, delivering real returns at the farm gate and for our nation’s economy.

**Senator RHIANNON** (New South Wales) (15:53): I seek leave to move an amendment to the motion.

Leave granted.

**Senator RHIANNON**: I move the following amendment:
At the end of the motion, add "; and
(d) ending live animal exports and developing the Australian meat processing sector would boost skills, assist producers and create jobs in northern Australia".

**The DEPUTY PRESIDENT**: The question is that the amendment moved by Senator Rhiannon be agreed to.

Question negatived.

Original question agreed to.

**Illicit Drugs**

**Senator O’SULLIVAN** (Queensland—Nationals Whip in the Senate) (15:54): I move:
That the Senate—
(a) notes:
(i) the near fatal overdose by five young people of the deadly and illegal drug fantasy, gamma hydroxybutyrate, at a South Stradbroke Island dance party on 7 June 2015, and
(ii) the near fatal overdose by four young people of the deadly and illegal drug ecstasy on a Good Friday cruise in Sydney Harbour on 4 April 2015; and
(b) calls on the Australian Greens to condemn their New South Wales counterparts for their attempts to ban police sniffer dogs—an important police tool for preventing such overdoses at music festivals.

**The DEPUTY PRESIDENT**: The question is that the motion be agreed to.

The Senate divided. [15:59]

(The Deputy President—Senator Marshall)

Ayes ...................... 47
Noes ...................... 9
Majority .................. 38

AYES

Back, CJ ........................ Brown, CL
Bullock, J.W. ....................... Bushby, DC (teller)
Cameron, DN ........................ Canavan, M.J.
Cash, MC ........................ Colbeck, R
Collins, JMA ........................ Day, R.J.
Fawcett, DJ ........................ Fieravanti-Wells, C
Fifield, MP ........................ Gallagher, AM
Gallagher, KR ........................ Heffernan, W
Ketter, CR ........................ Lambie, J
Question agreed to.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (16:02): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator DI NATALE: I understand Senator O'Sullivan's desire to wedge the Greens on an issue like this, but Senator O'Sullivan needs a little education when it comes to the issue of sniffer dogs. Sniffer dogs do not actually work in reducing drug use. In fact, sniffer dogs get it wrong two-thirds of the time—a bit like Senator O'Sullivan himself. They have an appalling track record when it comes to recording convictions on this stuff. But here is the kicker: some serious overdoses and fatalities have been directly attributed to the sniffer dogs themselves. What happens is this. When a young person is at a festival, sees a sniffer dog and does not want to get caught, it is an incentive to ingest sometimes toxic levels of substances. We have seen people die because of sniffer dogs.

The DEPUTY PRESIDENT: We have indeed voted on that motion.

Waltzing Matilda Centre

Senator IAN MACDONALD (Queensland) (16:03): In moving motion No. 779, relating to the Waltzing Matilda Centre in Winton and its destruction by fire earlier this year, I note that the Mayor of the Winton Shire is currently in this parliament building. I move:

That the Senate—

(a) express its concern for the loss of important Australian cultural heritage, with the destruction by fire of the Waltzing Matilda Centre in Winton on 18 June 2015;
(b) acknowledges the impact of this event on the people of Winton who have lost an important tourism
drawcard, and a significant employer; and
(c) offers the people of Winton its understanding and support at the loss of this icon.
Question agreed to.

Vietnamese Community in Australia

Senator IAN MACDONALD (Queensland) (16:04): I move:

(a) welcomes the Vietnamese Community in Australia's (VCAs) celebration of the 40th anniversary of
resettlement in Australia with a reception at Parliament House on 22 June 2015; and
(b) congratulates the VCA on its contribution to the Australian community since the Vietnamese first
arrived in 1975.

Question agreed to.

International Development Assistance

Senator RHIANNON (New South Wales) (16:04): I ask that general business notice of
motion No. 777 standing in my name for today, requiring military logistical support not to be
accounted as foreign aid, be taken as a formal motion.

The DEPUTY PRESIDENT: Is there any objection to this motion being taken as formal?

Senator Fifield: Yes.

The DEPUTY PRESIDENT: Formality is not granted, Senator Rhiannon.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and
Assistant Minister for Social Services) (16:05): Mr Deputy President, I seek leave to make a
short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: As has become the practice in this place, we do not think complex
foreign affairs matters are appropriate to be dealt with by way of a simple binary motion, but I
should take the opportunity to indicate that the motion that was put forward by Senator
Rhiannon is factually incorrect. Nowhere in the Minister for Foreign Affairs' speech did she
state that Australia could count military deployments as foreign aid. OECD guidelines are
clear on what can and cannot be counted as official development assistance. The minister
stated that the delivery of humanitarian aid or development services by the ADF should be
acknowledged alongside other forms of assistance. In countries like the Philippines, Vanuatu
and Nepal, the ADF has played a key role in Australia's humanitarian response. It is only right
that Australia's full contribution to these international efforts is recognised. This is something
that Senator Rhiannon would know if she had read the minister's speech.

Senator RHIANNON (New South Wales) (16:06): Mr Deputy President, I seek leave to
make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator RHIANNON: The refusal of the government to have a vote on this important
motion should be noted because of the words that have been used here again—the weasel
words that we are hearing more and more when it comes to foreign aid. We have seen foreign
aid treated as an ATM, with huge amounts of money taken out of it. In the two years that this
government has been in power, $11 billion has been taken out of the budget for poverty alleviation. Now we are seeing attempts to change the definition. There is a weakness in how the OECD definition is set out, but we know there is proposal coming from the government to include military logistical support as a form of foreign aid and to be able to define it in that way, which would then allow the government to make out that its aid budget is bigger than it is. This is misrepresenting the aid budget at a time when they are actually ripping millions out of it. *Time expired*

**DOCUMENTS**

**Corporate Tax Avoidance**

**Order for the Production of Documents**

Senator WHISH-WILSON (Tasmania) (16:07): I move:

That there be laid on the table by the Minister representing the Treasurer (Senator Cormann), by 10 August 2015, a copy of the unredacted documents provided by the Australian Taxation Office to the Economics References Committee into corporate tax avoidance, with only personal names redacted.

Notice of motion altered on 24 June 2015 pursuant to standing order 77.

Question negatived.

**MATTERS OF PUBLIC IMPORTANCE**

**Unemployment**

The DEPUTY PRESIDENT (16:08): A 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 Abbott Government's presiding over the highest unemployment rate since 2002 and the highest number of unemployed Australians since 1994.

Is the proposal supported?

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

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

Senator LINES (Western Australia) (16:09): We now see an appalling statistic on unemployment rates in Australia, from a government that promised to do much better, a government that made outlandish promises about good government, about jobs and about the economy. But we have seen quite the opposite. In fact, when I think about the election of the Abbott government and the time since that election, it is hard to put my finger on any success the Abbott government has had with the economy, with job creation or with anything at all. The statistics that came out recently are an absolute disgrace and need to be highlighted in this place. All we hear from the Abbott government is the opposite. But the statistics are the statistics. We now have the highest unemployment figure in Australia since 1994. In fact, 6.3 per cent of Australians are now unemployed, and my home state of Western Australia is now setting the record across the nation, particularly for youth unemployment, which I will talk about in a few minutes.
Despite what the Abbott government might say, they have presided over the biggest increases in unemployment. It is 6.3 per cent. Where are the jobs they promised? Where are those jobs? When the government was first elected we heard nothing else. They went on day in, day out, about a million jobs. But we just have not seen those jobs. In fact, on their statistics, on their record, we are a long way behind that. The Abbott government also goes on and on about productivity and job creation, but that rhetoric has failed to see any reality; it has failed to make any dent in the unemployment rate. We now have the highest number of unemployed Australians since 1994.

If we look at Western Australia and at youth unemployment, the Abbott government's record has been quite appalling. First they tried to punish young people who were unemployed by putting in their first budget that unemployment benefits should be held back for six months. Yet the national unemployment rate for young people is 13.3 per cent. The Abbott government is now creating a generation of unemployed people. These are young people with their futures before them, yet when it comes to the most basic entitlement—to a job—they cannot seem to get employment. In Mandurah, in the southern suburbs of Perth, in the seat of Canning, the youth unemployment rate is 14.3 per cent. In Mandurah, in the seat of Canning, 14.3 per cent of young people cannot get a job. And what was the Abbott government's response? 'Well, we'll just keep you off unemployment benefits for six months.'

We heard people opposite, Abbott government members of parliament, for some reason blaming those young people. We heard that they needed to be punished, that we needed to be hard on them. Well, the jobs just are not there. The fact that the Abbott government is presiding, in the seat of Canning, over a youth unemployment rate of 14.3 per cent is an absolute disgrace. And what do we hear from them? Nothing but rhetoric about how somehow the trickle-down effect is going to create jobs for these young people. So far it has absolutely failed, and the trickle-down effect will not help 14.3. per cent of young unemployed people in the seat of Canning, with their whole futures before them, into employment. That just does not work.

The last time we heard any comment on the unemployment statistics from the Abbott government—I have not heard from them recently about the big increase to 6.3 per cent—was when there was a 0.1 per cent drop. Senator Abetz was out there claiming this massive success, back in April this year, when he described that slight increase—which was really a seasonal adjustment and nothing more—as encouraging. Is that the best we can get from the Minister for Employment—to describe a seasonally adjusted figure, which really meant nothing, as encouraging? If a 0.1 per cent increase in a seasonally adjusted figure is encouraging, then a two per cent increase in unemployment since that date must be an absolute disgrace. You cannot say that something as miniscule as 0.1 per cent is encouraging and then be completely silent on a two per cent increase. A two per cent increase is a disgrace.

And what else have we heard from the Abbott government? Let us look at their record, because their rhetoric does not match their record. In fact, since they have been elected, it is very clear that the Abbott government has no idea how to create jobs in this country, because, what have they done? One of the first things they did, with the support of the cross bench in this place, was to freeze superannuation payments. Then they had the gall to say, over and over again, that the money that would normally come from the employer to go towards employer contributions would end up in workers’ pockets. They were on the public record as
saying that. The only pocket that money has ended up in is the employers' pockets. It certainly has not gone to employees' pockets.

What have they done for low-income Australians, particularly low-income working women? Well, they knocked off the superannuation supplement. Remember that. When in government we brought it in to support people, mainly women, in their retirement. That has gone. So it is another cut to the retirement income of low-income Australians.

This week, and today and in the chamber, we have shipbuilders, members of the AMWU, lobbying here. They are lobbying for the Abbott government to keep the promise that submarines would be built in South Australia. No matter how they want to dress it up, that promise has been broken. Shipbuilders will lose their jobs—in fact, some of those men today have lost their jobs. Building ships overseas does not create more jobs in Australia. Then, despite his denial, we had Senator Abetz showing callous disregard and contempt for the Hutchison Ports workers when he endorsed their sacking at midnight via text. All he had to do today in question time was acknowledge that to send somebody a text at midnight and tell them they were sacked—men and women, working Australians—is not on. It is not treating those workers with respect. But, no, he tried to defend that today and to pretend that it was all up to the Fair Work umpire. Those were his words. If that is how you normally talk to your employer, then getting a text at midnight is okay. But it is not okay, and it shows once again how out of step this government is. It is not okay to send somebody a text at midnight and tell them they are sacked.

But, of course, the Abbott government has form on the waterfront. Remember Peter Reith and his callous disregard for waterfront workers. That is being repeated again. We should applaud well-paying jobs in this country, because that means people lead decent lives and they can prepare for their retirement. But, no, all we have seen under this government is the callous disregard for workers who earn a decent living and can provide for themselves, and an attack on the low-paid.

Just last week the Productivity Commission released its report. The Abbott government from day 1 has wanted to abolish penalty rates, and that is what the PC is recommending for some of Australia's workers. What do we have? We have the Prime Minister coming out in support of a reduction in penalty rates.

The other point in there is this kind of freezing of the minimum wage. Again, it just shows the Abbott government's complete disregard for and complete misunderstanding of workers in this country—to attack the lowest paid and say that it is okay for penalty rates to be reduced. Well, perhaps they do not understand that reducing penalty rates reduces take-home pay. Despite Mr Hockey's rhetoric to Australian workers a few months ago to 'get a good job with good pay', we see that as unacceptable for waterfront workers, for MUA members—(Time expired)

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (16:19): It is my pleasure to rise and speak on this MPI because it is indeed a matter of public importance—the issue of jobs for both mature-age workers and for young people all around this country. I just want to make a couple of remarks up-front about the attitude of senators opposite.
Senator Lines has just highlighted the reluctance to address the issues that cause displacement and unemployment for so many people. She has just accused the coalition of having no understanding and no empathy. How about Mr Martin Ferguson, one of the heroes of the Labor Party and the union movement here in Australia. In regard to penalty rates on Sundays, he says, 'It is wrong to say that people absolutely depend on these penalties, because the way we are going they, the workers, might have the penalties in their awards but they might not have a job, because industry can no longer operate under the existing framework.'

So, how can the Labor Party sit there and make comments that close down any discussion about changing the issues that are actually causing the unemployment, when the heroes of their own side of politics have recognised that some of those fundamental conditions need to change if we are to see young people and more mature workers in work.

I want to talk a little bit about the unemployment rate. Again, Senator Lines has talked about this going up to 6.3 per cent. Statistics are wonderful things, but they can also be misleading. The ABC is generally no friend of the coalition, but I note that on the ABC's website, Michael Janda, a business reporter, said:

The reason why unemployment jumped despite much better-than-expected jobs growth is that the participation rate soared 0.3 percentage points to 65.1 per cent. 'Soared' being the term he used. Because unemployment data is all about the population you are measuring, and your comparison, you can get quite misleading figures. So for those who are saying this is outrageous because it is a two per cent jump, I just want to make the point that there are some underlying factors about things, like the participation rate, that despite, in the ABC's words, 'much better-than-expected jobs growth', we see a rise in the figure. That is not to decry the importance of unemployment for those people who are affected by it. The coalition is quite seized of that fact, which is why we are taking a number of measures to ensure that this government creates an environment where jobs are created.

Let us go to one of the commitments of the Prime Minister at the election. He said he wanted to be the 'infrastructure Prime Minister'. In South Australia, we have seen this government commit $428 million to the north-south corridor, creating, for the Torrens Road to Torrens River part of that project, some 480 jobs per year during the construction phase and, for the Darlington Interchange, some 370 jobs during the construction phase.

In the Defence space, members opposite are saying that this is all dreadful and that we are presiding over high unemployment, but they are not acknowledging that, when they were in government, the $16 billion that they cut out of the budget for Defence—which in my state is one of the largest industry sectors—resulted in a 10 per cent contraction of the workforce in the defence industry. This government, in contrast, is boosting funding. We have brought forward funding to start addressing some of the remedial issues for catching up on defence bases and equipment that needed remedial work, and we have brought forward announcements just this last week about future shipbuilding. We are bringing particular projects forward, like the future Pacific patrol boat project, the future frigate project and the offshore patrol vessel project. This $89 billion investment is going to keep some 2½ thousand jobs sustainable into the future.

Let us look at mining. South Australia has great potential for minerals. We were hoping that the Olympic Dam expansion would provide great benefit to South Australia—literally thousands upon thousands of jobs. But why didn't that happen? Why didn't that go ahead?
Well, the environmental impact statement was lodged in May 2009 but the decision did not come back until October 2011, by which time a number of things, like commodities prices, had changed. In 2012 BHP decided to defer that whole project and seek a cheaper way of extracting the copper. What else happened in 2012? It was the commencement of the carbon tax put in place by the Labor government. Olympic Dam mine is the largest consumer of electricity in South Australia. Electricity is the second-highest cost of extracting copper in a copper mine. The carbon tax which was brought in, starting in 2012 at $23 a tonne, was forecast by Labor's own figures to go up to $350 a tonne by 2050, which would be right in the productive part of that mine's life. Is it any wonder that BHP decided they would not go ahead with the plan and would seek a cheaper option? The policies that the Labor government put in place and are still seeking to bring back in—as we saw at their national conference—are job-destroying policies.

What is this government doing? We have got rid of the carbon tax. We are committed to having a low-cost, low-impact way of abating carbon. Importantly, we are also about getting rid of the duplication in things like environmental approvals so that we can see projects up and running more quickly, which means greater investment and greater job opportunities. To July this year, there have been, under this government, 173 final approvals, which represents nearly $1 trillion worth of major projects that will occur in Australia, which means huge numbers of jobs.

We are also looking at things like the Next Generation Manufacturing Investment Program. In my state of South Australia, this is part of the $155 million growth fund that the federal government has committed to helping people adjust from the auto sector. As Mike Devereux, head of GM, and GM themselves, said, the decision to close down their Australian operations was nothing to do with Australian government policy; it was a decision out of Detroit. But our response has been to find those companies that are innovative in their manufacturing methods, who have the potential to capture export markets, and to help them grow their capacity—companies like Seeley International, Ahrens engineering and Levett Engineering. Seeley, who are innovative in air-conditioning technology, now export around the world. Ahrens engage in large agricultural and commercial building construction. Levett produce high-technology advanced manufacturing parts for the Joint Strike Fighter engine. We are supporting those people to create hundreds of sustainable jobs in South Australia.

This government already has signed up to free trade agreements with Japan, Korea and now China. Those free trade agreements are going to bring huge numbers of jobs and opportunities, and yet again the Labor Party is opposing the China free trade agreement, which stands to benefit thousands of Australians in terms of work. This government is creating the environment whereby we can see people invest in this country, see export opportunities and create jobs—and the sticking point is those opposite. They come in here with an MPI that says that this government is presiding over high unemployment, when it is partly the way statistics are measured but significantly we are repairing the damage that has been caused by the ALP in the past and that they continue to inflict, through things like their opposition to the China free trade agreement, and that they plan to inflict in the future, with their plans to reimpose the kind of $209 per tonne cost on carbon which is going to impact on jobs.
We can look at their own heroes, people like Martin Ferguson—and Mr Acting Deputy President Smith, I realise you have written about this recently—on the subject of the Productivity Commission report about the factors that affect the ability of Australian companies to employ people. Rather than have a sensible, mature discussion about it, the first thing that the Labor Party and the unions want to do is to have a fear campaign and shut down discussion. But, as Mr Ferguson said, to dismiss the report out of hand would only be to the detriment of workers. If we want more people in work, I would call on the members opposite to listen to people who are heroes in their own organisation, like Mr Martin Ferguson, so we can have the discussion to continue our reforms, to continue our measures, whether it is productivity reforms, infrastructure investment, refining environmental approvals, getting rid of carbon taxes or creating things like free trade agreements. The coalition is about creating the environment and the capacity for Australians to invest and to employ, which creates jobs for future generations.

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (16:29): I rise to speak on this important MPI in relation to job creation. The government once again, true to form, have an incredibly last-century view of jobs and job creation. Where is their support for job creation and new jobs in the new clean economy? Where is their support for renewable energy jobs? Where is their job for green manufacturing jobs? Where is their support for ecotourism jobs? Where is their support for jobs in agriculture and the Great Barrier Reef, which are huge employers and which are under threat from climate change? Where is their support for jobs in science and innovation? We know science funding is at record low levels under this government. Where is their support for technology and medical innovations?

Let's start with the carbon price. In the lead-up to the election, the Abbott government said that the carbon price was a job-destroyer, that every job would be decimated and that the repeal would create jobs. Let's look at the figures. Unemployment averaged 5.7 per cent during the two years that we had the carbon price and it is now 6.3 per cent. So the unemployment rate is actually higher now that we do not have a carbon price. Again, that demonstrates the complete false rhetoric of Mr Abbott and his government. Similarly, economic growth was at five per cent under the carbon price and under this government it has been 3.8 per cent. So much for the carbon price being a job-destroyer and an economic handbrake—quite the contrary. This government still fails to realise that an ambitious climate target will create new employment and investment opportunities right across the economy. The old energy industry has already started that irreversible decline and we can at least start to create those new jobs of the future while we help to support and retrain those workers and transition them into the inevitable clean energy jobs of the future.

On renewable energy jobs, there are already many more people employed in renewable energy generation than there are in coal generation. And we are only at the beginning of this transition—this transition that this government is doing all it can to withstand. Globally, renewable energy jobs are growing at 18 per cent a year. Australia is missing out big time on that growth opportunity and we have some of the best renewable resources in the world. What a wonderful opportunity for us to capitalise on our natural advantage and create employment and prosperity whilst also tackling global warming.
Instead, during the uncertainty that this government created with their review of the renewable energy target—a review by a climate sceptic even though an actual review by the actual appropriate independent statutory authority had just been completed—during that complete debacle, the freeze meant that 2,300 jobs in renewables were lost. That is 15 per cent of the workforce. We have a government that claims to care about jobs. Well, they only care about dirty jobs; they do not care about the jobs of the future or clean energy jobs. Yet, we know that that transition is already on.

Sadly, there has been a 32 per cent reduction in coalmining employment. I say 'sadly' because this government has not planned for that transition. We are seeing mass sackings by big coalmining companies and the government has not done the work to make sure that those people are re-employable and transitioned into other work, perhaps rehabilitation, perhaps renewable energy generation—the skills for which those workers have. This government is happy to let the coalmining industry turf them out on their rear ends. It is a huge missed opportunity. We should be protecting the jobs of today and the jobs of the future by taking action on global warming. Sadly, that is all the time allotted to me. Thanks.

Senator CAMERON (New South Wales) (16:33): I take the view that this debate is a long overdue debate in this place. We have had all the rhetoric and all the slogans from the coalition on jobs. And we have seen the Prime Minister in the last week or so suddenly discover there is a problem with jobs in South Australia. That is why he went to South Australia. He has made more promises in South Australia about shipbuilding; before the election, he was in South Australia making promises about submarines. The problem for this government is that nobody believes them on jobs, nobody believes them on the environment, nobody believes them on tax and nobody believes them on any of the issues that are important to the Australian people. That is clear as you read the polls every week that say how bad this government is going. It is simply reflecting the lies and the misrepresentations that were given to the Australian public prior to the last election.

Look at their documents—and I bet not too many coalition members carry this one around with them, this crazy document, Our Plan—real solutions for all Australians. There is the Treasurer, Joe Hockey, on the front page looking as if somebody has stolen his wallet, and he has looked like that ever since he became Treasurer of this country. He has been one of the worst Treasurers we have ever seen. He brought down a budget that did nothing for unemployment. He brought down a budget that did nothing for the social welfare of this country. He brought down a budget that was overwhelmingly rejected by this country. No wonder he looks so sad and so out of touch in Real solutions for all Australians, because I think he might have been pondering: 'What's going to happen if I get the job? I don't have any answers.' It is clear that he does not have any answers.

Look at this document and the issue of jobs. On page 33, they talk about 'delivering more jobs, higher wages and higher living standards'. We have had them preside over the highest unemployment rate since 2002 and the highest number of unemployed Australians since 1994. So they are not delivering on more jobs, higher wages and higher living standards. They said they would deliver two million new jobs over the next decade. I can tell you they will never do that because they will not be in government to do it. The Australian public have had a gutful of them, a gutful of the lies, a gutful of the misrepresentation and a gutful of the
chaos that is there everyday in this government. It is one crisis after another in the Abbott
government.

They said that they would be a grown-up government. Yet, only a few months into
government, we saw chaos and the position where the Prime Minister was going to be necked
by his own backbench only six months ago. He wanted six months to improve things. Well he
hasn't improved anything for the unemployed. He hasn't improved anything on the
environment. He hasn't improved anything on policy issues. We are still getting the same
mindless rhetoric, the same promises that are broken day in day out from a government that
does not know how to govern, does not know what it is doing and has got no idea what is in
the interests of ordinary Australian families and the unemployed in this country.

They said they would help the unemployed and get young people into a job on page 33 of
this so-called 'Real Solutions.' What was their answer to getting young people into a job? The
first budget said: 'Take them off the dole for six months. Starve them for six months. Don't
give them any means of looking after themselves for six months—that will get them into a
job.' How crazy is that sort of approach?

They have now decided: 'Well, we can starve them for a month,' which in reality, if you go
through all the processes, will be five weeks with no money. So the unemployed will get
nothing for five weeks under this government and, if you are talking about getting the
unemployed into jobs, you don't starve them. You actually give them skills. You actually give
them training. You give them hope. You give them opportunity. You don't take penal action
against them, and that is what this government is all about.

This government is about trying to demonise the unemployed. It set about all the austerity
provisions in its first budget and it has had to retreat from there. What is a mature
government, if you cannot get even your first budget through the parliament. You are into
your second budget, and still major provisions in the first budget have not gone through
parliament, because they are unfair and they are unacceptable to the Australian public. They
are unacceptable to the opposition.

These are the problems we have. You just cannot go out and make promise after promise
after promise like building the submarines in South Australia, like not cutting the ABC, like
creating more jobs. You don't have the capacity or the wherewithal to deliver, and that is the
problem. You don't have the vision. You don't have the people. You don't have the expertise
to deliver as a government, and that is why we have got the highest unemployment since
2002.

What you do is you wreck the opportunity for jobs by cutting back on CSIRO, by cutting
back on renewable energy—the jobs of the future—where many of the jobs that would be
displaced in manufacturing could then be taken up in renewable energy. That requires more
research and development. That needs a better scientific base. It means more work on high-
quality research. What is this government doing? It cuts our research capacity in the CSIRO.
How is that going to create jobs and a smart economy?

It waxes lyrical about free trade agreements, as if this is some great thing that they have
done: they have delivered on free trade agreements. All the analysis I have seen on free trade
agreements over many years is that the rhetoric never comes true in terms of what the
promises are. I asked the Parliamentary Library: On all the free trade agreements we have, can
you tell me what the benefits are in jobs? Can you tell me if the increase in GDP that was analysed in those free trade agreements has ever come to fruition?' They said, 'No, we can't tell you.' It just does not work.

What have they done now on the Chinese free trade agreement? What they have said for the first time ever—

Senator O'Sullivan interjecting—

Senator CAMERON: And you can harp—Senator O'Sullivan can yell all he likes, but from the National Party, who have just displayed their lack of competence, their lack—

Senator O'Sullivan: Doormats!

Senator CAMERON: Senator O'Sullivan, you said doormats—that is exactly what you are; they are even calling themselves doormats, because it is unequivocally the position that you are the doormats.

Let's go to the China free trade agreement. For the first time ever there is going to be a thing called concessional 457 visas that extends these visas to semiskilled workers—never been in a free trade agreement before that semiskilled Chinese workers can come into Australia.

They are putting infrastructure facilitation agreements in and they have surrendered rights to alter them to China. You cannot alter that unless China agrees. Investment and employment restrictions have been relaxed, target sectors extended, checks and balances overlooked and unions excluded from ensuring that we get proper employment provisions.

Labor market testing has been abandoned so, if you have got the skills, the ability and the wish to do a job, then they are not included in this agreement. You do not look after them; you are looking after Chinese employment before Australian employment. Mandatory skilled assessment for safety has been removed. Unreciprocated generous holiday visas are offered to 5,000 Chinese—nothing like that for Australians going into China.

So the deal has got real problems in a whole range of areas. That is not going to create the jobs for the future. The government has no idea about jobs. It has got no idea about anything other than economic theory that says: if you reduce wages and conditions, you will create more jobs. You don't have the tools. You don't have the capacity. You don't have the knowledge. You don't have the will to create jobs. You are a job-free zone, this government, so let's go from that point—(Time expired)

Senator BACK (Western Australia) (16:43): There is one thing that we all agree on in this chamber and that is that we need more jobs. We particularly need more jobs for young people. We need more jobs for older members of the community. Unfortunately, what we have heard from Senator Cameron and delivered when we came into government was a shocking situation which this government, of course, is moving very, very actively to address.

Let me tell you just in terms of new jobs: 163,000 new jobs from the beginning of this year; 23,000 new jobs per month. Since the coalition came into government, well over 333,800 new jobs have been created. But that is not enough. It is absolutely not enough. Senator Moore makes this point in her MPI, as do others who have spoken. We are out there and we are working hard.
Where do most jobs occur in this economy, and where are the new jobs going to come, particularly for the young, particularly for the long-term unemployed, particularly for older people and particularly in rural and regional areas? You know as well as I do, Acting Deputy President Smith—since you have spoken on this recently yourself—that it is in the small and middle sector. It is not in government employment and it is not in large corporations' employment; it is in the small business sector. What did we have in this last budget due to the excellent work of Minister Billson? It was the initiatives, of course, that we are seeing now: a 1½ per cent drop in the company tax rate for small business and the opportunity for small businesses to invest up to $20,000 in individual income-generating and revenue-generating initiatives—and we are already starting to see the benefits of this.

What are we seeing in the skills development area, particularly in our own state, where, as we know, the big development projects were always coming to a conclusion? Those of us who travelled the other day to Gorgon and Wheatstone included Senator Lines; Senator Sterle; Ms MacTiernan, the member for Perth; and several others. We saw in the case of the Gorgon project that it is 90 per cent complete now and Wheatstone is 65 per cent complete. I remind those unfamiliar that these are jointly $80 billion combined projects. I am going to come back to that in a few moments because of some of the actions of the more feral unions.

We are seeing now as a result of the initiatives of the coalition government, in the mining sector alone in Western Australia, 4,800 apprenticeship commencements and 36,600 apprentices in training. We are seeing now, for example, in WA alone, through the new Australian Apprenticeship Support Network across Western Australia 41 sites, including outreach sites, already in place in Durack and in O'Connor particularly, in those areas where we know there will be a demand. This is what this government is doing. It is focusing on skills development. It is focusing on training opportunities for young people. It is, for example, focusing on the trade loan scheme, which is not $5,000 for a few tools that is paid once but is a $20,000 loan program. It is fair to say that there has not been an enormous take-up—I think about 2½ thousand alone in our state—but I will tell you what has happened as a result of the initiatives of the coalition government: many of the young apprentices have stayed on to complete their apprenticeships. And how vitally important is that?

I will come for a moment to the all-too-predictable response the other day to the Productivity Commission's report, when they addressed a number of issues. The first one I will speak about is greenfields agreements—in other words, agreements that should last for the length of the project. What are we seeing at the moment with the CFMEU in the Gorgon project? It is 90 per cent complete, and they are all going out on strike simply because they are trying to push the last few hours, days and weeks of that project. They are complaining about Chevron, which will not negotiate with them. Chevron does not employ any workers. It is all done by contractors.

Here is a case, Acting Deputy President, as you know, of a project that is worth $80 billion that has created for the MUA its richest opportunity ever in its history. A company in Houston, Chevron, has made its biggest investment anywhere in the world: three gas trains at Gorgon, two gas trains at Wheatstone and the opportunity for a fourth and a fifth at Gorgon and more at Wheatstone. So you would have thought, wouldn't you, that the head of that union would have been over there saying to that company, 'How can we work collaboratively and collectively to influence your board, Mr Watson'—the chairman of Chevron
internationally—’so that you might decide to invest in a fourth and fifth train, however expensive it is to work offshore in WA compared to the Gulf of Mexico in the US?’ It is more than double.

What did the head of the MUA do? He stood up in Houston at the AGM of Chevron and completely bucketed the management of the Chevron company with a whole stack of fallacious statements about occupational health and safety on those projects. How do you think the board of Chevron thought, or how will they think when they go to the conclusion as to whether they invest several billion more dollars in those projects? I do not know what was in Paddy Crumlin’s mind. I have no idea. The head of a union whose members are making hundreds of thousands of dollars—his own union, absolutely glowing with riches—went across to that country and lambasted the operations of Chevron in Australia with a whole stack of lies about the relationship between the Australian Taxation Office and Chevron and Chevron’s relationship with its Singapore identities. I can only wonder what Mr Martin Ferguson must have thought, when he said that the greatest thing holding back the opportunities in that industry is in fact the poor relations occurring across the board—again, with Mr Crumlin sitting beside him and the head of the CFMEU in that state, Mr Buchan. I am at a loss. Maybe somebody can explain it to me.

Time does not permit, of course. Senator Cameron spoke briefly and others have spoken briefly about naval shipbuilding in South Australia. As Senator Fawcett said, the last government ripped $16 billion out of the defence budget, having a dramatic effect on opportunities in South Australia, and this government is turning it around and committing heavily to re-establishing a viable shipbuilding industry. I will back the coalition every time when it comes to job opportunities.

Senator DAY (South Australia) (16:51): It has been said that any place you cannot leave is a prison. Well, you cannot leave the workplace regulation system. It is a prison. When I ask why we lock people up like this, I am told: ‘Well, it is for their own good. We do not want them to be exploited.’ This is a grotesque infringement on liberty, freedom and dignity. It violates a person’s right to get a job and provide for themselves and their families. It is unjust and unfair, particularly to the young people of my home state of South Australia, where youth unemployment is over 40 per cent in some areas.

Why is it that a person over the age of 18 is permitted to get married, have children, drive a motor vehicle, buy a house, take out a mortgage, travel to some of the most dangerous places on earth, smoke cigarettes, drink alcohol, serve in the Army and vote but is not permitted to get a job on terms and conditions which suit them and their family? Unemployment in South Australia remains the nation’s highest. If state and federal governments genuinely want to fix this tragic problem, they should release people from this workplace regulation prison.

Senator O'NEILL (New South Wales) (16:52): It is with sadness that we have to stand and declare the reality that exists in this great country on this day—that is, that the Abbott government is presiding over the highest unemployment rate since 2002 and the highest number of unemployed Australians since 1994. That is a great shame on this nation, and it reveals the litany of mistruths that were told by those opposite before they came into power. Somehow they thought that, by simply arriving, the economy would take a turn for the better and everything would be rosy in the world of Liberaldom under Tony Abbott. But what we are seeing is the proof that this government is inadequate in terms of its capacity to govern,
and the people who are paying the price for the incapacity of this government are the most vulnerable, particularly the unemployed.

The Prime Minister visited the Central Coast in the period since parliament last sat. He did not come to give anything to the Central Coast, though; he came to take money away at private fundraisers that people had to have invitations to go to. In addition to taking that away, he stood proudly and declared to the local newspaper that he had the honour of being the employment minister for several years in the Howard government and claimed his great success. But, in fact, these figures today take us back to exactly the same figures that existed when he was the minister for employment. I should call him the minister for unemployment, because that is the truth. As the minister for employment in the Howard government and now as the Prime Minister, the worst unemployment figures have been under the watch of Tony Abbott.

Indeed, Mrs Karen McNamara, the member for Dobell, standing alongside Mrs Lucy Wicks, the member for Robertson, indicated to the local newspaper:

Unfortunately, for too long the unemployment rate on the Central Coast has been at unacceptable levels … it's well above the national and state level. I do not know how they are actually able to discern that, because the material that arrived at my office with a cover letter from Minister Hartsuyker did not declare any of the statistics for the Central Coast. That is another great thing that has happened since this government came in: they have withdrawn the statistics about the Central Coast and have drawn them into Greater Sydney, so they can hide the shame of what they are inflicting on the Central Coast community. Mrs McNamara went on to say:

I have been knocking on their doors—

referring to the Assistant Minister for Employment and the Prime Minister—

for the last two years saying we need to do something about this.

Indeed, the Prime Minister did do something about it. He came and he announced the Work for the Dole program. But did he go out to the sites where the people are going to work for the dole? No. He did not take the cameras out to the sites which are by the coast—away from many places where these young unemployed people live—where people are now going to pull weeds from the ground. That is their Work for the Dole program.

What sort of skill development is that for young unemployed Australians? What sort of shame is that to put them under? We love our environment on the Central Coast, but we do not pretend—certainly on this side of the chamber—that that skill development is going to get you a qualification and a job. And his mate, Mike Baird, in the state of New South Wales, is increasing the price of TAFE to such a point that young unemployed people cannot fathom any possible way out of the unemployment situation they find themselves in. To add insult to injury, Mrs Wicks, the member for Robertson, constantly proclaims to one and all that she has created 600 jobs on the Central Coast. Let us get some facts on the table here. The 600 jobs that she talks about are on the never-never. When the Prime Minister was on the coast he indicated that there 'might' be a refit of some building in Gosford in 2016. I remind anybody listening that that is likely to be after the next election. He then said that there 'could perhaps' be some of these 600 jobs in 2017. People who are in years 11 and 12 now might have a chance to get some of those jobs, but even that is unlikely.
The reality is that this government are not believed, as Senator Cameron indicated, by anybody anymore. They have told so many porkies over such a long period of time that no-one trusts them, and the people on the Central Coast know they cannot trust the Liberal members who continue to lie about job creation. The fact is that we are sitting here in this chamber at a time when unemployment is at its highest level since 2002 and we have the highest number of employed since 1994. Shame on this Abbott government! *(Time expired)*

**Senator CANAVAN** *(Queensland) (16:58):* Senator O'Neill just said that it is time to put some facts on the table, and I certainly concur with that statement. Sometimes if you are listening to these speeches from Labor senators you notice that numbers are not their strong suit. In this instance they seem to be expressing some kind of shock or horror that the number of people in Australia grows over time. Our population grows and therefore, of course, sometimes the number of unemployed persons grows or the number of employed persons also grows over time. Indeed, during the Rudd-Gillard government, those six years, the number of unemployed grew by 325,000. There were 325,000 more people unemployed at the end of the Rudd-Gillard government than there were at the beginning. Partly that was because of an increase in the unemployment rate during that period, but it was also due to an increase in the general population that we had. I should also say that the population has continued to grow under this government. So the number of unemployed persons has grown as well.

What was very concerning under the Rudd-Gillard government, though, was not just the growth in the unemployment rate or indeed the growth in the total number of people unemployed but also the decline in the participation rate, which is very important. It is a statistic not often referred to, but what it means is the percentage of people who could work who are looking for work. At the start of the Rudd-Gillard government the participation rate was 65.4 per cent and over the period of that government it fell to 64.7 per cent. That does not sound like a big decline but, over history, it is actually quite a large decline. That, of course, happened because people were disaffected—they did not think they could possibly find a job, so they were not looking for a job and they left the labour force. Therefore they were lost to our economy and our community, at least in terms of their economic contribution.

Since the Abbott government came to power the participation rate, which was at 64 per cent, has now grown to 65.1 per cent. It has grown by almost half of what the fall had been during the Rudd-Gillard government. That normally indicates a vote of confidence—if more people are looking for work it is generally a vote of confidence that potentially there is work out there. So there are some green shoots here in our economy—people are at least not becoming disaffected in their employment search and they want to look for work. More people are out there looking for a job now, which is a good thing.

The last employment survey, which was released a couple of weeks ago, for July, which Labor is so focused on, showed that 38,500 jobs were created in July. That is definitely an above-average level of jobs growth, and above market expectations at the time. But the participation rate increased at the same time, which is why the unemployment rate increased. If the participation rate had not increased and we got those 38,500 new jobs, unemployment would be 5.9 per cent today, not 6.3 per cent. The reason unemployment has increased is that more people are looking for work and more jobs are being created, which is a good thing.

It was not just in July that more jobs have been created under this government; I think Senator Back mentioned that 163,000 jobs have been created this year alone, which equates to
around 23,000 jobs per month. Last year 200,000 jobs were created, which equates to around 16,200 per month. We are building on it—things are getting better. Last year we had 16,200 jobs per month created; so far this year we have had 23,000 jobs. That is a good news story. We are heading in the right direction. We do not have a magic wand; we cannot create jobs overnight. But we can create the economic environment where there is more confidence and in which more people want to start a business and employ people. That is exactly what has been happening. When you compare last year's jobs growth of 16,000-odd per month and this year's growth of more than 20,000 jobs a month created with that of the last year of the Labor government, 2013, you will see that just 3,600 jobs per month were created. We have gone from 2013 with 3,600 jobs per month being created to 2014 with 16,000 jobs per month being created to this year with, so far, 23,000 jobs per month being created. It is a good news story. Things are heading in the right direction and that is the way we hope it will be.

That is not to say that there are not challenges in our economy. That is not to say that the last few years have not been difficult for some parts of Australia. Rockhampton, where I am based, is in a large area of coalmining, and it has been very tough in the last couple of years, with declining commodity prices and increased unemployment. In our area we need to attract new jobs and new investment. At the moment we have two great threats to those things happening. Two things will stop jobs from being created in Central Queensland: one is tax, the other is regulation and red tape. Those two things, tax and regulation, are the biggest threats to jobs in Central Queensland today. On the regulation front, last week we saw a snake and a lizard stop a $16 billion coalmine project in Central Queensland. There was not anything particular about the snake or the lizard that caused this project to be stopped; it was the fact that certain bureaucratic processes had not been complied with, so a judge put that decision aside.

That $16 billion project was first put forward for approval to the Department of the Environment in November 2010 and the investor is still waiting for a yes or a no. It has now been 1,726 days since that investor asked whether or not he could get approval from the federal government to build a coalmine—1,726 days. What country takes more than 1,700 days to say yes or no to a $16 billion project that would potentially create 10,000 jobs? We are talking here about jobs and a 10,000-job project is staring us in the face right now and we want to argue about bureaucracy and whether or not the minister has looked at every sentence in a preservation order. It is madness.

The other big threat to jobs is tax. The Labor Party and the Greens want to bring back the carbon tax. They loved the carbon tax so much the first time that they want to bring back a sequel that is bigger and better and with a bigger budget than the first one. And because it is bigger, it is going to have a bigger impact on our economy. The first carbon tax was going to cost thousands of jobs in Central Queensland; this one would potentially cost tens of thousands of jobs. We should oppose it and make sure that does not happen.

Senator MADIGAN (Victoria) (17:05): I rise today to speak on this matter of public importance. I generally do not like taking pot shots at the government—or the previous one. However, I think the MPI provides some clear evidence that neither this government nor the last have been doing all they could to increase employment in Australia.

A country is what a country makes and, under this government and the previous one, we have seen the destruction of the car industry, the shipbuilding industry sail into the valley of
death and our fuel security evaporate. We have seen a strong lack of commitment by
government to buy Australian-made products and, in turn, support local jobs. We have seen a
complete unwillingness by governments to act decisively and to plan ahead. If there is
something that this government and the previous government are good at talking about, it is
jobs generated by their policies, not how many jobs were lost as a result of their policies.
Unemployment in this country is far too high and I fear that in coming years it may even be
higher. It is a national shame that when talking about nation-building projects we continually
refer to such things as rolling out fibre optic cable under the ground. We do not talk about
building new dams, helping our innovative companies and Australian manufacturers and
farmers to really thrive in Australia and in overseas markets. Both sides of parliament enjoy
talking about R&D, but actions speak louder than words.

In my closing remarks today, I would like to say that Australia is a smart country, but it is
not necessarily a lucky country. Australia is where it is today because of the vision and hard
work of Australians past and present. We need to make sure that as a parliament we nurture
our manufacturers and our farmers and, in turn, create quality jobs for all Australians.

Senator XENOPHON (South Australia) (17:07): My home state of South Australia is
facing a jobs crisis. It is now making national headlines for all the wrong reasons—posting
the worst unemployment rate in the nation for the last two months. This week the bad news
has kept coming, with BHP Billiton announcing it was cutting 380 jobs from Olympic Dam in
the far north of the my home state and from in Adelaide. The unemployment statistics would
be bad enough but the planned closure of auto making and ship manufacturing in the next two
years means SA faces a true jobs emergency. That is why it is bizarre that the government
continues to sit on the $700 million left in the Automotive Transformation Scheme, which
could be used to transition the auto-making sector, the component sector, into other sectors.
The government should direct those funds to transitioning the 150 auto components firms and
the 33,000 workers directly employed into sectors that have a future in this country. The
multiplier effect we know is that in excess of 100,000 to 150,000 will be affected by that. We
need to ensure that we assist Ford, Holden and Toyota to stay here until the last possible
moment.

Last week's announcement by the government that it intends to set up a continuous build of
surface warships was welcome as far as it went, but it was light on detail and any cutting of
steel in Adelaide is still more than two elections away in 2020.

The 'valley of death' has arrived in South Australia, in Victoria and in New South Wales.
ASC has shed hundreds of jobs in recent months and this will only get worse when the AWD
work ends mid next year. The government could avoid much of the valley of death by
redirecting a local build of the Navy's two new supply ships, rather than sending the $2 billion
contract overseas in a limited tender. Now is the time to announce a local build of the new
support ships, or at least a hybrid build, to be built in Australia's three naval ship yards, in
Newcastle, in Port Melbourne and in Adelaide. It is well past time for the government to
deliver on its commitment to build subs in Australia.

The ACTING DEPUTY PRESIDENT (Senator Gallacher) (17:09): The time for the
discussion has expired.
DOCUMENTS
Consideration

The documents tabled earlier today were called on but no motion was moved.

COMMITTEES
Membership

The ACTING DEPUTY PRESIDENT (Senator Gallacher) (17:10): The President has received letters from party leaders requesting changes in the membership of various committees.

Senator PAYNE (New South Wales—Minister for Human Services) (17:10): by leave—I move:
That senators be discharged from and appointed to committees as follows:

Economics References Committee—
Appointed—
Substitute member: Senator McKenzie to replace Senator Canavan for the committee’s inquiry into cooperative, mutual and member-owned firms
Participating member: Senator Canavan

Environment and Communications References Committee—
Appointed—
Substitute member: Senator Whish-Wilson to replace Senator Waters for the committee’s inquiry into marine plastic pollution
Participating member: Senator Waters

Legal and Constitutional Affairs References Committee—
Appointed—
Substitute member: Senator Gallagher to replace Senator Collins for the committee’s inquiry into Commonwealth payments relating to asylum seeker boat turn backs
Participating member: Senator Collins

Murray-Darling Basin Plan—Select Committee—
Appointed—Senators Day, Leyonhjelm and Madigan

Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru—Select Committee—
Appointed—Senators Carr, Gallacher, Johnston and Reynolds
Question agreed to.
BILLS

Medical Research Future Fund Bill 2015
Medical Research Future Fund (Consequential Amendments) Bill 2015

First Reading

Bills received from the House of Representatives.

Senator PAYNE (New South Wales—Minister for Human Services) (17:11): 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 PAYNE (New South Wales—Minister for Human Services) (17:11): I table two revised explanatory memoranda relating to the bills and move:
That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

MEDICAL RESEARCH FUTURE FUND BILL 2015

The Medical Research Future Fund Bill 2015 establishes the Medical Research Future Fund as a vehicle for providing significantly increased Government funding towards vital medical research and medical innovation in Australia.

The establishment of the Medical Research Future Fund will provide a secure revenue stream for medical research, supporting a sustainable health system into the future. Establishing the Medical Research Future Fund demonstrates the Government’s commitment to medical research and medical innovation beyond the next election cycle.

All Australians stand to benefit from this initiative, which will transform our health system, both directly through improved health outcomes, and indirectly through improved productivity and economic growth.

The Medical Research Future Fund will fund vital research leading to the discovery and development of new medicines and technologies.

The establishment of this Fund will encourage innovation in research and in business, at all levels of health and medical research. It will support investment across the research spectrum, from laboratory research, through clinical trials, to public health and health services research, the commercialisation of new drugs or devices, and the translation of new techniques or protocols into clinical practice.

The Fund will receive an initial contribution of $1 billion from the uncommitted balance of the Health and Hospitals Fund.

The Medical Research Future Fund will be managed by the Future Fund Board of Guardians, which has a proven track record of managing investment portfolios on behalf of the Government, and maximising returns over the long term.

The bill requires the Finance Minister and the Treasurer to issue directions setting out the Government’s expectations as to how the Fund will be managed and invested by the Board, including setting a benchmark return for earnings.
The Future Fund Board of Guardians will have responsibility for preserving the capital of the Fund and for advising the Government on the amount of net earnings that can be withdrawn from the Medical Research Future Fund in a given year.

Decisions on how these net earnings are to be used to fund specific initiatives in medical research and innovation will be made by the Government, through the Budget process.

The establishment of the Medical Research Future Fund meets the Government’s commitment to increase investment in medical research and maintain national expenditure on health while delivering a sustainable health system for all Australians into the future.

Innovations in health and medical research play an important role in increasing the efficiency of health services and improving health outcomes.

MEDICAL RESEARCH FUTURE FUND (CONSEQUENTIAL AMENDMENTS) BILL 2015
The Medical Research Future Fund (Consequential Amendments) Bill 2015 facilitates the establishment of the Medical Research Future Fund through amendments to:

- the COAG Reform Fund Act 2008;
- the DisabilityCare Australia Fund Act 2013.
- the Future Fund Act 2006;
- the Health Insurance Act 1973; and
- the Nation-building Funds Act 2008.

The consequential amendments to these acts enable the effective operation of the Medical Research Future Fund at commencement:

- by enabling future grants from the Fund to the States and Territories through the COAG Reform Fund; and
- by creating a special appropriation mechanism to allow the Department of Health to make payments arising from Health and Hospitals Fund projects already committed to before the Fund's closure.

The bill also abolishes the Health and Hospitals Fund by repealing relevant sections of the Nation-building Funds Act 2008.

As it is Government policy to close the Health and Hospitals Fund no new commitments have been made from the Health and Hospitals Fund by the Government.

By transferring uncommitted funds from the Health and Hospitals Fund to the Medical Research Future Fund the Government will use these funds to make a practical contribution to health outcomes, by putting medical research funding on a sustainable and strong path.

Debate adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

MOTIONS

Dissent from Ruling

Debate resumed on the motion:

That the decision of the Deputy President on 25 June 2015 (to dismiss Senator Macdonald's point of order) be dissented from.

Senator IAN MACDONALD (Queensland) (17:12): Mr President, previously I moved a motion of dissent from a ruling of the presiding officer in the chair on 25 June 2015. I will be very brief but it is perhaps important to relate the background. In a deal done between the
Greens and Senator Lazarus, a Greens member resigned from the chair of the Legal and Constitutional Affairs Legislation Committee and for some inexplicable reason, which was never explained to anyone, Senator Lazarus was appointed chair of that references committee of which previously Senator Wright had been the chair. I am not sure of Senator Wright's position in relation to these dealings. I do note, however, that Senator Wright has indicated that she will be leaving the Senate in the future.

At the time, there was a motion by Senator Lazarus to set up a select committee to inquire into, effectively, firearms. I do not have the exact terms of reference but the select committee to deal with firearms seemed to me to be a bit beyond the call of this chamber and again brought the Senate committees into disrepute.

When this deal was done, that Senator Lazarus take over the chair of the Legal and Constitutional Affairs References Committee in place of a Greens senator who had been allocated that position, his motion for a select committee was withdrawn. But instead a motion came forward that the Senate Legal and Constitutional Affairs References Committee be given the reference to inquire into fire alarms. I repeat that: the Legal and Constitutional Affairs References Committee was given a reference to deal with fire alarms in Australia.

Now, it happened that the Deputy President was in the chair, and I might indicate that I have the highest regard for the Deputy President. Mr President, I think indeed he is, since you were Deputy President, one of the best Deputy Presidents we have had for some time. But I raised with the Deputy President a point of order, the effect of which was that the Senate should not accept a motion referring a matter that had nothing to do with the Legal and Constitutional Affairs References Committee to that committee. I suggested that the person in the chair, who happened to be the Deputy President, should reject the motion because it was simply contrary to any reasonable understanding of the way this Senate operates and of the way the committee system operates, which so far has served the Senate and the Australian people very well.

The Deputy President, I suspect, being able to count the numbers, in brief time—in fact, I do not think he even gave me the opportunity of explaining my point of order—ruled that there was no point of order and, as a result of that, I gave notice that the Deputy President's ruling that there was no point of order be dissented from.

Mr President, I have no desire nor wish to embarrass any of the people who take the role of Presiding Officer. I am also—not that I have done any counting, but I suspect I can work it out—aware of how this motion would be dealt with were it put to a vote. But I did want to raise those issues and to make a plea to all senators that indeed if this Senate is going to regain the respect it once had for the work of its committees it really has to take a more sensible, serious and mature look at the way committees are set up, the particular references that committees take and the way they are dealt with. Otherwise, I regret to say that the high regard with which Senate committees have always been held over time immemorial—since Senate committees started in this parliament—will quickly dissipate.

But having said that, I seek leave of the chamber to withdraw my motion.

Leave granted.

Senator MARSHALL (Victoria—Deputy President of the Senate and Chair of Committees) (17:18): by leave—I hope that senators in the chamber know that I take the role
of Presiding Officer and my position as Deputy President and Chair of Committees very seriously. I believe I conduct myself with fairness and integrity in all instances, even though I accept that I am not perfect.

I have reviewed both the *Hansard* and the tape of the incident to which Senator Macdonald sought to move dissension from my ruling. I can say that, based on the *Hansard*, the visual footage and advice from the Clerk, I believe I acted absolutely appropriately. And I would not act any differently if those matters came before me once again.

I think that Senator Macdonald made the inference that I made the decision based on being able to count the numbers in the chamber. Well, let me absolutely refute that. Quite frankly, I find that offensive. In every instance when I am in the chair I make my rulings based on the facts before the chair, and for no other reason. In fact, I think it is one of the great strengths of the Senate that presiding officers in the chair from all political parties do not allow politics to enter into their rulings in this place. This is not the House of Representatives. This is the Senate, and it is something that I am very proud to share along with my fellow presiding officers, whether they be acting deputy presidents or the President. So I absolutely refute that allegation.

I also refute the allegation that in some way Senator Macdonald simply has withdrawn his motion on the basis that he would not have the numbers to get it. Maybe he should test that because, again, I have absolute confidence in this Senate, that senators would base such a decision—a dissent from the chair's ruling—on the evidence before them, not base it on political parties. I think that has also been a very strong convention in this place. Again, I say that it has been one of the strengths of the Senate.

Now, I do not want to go into all the details, which I could, about why I made the decisions. But the Clerk has prepared a background note which goes to the process of how these motions get on the *Notice Paper* in the first place: the role of the President and the role of the Clerk in those, and there are some examples of what has happened in the past and ultimately who makes the decision about these matters, that being the Senate itself.

I simply seek leave to incorporate the Clerk's background note. I have followed the normal courtesies and provided copies of that in advance to the whips from the Greens and the government and also to the Independent senators.

**Senator IAN MACDONALD** (Queensland) (17:21): by leave—Mr President, I do not want to deny leave but this really is not a matter that involved my party or the government. It involved me. I have not seen the statement. Whilst I respect that the Deputy President has followed the procedures of giving it to the whips, unfortunately the whips have not given it to me—and neither they should. I am not blaming the whips, because this was my motion. It is not a government motion and it is not a party motion; it is an Ian Macdonald motion. So I do not want to deny leave but I would like this matter to be dealt with in, say, 10 minutes' time so that I can just have a look at the document that is sought to be incorporated.

**The PRESIDENT:** Can I assist in this matter? I want to make a couple of brief comments. Senator Marshall is going to hand a copy of the document over to Senator Macdonald. I will then invite you, Senator Macdonald, if you like, to make a comment on that. Senator Siewert?
Senator SIEWERT (Western Australia—Australian Greens Whip) (17:22): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for two minutes.

Senator SIEWERT: Senator Macdonald just made a comment about Senator Wright leaving the Senate. I do not know why he brought that up. It had nothing to do with the discussion we were having and I am concerned that he has joined the two together. I would like him to know and I would like the chamber to know that it had nothing to do with Senator Wright, subsequent to the break, finding herself in the position that she is in—leaving the Senate.

The PRESIDENT (17:23): Thank you, Senator Siewert. That was one of the matters I was going to address, but thank you for clarifying that. I think Senator Macdonald—inaudiently probably—left that impression. But you have now clarified that. Thank you.

I have reviewed the matter as well. Even though the motion has now been withdrawn, inferences have been made. Could I state that, as far as I am concerned, I absolutely have complete confidence that the Deputy President acted in the most appropriate way possible. I cannot state that in any more emphatic way. I have found that the Deputy President is completely beyond reproach in relation to the way he attends to those matters. That is my assessment of the matter. Senator Macdonald, you may not have had the opportunity to read the document, but do you have any indication as to whether you wish to agree with leave or deny leave at this point?

Senator IAN MACDONALD (Queensland) (17:24): I have no objection.

The PRESIDENT: Leave is granted for Senator Marshall to incorporate that document. I believe that concludes this matter. We will move on.

The document read as follows—

OBJECTION TO A DECISION OR RULING OF THE CHAIR – BACKGROUND NOTE

Standing order 198 provides a method for dealing with an objection to a ruling or decision of the President (or whoever is in the Chair):

198 Objection to ruling

(1) If an objection is taken to a ruling or decision of the President, such objection must be taken at once and in writing, and a motion moved that the Senate dissent from the President's ruling.

(2) Debate on that motion shall be adjourned to the next sitting day, unless the Senate decides on motion, without debate, that the question requires immediate determination.

On 25 June 2015, Senator Macdonald lodged an objection to a decision by the Deputy President, Senator Marshall, that there was no point of order in relation to a motion moved by Senator Lazarus to refer a matter to the Legal and Constitutional Affairs References Committee. Senator Macdonald argued that the reference was not relevant to the committee and should therefore be ruled out of order. Senator Marshall dismissed the point of order both before and after the Senate voted to agree to the reference.

Following the President's report to the Senate that a written objection had been lodged, Senator Macdonald moved the dissent motion and the President informed the Senate that the matter would be dealt with on the next day of sitting unless any senator moved that the question required immediate determination. No such motion was moved.

The matter is now on the Notice Paper for the next day of sitting in the following terms:
DISSENT FROM DECISION

Order of the Day

*1 Objection to decision of the Deputy President

Consideration of the motion moved by Senator Macdonald—That the decision of the Deputy President on 25 June 2015 (to dismiss Senator Macdonald's point of order) be dissented from—(pursuant to standing order 198, adjourned, 25 June 2015).

Extracts from the Hansard are attached. [See Senate Debates, 25 June 2015, pp.43-44, 61.
http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber/hansards/99c8ae1-aa1b-48da-8cde-593fed2e4d62/0000%22]

Rules relating to notices of motion and references to legislative and general purpose standing committees

Relevant rules are as follows:

- a notice shall consist of a clear and succinct proposed resolution or order of the Senate relating to matters within the competence of the Senate (SO 76(7));
- references committees shall inquire into and report upon other matters referred to them by the Senate (that is, matters other than the matters referred to legislation committees) (SO 25(2));
- references concerning departments and agencies shall be allocated to the committees in accordance with a resolution of the Senate allocating departments and agencies to committees (SO 25(3));
- matters referred to committees should relate to subjects which can be dealt with expeditiously (SO 25(12);
- a committee shall take care not to inquire into any matters which are being examined by a select committee (SO 25(13)).

Discussion

Taking into account the rules for notices and references to legislative and general purpose standing committees, there was no basis for the President to have ruled the notice out of order at the time it was given and it was therefore entered on the Notice Paper. It is not the role of the President or the Clerk to make judgements about notices of motion beyond those that the standing orders authorise or require them to make.

Equally, there was no basis for the Deputy President, at Discovery of Formal Business, to rule out of order a motion to be moved pursuant to a notice that had been entered on the Notice Paper in accordance with the rules of the Senate.

Any senator may prevent a notice of motion being dealt with as a formal motion by objecting to that course of action. As the record shows, the Deputy President asked whether there was any objection to the motion being taken as a formal motion and there was not. Senator Macdonald's point of order did not refer to any known rule of the Senate and may well have been characterised as a debating point. It was dealt with accordingly.

In any case, the Senate decided the matter by agreeing to the reference. The decision was uncontested.

It is arguable that the Senate's decision to agree to the reference effectively also determines the question of dissent because a motion of dissent is essentially an appeal by the senator to the Senate from the decision of the Chair. The Senate has thus endorsed the decision of the Chair not to impede the vote by ruling a motion out of order.

The Senate has on numerous occasions referred matters to committees that were contested on the basis that the reference should have gone to another committee. All decisions as to such referrals are
entirely a matter for the Senate, as are any decisions to vary, suspend or amend standing orders or to take a different path.

Options
There are several ways of dealing with a dissent motion:
- it may be withdrawn by the mover, by leave;
- it may be postponed either by the mover in the usual way or by a minister rearranging business on the Notice Paper;
- it may be discharged from the Notice Paper by motion moved by any senator on notice or, by leave, without notice;
- it may be amended relevantly (for example, to substitute a reference to the Procedure Committee, as occurred in relation to objections to rulings preventing repeated motions to suspend standing orders for the same purpose, and requiring a child to be removed from the floor of the chamber);
- it may be debated and determined.

A successful dissent motion is not necessarily interpreted as criticism of the Chair, simply an appeal from his or her decision or ruling.

On a motion of dissent from a Chair's ruling, the greatest latitude of discussion is allowed. If Senator Macdonald's motion is debated, it may therefore be expected that the tribulations of the Legal and Constitutional Affairs References Committee will be canvassed.

It is accepted practice for the President to participate in the discussion in order to clarify the ruling or respond to points which have been made. The same would apply to the participation of the Deputy President in discussion of dissent from his or her ruling.

Because of its capacity to undermine the Chair and disrupt business, the procedure for dissent is not a universal feature of parliaments (and does not appear in the United Kingdom, India and Canada, for example). However, it was an original standing order of the Senate based on South Australian practice.

Clerk's Office 10 August 2015

BILLS
Assent

Messages from His Excellency the Governor-General were reported, informing the Senate that he had assented to the following laws:

25 June 2015—Messages Nos—
31—
32—
Labor 2013-14 Budget Savings (Measures No. 1) Act 2015 (Act No. 72, 2015)
Customs Amendment (Australian Trusted Trader Programme) Act 2015 (Act No. 73, 2015).
33—
Personal Property Securities Amendment (Deregulatory Measures) Act 2015 (Act No. 74, 2015)

26 June 2015—Messages Nos—

34—

Appropriation Act (No. 1) 2015-2016 (Act No. 76, 2015)
Appropriation Act (No. 2) 2015-2016 (Act No. 77, 2015)
Appropriation Act (No. 5) 2014-2015 (Act No. 78, 2015)
Appropriation (Parliamentary Departments) Act (No. 1) 2015-2016 (Act No. 79, 2015).

35—

Copyright Amendment (Online Infringement) Act 2015 (Act No. 80, 2015)
Energy Grants and Other Legislation Amendment (Ethanol and Biodiesel) Act 2015 (Act No. 81, 2015)

Excise Tariff Amendment (Ethanol and Biodiesel) Act 2015 (Act No. 82, 2015).

36—

Private Health Insurance (Risk Equalisation Levy) Amendment Act 2015 (Act No. 84, 2015)
Private Health Insurance (Prudential Supervision) Act 2015 (Act No. 85, 2015)
Private Health Insurance (Collapsed Insurer Levy) Amendment Act 2015 (Act No. 86, 2015)

37—

Crimes Legislation Amendment (Penalty Unit) Act 2015 (Act No. 88, 2015)

38—

Social Services and Other Legislation Amendment (Seniors Supplement Cessation) Act 2015 (Act No. 91, 2015).

29 June 2015—Messages Nos—

39—

Export Charges (Collection) Act 2015 (Act No. 92, 2015)
Export Charges (Imposition—Customs) Act 2015 (Act No. 93, 2015)

40—

Imported Food Charges (Collection) Act 2015 (Act No. 96, 2015)
Imported Food Charges (Imposition—Customs) Act 2015 (Act No. 97, 2015)

30 June 2015—Messages Nos—
On behalf of the chair of the Community Affairs Legislation Committee, I present the report of the committee on the provisions of the Medical Research Future Fund Bill 2015 and a related bill, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**BUSINESS**

**Rearrangement**

Senator PAYNE (New South Wales—Minister for Human Services) (17:25): I move:

That government business order of the day no. 1, Social Services Legislation Amendment Bill 2015, be postponed till the next day of sitting.

Question agreed to.
Debate resumed on the motion:
That this bill be now read a second time.
to which the following amendment was moved:
At the end of the motion, add:’
but further consideration of this bill be made an order of the day for the first sitting day after the Government has tabled the privacy impact assessment conducted by the Department of Immigration and Border Protection’.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (17:26): I would like to take a few moments today to add my contribution to the debate about the Migration Amendment (Strengthening Biometrics Integrity) Bill 2015.

The collection of personal identifiers at the border is an important part of Australia's national security framework. It is important that we know precisely who is entering Australia and leaving Australia at any given time. The purpose of this bill is to consolidate, simplify and enhance the provisions within the Migration Act relating to the collection of personal identifiers, such as fingerprints and iris scans. The bill makes no change to the types of biometric information that can be collected, as this was done previously by the foreign fighters act. Instead it provides greater flexibility for the Department of Immigration and Border Protection in respect to the tools used to collect the information. For example, this bill would allow a mobile, hand-held scanner for collecting fingerprints. This bill also makes no change to the 'triggers' that would allow a customs officer to request additional personal identifiers.

The majority of Australian citizens will not be impacted by this bill and will not be required to provide fingerprints or iris scans on entering or departing Australia. DIBP will not retain the biometric information of Australian citizens; it will only be used for identity verification purposes. And, while updating the tools available at our borders is important, this must be done in a way that does not unduly infringe on personal rights or privacy.

The Senate Legal and Constitutional Affairs Legislation Committee, of which I am a member, inquired into this bill. Labor senators of this committee believe that the bill can be improved. I would like to say from the outset that both the majority committee report, and Labor senators' dissenting report, made recommendations regarding this bill. The committee received a number of expert submissions which expressed concerns with elements of this bill, and this informed the committee's thinking. Consequently, Labor will be putting forward two amendments to this bill and I urge the Senate to support these sensible amendments. I will take a few moments to talk about the bill before moving on to the Labor amendments.

For those that are not aware, the field of biometrics relates to technologies that measure and analyse characteristics of the human body for identity authentication purposes. The explanatory memorandum to the bill outlines the nature of these technologies:

A biometric (termed 'personal identifier' in the [Migration] Act), is a unique identifier that is based on individual physical characteristics, such as facial image, fingerprints and iris, which can be digitised into a biometric template for automated storage and checking.
The bill consists of several introductory clauses and one schedule containing amendments to the Migration Act 1958. The explanatory memorandum states that the bill seeks to amend the Migration Act in order to 'implement a number of reforms which will consolidate and simplify the provisions relating to the collection of personal identifiers'

The term 'personal identifier' is defined in subsection 5A(1) of the Migration Act as any of the following:

(a) fingerprints or handprints of a person (including those taken using paper and ink or digital livescanning technologies);
(b) a measurement of a person's height and weight;
(c) a photograph or other image of a person's face and shoulders;
(d) an audio or a video recording of a person (other than a video recording under section 261AJ);
(e) an iris scan;
(f) a person's signature;
(g) any other identifier prescribed by the regulations, other than an identifier the obtaining of which would involve the carrying out of an intimate forensic procedure within the meaning of section 23WA of the Crimes Act 1914.

The explanatory memorandum details a non-exhaustive list of the types of persons who can be required to provide a personal identifier under proposed section 257A, including persons who are:

- unauthorised maritime arrivals and have not lodged an application for a visa;
- non-citizens who are applicants for temporary or permanent protection visas, or any other visa of a class that is designated as a class of humanitarian visas;
- non-citizens who are applicants for any other class of visa created under the Migration Act or the Migration Regulations;
- visa holders, who are the subject of identity fraud allegations;
- persons (citizens and non-citizens) at the border seeking to enter or depart Australia.

As I said earlier, Labor members of the committee had concerns with specific ways the bill is being implemented, which I will outline. Labor senators on the committee hold specific concerns around the lack of safeguards in the legislation for minors and incapable persons, particularly that the consent or presence of a parent, guardian or independent person will not be required. Our comments noted:

... the Law Council, raised serious concerns on these matters, suggesting that:
... safeguards should be implemented in terms of guidelines to make sure that biometric information that is collected is done so in a respectful manner, and also that an independent guardian be appointed for unaccompanied minors.

Labor's amendments to the bill will ensure that when children or incapable persons are required to provide biometric information without the consent of guardians, this will be done in a way that maintains the dignity of that person. In these circumstances it would be appropriate that female officers be involved in undertaking these processes when we are talking about girls. It would also be appropriate that people with appropriate skills in working with minors are those who are involved in performing this work.
Evidence presented by the Law Council of Australia highlighted the lack of regulatory powers of the Privacy Commissioner. Labor senators on the committee support suggestions from Ms Ganopolsky of the Law Council that the matter has not yet been adequately tested and therefore should warrant further investigation and consideration before legislation in the bill.

Labor senators on the committee recommended amendments to the bill that provide for additional security measures reflecting the sensitivity of the data collected, especially a requirement to notify the individual and the Privacy Commissioner for data breach notification, should any breach occur.

The Law Council of Australia in its submission argued:
A large repository of biometric information increases the risk and possible consequences of a data breach. The large volume of biometric information held by the Government will be an attractive resource for people with malicious intent. Notification to individuals affected by a data breach involving biometric information would be essential for them to seek legal remedies and mitigate any possible unintended consequences.

Labor will seek to amend the bill to ensure that where a data breach occurs there is a requirement to notify the individual concerned and the Privacy Commissioner. Biometric data once released cannot be replaced like other documented data. The Australian Privacy Foundation noted in its submission:
The costs of a data breach are extraordinarily high concerning privacy breaches associated with biometric identifiers. Unlike other documents that can potentially be replaced or changed (such as a passport, credit card, or tax file number) a data/privacy breach that includes biometric identifiers means that when a breach occurs the personal identifiers of Australian and non-Australians will be permanently misplaced.

Consequently, Labor senators of the committee believe it is only appropriate that people are notified if their data is breached.

This is an important and complex bill. It seeks to improve protections at Australia's borders and consequently improve the safety of the Australian population. However, while doing so, we must ensure that the biometric data of citizens and noncitizens are kept safe and secure. We must ensure that privacy and data safety are managed correctly, and we must ensure that people are treated with respect and dignity when they have biometric data taken. Labor's amendments would significantly improve this bill and I urge the Senate to support these amendments.

Senator IAN MACDONALD (Queensland) (17:35): The Migration Amendment (Strengthening Biometrics Integrity) Bill 2015, as Senator Bilyk has just indicated, is an important bill relating to biometrics and related privacy aspects. I speak because I have an interest in it and also because I was Chairman of the Senate Legal and Constitutional Affairs Legislation Committee that held hearings in relation to this bill. I note with interest the matters that Senator Bilyk has raised and I will perhaps come back to those later.

By way of explanation, biometrics are an important integrity measure that contributes significantly to protecting Australia's border and preventing the entry of persons who may threaten the Australian community. Once anchored to a person's biographic information, such as name, nationality and date of birth, a biometric adds significantly to the department's capacity to verify that a person is who they claim to be and links an individual to security, law
enforcement and Immigration information. The collection of biometric information in the migration context in Australia has increased several times in the last decade and this was noted in the explanatory memorandum.

The Department of Immigration and Border Protection has a biometric program that has been progressively expanded over time, commencing in 2006 with collecting facial images and fingerprints of illegal foreign fishers through to 2010 when the department commenced collecting facial images and fingerprints from offshore visa applicants in certain higher-risk locations and onshore protection claimants. In 2012 the department also started collecting facial images and fingerprints from noncitizens refused entry at Australia's international airports.

That accuracy and fidelity of biometric data is a key issue in the context of using biometrics to positively identify individuals. The use of biometric identifiers does not provide an absolute insurance of the identity of the individual. As such, biometrics has been described as a probabilistic science, and I think that evidence was given to the committee. A representative of the Biometrics Institute told the committee that, generally, biometrics are around 98 per cent to 99 per cent accurate at the present time; however, there are particular issues relating to the accuracy over time of biometric information obtained from minors. The minister had addressed this in his second reading speech, where he said, 'Biometrics are more accurate than document based checks of biographic detail, such as name, date of birth and nationality because they are relatively stable over time and are significantly more difficult to forge.' In his second reading speech, the minister said that the bill would strengthen security at Australia's borders. The minister said:

The amendments to be made by this bill support changes introduced last year by the Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014. The Foreign fighters act, among other things, addressed the emerging threat of Australians seeking to travel overseas to fight with terrorist organisations. Importantly in the context of this bill, it also enhanced the capability of the Department of Immigration and Border Protection to identify persons seeking to enter and depart Australia, and noncitizens who remain in Australia.

Recent terrorism related events in Australia and globally serve to remind us that the threat of a domestic terrorist attack remains real. This bill further strengthens Australia's border protection measures by enhancing the capability of the department to identify persons seeking either to enter or depart Australia, and noncitizens who remain in Australia.

The committee looked very carefully at this bill. It consisted of several introductory clauses and one schedule containing amendments to the Migration Act. The explanatory memorandum stated that the bill seeks to amend the Migration Act in order to implement a number of reforms which will consolidate and simplify the provisions relating to the collection of personal identifiers. Put simply, that means that what this bill was doing was providing the officials, those charged with the protection of our borders, with the ability to better work out who is who, what is what and are people who they claim they are as they try to enter or even leave Australia.

The amendments to the Migration Act to be made by this bill expand existing personal identifier collection capability and provide for new capabilities which will increase the integrity of identity, security, law enforcement and immigration checks of people seeking to enter and depart Australia and, as I said, for noncitizens who remain in Australia. Specifically,
the explanatory memorandum stated that the proposed amendments would streamline seven existing personal identifier collection powers into a broad discretionary power to collect one or more personal identifiers from noncitizens and citizens at the border. That obviously is a good thing for government and government administration to be able to streamline seven existing powers into one broader power that could be used in a discretionary way to cover all of those and other situations.

The explanatory memorandum also said that these amendments would provide flexibility on the types of personal identifiers that may be required, the circumstances in which they may be collected and the places where they may be collected. It also indicated in the explanatory memorandum that the bill would enable personal identifiers to be provided either by way of an identification interest or another specified way by the minister or an officer such as a live scan of fingerprints on handheld devices. It would also enable personal identifiers to be required by the minister or an officer either orally or in writing or through an automated system and allow for existing deemed receipt provisions in the Migration Act to apply in relation to requests in writing.

Further, it provided that it would enable personal identifiers to be collected from minors and incapable persons for the purpose of the Migration Act and the regulations under the new broad power without the need to obtain consent or require the presence of a parent, guardian or independent person during the collection of personal identifiers. That was an issue which did attract quite some comment from those who made submissions to the committee for its hearing into this bill and to a number who also gave evidence to the committee.

Finally, the explanatory memorandum showed that this bill would omit certain provisions which are unused and no longer necessary, and that is part of this government's ongoing goal—to get rid of regulations and legislation that are no longer necessary but simply clutter up the statute books.

As I said, section 261AL of the Migration Act states that individuals under the age of 15:

… must not be required under this Act to provide a personal identifier other than a personal identifier consisting of:
(a) a measurement of the person's height and weight; or
(b) the person's photograph or other image of the person's face and shoulders.

Item 41 of schedule 1 of this bill would alter this arrangement by amending that section. Under the proposed changes, non-citizen minors under the age of 15 in immigration detention will still only be required to provide height and weight measurements or photographs, but for minors under the age of 15 any personal identifiers available under the Migration Act would be able to be required.

The bill also proposes to alter the requirement in relation to the consent and presence of a parent or independent person for the collection of personal identifiers from a minor. Section 49 of schedule 1 would remove the requirement for the consent of a parent, guardian or independent person in order for a non-citizen minor to provide a personal identifier in limited circumstances in which this is currently required.

Item 50 of schedule 1 would remove the requirement for a minor, regardless of whether they are a citizen, to have a parent guardian or independent person present while a personal identifier is being provided, except in cases of minors who are in immigration detention.
The committee had a look at the explanatory memorandum in relation to these proposed changes, and saw that the explanatory memorandum provided this rationale:

The amendments contained in items 49 and 50 are primarily a child protection measure aimed at preventing child trafficking and/or smuggling. In addition, the amendments will ensure that the power to collect personal identifiers is consistent for all persons, and to provide flexibility for officers to respond effectively and quickly to emergent risks. The amendments will address situations where a parent, guardian or independent person may seek to frustrate the collection of personal identifiers by way of an identification test by leaving a room where an identification test is to take place.

Again, I repeat that the rationale for this was related to and brought about by some child trafficking experience that the department had, and actual child smuggling, where simple refusal to consent by someone apparently in charge of that child meant that the child could not be properly identified. Hopefully this bill will address those issues.

The explanatory memorandum further states:

The power to require a minor to provide a personal identifier without the consent or the presence of a parent, guardian or independent person, is expected only to be utilised in limited circumstances. It notes that the department informed the committee that, currently, the consent of a parent, guardian or independent person is not required when collecting personal identifiers from any minor at Australia's border at arrival or departure or in transit from port to port. The consent of the parent or guardian or independent person of a non-citizen is required in some other prescribed circumstances. There was some evidence given by the department as to where and how that would happen.

There was some concern, which my colleague Senator Bilyk mentioned, about some privacy issues. After hearing all the evidence and reading the submissions, it was the committee's view that the collection of biometric information in the form of personal identifiers is an important tool in maintaining the integrity of Australia's borders and strengthening the ability of immigration officials to conduct identity and security checks on individuals.

Overall, the committee was supportive of the broad intent of the bill to simplify and streamline the provisions of the Migration Act dealing with the collection of personal identifiers. The committee, however, did make several specific comments in relation the issues raised during the inquiry hearing. They are all set out quite clearly in the committee's report on this bill, which has been tabled in the parliament.

I mention again, as did my colleague Senator Bilyk, the issue of privacy matters. The committee considered that biometric data is sensitive and personal information and that as such its collection storage and retention must only be conducted in such a way as to minimise the impact on the privacy of individuals. The department actually assured the committee that it complies with the requirements of the Privacy Act and the Archives Act in relation to storage and retention of biometric information, in addition to requirements in relation to these issues in the Migration Act itself. Further, the committee was pleased that the Privacy Commissioner is currently conducting a broad privacy assessment in relation to the overall arrangements for collection, storage, sharing and use of biometric data, which was to be finalised by the end of June. That issue did come up on just how this information was going to be used.
The committee hoped that the issues raised by the Privacy Commissioner would be considered by the government and that any required changes to the current operating procedures and requirements would be implemented, including further legislative amendments, if necessary. In relation to the privacy impact statement conducted by the department in relation to the specific measures contained in the bill, the committee noted that the department's assurance that the privacy impact assessment would be provided to the Privacy Commissioner by May at the latest, so that the Privacy Commissioner could have the benefit of that statement.

In order to allay any privacy concerns in relation to the bill, and further inform debate in the Senate, the committee, while recommending that the bill be passed, recommended that the privacy impact assessment conducted in relation to the bill be released publicly prior to the Senate's consideration of the bill. I understand that that has happened.

The committee also recommended that consideration be given to ensuring that protections in line with those found in sections 258E and 258F of the Migration Act 1958 apply to any means of collecting personal identifiers under proposed new paragraph 257A(5)(b) of the bill. Subject to those two qualifications, the committee recommended that the bill be passed. I understand—and I am not sure if this has yet been flagged by the minister, and I do not want to steal the minister's thunder if it has not—that the government has noted the concerns raised by the Senate committee and will be introducing an amendment that will address the concerns the committee had. I think they are the concerns that Senator Bilyk also raised and about which I suspect the Labor Party, if they have not done so already, were going to provide an amendment. But I am pleased to say that the government will be moving an amendment which addresses the concerns of the committee.

I conclude by again thanking all those people who made submissions to the Senate Legal and Constitutional Affairs Legislation Committee and all those who gave evidence to the committee— their evidence was very helpful to the committee. Can I thank, as always, the excellent committee staff, led by Sophie Dunstone, who did a wonderful job in this inquiry, as they do with every inquiry and every aspect of the committee's work. Now that the Senate's concern has been identified and accepted by the government and addressed in the form of an amendment, I am pleased to be able to support this motion. Again, it shows that the Senate committee system— properly run, properly managed— can provide a real benefit, often in a non-partisan way, to improve government legislation and address some perhaps at times unintended consequences. I support the bill.

Senator LINES (Western Australia) (17:55): Along with Senator Macdonald, I was one of the senators on the Legal and Constitutional Affairs Legislation Committee and all those who gave evidence to the committee—their evidence was very helpful to the committee. Can I thank, as always, the excellent committee staff, led by Sophie Dunstone, who did a wonderful job in this inquiry, as they do with every inquiry and every aspect of the committee's work. Now that the Senate's concern has been identified and accepted by the government and addressed in the form of an amendment, I am pleased to be able to support this motion. Again, it shows that the Senate committee system— properly run, properly managed— can provide a real benefit, often in a non-partisan way, to improve government legislation and address some perhaps at times unintended consequences. I support the bill.
Senate. And I note today that the government has put some amendments forward as well. I agree with Senator Macdonald that it is good to see, when a Senate committee makes strong recommendations through a majority report, and a dissenting report, that some of the issues raised are taken on board by the government. That is a good step.

The government has stated that biometric checks at Australia's air and sea ports will enable rapid identity verification with domestic and internal security law enforcement and immigration agencies, through portable handheld devices and other sorts of biometric testing. Certainly Labor, along with the government, supports the need for Australia to be able to ensure that people coming into our country, and our citizens leaving, are who they say they are and that we do the utmost to ensure safety at our entry and exit points in this country. As other senators have said, this bill tries to collate a number of tests that are already available under the law, but unfortunately it goes further than that in putting all of those tests together. Certainly Labor sees the need to balance the need for good security with the need for privacy and other issues. In that context, the bill as it currently sits before us, even with the government's amendments, does not quite get that mix right. Maybe there will be some opportunity in the committee stage to further talk about that and flesh that out.

The significant issues with this bill to me just demonstrate, unfortunately, that it is another example of poor drafting and execution by the Abbott government. We often see bills coming before this place which are poorly drafted. I think this bill suffers from that. The government will argue, I am sure, that not much has changed with this bill. Whilst it is true to an extent—there are not wholesale changes being made to the bill; nor are there wholesale changes being made to current practice—nevertheless the changes that are being made are quite significant. That was borne out in our dissenting report and indeed in the majority government report. So Australians ought to be concerned about these changes, particularly when the bill lacks genuine independent oversight and there is no parliamentary oversight.

In our dissenting report on this bill, Labor called for a thorough review by the Privacy Commissioner and, as Senator Macdonald has just outlined, the majority report supported by government senators also called for the Privacy Commissioner to undertake a thorough review prior to the passage of the bill. Both of us called for the privacy impact statement to be publicly released. To put it on a website, you might argue is publicly releasing it, but to not draw it to the attention of members of the committee is a failure by government and the department. Given that privacy was a major issue, I think that the department had an obligation to draw it to the committee's attention through the secretariat that the privacy statement was indeed on the website. To do less than that, I think, continues the suspicion that we already have around this bill.

Labor was not alone in calling for the Privacy Commissioner to look at this bill. A number of submitters to the inquiry shared this concern, a very valid concern of balancing the issues of privacy with securing our borders. We all understand that, but the bill does not seem to cover off enough on the privacy issues. The Law Council of Australia made a very strong submission and some fine recommendations about how we cover off on the security issues. But, of course, making that statement publicly available, drawing it to the attention of the committee simply has not happened and that just makes people suspicious.

Labor also felt that the current obligations to store biometric data needed to be tested from the perspective of the Privacy Act. There are very real concerns about the retention and
arbitrary collection of biometric information, concern about the collection of data, its use, who gets access and its retention. None of these concerns have been addressed by the government. During the hearing, I raised the issue of a child subject to a custody order. It could be that biometric data is taken from a child for the purposes of identification in relation to the order. Although the department used the example of fingerprint data, I am not sure how you would have access, in some recorded way, to the fingerprints of an eight-year-old who is the subject of a custody order. How could you have that and how could you check that using a fingerprint scanner? The government was simply unable to answer that, despite having the question put directly to them. We know for a fact that very few children—I do not know of any—who are the subject of custody orders have their fingerprints taken. That question remains unanswered, and the committee asked the department and the government a lot of questions about that.

If this biometric data is taken from a child who is the subject of a custody order, the department was unable to say how that data would be stored and for how long. That is a fundamental question and it is one that all Australians should be concerned about. Yes, of course, we do not want children either trafficked in or trafficked out of Australia, and we do not want children who are the subject of custody orders who do not have permission from parents to leave the country. Of course, we want that picked up at the border. Nevertheless, we cannot overshadow that by saying that we will collect this biometric information and it will be stored. The department was not able to tell us for how long it will be stored, if in fact it would be stored, and what would happen to that information. I posed this question to the government through the department: ‘You have taken biometric data from a child who is the subject of a custody order. What happens when that custody order no longer applies?’ Again, the government was simply not able to answer the question.

For that child who may have had a custody order applying to them from a very young age and is unaware of that custody order and does not remember being taken to an airport and having biometric information taken, does it mean that will be flagged up every time they come into the country or leave the country as an adult? Again, I asked the department and I got conflicting answers, if you look at the HANSARD of the inquiry, with some blurry excuse that that will all be dealt with in policy. I think Australians have an absolute right to know about storage of information, particularly in relation to custody orders and when those custody orders no longer have any bearing. What happens to that information? To date, the government has simply not been able to give us answers to those very real questions. That is a really strong example of where the need to protect children butts up against this issue of privacy and retention.

The Law Council gave very good evidence that it is one matter to collect biometric information; it is quite another to store, to keep and to log to make sure that that information is secure. Again, we were not given any real answers to that. Despite meetings since with the department through our shadows, my understanding is that the committee has not been given answers to those questions either. That question of what happens to that biometric information when that child becomes an adult and whether that is flagged every time they enter or exit the country remains unanswered.

The Scrutiny of Bills Committee also raised concerns about the collection of personal identifiers and that the collection of data by means other than the fingerprint scanner would
not have parliamentary scrutiny or oversight. The committee questioned the claim in 'the statement of compatibility that the measure is compatible with the rights to privacy. However the committee makes the point that "the right to privacy needs to be understood in the context that the power authorises methods of collection which are not limited to that which is explained and justified in the explanatory material."

The Scrutiny of Bills Committee stated that parliamentary oversight could be achieved through the use of a targeted amendment which included appropriate safeguards. I think that advice from the Scrutiny of Bills Committee is good and I would urge the government to take that on board and perhaps look at an amendment in the terms that have been suggested there. A similar view was expressed by the Law Council of Australia but, unfortunately, to date we have not seen any amendment from the government which would allay any of those very real concerns.

The other concern—and this was raised again by Senator Macdonald, but our response to the solution is different—is in relation to children and vulnerable groups who have some sort of disability which makes it impossible for them to either fully understand what is happening to them or to ask the appropriate questions.

The bill proposes that data can be taken from children and vulnerable groups. The departure here is that, into the future, it can be taken without the concept of the parents or guardians. Of course, I can understand there will be occasions—hopefully, not many—when we do have to take data without the consent of parents or guardians. I absolutely understand that and, if I had a child that was subject to a custody order, I would want that to be a feature of our system. But, again, how children would be protected, and how the dignity and the rights of children and vulnerable groups would be protected, was all left to policy. I do not think—and others at the inquiry also agreed—that that was strong enough. It is important that on these matters we have parliamentary oversight where we can really see what is happening, where we are taking hopefully just a few children without the consent of their parents.

It would be easily dealt with if an independent person was in the room who could act in the interests of that child or that vulnerable person. When I questioned the department about that during the inquiry, they gave the example of the fingerprint scanner and said, 'Well, we'll be probably using the scanner.' I would question: if you are using the scanner for children, where is the data coming from that it is being compared with—or is that the first collection point? Presumably, we do not have the fingerprints of the children that we are seeking to protect. It is certainly not in anything that I am aware of, or is this an exercise where we are using the scanner to pick up fingerprints in the first instance and use that as the first comparator? But the department is telling us that that fingerprint data will not be retained. It is not clear and, in terms of why they felt we did not need the independent oversight from a guardian or some other person was because: 'We'll be using the fingerprint scanner out in the public arena.' That is what they said in the Hansard, and that does not make anything safe.

We have people mugged in the public arena. We have people murdered in the public arena. Just because something is done in the public arena does not mean that a child is safe. Most people going through our immigration are focused on getting through Customs and Immigration. Most of us are not watching what is happening to others and, even if we are, it is unlikely that we are going to put our hand up and say, 'Excuse me. Just what are you doing
over there? The suggestion that we will protect children and vulnerable people because this will all be done in the public arena quite frankly is a nonsense.

The government's amendment that I have seen today does not actually meet that description. If I am going through Customs and immigration and I see a person having their fingerprints taken, I would immediately think: 'Wow. What have they done wrong?' Or 'What is happening here?' I think if we are going to conduct this with dignity, it has to be done out of the public arena but it should, nevertheless, always be done in the case of children and vulnerable people with an independent advocate present.

It is not a hard ask to have an independent person present. If we are serious about protecting the rights of children—all of their rights: their right to safety, their right to be safe, their right for custody orders to apply—then putting that independent guardian in place where we are taking that child's biometric information without consent seems to be a small price to pay, given that we hope it is not going to be very many children affected or indeed vulnerable adults. I would urge the government to look at that suggestion and put that independent oversight in. I do not, as I say, think it is too high a price to pay to make sure that there is independent oversight and that a child is always treated with respect and is always safe. That can only be provided when there is independent oversight.

A policy cannot protect a child; only an independent advocate can do that. It is not fair to put the onus of protecting a child onto department officers who have a different job to do. Their job is to take the biometric information and to do that with respect and dignity. It is not their job to stand in as guardian for that child, and you cannot write the safety of the child or the vulnerable adult into a policy document.

So the government's amendment, which notes that the data will not be collected in a cruel, inhumane or degrading way, is a step forward but I think it needs a little more flesh on the bones. What does that mean? I would hope that the government in the committee stages talks about what they mean by that, because what is written in a policy and the process for carrying that out are two completely different matters. They are not related at all. A policy could say X, Y and Z, and there are probably already a significant number of policies in that regard. We want to see actions and we want to see children and vulnerable adults protected.

Labor has three amendments with regard to this bill. They go to the storage of data, the vulnerability of children and adults, and the very important issue of privacy. I would urge the government to look at them seriously. We do support the need for good security at our borders. We do support the protection of citizens and noncitizens, but this bill, the wide powers, just go too far. Labor has got very sensible amendments that we would urge the government to look at seriously, and we can get on and support this bill. Thank you.

Senator BERNARDI (South Australia) (18:15): I rise today to support this important bill, the Migration Amendment (Strengthening Biometrics Integrity) Bill 2015, because it has been said in the many debates that we have had in this chamber about border protection and security—it has oft been repeated—that a nation that loses control of its borders loses control of its destiny. We are seeing the implications of some of these things—if I may say so—come to pass in parts of Europe where there are unprecedented numbers of people arriving without appropriate documentation and seeking to sneak into countries illegally in the hope of a better economic environment. No-one wants to see that happen in Australia. Even the opposition have come to that conclusion and are supporting tougher border protection measures. I believe
that at the Labor Party conference a number of significant changes took place. They even support turning back the boats now where it is safe to do, as part of a policy conference. Whether or not it comes to pass that they actually do that and have the wherewithal to do it, I think it is truly significant that it is much more humane to stop illegal arrivals and prevent the deaths at sea than to encourage loose border protection policies.

We have a department, the Department of Immigration and Border Protection, that is absolutely paramount in providing the security and integrity of our border protection services, not just in the northern end to prevent undocumented or illegal arrivals but in every airport to make sure that the people who are coming through the airport are who they say they are and that appropriate checks have been made—where Australia is protected or has a reduced vulnerability—for those who wish to do us harm, whether it be mischievously to commit crimes against individuals or, much broader, to wreak havoc on a much bigger scale. In the mindset of terrorists, getting into a country is the very first aspect of being able to commit some terrible, terrible crimes.

We always have this balance of keeping up with technology, chasing down the criminals and ensuring that we are in the best possible position not only to protect individual liberties—because that is a significant thing that I am sure some people have concerns about—but, more importantly, to protect the integrity of our border protection services. I would like to say thank you to our border protection officers. They do their job amazingly well. I know it is not all beer and skittles—if I may put it in that parlance. It is not an easy job; it is a very, very tough job. I had a circumstance myself going through Customs and Immigration where I had to declare that I had been swimming in a river. I had to go through the 'something to declare' operation because they were concerned about the integrity of our quarantine services. I cannot fault them in their conduct and how they approached the circumstances. It is safe to say, and I know you will be relieved, Mr Deputy President, that I was given the all clear and I did not have any biological issues attached to my person on that occasion.

In the end, we have to give them the equipment that they need. Part of the equipment that they need in order to protect us is biometric identifiers. I do not have any doubt that biometric identifiers are the way of the future. We see them in personal security systems and in corporate security systems, and I think we have to acknowledge the reality that they are the best method of identifying individuals and providing security. The types of people we do not want in this country are the crooks, the charlatans and the scammers, the terrorists, the people who have lied to get here or are covering up some malfeasance in their past, and the people who are seeking to breach our border protection services for whatever personal reasons they may have. I have this theory that if you are prepared to commit a crime to get into a country then you are probably prepared to commit a crime while you are in the country. I think it is important that we can identify those people who have tried to game the system or have tried to game the system in other countries. This is where what I think is called the five-nations cooperation is truly important. We do have a number of like-minded countries around the world that we seek to cooperate with in the interests of intelligence and in the interests of international security. I think that these biometric identifiers and checking against some of the errors that others have made in other countries are an important protection for Australia.

While I did not have the opportunity to participate in the committee, I do acknowledge some of the concerns that were raised by Senator Bilyk and Senator Lines. I have to say that.
My understanding, and I would welcome clarification from the minister when she has the opportunity to answer questions in the committee stage, is that when checking biometrics—for example fingerprints, with mobile fingerprint scanners, which is only going to take 20, 30 or 40 seconds, so it is not a real inconvenience—the data is actually not retained.

So if I am fingerprinted, because I am a person of interest, my data is not retained; it is just compared with a database of known crooks, charlatans or people who would do us harm. If my fingerprints do not match those individuals, I am free to go about my business and the data is wiped. As someone who is actually a bit of a civil libertarian in many respects, I feel relatively comfortable with that. And I do not feel, as Senator Lines suggested, that there is any sense of shame attached to being pulled over by a Customs or Border Protection officer saying, 'Would you mind going through this scan?'

We in fact go through it every time we go through airport security. You run the gauntlet. A man or woman is there holding the bomb detector wand. I try to avoid them at all costs, because I find it kind of annoying really. Nonetheless, I do not feel that they are targeting me personally when they pull me over. It is just part of going about the normal security checks. I do not see much difference between being asked, 'Can you just put your fingers on this pad, Sir?' or opening your bag and allowing them to scan for traces of explosive devices. It is about security. So I do not share the concerns that Senator Lines has in that sense, because I do think that this is a way of updating our border security using biometric testing.

It also gives the department a great deal more flexibility. In some circumstances where visa applications, for example, are taking place in higher risk jurisdictions—I think the technical term may be 'identified high-risk cohorts'—they can use biometric identifiers to test the veracity of a visa applicant. They can also use it to test the veracity of people seeking to leave the country. You wonder about that sometimes, about why that is important. Well, there is the case of this Sharrouf character who left the country on someone else's passport and managed to go and fight with Islamic State and do all these terrible deeds because he was a person of interest in this country. And you know what? If he is a person of interest in this country, I think it is incumbent upon us to ensure that we do whatever is possible to prevent them from going to another country and wreaking havoc there. There is a school of thought, though, I will acknowledge, that we should just allow these people to go off and fight and die on the battlefield of Islamic State. I do not subscribe to that. I think they do a great deal more damage over there and we are better off monitoring our responsibilities here.

I understand the issue is going to be about minors. We have had some discussion about that, and Senator Lines once again raised the issue about fingerprinting minors and asked what subset of data we are testing them against, or whether we are using it to collect data. My understanding from conversations that I have had and from the minister's second reading speech and the information I have been provided is that we are not collecting the minor's data. When we are testing them in that sense we are comparing it with a known subset, so that we can identify the individual if they are a person of interest. So I do not fear that somehow we are maintaining a database of the biometric details of all Australians or other entrants into Australia. I know that there are many in the civil libertarian area who would reject that and be most concerned about it. But, as I said earlier, I have an in principle view that there should be some freedoms for individuals and that their privacy should not be overwhelmingly
obstructed, and I do not think that this bill provides an overwhelming rejection of people's individual privacy.

I think the bill meets the balance between the requirements for privacy as well as our national security. I think most Australians would fall into this category and would not seriously object to undergoing perhaps a more stringent screening process when they are entering or leaving the country should they happen to match the description or some identifiers as being a person of interest. We live in a globalised world where technology and the ability to reproduce documents or perpetrate frauds of identity and to change facial features is extraordinary. It is unprecedented, and we need to make sure that we are keeping up with the latest technology in order to protect our borders.

I want to compliment the minister for his second reading speech. He made the point that recent terrorism related events in Australia and around the world serve to remind us all that the threat of a domestic terrorist attack remains very real. There are people in this country and people who seek to come to this country to do us enormous harm. There are people who seek to go out of this country to learn how to do us harm and then come back. We owe it to the Australian people, the citizens of this country, the law-abiding men and women of this country and the nature of our country—the wonderful freedom that we have in this country—to ensure that our country is safe not only for us today but also for the next generations. That means that we need to take measures like the Migration Amendment (Strengthening Biometrics Integrity) Bill. It means that we need to be cognisant that we have to be at the forefront of combatting terrorism, that we need to keep Australians safe and that we need to update our biometrics integrity. It is going to be a constant battle—a constant race, if you will—between those who will use technology against us and those of us who will seek to use technology to protect us. It is a very fine balance. You can always make the case that it is important for security concerns to override individual freedoms and liberties. I do not want us to get caught in that trap, and I am confident and I feel very comfortable that this bill does not do that, and hence it has my support.

**Proceedings suspended from 18:30 to 19:30**

Senator EDWARDS (South Australia) (19:30): I rise tonight to speak on the Migration Amendment (Strengthening Biometrics Integrity) Bill 2015. I am very pleased to speak on this bill because, as we are acutely aware, it will further enhance what we have come to know as protecting this country from the forces of evil which would do us much damage. And it will deter those people in this country who would be tempted to go off and fight on distant shores for ideological reasons which we think are quite fundamental in their context and are such that we need to ensure the safety of our borders.

In fact, the first priority of government is to ensure that its peoples and the people who reside in the country are safe. This bill will ensure that the people we screen at our ports, airports—and through any other way in which people arrive in this country—are put through a system of tests that will personally identify them. With these tests we can assess physical characteristics, facial images, fingerprints and even the iris of the eyes, which can be digitised into a biometric template that we can check against all of the data we have stored from previous record keeping.

The measures in the bill go to address the gaps in our current legislation which remove restrictions that will assist to identify those people who cross borders. This legislation, at its
very heart, is about our border security. Law enforcement and the travel patterns of people travelling to and from our country can be assessed—and why shouldn't we do that? If somebody has not got anything to hide or has not got anything of a dark nature going on, then they will have no problem with submitting themselves to these kinds of tests because this is fundamentally one of the most important issues going on in political circles around the globe. If you do not feel safe in your country, if you do not feel you can invest with your family in a country that has porous borders and which allows no scrutiny of who comes and goes, then you are destined for a lack of confidence which will pervade our very society.

The bill provides for a framework to enable the Department of Immigration and Border Protection to counter the current initiatives and the technology used by those who are arriving illegally to gain access to this great country of ours, Australia. Those people will be submitted to security checks either randomly or as a matter of course. We can now check the biometric details with their biographic details and their passports, their date of birth and their nationality. It also provides a framework which will enable manual fingerprint-based checks to be carried out using mobile hand-held devices to detect persons of concern. That is all we are on about. We are not about going after holidaymakers or people who would seek to come to this country to enjoy the vast array of attractions that lie within. This is so that our border protection forces have the ability, when they have someone in the frame, to ensure that they are right and correct beyond all reasonable doubt. It is really no impost to anybody who has nothing to hide. These checks will be conducted at embarkation ports and will take 20 to 40 seconds. In that time the traveller's identity will be checked against immigration and security agency data holdings, using up to four finger images. That is fairly innocuous testing. It certainly will not impinge on anybody's personal liberties and, for anybody who has nothing to hide, will hardly be a hardship.

I just brought up the issue of personal rights and infringement. The important thing is that neither these images nor this data will be retained following the completion of these checks, which is a very important thing for those who are concerned about the retention of data. As we know, currently, biometrics and the way in which technology has been assembled and the fact that we are able to use and mobilise it in this way rests on a foundation of accurate identification. These fingerprints provide a higher integrity identity assurance, far more so than any identity documentation and facial images. We have all seen the 'Spooks' movies where a specialist passport forger is sitting in some back room with a scalpel cutting open unwittingly naïve tourists' passports, inserting different photos so that people can take on other people's identity. The truth is not very different from those fictions. These biometric measures will certainly go a long way to ensuring that that fiction is not the reality.

Biometrics are checked instantly against existing immigration data holdings held by Australian law enforcement agencies, which, as we are aware, are somewhat beyond reproach in terms of integrity and efficiency, and are indeed, at this very time, carrying out one of the most efficient border protection plans that this nation has undertaken. All credit should go to Minister Cash for her work in this area because since this government has come to power we have had only one boat arrival and indeed there are now no children in detention in offshore processing centres. That is in stark contrast to during the previous government's time, where we had over 600 boat arrivals—one every 15 hours, as we learned today. In an effort to continuing our border protection it is only natural that we reach to biometrics to make sure no
people travel, that no foreign fighters come home to ply their radicalised trade in our cities and in among our people and to target any of the non-suspecting Australian public. The minister would be under all kinds of scrutiny if she did not have some method by which to ensure that these people cannot come here to do harm.

Minister, it is opportune that you are in the chamber listening to this contribution because the work we do here is for no other reason than for the benefit of and for the sustained enjoyment of the Australian lifestyle which we have come to know. It is so important that people have faith in what we, as policymakers, put in place for our border protection and for our security agencies, for those people to have the most modern tools with which to identify any risks. For that, I commend you on having the courage to put this forward. I hope that the contributions you get from all sides of this chamber recognise the good intentions of this bill, what it is meant to do. We are all obviously terribly disappointed that we have to implement such measures to ensure the security of our borders and the security of our communities. We do not want another Martin Place siege. We certainly do not want to have somebody returning from a foreign land or somebody coming to this land enacting such a heinous crime. And without evoking all the emotions that go with that terrible tragedy, it is difficult to think that, as a minister who had this technology available did not obviously deploy it at every entry point to this country to ensure that we do not increase the risk of anything of that nature again.

We have a lot of cooperation with regard to this and obviously those people who understand that there is a lot of sharing between countries of details of people of interest, of people who have dark pasts. The Australian law enforcement agencies obviously deal with five other partner countries in their conferences. They have revealed a number of undisclosed adverse immigration and criminal history information of non-citizens and discrepancies in the biographic information provided by non-citizens. So we are already ahead of the curve on this, but our agencies need the legislative imprimatur to ensure they will be able to implement this, to enjoy the full benefit of the technology.

The government amendment extends the protections found in section 258F of the act to any means of collecting personal identifiers such as the new broad power introduced by the bill—that is, to make it clear that nothing in the Migration Act authorises the minister or an officer to require a person to provide a personal identifier under broad power in a cruel, inhumane or degrading way or in a way that fails to treat the person with humanity and with respect for human dignity. These are by no means in any way invasive. As I have said, if you have nothing to fear, you will have no problem submitting yourself to these tests. Also, the government is looking to affirm an individual's right to physical integrity and freedom from cruel, inhumane or degrading treatment and to ensure that all the collection is done with the utmost human dignity.

There is also a provision that the requirement for the provision of a personal identifier under the new broad power is not going to be inhumane or degrading, or fail to treat a person with dignity. No matter what the naysayers say—and I have not heard too many, I must say, on this issue—I think that everybody in this country accepts that if there is technology available then why would we not avail ourselves of it to ensure that we do have a secure country and that we do not put any hazard in the way of the everyday functioning of our society? It certainly makes sense for us to have that deployed.
What we are doing—what the minister is seeking to do—simply makes all of that clear in the face of the legislation. The specific measures in this bill ensure that the government and those people who do the government's work—no matter what government is in power—are able to take the risk out, wherever those people come from and wherever you get threats. Currently, the conflict is taking place in war-torn areas in the Middle East. There is Iraq, and Syria is in the middle of a civil war. People are being radicalised on our shores, travelling for whatever reason to those places and travelling back. The only reason that we are doing this is to ensure that whatever threat comes to Australia is dealt with at the border and not when it becomes an issue outside the border controls.

Biometrics is by no means an untested measure. The technology is well established; it is something that is irrefutable and no longer a fiction. It is something that people can rely on, trust and know that it will be administered in a way in which they can have confidence. They can also be sure in the ongoing process of this that we can continuously upgrade the biometric records of those people who we believe should be monitored—those people who may present a threat or who are identified in a demographic as people who we need to ensure do not become a threat to this country.

The expansion of the department's biometric program has resulted in some non-citizens providing personal identifiers but not others, depending on the timing of their visa application or arrival in Australia. As a result, the higher-integrity biometric-based identity and security law enforcement and immigration history checks have only been conducted in non-citizens.

As I start to conclude my remarks this evening I say that this is what responsible government does with issues which are of concern—red flag issues which are high on the community's priority list. I do not think that there is anybody who could go out there and walk the streets in Martin Place, the Pitt Street Mall, the Bourke Street Mall or the Rundle Mall—any of those—and find that this issue would not be a lightning rod for agreement. Everybody wants to understand that the government has control. I think that the issues that we see being played out in Northern Africa into Europe, with the explosion of illegal immigrants seeking to go to other countries, exposes those countries to a great deal of risk. We have arrested the risk of people coming to these shores unfettered. The minister is seeking for this country to be able to monitor the small flow of people to these shores.

I commend this bill and the amendment to the parliament. I ask that all those looking at making a contribution to support this as well.

**Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (19:50):** I rise to make some comments on the Migration Amendment (Strengthening Biometrics Integrity) Bill 2015.

This bill does a number of things. Particularly, it simplifies the provisions relating to the collection of personal identifiers. At the moment there are a number of provisions in the bills, which means that officers who are enacting this legislation need to refer to a number of heads of power and there are multiple regulations which they apply. Particularly, it will also expand the existing personal identifier collection capability and provide for new capabilities, which will increase the integrity of identity security law enforcement and immigration checks of people seeking to enter and to depart Australia, and of non-citizens who remain in Australia. These measures will serve to strengthen the integrity of Australia's borders and our migration program.
Specifically, the amendments to the Migration Act do a number of things. The explanatory memorandum says that they:

- streamline seven existing personal identifier collection powers into a broad, discretionary power to collect one or more personal identifiers from non-citizens, and citizens at the border, for the purposes of the Migration Act and the Migration Regulations 1994 (Migration Regulations);
- provide flexibility on the types of personal identifiers (as defined in the existing legislation)—

So, not actually expanding that—

that may be required, the circumstances in which they may be collected, and the places where they may be collected;
- enable personal identifiers to be provided either by way of an identification test, or by another way specified by the minister or officer (such as a live scan of fingerprints on a handheld device);
- enable personal identifiers to be required by the minister or an officer, either orally, in writing, or through an automated system, and allow for existing deemed receipt provisions in the Migration Act to apply in relation to requests in writing;
- enable personal identifiers to be collected from minors and incapable persons for the purposes of the Migration Act and Migration Regulations under the new broad power without the need to obtain the consent, or require the presence of a parent, guardian or independent person during the collection of personal identifiers; and
- omit provisions which are unused and no longer necessary.

Before I go on to other details around the bill, I think it is important that we address the context of this bill.

One of the other committees—which in fact has been sitting today—that I am involved in is the Parliamentary Joint Committee on Intelligence and Security. We have been dealing over the last 12 months with a number of tranches of legislation looking at how we protect Australia and Australia’s interests. People listening to this debate may be aware of the foreign fighters bill, for example. We have looked at strengthening the tool set, if you like, that Australian law enforcement agencies have to apprehend and hold to account people who go to places like Mosul in the al-Raqqa province in Syria and participate in activities there with the Islamic State or Daesh and the activities they are undertaking.

We have looked at things like metadata and we have put in place a requirement for telecommunications providers to retain a prescribed set of data for two years. They will retain that data and make it available to the law enforcement agencies who need it. That is not only in the counterterrorism space; importantly that information is used in almost all serious crime, whether it is organised crime in terms of drugs or people-trafficking or the heinous crime of paedophilia and the abuse of children. So we have put in place metadata laws that provide for that.

This is another piece of legislation that is going towards addressing those issues. At the moment the committee is looking at citizenship laws and whether it is appropriate to revoke the citizenship of somebody who betrays their allegiance to Australia by virtue of their actions supporting terrorist organisations.

That committee is very active. In the last couple of weeks I have travelled with the committee—with the chair, the former Attorney-General Mr Philip Ruddock—to engage with a number of our international partners in the UK, France and the United States, to understand
the extent of their measures to address the threat of foreign fighters, to understand their intent in terms of how the issues in Syria may be resolved, and also to understand how we can combat violent extremism.

One of the things that stood out very clearly, particularly when we spoke to people in France, was the benefit that Australia has in having secure borders. It is no surprise to me that the policies that this government has put in place have not only secured Australia's borders in terms of illegal arrivals but have also been an important tool for the Federal Police, our security agencies and our border protection staff—to have an understanding of who arrives and who leaves this country. Those are quite important things when it comes to minimising the impact of Daesh; when it comes to minimising the very existence of the caliphate, which is drawing people from all around the world; and when it comes to protecting Australia from the return of people who have gone and received training in terrorist activities, such as the use of explosives and other weapons.

Particularly when we met with people in France—their intelligence agencies, their government and their oversight policymakers—it became apparent that one of the real issues that Europe has is that their borders are now essentially open for people to move from country to country, with very few checks. That imposes an incredible burden on them in terms of their ability to secure their nations. Australia has a fantastic history, particularly under the coalition, of securing our borders. We need to make sure we give our officials every tool they need to keep our borders secure.

The threat also is large in terms of the foreign fighters who are leaving our shores. One of the issues that become very apparent as you look into this conflict is that, while we have a natural concern about terrorist activity here in Australia—more broadly the conflict in Syria and Iraq, which is a very complex mix of issues between the Assad regime, the anti-Assad forces, the Islamic State and those proxies who would seek to support the Islamic State or support those who oppose it—the impact on the Syrian population is huge.

Putting our own immediate security aside—just looking at the humanitarian consequences of allowing foreign fighters to go and support the existence of Daesh or the caliphate or the Islamic State—we have around seven million Syrians who are displaced and currently living in Jordan, Turkey and Lebanon. We have nearly four million displaced internally within Syria, and about 3½ million people displaced internally within Iraq. That means that there are families living in incredibly dire circumstances; there are children who are receiving at best a basic education and at worst no education. The long-term risk is that not only will they be displaced for a long period but potentially they will become radicalised themselves and will present a threat to the stability of Iraq and Syria, and thereby to Europe and more broadly Australia.

So we have a great incentive to ensure that we have measures in place that allow our authorities to secure our borders not only from people returning to or coming into Australia but particularly from those people who are leaving Australia to go and give succour and support to the caliphate which, by virtue of its very existence, is a magnet that causes people to become radicalised and to see this as an alternative to the established Westphalian nation-state that has dictated the world order and, in large measure, since World War II, despite a number of smaller conflicts, has provided stability to the world and the world order.
Providing these measures means that, for example, Khaled Sharrouf, who left Australia and went to fight with Daesh, would not have been able to leave on the strength of his brother's passport. These measures would have meant that people at the border would have had biometric identifiers that would have said, 'This is a person of concern, whose records are held by our law enforcement agencies.' It would have enabled them to stop him leaving. We have seen the impacts on not only him personally but his extended family and other people, as well as the people in Syria, that have had dreadful consequences. We have seen reports of the treatment of Yazidi sex slaves, young women who have been bought, traded and sold and abused by Sharrouf, his associates and indeed his family—dreadful consequences that could have been prevented had we had measures in place where departing people are required to have a certain form of identification, that being biometrics.

These tools need to be seen in the context of our security situation as well as the humanitarian situation in the Middle East. We also need to see it in terms of our security here, with people returning. When people come back, it is important that we know whether they have been held on a database of concern by our law enforcement agencies or by security agencies in countries overseas. We need to ensure that when people come through our checkpoints at airports we are able to positively identify those people so that we can hold them to account for the things they have done or appropriately regulate what they are allowed to do in Australia. Our own security, to a large extent, requires these changes.

Another area that is important, and this is one aspect of the bill, is changing the ability of our officials on borders to take biometric details from minors. That has caused some concern for people who were witnesses in the Senate inquiry into this bill, but what we see is the requirement to be able to positively identify children from a couple of aspects. One of the really disturbing aspects about this current conflict in the Middle East and the way that Daesh is operating is that we are seeing that the radicalisation is occurring at a younger and younger age. So we are getting children in their very early teens who have become radicalised and there is ample evidence that some of the suicide bombings that have been occurring in the Middle East are carried out by very young children.

I completely accept the fact—and we have heard a lot of this in the Parliamentary Joint Committee on Intelligence and Security as we are looking at the possibility of revocation of citizenship—that we need to look at children who are caught up in this as victims, as opposed to seeing them as perpetrators. But even if we see them as victims we need a method to identify who they are so that they can actually obtain the appropriate support to help them in some form of rehabilitation, recovery or reintegration into society. We need to prevent them while they go through that process from carrying out the things that may have been imparted upon them or, or if you like, the brainwashing that has been given to them, whether by a guardian or, in some cases, a parent or other people who have sought to influence these young people. So this measure should not be seen as a punitive measure against children. Based on the work we are doing with the intelligence and security committee, if they are victims, then this is a way we can identify that these are young people who have need of the state to intervene and to work with them.

One of the interesting things that came out of the discussions we had in the UK was the fact that they recognise that where a caregiver or a parent is either not preventing radicalisation or, in some cases, actually actively encouraging radicalisation or the conduct of
events, that the state may actually need to intervene. We see there the fact that they will take a child into state care to remove them from those influences that are causing damage to the child and from the propensity for that child to be prepared to commit acts as a result of the violent extremism that they have been exposed to.

We should not see these border measures as a punitive measure; we should actually see them as a preventative measure, a way of identifying children who are in need of the protection of the Australian government and the state to not only protect our society but provide them the opportunity for, if you like, rescue and reintegration.

The other group that this bill will address is where there is trafficking, particularly inbound trafficking of people who may be trafficked into the sex trade here in Australia, or potentially of people who are being taken out of Australia for illegal purposes, whether that be for child marriage or for female genital mutilation. There are areas where at the moment we have watch lists for certain people, but this provides another tool. So if a child was travelling on false documents with the parent or the person who was facilitating that movement out of Australia for those illegal purposes, then people who are concerned about them, whether they be extended family or friends, have the potential to find a way for our law enforcement agencies to obtain fingerprints and to match those as they go through Immigration at our borders. So this becomes quite a powerful tool to actually not only prevent young people who are victims of practices that we do not support here in Australia leaving—in fact, in the life of this parliament have passed laws to make illegal some of the practices such as child marriage—but it also provides us with the ability, in cooperation with overseas powers and law enforcement agencies, to identify people who are being trafficked, to pick them up when they come into Australia, again, so that we can identify and hopefully prosecute those who are responsible but protect the people who are the victims of that trafficking.

There is a database of non-nationals from whom, whether they are applying for a visa or for other reasons, biometric data has been obtained by the government and it has been retained with all of the normal privacy requirements that the Australian government expects of its agencies and the public expects the government to maintain. But, importantly, the data of Australian citizens, if it is held, is held by law enforcement agencies. So an Australian citizen who has a criminal record will have data retained by, for example, the Australian Federal Police and that data is available to the officers at our borders. But information that is taken, for example, using the portable scanners, which are being proposed at the borders, will not be retained. That data will be recorded, matched and then it will be deleted. So people do not need to be concerned that the government is starting to accrue a large database that will be kept ad infinitum of Australian citizens. That data is either because the person has a criminal record or it is just recorded for matching and then it is deleted at the border.

We have also had some people question what will happen to the data of minors. We had Senator Lines asking whether or not the government knew what would happen to that data. There was a question on notice that she had asked and the answer was given. I had a look at the answer to that question on notice, which said that that data will be deleted when the child turns 18 if not sooner, so there may be circumstances whereby the data is reviewed and it is deleted. But in any case, as that person turns 18, that data will be deleted.

This amendment I strongly support because it is simplifying the regulations that officials operate under. It is streamlining the measures they need to use. It is giving them the tools to
protect minors and vulnerable people, to stop people going overseas to fight and, importantly, to protect Australia.

Senator CANAVAN (Queensland) (20:10): I rise to speak on the Migration Amendment (Strengthening Biometrics Integrity) Bill 2015. I am happy to rise in support of this bill because it is a very important update to our security framework. Obviously our border security framework contains some of the most important legislation that we administer and pass in this place.

Some of the provisions that are being updated in this bill that will update the Migration Act have been in place now for almost a decade. As a country, we have been collecting biometrics data for almost 10 years. I do think the provisions in this bill provide sensible and modern updates to our biometrics collection framework. They are needed due to the changes in technology that have occurred in this area and also to expand the scheme to include minors, as Senator Fawcett outlined earlier.

I will come back to those points later in my speech but, at the outset, I want to place this bill in the broader framework of the government’s agenda, which has been to strengthen our national security framework. This bill does support the broader changes that were made to the Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014. That act did a range of things including address the emerging threat of Australians seeking to travel overseas to fight with terrorist organisations. This bill will help provide our law enforcement agencies with more information and more data collection powers to help them enforce the provisions of that earlier bill and therefore it is very important in that regard. Of course it does also fit into the broader framework of the Prime Minister’s National Security Statement earlier this year that further legislation to combat terrorism and keep our country and our people self safe would be forthcoming. This is another version of that bill.

Of course I do not need to remind people in this chamber that events of the last couple of years have made it more keenly felt here the risks that we do face from terrorism events. We have faced them for some time. As I said, the provisions in this bill to do with biometrics emerged in a previous bout of terrorism incidents. The changes being made in this bill are a sensible update to those early changes. They do relate to the collection of biometrics by our border security enforcement agencies.

Biometrics, in simple terms, are unique identifiers that relate to each of us individually that allow enforcement agencies to identify particular individuals. They include things like facial images, fingerprints, iris scans, anything that can be digitised into a template and automated for storage and checking. The department has been collecting biometrics, as I said, since 2006. It has progressively expanded the collection of biometrics over this time using a risk based approach to identify who and what is collected. In 2010, the department commenced collecting biometrics from noncitizens applying for protection in Australia and from overseas applicants for visas, particularly from high-risk countries.

Biometrics are an extremely important integrity measure that contribute to protecting our borders and prevent the entry of persons who may do us harm. They anchor this information in a particular person's biography such as their name, their nationality, their date of birth and add to the capability of our law enforcement agencies to identify that person to ensure that that person is not trying to fraudulently pass themselves off as someone else. They are more accurate than document based checks, which can of course be subject to fraud. Also, they can
be linked to someone's broader documents, which prevents or at least minimises the chance of fraud occurring.

So far, the department has made more than 9,000 fingerprint matches over this period. These matches have revealed undisclosed security and criminal histories, as well as discrepancies between the biographic data provided to the department by individuals and that provided to other agencies. So they are clearly a very important law enforcement tool.

They have also been used to expose identity and immigration fraud. This includes individuals who have returned to Australia, or tried to return, under assumed identities, years after being removed from the country. Some others have attempted to gain protection here, under assumed identities, where they already have protection in other countries. The current biometric measures have exposed fraudulent and illegal activity in these instances, but the sophistication of the technology used to enter Australia illegally has started to develop and evolve and strain the resources of our existing agencies. It is therefore our duty to make sure our laws are updated to match these technological developments. That is why we are proposing these amendments today. Our current regime has effectively supported our border protection efforts for some time, but we do need to keep pace with these emerging technologies.

So, what does this bill do? It provides a more simplified framework for the collection of biometrics. I believe that currently the government is limited to 12 prescribed purposes for which it can collect biometric data. This bill will replace those 12 existing purposes with a broader ability or power to collect biometric information, in accordance with the purposes of the act and the regulations. Importantly, this bill will allow the government or the department to update and be flexible, as technology develops, to collect biometric data in another way.

I know that there are some concerns that this bill broadens the powers of the executive to collect this information, but I would say that any changes to regulations and the particular application of those regulations in this act by the executive, be it a coalition government or some future government of another party, are still subject to the scrutiny of parliament, including through our estimates procedures. I am sure that if there are any departures from the purposes as listed in this bill, they will be diligently exposed by this chamber. It is important to say that while this bill does provide for a simplified scheme for the collection of this data it does not introduce a universal biometrics collection policy. The department will continue to facilitate the smooth travel to Australia of the overwhelming majority of people who are legitimate travellers and law-abiding people, without collecting additional biometrics. While acknowledging the impact on travellers in circumstances where a certain amount of identity verification is required, the increased collection powers are proportionate to the legitimate purpose of protecting the Australian community, and the integrity of the migration program.

The bill will also address gaps in our existing biometric framework and replace seven existing provisions in the Migration Act that separately authorise the collection of biometrics in particular circumstances with a single broad discretionary power to collect biometrics for the purposes of the Migration Act or the migration regulations. Streamlining these multiple provisions will remove inconsistencies and duplication and enhance the department's effort to achieve important government policy objectives. These include removing current restrictions on circumstances where biometrics can be collected and providing flexibility in the collection of biometrics from citizens and noncitizens who are arriving and departing Australia.
The bill provides a broader power to collect biometrics from noncitizens who have been identified as of concern, after their arrival, and from behaviour while living in Australia. Significant numbers of noncitizens have not had identity, security and criminal history checks conducted under the department's biometric program, either because of the timing of their entry into Australia or because of their method of arrival. Each year, only a small number of noncitizens are required to provide their biometrics for checking. In 2013-14, less than two per cent of noncitizens granted a visa to come to Australia provided biometrics to the department. As a result, the higher integrity identity, security, law enforcement and immigration history checks that are possible using biometrics have been conducted on only a small number of people who have travelled to Australia. So it is very important that this bill expands those instances where data is collected.

The bill will provide the ability to remain flexible, particularly in the face of emerging technologies. That was identified in the Senate committee report, where the department outlined how at times the existing provisions of the bill restrict them to using certain types of traditional technology—for example, collecting fingerprints. The bill will provide them with the ability to use mobile phones and indeed to collect data in other ways in the future through technologies that we probably cannot envisage at the moment.

The bill will also allow the collection of biometric information from minors, which may sound strange, but it is an important people smuggling protection. For that reason it should be supported. As I said at the beginning of my contribution, I believe this bill is a timely updating of our border security framework, and in particular our ability to collect biometric information and it should be supported by the Senate.

Senator XENOPHON (South Australia) (20:21): I thank Senator Canavan for giving what I thought was a pretty fair summary of the government's position in relation to this bill. Can in indicate that I am broadly supportive of this bill. I do have some concerns, which I discussed with the government earlier today. I will not restate the matters raised by Senator Canavan that set out the broad architecture in respect of this bill. But at the nub of this bill is an ability for the government to undertake, to streamline if you like, biometric testing. Effectively what we are talking about at this stage is the fingerprinting of people at border control. It is interesting to note that mandatory fingerprinting occurs in the United States and, as I found out recently, in Japan, where I waited 110 minutes at Kansai airport in Osaka to get through border control. It was a very long day but—

Senator Whish-Wilson: Not as long as Malaysia!

Senator XENOPHON: No. Malaysia is different—no biometric testing there, just deportation. I am afraid that, irrespective of biometrics, nothing would have saved me from being deported from Malaysia. And it is Anwar Ibrahim's birthday today, and he is still incarcerated. I am sorry for the distraction, Mr Acting Deputy President.

I just wanted to raise these issues. I think that the Senate committee report, including the dissenting report from Labor senators, was a very important exercise. There was a genuine concern raised by the opposition about the way that people would be treated, whether there would be safeguards for collection from minors and vulnerable groups and the way that people would be treated. I believe that the opposition's concerns have been reflected in the government's amendment on sheet GN118, which will be debated should this matter go into the committee stage, as I expect it will. It relates to persons not being required to provide
personal identifiers in a cruel, inhuman or degrading way. It relates to the manner in which
the biometric information is collected. I will ask some questions of the government as to how
they expect this to operate, how they will deal with complaints, the level of training, the
quality of training, the quality control, the level of randomised supervision of how officers
will be dealing with this and whether these tests are genuinely random. I think that these are
legitimate questions to ask. I think that the amendments by the opposition intend to do the
same thing but are quite prescriptive, and I am concerned that there may be some
consequences that are unintended in relation to those amendments that may hamper the
legitimate work of the Australian Border Force in strengthening the integrity of our borders.

I also think it is worth asking, in the committee stage, how this will work in the context of
CrimTrac. A question that I will be putting to the minister is: if your fingerprint is taken as
part of a biometric scan, can it be used for purposes other than simply border control? For
instance, if that fingerprint matches up with a crime scene for a serious criminal offence, what
would happen in those circumstances? I also note that there was a trial, which was on a
consent basis, where 12,000 individuals were tested at number of airports around the country.
That was generally quite a successful trial—there were not any complaints—but I will ask
some questions in respect of that.

In terms of issues relating to how this new system will work, my concern is that, if it is
known that only 'people of suspicion' are targeted, then anyone who is pulled up for this
test—if they are a person of suspicion or have been flagged by some sort of alert system—
arguably could say that simply being targeted in that way could be cruel, inhuman or
degrading. Whereas, if it is a genuinely randomised test—in other words, of people who have
been flagged for some suspicion but also people who have not been flagged—then that would
neutralise that argument.

I will be asking the government to make an undertaking that, after 12 months and within 18
months of the commencement of the operation of this section, the Australian Border Force
provide a report to the minister that will be tabled in both houses of parliament that will relate
to the operation of these amendments and to issues of complaints—how many complaints
there have been, how complaints have been dealt with, the level of training and quality
control, the level of supervision and, overall, the operation of this section. I do not think that
is an unreasonable request. It is something that I imagine the minister would get in any event.
That would also be a useful basis for the Senate estimates process to explore further if there
are concerns as a result of that report provided by the Australian Border Force. An
undertaking from the government in those terms is a matter that I think ought to be dealt with
in the committee stage of this bill. I think that it would be a useful exercise and one that
would provide a level of safeguard in respect of this.

With those caveats and those issues and some questions I want to explore in the committee
stage, I support the second reading of this bill. I prefer the government's amendment to those
of the opposition because I think that it is broad enough to do what it is meant to do in dealing
with some of the legitimate concerns of the opposition that were brought up in the Legal and
Constitutional Affairs Legislation Committee in consideration of the provisions of this bill.

**Senator JOHNSTON** (Western Australia) (20:28): I am quite gratified by the responsible
attitude that Senator Xenophon has taken to what is a very, very important piece of
legislation, the Migration Amendment (Strengthening Biometrics Integrity) Bill 2015. In the

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last 10 to 15 years, Australia has been confronted with a very multifaceted threat, and that is ingress to and egress from our country by a very broad range of people with differing ethnic and socioeconomic backgrounds. What we seek to do in this piece of legislation is to use current technologies with respect to biometrics to answer the challenge that the threat that I have just mentioned brings to the personal safety and security of Australians. Current technology being what it is, we can identify individuals through what we call personal identifiers, store that information reliably and access that information almost instantly in identifying people who traverse across the threshold of our borders.

The predominant personal identifier will be fingerprints, but there are other biometrics—the iris, facial image recognition and so on. The focus of successful law enforcement around the world has been through the very contemporary, instantaneous use of fingerprints. Algorithmic computer power delivering data to the fingertips of the person conducting the analysis mean that, almost immediately upon setting foot in the Customs hall, we can quite reliably identify the person or persons with the necessary fingerprint data once stored and accumulated.

Having said that, at the moment we have a number of gaps in the reliability of the biometric data that we use to identify people coming into our country. This bill assists in filling of those gaps and giving people with the important responsibility of protecting our borders and identifying people who would be otherwise not welcome in Australia the best opportunity of identifying them. We know that we have had a number of individuals both coming into Australia and leaving Australia where it has been very difficult for the department to make the necessary adjudications in the time frame they have for a person entering or leaving Australia.

This provides a framework to enable manual fingerprint-based checks to be carried out using mobile handheld devices. This is phenomenal technology. This is computer power doing a lot of very good work in giving officers at the border the capacity to make a very reliable, almost instantaneous decision as to the identity of particular people coming and particular people going. These checks will be conducted at airports, seaports and anywhere else where it is very important that Australia have reliable data on a person's identity from a security perspective.

We have a very large number of points of entry. Not many Australian citizens understand all the points of entry: each coal terminal where international ships collect our minerals, be it up the North Queensland coast or in the Northern Territory; oil and gas ships up the north-west of Western Australia; iron ore ships; or wheat being exported from South Australia, Western Australia or New South Wales. All of these points of entry or exit for our exportable goods and for the live export of sheep and cattle mean that we have people coming into Australia whose identity we should know of. We should be able to very quickly, securely and reliably identify who is setting foot in Australia.

The problem we have at the moment is, firstly, all of these various sites need to be connected to the network. Then we have the problem of having the necessary computer capacity and reception at those sites to be able to access databases, and we need to train our officers at those points to completely understand and fully utilise the information technology that we are presenting them. The specific measures in the bill will introduce a broad power to collect biometrics for the purposes of the Migration Act and regulations, including to assist in
identifying persons who may be a security concern to Australia. I think that is almost a motherhood statement in terms of its importance and the necessary authorities, laws and regulations that we would want our officers to have in collecting such biometric data. It will provide the flexibility to require biometrics in some circumstances—for example, in visa applications from persons who are part of an identified high-risk cohort—or to not require biometrics in some other cases. The flexibility to make decisions at the point of authorising entry is going to be in the legislation. It will allow biometrics to be collected multiple times where required.

Again, I emphasise physical characteristics will be used as personal identifiers. We have facial imaging—digital photography—to get a biometric facial image. I have focused on fingerprints and, of course, there is digitally recorded iris images. These will provide a very reliable and quite flexible and contemporary analysis of individuals so that we can readily identify them from the database.

The bill will not mean that biometrics will be collected from the majority of non-citizens who apply for a visa to travel to Australia. It does not introduce a universal biometric collection policy. There is no one-size-fits-all and a blanket provision. It will provide flexibility to require biometrics from particular individuals or high-risk cohorts. All current circumstances under which the Migration Act authorises the collection of personal identifiers will continue to be authorised under the bill. These are, by way of example, in the granting of a visa to non-citizens and entering and departing Australia citizens and noncitizens. I should add that the criminal element will be catered for here. People who are on watch lists, people who are suspected of doing things which may in the medium to long term be in breach of the law will be able to be identified reliably to determine whether a non-citizen holds a valid visa. It will provide for reconciliation between the data provided in the visa application and the point of using that visa, as well as providing for detention decision making for non-citizens.

In addition:
… the department will selectively collect personal identifiers from particular individuals who have not previously provided their personal identifiers, but who have been identified as of concern after their arrival in Australia, or due to their behaviour while living in the Australian community.

I actually think and commend that aspect to the Senate. I think it is a very, very important thing, given that I think we are on the verge of taking our refugee reception to about 18,000 people per annum. This is a very important measure, and I must say I am very gratified by the measures in this legislation. The information:
… provides greater integrity to the immigration system, protection against the spread of terrorism and human trafficking and will assist in resolving the current asylum seeker caseload.

I pause to say that human trafficking is a very, very nasty blight on the movement of individuals between sovereign nations. Any use of technology that enhances the integrity of identifying individuals who may be being trafficked against their will, particularly children, has got to be a very good thing.

The amendments in the bill include the removal of the current age restrictions and parental consent to collect biometrics. I think that is very, very laudable and important. Somebody needs to take responsibility in the fight against child trafficking and, if these measures go down the path of providing officers with greater integrity in being able to identify any person, be it a minor or an adult, who is being trafficked, it has got to be a good thing. The age
restriction amendments are primarily, as I have said, a child protection measure aimed at preventing child trafficking and/or smuggling, particularly with respect to what we all know happens around the expression 'child brides'.

I strongly commend these measures to the Senate. I think they are very, very sound, logical and strong, and I actually have no qualms about the civil liberties aspect underlying these matters. I think the mischief that is sought to be prevented here is ever so much greater than the inhibition of any civil liberties.

Collecting personal identifiers, particularly fingerprints, from children will permit a higher level of integrity in identifying minors overseas where known cases of child smuggling and trafficking reveal higher risk.

I think that is self-evident and a very important aspect of this legislation which the wider community, I would expect, would welcome.

Fingerprints provide a unique capability to accurately identify individuals that is not possible using a facial image, particularly if the person is a minor.

Obviously, facial imaging, digital facial imaging with respect to children who grow very quickly is a problem, so fingerprints are a relatively stable personal identifier throughout a person's lifetime.

In addition, the age restriction amendments address situations 'where a parent, guardian or independent person may seek to frustrate the collection of personal identifiers by leaving a room where an identification test is to take place'. I think that also is self-evidently an integrity-enhancing measure.

Recent border and terrorism-related events in Australia and worldwide illustrate the need for measures to strengthen community protection outcomes.

The measures in this bill will strengthen the department's capacity to collect biometrics to check identity and to do other checks to detect individuals of concern. Again, I say laudable, appropriate, logical in a society such as ours. Vigilance comes at a price. Having high-integrity biometric assessment of individual identity means that we have greater capacity to more effectively in a short space of time make adjudications at our borders, which, as I say, are laden with integrity and are reliable.

... recent examples of Australians leaving to participate in foreign conflicts have highlighted the need for additional actions to detect such persons at the border. The example of convicted terrorist Khaled Sharrouf who in December 2013 used his brother's passport to leave Australia to participate in terrorist related activities illustrates the need for fingerprint-based checks.

Again, I say this is very, very logical. If we can get technology to step into the place where human error—and human error, I think, is very likely when we know the level and the number of people who are going through our borders on any given day, any given night. My experience has been at Perth Airport with four or five planes landing between midnight and 5 am. It is huge burden for Customs officers to deal with in an expedient, cost-effect way, and so technology stepping up to the plate to assist in that adjudication has got to be a very good thing, and this legislation does exactly that.

The collection measures in this bill provide the tools to stop people like Sharrouf at the border due to the higher level of accuracy in identifying individuals provided by fingerprint verification.
The digitalisation of this data means that it is instantaneously accessible and the officer has the capacity and the technology at his fingertips to make an enhanced adjudication of high integrity and reliability. This has got to be a very, very good thing.

Having said that to you, we know that, having touched on the issues of child trafficking, of child bride smuggling and of all of the things that we can see around the world where people are making money out of nefarious practices in the breach of human rights of others, the one particularly strong deterrent is high technology, personal identifiers, using high-powered computers to provide instant answers on a digital basis through data analysis, is a very good antidote to this growing problem.

This legislation takes our border security, our border protection and the officers who administer the rules, the regulations and the law to a higher level of integrity I want to commend this bill to the Senate and say that as time goes by and technology improves we must in this place be on the front foot in assisting our officers with this technology, such that they can do their job to a high degree of integrity. I think this is very, very important not only for the security of our country but for the expeditious treatment of people at the borders.

I spent five hours at Heathrow airport on one occasion, as a senator of Australia. The queue just went up and down, up and down, and I got to a sign that said, 'You are two hours from the front.' That is because they did not use the technology. They had individuals making a rough guess as to who's who in the zoo as they came through. We want to avoid that. We want to have a high degree of integrity and a high degree of cost-effectiveness, and we want to move people reliably through our borders quickly, particularly law-abiding citizens. That is the consideration here: we can pick the bad apples out very quickly and reliably, and we can let law-abiding citizens move through very quickly.

I think this legislation—and I want to commend it, as I said, to the Senate—is a very strong piece of initiative by the government to get on board with current technology. There is no excuse for us not to utilise the high degree of developed, high-integrity, personal identification—digital personal identifiers—in processing people through our borders. We should be doing it and we must be doing it, and this legislation assists in expeditiously providing our officers with greater and more reliable capacity to do what we want them to do.

Senator LAZARUS (Queensland) (20:47): I rise to support this really important bill, the Migration Amendment (Strengthening Biometrics Integrity) Bill 2015. We are living in challenging times. Not only is the threat of terrorism on the rise but the number of people moving through our borders is also on the rise. In 2013-14, over 35 million passengers arrived and departed from our borders and nearly five million visas were granted. The number of people travelling in and out of Australia is estimated to rise significantly in the future; in fact, passenger numbers are expected to reach 50 million by 2020. Given this, we need to arm our border protection and management agency, the Department of Immigration and Border Protection, with the most progressive and flexible range of tools possible to manage the identification of people.

Border protection and management are one of the most important aspects of our national security. It is imperative that our people at the front line, in airports and at ocean liner terminals, have the ability to process the arrival and departure of people with ease and speed while maintaining the highest levels of scrutiny. It is for this reason that we need to improve the way we process the arrival of people to our shores and put in place improved mechanisms
to ensure that those seeking to enter our country are here for the right reasons. We also need to ensure that those seeking to leave the country are leaving for the right reasons.

All of this means that we need a better way of managing the identity of those moving through our borders, and this bill will do just that. It will consolidate the federal government's existing personal identification collection powers by introducing a single power to collect personal identifiers that replaces seven existing collection powers in the Migration Act. This will streamline existing processes to prevent inconsistency and duplication in the capture of personal identification information. I should note that I understand that the bill will not change the way in which data is held and retained and that fingerprint technology will not retain personal identifier information.

The streamlining effect of this bill will enhance the department's ability to identify noncitizens who have a criminal history or who are of character concern and to assist in identifying persons who may be of security concern to Australia or a foreign country. It will also provide the flexibility to require personal identifiers for visa applicants considered part of an identified higher risk group or for those where there are reasonable grounds to suspect identity fraud. It will also provide greater flexibility in relation to the capture of personal identification information for minors and incapable persons where there is a concern that they may be at risk or where there are concerns about the reason for their travel. It will also enable the department to collect personal identification information from visa applicants more than once.

In working through the bill, I did have some concerns regarding the privacy impact of the bill. However, after discussions with the minister and his staff, I am confident that the proposed changes will involve minimal impact on the human rights of those affected. I am confident that the bill achieves a very careful and considered balance between the safety of Australians and the impact on the human rights of those affected. I understand that the privacy impact assessment, which was recommended by the Senate inquiry, may be available to the public in due course. Hopefully, once this assessment is available to all for public perusal it will address any concerns the general public may have in relation to privacy issues.

I would also like to make a few comments regarding Labor's amendments, which I feel do have merit. Labor's amendments seek to place safeguards around the taking of information from young people or those who may be vulnerable for a range of reasons. While I understand Labor's concerns, I am also acutely aware of the need to ensure we do not impose any further administrative burden on our already very busy and very stretched front line. This bill is about increasing the efficient processing of people, not increasing the work load and administrative burden of people processing. For this reason, I will not be supporting the Labor amendments. I would however like to acknowledge the good work of the Labor Party in seeking to add further protections to what is already a very good bill.

I am comfortable that the bill does allow sufficient measures to protect the most vulnerable. Testing will still be done with two people present, with one of those officers being female. In the case of minors and incapable persons, if a parent or guardian is travelling, consent will be sought first. Children and vulnerable persons will only have their personal identifiers collected if they are selected by trained officers to be at higher risk of harm or a higher risk to the safety of the community. This is essential in the case of child trafficking, smuggling or exploitation.
In summary, the number of arrivals and departures is increasing exponentially. The national security alert was raised another level in September 2014. The trafficking of men, women and children into Australia is increasing and remains a concern, according to Australian Federal Police data, which reported 70 new referrals of trafficking in 2013-14 compared to just 15 in 2003-04. This bill will assist to address this issue both in Australia and overseas with other cooperating agencies.

Australia needs effective and efficient measures to not only allow legitimate travellers to pass through without undue delay but also detect those at risk of harming Australia or elsewhere before they enter or leave our borders. More importantly, we need to be able to detect vulnerable children, women and men who are being trafficked into Australia. I believe this bill will assist to strengthen our country's management of our borders, reduce the risk of people trafficking and will provide our front-line men and women with the tools and systems they need to keep us safe.

Senator SMITH (Western Australia) (20:54): I am pleased to stand up this evening to add my support to what is a very important government initiative in combatting the threat of terrorism that is unfortunately becoming an ever-increasing risk to Australians both home and abroad. So I am pleased tonight to be able to add my comments on the Migration Amendment (Strengthening Biometrics Integrity) Bill 2015. But, before I speak to the bill, I would like to make some related comments.

Those of us who are familiar with Western Australia and indeed St Georges Terrace would have regularly passed Anzac House, which is the home of the Returned Services League in Western Australia. Colleagues like Senator Cash and I are able to reflect on the fact that inscribed on the wall at Anzac House is this statement: 'The price of freedom is eternal vigilance.' When I was considering making a contribution to this important bill tonight, it was those words, 'The price of freedom is eternal vigilance', that came to mind, because I see much of the initiatives in this bill being about vigilance—not for one moment underestimating the risk, nor for one moment implying that the threat is imagined, as it is very, very real. That quote, 'The price of freedom is external vigilance', is actually not the original quote. The original quote, which celebrates its 225th anniversary this month, is:

The condition upon which God hath given liberty to man is eternal vigilance.

It is often misattributed to the Irish lawyer and politician John Philpot Curran and to Thomas Jefferson. I think that quote demonstrates the very important point that, for hundreds of years, men acting independently or indeed collections of men and government have added to this requirement for constant vigilance in order to protect freedom and liberty.

This bill follows on from the foreign fighters bill, the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014, which enhanced the capability of the Department of Immigration and Border Protection to identify persons seeking to enter and depart Australia and noncitizens remaining in Australia. In the time that is available to me this evening, I would like to restrict my comments to a number of themes: to restate why these initiatives are very important; to reflect on some of the core initiatives that are contained in the legislation; to examine briefly why it is that biometrics are now such an important modern piece of our armoury in defending ourselves and defending the citizens of this and other countries; to comment briefly on the removal of the existing restrictions on collecting biometrics from minors, which I do think is a very important element for people to be aware of; to reflect...
briefly on the cooperation and the importance of cooperation contained in this legislation between ourselves and the governments of the United Kingdom and the United States; and to demonstrate that the threat that this legislation seeks to counter is not imagined but very, very real.

At the core of this bill are measures to focus on biometrics—more commonly termed 'personal identifiers' in the Migration Act—which are unique identifiers that are based on individual physical characteristics, such as facial image, fingerprints and iris, which can be digitised into a biometric template for automatic storage and checking. It is important to reflect on the fact that this is not new. Indeed, the Department of Immigration and Border Protection has in fact been collecting biometrics images such as facial images and fingerprints from particular cohorts of noncitizens—so citizens not of Australia—since 2006 and since that time has progressively expanded its biometric collection program using a risk based approach, which I think is a very prudent way in which to test technologies and make Australians and non-Australian citizens accustomed to these important security measures. By way of example I would cite the 2010 experience when the department commenced collecting biometrics from noncitizens applying for protection in Australia and from overseas applicants for visas in particular higher risk countries. But, more significantly, I think it is important to be very aware of why biometrics are such an important modern tool in the armoury that this government has chosen to protect its citizens and, indeed, anyone who might be travelling to and from Australia.

As has been previously mentioned, biometrics are a very important integrity measure that contribute significantly to not just protecting Australia's borders but also preventing the entry of persons who may threaten the Australian community—those who are residing here permanently and those who might be travelling to Australia on holidays. Once anchored to a person's biographic information, such as name, nationality and date of birth, a biometric adds significant information and profile to the portfolio's capability to verify that a person is who they claim to be. This is at the core of this initiative. What we are seeking to do is to verify beyond doubt that someone's claim to be someone is in fact their claim and an accurate claim, and not one that is being misused or abused by others. This initiative adds significantly to the importance of our security arrangements, to our law enforcement initiatives and of course to building our strong immigration information for the future.

I note that Senator Lazarus reflected briefly on some of the civil liberties or human rights implications of this bill. It will be interesting to see the report of the Joint Parliamentary Committee on Human Rights when it provides its report, not just on this but on other particular initiatives, to find and to explore how government has struck the right balance with respect to people's civil liberties—as I prefer to call them; others might prefer to call them human rights—how privacy has been maintained and how fair trial has been maintained. Of course, that information will come to the Senate in due course.

Staying briefly with the issue of biometrics, biometrics are more accurate than document-based checks of biographic detail, such as name, date of birth and nationality because they are relatively stable over time and are significantly more difficult to forge. Those personal characteristics—those personal identifiers that we have talked about—are much more difficult to put to fraudulent use. As the utility of collecting biometrics rests on a foundation of accurate identification, fingerprints provide higher integrity identity assurance than identity
documentation or facial images. We have often heard in the broader debate about border immigration of people choosing to lose their identification documents and people coming to Australia without documentation. Indeed, it is very hard to come to Australia without a fingerprint or a facial image.

Finally, I want to reflect briefly on the very important issue of the removal of existing restrictions on collecting biometrics from minors, because this is a particularly important initiative and one that needs to be very well known and clear to people when we are debating this bill. The removal of existing restrictions on collecting biometrics from minors is primarily a child protection measure aimed at preventing child trafficking and/or smuggling. Collecting personal identifiers, particularly fingerprints, from children will permit a higher level of integrity in identifying minors overseas where known cases of child smuggling and trafficking reveal higher risk. This includes conducting fingerprint-based checks against lists of missing or abducted children with countries of suspected origin, as well as against Interpol missing persons' records. Fingerprinting provides a unique capability to accurately identify individuals that is not possible using a facial image, particularly if the person is a minor. Unlike a facial image, which is subject to considerable change as a person ages into adulthood, fingerprints are relatively stable throughout a person's lifetime.

As was commented on in the contribution by the minister, an interesting element in this particular bill is the cooperation that will be exercised between us and the governments of the United States and the United Kingdom. In the contribution, the minister said:

Further, Australia, like the United States, the United Kingdom and many other countries face the return of potentially radicalised minors after participating in conflicts in the Middle East and elsewhere. While it is an uncomfortable proposition that a minor may be capable of involvement in terrorist activities or extreme violence, the conflict in the Middle East has provided evidence of the involvement of children. Through the Five Country Conference data sharing arrangements, Australia would be able to access fingerprint-based records of minors who may already be known to the security agencies of other countries. Where a minor is suspected of involvement in a terrorist activity or serious criminal activity, fingerprints would enable searches of Five Country Conference partner databases and Australian law enforcement data holdings.

This is a particularly powerful initiative. It means that there is no safe haven for minors or those people who might seek to use minors as a way of propagating their violence and extremist ideas.

In conclusion, it is important to reflect and to reiterate the point that the government is committed to fulfilling its most important responsibility—that is, to protect Australians and Australia, its people and its national interests. The bill is an important part of preventing persons of risk from entering Australia and remaining in Australia undetected. The amendments will expand the Department of Immigration and Border Protection's capabilities to identify individuals through biometric checks, which are more accurate than current document-based checks. The bill creates a new legislative framework for collecting biometrics that will contribute to improved decision making, whether that decision is to grant a noncitizen a visa to come to Australia, to permit entry or departure at the border or to allow a noncitizen to remain in Australia.

At the very conclusion of my comments, I want to reflect on and add to what Senator Johnston had to say in his contribution where he emphasised the fact that what we are dealing with here is not perceived or imagined risk but are very real and current risks. Recent
examples of Australians leaving to participate in foreign conflicts have highlighted the need for additional actions to detect such persons at the border. The example of convicted terrorist Khaled Sharrouf, who, in December 2013 used his brother's passport to leave Australia to participate in terrorist related activities, illustrates the need for fingerprint based checks. The collection measures in this bill provide the tools to stop people like Khaled Sharrouf at the border due to the high level of accuracy in identifying individuals provided by fingerprint verification. As unpleasant as it seems, that is a very real and necessary initiative. It has come at exactly the right time and I urge all members of the Senate to support these necessary reforms.

Senator REYNOLDS (Western Australia) (21:08): I rise to speak on the Migration Amendment (Strengthening Biometrics Integrity) Bill 2015 on behalf of this government. The important amendments to be made by this bill support changes introduced last year by the Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014. Among other things, the foreign fighters act addressed the emerging threat of Australians seeking to travel overseas to fight with terrorist organisations. Importantly in the context of this particular bill, it enhances the capability of the new Australian Border Force to identify persons seeking to enter and depart Australia and non-citizens who remain in Australia.

Why is this important? We are facing an increasingly challenging time on our borders. By 2020 we shall have 50 million border crossings a year in Australia and it is absolutely essential that we are able to verify who everybody is—like the old adage, trust but verify. With 50 million movements across the borders every year, it will be essential that we have the technology and the processes to enable us to do this.

National security must always be the primary priority of any national government and it is certainly the priority of the current government, as are, as Senator Smith has just said, the preservation of our democratic freedoms, our human rights and our civil liberties. In one sense, they may seem to be incompatible policy objectives. To balance them is never easy and it is right that they should always be contested in this place to ensure we get the balance right. However, there is absolutely no doubt in my mind that the Islamic State, people smugglers and other international criminals are a very clear threat to Australia today. In 1986, Margaret Thatcher noted to the British parliament:

Terrorism thrives on a free society. The terrorist uses the feelings in a free society to sap the will of civilization to resist. If the terrorist succeeds, he has won and the whole of free society has lost.

She also noted that:

Terrorism has to be defeated; it cannot be 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.

I know through my own experiences in government, dealing with the threats of al Qaeda and Jamia Islamia taught me that terrorists do not respect compassion, that they will always exploit it and look for a way to get around the system to achieve their aims.

As we all know now in this place, the threat is real and the threat remains. Between 1990 and 2010, 30 Australians were known to have trained or fought with extremist groups in conflict zones, including in Pakistan and in Afghanistan. Of these, 25 returned to Australia and 19 became involved in activities in Australia which were euphemistically prejudicial to
our national security. At least eight were convicted of terrorist offences. Since that time, with the evolution of Daesh and IS, they have made much greater use of social media and much greater use of technology and also clearly identity fraud. Therefore, the amendments in this legislation are absolutely critical. In fact, it is critical to support the Prime Minister's National Security Statement of 23 February this year, which stated that further legislation was required to combat terrorism and to keep Australians safe. Again as we have seen even as late as this week, recent terrorism related events in Australia and globally serve to remind us yet again that this threat is real. This bill further strengthens Australia's border protection measures by enhancing the capability of the department to identify persons seeking either to enter or to depart Australia and also non-citizens who remain in Australia.

So why as these changes needed and why are they needed now? Recent border and terrorism related events in Australia and worldwide illustrate the need for measures to strengthen community protection outcomes. The measures in this bill will strengthen the department's capability to collect biometrics, to check identity and to do other checks on individuals of concern. We have already heard tonight from other speakers of the recent examples of many Australians who have left Australia to participate in foreign conflicts and the need for additional protections at our borders has been highlighted.

What is the department's history with biometrics? Biometrics are not new. In the Department of Immigration and Border Protection, the biometrics program was been progressively expanded over time, commencing in 2006 with the collection of facial images and fingerprints of illegal foreign fishermen; through to 2010, when the department commenced collecting facial images and fingerprints from offshore visa applicants in certain high-risk locations and onshore protection claimants; and through to 2012, when collecting facial images and fingerprints from non-citizens refused entry at Australia's international airports commenced.

While the current legislative framework has effectively supported Australia's border protection efforts since it was introduced more than 10 years ago, it now needs to be updated to provide officers with the tools to more effectively meet current demands and to keep pace with advances in biometric technology. I believe that the success to date of the department's biometric program and the amount of time and expertise they have now developed in this area demonstrates the value of personal identifiers in protecting Australia's borders and strengthening the integrity of Australia's migration program.

Personal identifiers are essential to detect identity fraud and to conduct appropriate security, law enforcement and immigration checks prior to visa grants at what the department calls 'touch points' during travel to Australia, post arrival in the Australian community and for any subsequent visas to remain in Australia.

Personal identifiers are far more accurate than document based checks for biographic details such as name, date of birth and nationality. Obviously, people have false documentation and they can claim to be or assume the identity of somebody who they are not. The current checks of personal identifiers against existing immigration data holdings and the data holdings of Australian law enforcement agencies and Five Country Conference partner countries have revealed undisclosed adverse immigration and criminal history information for noncitizens and serious discrepancies in the biographic information that they provided.
In fact, the department has made more than 9,000 fingerprint matches with Australian law enforcement agencies and immigration departments of other countries. These matches have revealed undisclosed security and criminal histories, as well as discrepancies between biographical data provided to the department and that provided by other agencies. Again, what this demonstrates is that with the projected 50 million movements across Australian borders by 2020 it is absolutely essential that we trust and verify as much as possible the information provided. I will highlight that again: the department has made more than 9,000 matches with Australian law enforcement and other agencies of people who have provided false information to gain access to this country.

It is clear that biometrics are more accurate than document based checks of biographical details such as name, date of birth and nationality because they are relatively stable over time and are significantly more difficult to forge—even today with the advances in technology. As the utility of collecting biometrics results in a foundation of accurate identification, fingerprints provide higher-integrity identity assurance than identity documentation or facial images.

Current biometric measures which have exposed fraudulent and illegal activity have demonstrated that criminals, possible terrorists, people smugglers and others have used very sophisticated technology to enter Australia illegally. The sheer volume—and the 9,000 who have been detected already—is clearly a strain on Australia's border protection agencies. And that is only increasing every day. Therefore, it is even more important that we make the absolute best use of the technology available to streamline the process and to make it more accurate.

It is this government's duty to ensure that our laws are equal to the task which is faced by our border agencies. While the current biometric program has effectively supported Australia's border protection efforts since it was introduced more than 10 years ago, it now needs to be updated to more effectively meet current threats and to keep pace with advances in biometric technology. Therefore, this bill provides for a simplified scheme to collect biometrics, particularly fingerprints. But it is very important to note that it does not introduce a universal biometrics collection policy. I will just say that again, because it is very important: it does not introduce a universal biometrics collection policy. The department will continue to facilitate the smooth travel to Australia of the overwhelming majority of people who are legitimate travellers and who are law-abiding people, without collecting additional biometrics from them. Whilst the government does acknowledge the impact on some travellers in circumstances where a certain amount of identity verification is required, the increased collection powers are proportionate to the legitimate purpose of protecting the Australian community and the integrity of the migration program.

This bill addresses gaps in the existing biometric legislative framework and replaces seven existing provisions in the Migration Act, which separately authorise the collection of biometrics. Streamlining the existing multiple provisions will remove inconsistency and duplication, and enhance the department's efforts to achieve important government policy objectives. These include removing current restrictions on the circumstances where biometrics can be collected and providing flexibility in the collection of biometrics from citizens and noncitizens who are arriving and departing from Australia each and every day.
The bill also provides a wider power to collect biometrics from noncitizens who have been identified as of concern after their arrival in Australia and also from their behaviours while living in the Australian community that raise alarms with our law enforcement and border protection authorities.

Significant numbers—as I have said, they have already detected about 9,000 of these individuals through this process—of noncitizens have not had identity, security and criminal history checks conducted under the department's biometric program, either because of the timing of their entry into Australia or because of their method of arrival. I think that is one of the most alarming current situations—that probably thousands of noncitizens have not had any identity, security and criminal history checks conducted under this biometrics program, again, because of the timing of their entry into Australia or because of their method of arrival. That should be of concern to all in this chamber.

In terms of the balance: it is important to remember that only a small number of noncitizens are required to provide their biometrics for checking every year. In 2013-14 less than two per cent of noncitizens granted a visa—to come to Australia provided biometrics to the department. It is not very many people who are required to do this; it is actually less than two per cent. But the higher-integrity identity security law enforcement and immigration history checks are now possible using biometrics. These not only use more of a risk based approach they also streamline and make it much easier for the department to focus on those of the highest concern with a much higher degree of accuracy.

Noncitizens who may be required to provide biometrics include those under investigation by immigration officers for identity fraud or for breaches of visa conditions. I would say to anybody in this chamber that those are community standards which I think most Australians would agree with—people who are under investigation for identity fraud, people lying to come into Australia, or people who are suspected of failing to disclose adverse information when they applied for their visa. As I said, the department has already found over 9,000 such people.

Biometrics collected will be used to conduct additional checks with domestic and international agencies to link individuals under review to security, law enforcement and immigration information that may be known to other agencies but which the individual seeking to come to Australia has not disclosed to the department. The ability to verify information against data held by Five Country Conference partners as well as domestic agencies provides greater integrity to the immigration system and protection against the spread of terrorism and human trafficking; and will assist in resolving the current asylum seeker caseload.

So what does this bill actually do? What is the detail of this bill? As we know, the new Border Force plays a key role in protecting the security of our borders. Measures in the bill focus on biometrics, termed 'personal identifiers' in the Migration Act, which are a unique identifier—unique to one single person. The measures in the bill address gaps and remove restrictions. This will assist to identify persons who cross the border—and to conduct security law enforcement and immigration checks.

The measures in the bill enable the old Department of Immigration and Border Protection—now the Australian Border Force—to counter the current initiatives and technology used by illegal arrivals to gain access to Australia as identity and security checks
using these personal identifiers are much more accurate than the document based checks of biographical details.

Specific measures in the bill will, firstly, introduce a broad power to collect biometrics for the purpose of the migration acts and regulations, including assisting in identifying persons who may be a security threat to Australia. As we know, that security threat is very real and still very present. Secondly, the bill will provide the flexibility to always require biometrics in some circumstances—for example, in visa applications from persons who are part of an identified higher risk cohort, or not to require biometrics in other cases. Therefore, it will allow our border agencies to really focus their efforts on those 50,000 movements across our borders by 2020 to really pick out the two per cent of those who need the most scrutiny.

The bill will not mean that biometrics will be collected from the majority of noncitizens who apply for a visa to travel to Australia. It does not introduce a universal biometric collection policy, but provides flexibility to require biometrics from particular individuals or higher risk cohorts.

The bill provides for a framework to enable manual fingerprint-based checks to be carried out using mobile, hand-held devices to detect persons of concern. The checks will be conducted at airports and seaports and will take 20 to 40 seconds to complete. A traveller's identity will be checked against immigration and security agency data holdings using up to four finger images. The images will not be retained following completion of the check.

This enhanced capability to conduct meaningful cross-checks with relevant agencies' data holdings will respond to potential alerts or threats before someone boards an aircraft or ship, or is cleared to move into the Australian community. This is another important and very significant change to our border protection measures here in Australia. These mobile devices will also be deployed for use in other circumstances to assure the identity of noncitizens during key transactions with the departments.

The bill will remove existing restrictions in the Migration Act on collecting biometrics from minors and incapable persons to address current inconsistencies in the Migration Act. And, as we have heard from several other speakers tonight, the restriction for minors is absolutely critical; because, while we like to think that young people are not capable of terrible violence, we have absolutely seen not only Australian minors travelling overseas but also minors from many other countries who have been turned into deadly killing machines and suicide bombers. Sadly that is the unfortunate reality for us here today.

Ultimately, I think it can be argued that this is a child protection measure aimed at preventing child smuggling and/or child trafficking as well as the antiterrorism measures. Collecting personal identifiers and fingerprints from children will permit a higher level of integrity to identify minors travelling overseas—including people smuggling and people trafficking.

In conclusion, the Australian government is committed to fulfilling its most important responsibility—to protect Australia, its people and its interests. It is for those reasons that I commend this bill to the Senate. (Time expired)

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (21:28): I too rise to make a contribution to the Migration Amendment (Strengthening Biometrics Integrity) Bill 2015. I would like to open with an anecdotal story that brings the impacts home to us in the
parliament. You are aware that in the confines of Parliament House all of the staff who deal with senators and members on a day-to-day basis have a professional obligation to be able to identify each of us. Each of us has occasion to move around and move freely through the building. It is a security measure and a courtesy measure. Recently, there was an episode here that involved one of our fellow senators, Senator Joe Bullock. I personally think that Joe Bullock is a very handsome man. He has a fine stack of grey hair. He has got very gentle jowls and presents himself in a very distinguished manner. Yet when he recently appeared before estimates—here he is, a reflection, might I say, of myself!—one of the professional staff put my nameplate in front of Senator Bullock. So if that can occur here within Parliament House, where every effort is made to meet the very high standards of security, imagine the difficulties we have with those professional staff who manage our borders, who are involved in law enforcement matters and who deal with, as has been stated before, almost 50 million border crossings each year.

All of us have probably travelled internationally. Many of us find ourselves at airports at all odd hours of the day, where we join with hundreds and hundreds of others. And if you have had a flight that has clashed with another international flight you could have been there with 500 or 600 people, all trying to be processed at a border point. And when you have regard to the number of border points in Australia, where there could be 500 or 600 people being processed at any one time, it starts to build a picture of the challenge involved for those who are charged with the responsibility of the security of our borders of processing those people coming into our country.

Might I say that the roles of the people who provide security are many and varied. Some of the roles they play are a 'there and now' role where they are checking, for example, for drugs or for other forms of contraband. Indeed, we find circumstances where we have very thorough measures in place to see that people do not bring an apple into our country from overseas for fear that there is a worm in the heart of the fruit. So I think measures such as these are necessary so that we can start to isolate high-risk individuals who might want to cross our borders with a worm in their hearts.

To do that we have to bring about measures for our law enforcement and border security agencies, to enable them to do the job with some efficiency. In a former life and in fact in a number of former professions I had considerable experience in dealing with many people—in fact, I am tempted to say hundreds of people—who, over time, made efforts to convince me or my colleagues that they were someone other than who they really were. When we talk about the typical non-biometric measures upon which an individual can be identified, can I go back to training as early as the mid-seventies. I have previously told the story in this place of having to ring a bank, to make arrangements on behalf of my aged mother and of the pain and suffering that I had to go through to be able to convince that bank that indeed I had the power to make an adjustment to my late mother's accounts in her interests, at a time when she was in a nursing home. Yet there are people who can cross our borders, who can make their way through the security provided with less effort than that.

We come back to the point where the traditional method of identifying someone was to find something on their person or in their possession or presented by them that would assist in identifying them—for example, a drivers licence, often with their photo attached. Indeed, on many occasions what I might refer to as a legitimate drivers licence, fraudulently obtained,
was presented. That is to say it was a drivers licence, issued by the relevant authority, and in every respect the drivers licence was indeed what it presented as being. Indeed, the face on the drivers licence identified the individual in possession of that document. However, upon examination it was found that the drivers licence was obtained illegally in that much of the information that had been provided on the drivers licence, in particular the identity of that particular individual, was false as a result of fraudulent representations or indeed fraudulent efforts on the part of that particular individual.

The use of photographic evidence is in and of itself unreliable on some occasions. Photographs can be very readily manipulated these days. In fact, a newspaper photographer took a dastardly shot of me recently and, with consent, some work was done on it. And when I appeared in the Sunday paper I even looked finer than Joe Bullock, which takes some real effort on the part of the people who have these skills! I have a daughter who is a desktop publisher and is involved in this work. I have seen some of the work that she has done in manipulating photographs for magazines and annual reports. It is quite remarkable to the point where, when they press the print button and produce a photograph, it in itself becomes an original document. It is not as though you can look at that photograph or piece of paper where that image is being printed and through an examination determine that the image has been manipulated, unless of course it has been a job that has been done poorly.

The other is documents. People will produce documents in their possession that look as if they are legitimate and, indeed, they may well be in the sense that their genesis may well have been prepared by some individual who has the honest but mistaken belief that the person in front of them, who is providing that information, is who they say they are. The information embedded therein can have a powerful impact upon people and security positions.

You have all heard of the examples but we have one in my home state of Queensland where a member of parliament provided an individual with a reference. It was a glowing reference and that glowing reference was used by that individual to achieve certain outcomes. But when that reference was eventually put to the test, of course it failed to live up to some of the statements that had been made in the reference document itself. Now the member of parliament would have us believe that in this case that he was satisfied with the information provided to him, partially by the recipient of the reference and partially by some—I would say poor—research conducted by his staff. So here is another example where if someone was presented with a driver's licence that had a name and details on it with a photograph—and clearly this was the individual—and then they were presented with a reference from a current member of parliament, depending on the circumstances, many tens of thousands of people in security positions around this country would, in effect I think, be satisfied with those sorts of credentials.

Additionally, if an individual were to produce a bank card or two, a letter from their grandmother addressed to them and a short note from a neighbour, all of these things would build the credentials of the individual making the presentation and that would, in turn, persuade some people in security positions to accept those things as having sufficient weight in an aggregate form to allow people to pass through a security point. There have been hundreds of thousands of cases reported over time where people have used either false documents, forged documents or documents that obtain false information to be able to
produce an outcome of interest to them. And this is why biometrics become such a valuable tool when you are trying to determine the identity of an individual with absolute certainty.

There are hundreds of thousands of serological samples, bodily fluids, hair, all sorts of bits and pieces that are kept in this country every year as a result of investigations that have been conducted. So normal everyday Australian citizens who find themselves in difficult circumstances either by their own making or under suspicion find that samples are taken and are recorded. In fact, we have entire agencies in this country that have quite literally millions of finger prints online.

So Australian citizens, every one of us no matter what we are doing, while going about our normal everyday business, can find ourselves in circumstances where any number of law enforcement agencies or their officers have the power to take biometrics from us and to test them against the biometrics that are already on record in this country. For example, you and I might find ourselves walking along a street in Sydney where an event has occurred and some officer has a reasonable but mistaken belief that we may be persons of interest. As the law provides in this country, we could be totally innocent—it could be you and I, Joe, mistaken as twins coming away from a birthday party—but they can take our fingerprints and other samples and run them through the system to see that we are not the pair that recently left the scene of a burglary.

These measures have been around for a long time. They are not very effective because, Joe, you and I are still free. But the fact of the matter is they are used on ordinary Australians. We go about our daily business having no real adverse regard to this. This is what keeps our nation safe. Yet there would be some who might resist the idea that if we have particular select group of individuals, a cohort of individuals coming from a high-risk source into our country, we will make sure that they do not have typhoid. We will put them through a scanner that takes their temperature—I came through one the other day—we will make sure that we take every measure to take the apple because it might infect our apple industry, and we will run a sniffer dog along. There may be measures that are available to us that will allow us to lift the standard of our security on those individuals yet we have some people who are yet to be convinced to support these measures.

I have always said that I do not fear ever having my fingerprints taken on any occasion. I used to say this to young crooks that I was involved with—mind you as a police officer, not socially—and they would resist having their fingerprints taken. Prima facie, that would suggest to me that they were trying to conceal something. And the same should be said of those people coming across our borders. If they are concerned about having their biometrics taken that will lift the standard of identifying them to be who they are then you have to ask the question: why? In the modern age, these people, I promise you, spend more time thinking about how to avoid, how to get around, how to get over, how to get under our security measures than any one of us does on a normal day about how we might put them in place.

Biometrics are going to give our professional staff on our borders, those who are charged with the responsibility to keep this nation safe, some additional tools. And they are tools that anybody coming to our country who seeks either refuge in our country, who wants to visit our country or indeed who wants to come here and make their life, they should not fear—in fact they should support the primary ideal—that we as a nation are entitled to know who they are
before they enter our nation. Some of these biometric measures that are proposed in this bill are simply going to enhance our chances to do that in an effective and efficient way.

Might I say that, if you are not convinced in relation to the potential of someone who has gone overseas and engaged in activities that are against the interests of this nation, you should consider the issue of the trafficking of children. A child changes over time, so identifying the child at an interval of greater than two years from an old photograph becomes very difficult. For those of you who are not convinced, in the next sittings I will bring you some photographs of me when I was a dashing young man of 17 or 18 years, and you will understand that there is nothing today that reflects the images that are captured in those photos of some 30 years ago. So biometrics are the only sure way that we can record the identity of these people. They allow us, our security staff and those charged with this responsibility every possible chance that they can get to do their job and do their job efficiently.

We have done this at a domestic level. Our police officers now have facilities, many of them in patrol cars, that will allow them to take the biometrics of an individual and get an immediate answer back that helps them identify who the individual is. We collect massive amounts of data. I would not know, and nor would you, how many times we have been driving along and an unmarked police vehicle that we would not identify will have punched into systems within the vehicle information that will allow them to identify possibly who we are but, more importantly, who the owner of the vehicle is, whether the vehicle is currently registered, the address of the owner and other details. Through some other information, they may form the view that the vehicle was being driven by us. Indeed, there are so many ways that they can immediately access data in relation to us to identify who we are. This is the modern world. They can search and go onto our Facebook page, and, if they are satisfied that that is us in the Facebook page, in a matter of 10 or 15 minutes, I am told by my previous police colleagues, they can build an entire picture on someone while they are driving along following a particular vehicle. They can form a view as to who they are, their age and their identity. In fact, once they start to penetrate some of the other data that is available, some of it on the public record, they can build an entire picture of your family, the circumstances of your life and where you may be going. If you are travelling in a particular direction, from the data they have they can work out exactly where you might be going. (Time expired)

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (21:48): I thank senators for their contributions to the second reading debate on the Migration Amendment (Strengthening Biometrics Integrity) Bill 2015. Before I turn to the summing up of this bill, I refer to the second reading amendment that has been moved by the Australian Greens, that the debate be adjourned until a privacy impact statement has been tabled in the parliament. I am pleased to advise that the assessment has now been completed in consultation with the Office of the Australian Information Commissioner, and I am now tabling a copy of the assessment for the parliament's information.

In relation to the assessment itself, the privacy impact statement makes two recommendations in relation to Australian Privacy Principles 3 and 5. In relation to Australian Privacy Principle 3, it is recommended that the department ensure that its officers are fully trained in using the new provisions under the bill. In relation to Australian Privacy Principle
5, it is recommended that the department update its relevant public notices in relation to identifying information and privacy, and that signs are installed at airports—

Debate interrupted.

NOTICES

Presentation

Senators Fawcett and McEwen to move:

That the Senate—

(a) notes:
   (i) that 15 August 2015 marks the 70th anniversary of Victory in the Pacific on 15 August 1945,
   (ii) that this date marked the end of World War II for Australia,
   (iii) the bravery and sacrifice of all those sailors, soldiers and aviators who served in the Pacific Theatre, and
   (iv) the contribution made in support of the war effort by those at home; and
(b) records our everlasting gratitude for their service to Australia, and for the support of our gallant allies, in this conflict.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson) (21:45): Order! I propose the question:

That the Senate do now adjourn.

Randall, Mr Donald James

Schultz, Mr Albert (Alby) John

Senator IAN MACDONALD (Queensland) (21:50): Earlier today the Senate observed a minute's silence for two of our colleagues, one current and one past member of the House of Representatives, who had passed away since the Senate last sat. Tonight I want to say a couple of words about both of those colleagues. I particularly want to say a couple of words about Alby Schultz, but I also acknowledge that Don Randall, a serving member of the House of Representatives, passed away since we last met. A lot of fine words have been said about Don and Alby in the other chamber, where they were members, earlier today. I do not want to repeat the formalities of their life and their service to the parliament.

I had some experience with Don when he ran for Canning. As a minister in the government then, I helped him campaign in Canning, and I was delighted to see him win, not because of my efforts but because of his own qualities and the contribution he made to the part of Western Australia he represented. I am distressed to hear of Don's death and the way he died on his way to a function in Perth serving his electorate.

Alby Schultz was a remarkable man and always proudly nominated his occupation prior to coming into parliament as meat worker. He was what many would think was a most unlikely Liberal Party member and candidate and then subsequently member of both the New South Wales parliament and the federal parliament. I emphasise in saying what I am going to say that today the Liberal and National parties in Queensland are wonderfully united in the Liberal National Party of Queensland and we are the best of friends. But that was not always the way. Back in the dim, dark past, the Liberal and National parties in Queensland were less
enamoured to each other than either party was with the Labor Party in those days. I remember the 1986—I think it was—election, when the Liberal Party under Terry White was fighting against the National Party under Joh Bjelke-Petersen. The Labor Party in those days were just not in the race, not relevant, and of course the Greens were not even thought of.

In that election the Liberal premiers of Tasmania and Western Australia and the opposition Liberal leaders in Victoria all came to Queensland in those days to support Sir Joh Bjelke-Petersen, the National Party premier, and I guess they did it because they were fellow premiers. But those of us in the Liberal Party in those days were incensed that Liberal Party premiers and opposition leaders would come to the state of Queensland and campaign not for the Liberal Party but for the National Party. Unusually, curiously, unexpectedly for someone who was involved in the Liberal Party, we got a call one day from this guy who had just been elected to the New South Wales parliament as a Liberal Party member representing an outback seat—a country seat. He was not a typical Liberal; he was a meat worker. But he rang and said, 'I want to come and help the Liberal Party in Queensland,' and both he and his lovely wife, Gloria, came at their own expense to Townsville and spent a combined three weeks in Townsville helping the Liberal Party in Townsville. Alby stayed for, I think, a week, and his wonderful wife, Gloria, stayed for a couple of extra weeks just to help out. I have never forgotten that loyalty that Alby Schultz showed to his party and the things he believed in.

Alby was irascible, and over the years he and I—he and everybody in the Liberal Party!—had their disagreements, but he forever remained true to his beliefs and his philosophy. He was always a very loyal and dedicated member of the Liberal Party. I am forever indebted to Alby and Gloria for what they did all those years ago before any of us knew each other. It was almost a sort of strange occurrence that we met then and then later we both met in this parliament. Alby demonstrated in his time here, as he had through all of his life, that he believed in what he did, he believed in the Liberal Party and he believed in the philosophy of the Liberal Party. He, like many of us on our side, came from country Australia. Many of us have never been to the better public schools. We are sort of state school people, some of us not going on to even bigger and greater things. But Alby Schultz showed what a genuine Australian, a man of the people, can do for the parliaments that he served and for the people, originally of New South Wales and subsequently Australia.

You would have heard in the other chamber far more eloquent stories and tributes to Alby, going through his many attributes, but I wanted today to again, as I have done for the last 30 to 35 years, acknowledge a guy who was dedicated to the things he believed in, who was committed to helping out and who all of those many years ago came all the way from western New South Wales, from a place—Burrinjuck—which many of us in north Queensland had never heard of. He had worked out that those of us in the Liberal Party at that stage needed some help, and he was prepared to come and do it. Ever since, I have been a great fan of Alby's and Gloria's.

I empathise and sympathise with Gloria in Alby's loss. Alby was a great man committed to everything he did, and I know that Gloria and his family will be missing him terribly. But, in his long illness and his death, which he knew was coming, he remained true to the cause and remained true particularly to the people he loved in his area, to his old electorate and particularly to his wife and family. Today has been a sad day in that we acknowledge his
passing and that of his colleague Don Randall from that chamber. Alby and Gloria, thank you for all you have done over many years for the things that you believed in, for the people, commitments and philosophies you served. I will never forget you.

**Nuclear Weapons**

Senator SINGH (Tasmania) (21:59): Over the last few days, on 6 and 9 August, organisations like the International Campaign to Abolish Nuclear Weapons, the Medical Association for Prevention of War and the Australian Red Cross held candlelight vigils, film screenings and other events across Australia to commemorate 70 years since the atomic bombings of Hiroshima and Nagasaki that took place in 1945. Most of the quarter of a million victims died instantly, incinerated in the enormous infernos that rose high into the sky and burned the earth beneath. The rest suffered slow and painful deaths from burn and blast injuries and radiation sickness, with little or no medical treatment to ease their suffering, or they eventually succumbed to cancers and chronic diseases caused by the radiation unleashed in the two attacks.

Seventy years later there are around 16,000 nuclear weapons in the world today, including an estimated 1,800 kept on high-alert status. That is enough to render the earth's total land mass a memory. But even a comparatively small-scale, regional nuclear war involving a tiny fraction of the world's nuclear arsenal targeted only on cities would produce severe and long-term global climate disruption—apart from hundreds upon hundreds of millions of deaths.

Any use of nuclear weapons invoking a high probability of escalation poses not only a global existential threat but also is effectively suicidal. We all have a duty as parliamentarians and citizens to do our utmost to rid the world of these most despicable weapons that threaten our very survival. Any use of nuclear weapons, invoking a high probability of escalation, poses not only a global existential threat but also is, effectively, suicidal.

Australia has historically supported a policy of global proactive disarmament and the reduction of nuclear weapons arsenals. In 1972 Australia joined New Zealand at the International Court of Justice in actions against nuclear testing in the Pacific. In 1995 we established the Canberra Commission on the Elimination of Nuclear Weapons and in 2008 joined with Japan to establish the independent International Commission on Nuclear Non-proliferation and Disarmament. In 2010 we partnered with Japan to establish the Non-Proliferation and Disarmament Initiative.

The vast majority of Australians understand the numbers and the implications and want their country to help end the age of nuclear weapons. Labor is fully committed to pursuing this goal as an urgent humanitarian imperative of the highest order. Our newly adopted national platform affirms our party's unequivocal support for the negotiation of a global treaty banning nuclear weapons. And we welcome the growing momentum to achieve such a treaty as a significant first step towards eliminating this ultimate menace.

Since 2013 the governments of Norway, Mexico and Austria have hosted three major diplomatic conferences on the humanitarian impact of nuclear weapons. Last December, at the third such conference, held in Vienna, the Austrian government issued a historic pledge 'to fill the legal gap for the prohibition and elimination of nuclear weapons'. One hundred and thirteen nations have, so far, endorsed the landmark document, signalling their readiness and determination to start negotiations on a ban. Australia, I regret to say, is not among them. This
is despite our special interest in realising a world without nuclear weapons—as a country that has suffered and continues to suffer the dreadful effects of nuclear-test explosions conducted on our soil.

Sue Coleman-Haseldine, and Kokatha-Mula, women from Ceduna, in South Australia, attended the Vienna conference, testifying on the impact of the British tests at Maralinga and Emu Field in the 1950s and 1960s. 'There are many Aboriginal people who cannot go back to their ancestral lands,' she said, 'and their children and their children's children will never know the special religious places they contain.' She ended her moving remarks by imploring the delegates present to always keep in mind, 'The future forever belongs to the next generation.'

While Australia does not possess nuclear weapons—and never has—successive Australian governments have claimed that Australia is protected by the so-called US 'nuclear umbrella'. This military construct has appeared in all Defence white papers since the early 1990s. It assumes that the United States will use its nuclear weapons in Australia's defence should Australia ever be threatened with nuclear attack. But the United States has never publicly affirmed this policy, and it is unclear whether any private assurances have been made to Australian ministers or senior public servants.

The late Malcolm Fraser described it as 'total fantasy'. But claiming its existence, no matter how absurd, has profound implications. It says to the world that Australia considers nuclear weapons to be militarily useful, strategically necessary and morally acceptable. It prevents Australia from engaging constructively in the major global efforts currently underway to negotiate a treaty banning nuclear weapons. It denies us any authority in asserting that Iran or any other nation should abandon its nuclear ambitions or that North Korea should dismantle its nuclear arsenal. It is morally indefensible.

It is high time that Australia joined the vast majority of the world's nations in denouncing nuclear weapons and pledging its support for negotiations on a treaty banning these ultimate weapons of terror. Rejecting the bomb is by no means a radical proposition. In the words of United Nations Secretary-General Ban Ki-moon, 'There are no right hands for wrong weapons.' Too often, from both sides in parliament, debate is brushed aside and parliamentary engagement is parked via reference to this being a 'complex foreign-policy matter'. It is not. It is a very simple matter.

Australia has rejected other inherently inhumane and indiscriminate weapons long before the United States, in fact

We have signed and ratified the anti-personnel mine ban treaty and convention on cluster munitions. We have never claimed the protection of a chemical weapon umbrella or a biological weapon umbrella. Those weapons Australia has rejected categorically, as it should, by joining conventions that outlaw them. Indeed, we helped pioneer the chemical weapons convention.

So why do we believe that nuclear weapons are somehow more acceptable than mustard gas or nerve agents or anthrax or smallpox? All these weapons are abhorrent. All these weapons are weapons of mass destruction. Seventy years after the hell that destroyed Hiroshima and Nagasaki, let us get serious about bringing the nuclear era to an end. Let us close the nuclear umbrella and keep it shut for all time. If Australia wants to deal with the issue of nuclear proliferation as a key priority for our national security, Australia must pursue
disarmament. The only way to liberate the world from the terrible potential of nuclear conflict is to disarm, reduce and eventually abolish nuclear weapons. With nations preparing the ground for negotiations on a treaty banning nuclear weapons, Australia must stand firmly on the right side of history and join those nations lest nuclear weapons put an end to all our history.

Wishart, Ms Felicity (Flic)

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (22:09): I rise tonight to mark the tragic passing, on 20 July, of Felicity Wishart, the leading light of Queensland’s conservation movement. She was dear friend to me and to many, including other members of this chamber. Felicity, or 'Flic' as she was almost universally known, was one of our planet’s greatest champions. She served nature and worked to protect our common home with a quiet determination, amazing strategic nous and a sense of perspective matched by few others. Her first foray into the environment movement was getting arrested at the age of 16 in the Franklin Dam protests. She enrolled in the Bachelor of Science (Environmental Studies) course at Griffith University. After graduating, she worked at the Australian Conservation Foundation on protecting Queensland’s tropical rainforests, which today delight visitors from across the world in the Wet Tropics World Heritage Area.

Flic moved on to help protect tropical rainforests across the Asia-Pacific. She was instrumental in the Ecologically Sustainable Development unit established by the then Australian government in partnership with the WWF and the ACF. She worked in government and in academia in Victoria on sustainability issues, where she helped secure the removal of cattle from alpine parks and developed an understated style which would serve the environment community so well during the next 15 years. While in Victoria, she served as the o-convenor of the Victorian Greens for several years. In fact, she was there on the day the Victorian Greens were formed.

In 2000, Flic returned to Queensland and became the director of the Queensland Conservation Council, our leading conservation group and con council in Queensland. She was part of every major environmental reform in Queensland in the past 15 years. Alongside other groups, Flic led the victorious campaign to stop broadscale land-clearing in Queensland—a long overdue reform—bringing together her leadership, communications expertise and skill in mobilising community pressure to reach that stunning and very necessary outcome.

When I was just a junior lawyer at the Environmental Defenders Office in Queensland I worked with Felicity, for the Queensland Conservation Council, on the Nathan Dam Federal Court case—a case which is now in environmental law text books—setting the parameters for a broad assessment of environmental impacts which looks at the downstream impacts facilitated by a development. The minister, of course, had not done so in that case; when government's ignore law, it is often the bravery of public interest environment groups that holds them to account.

After a time working for the Wilderness Society, Flic returned to Queensland to lead the Fight for the Reef campaign for the Australian Marine Conservation Society, bringing concern for the Great Barrier Reef and its fate to the awareness of many. That is, of course, an ongoing campaign, and Flic was at the forefront of it. The recent change to ban offshore dumping from capital dredging is a testament to her commitment, passion and tenacity. The
health of the reef and its future in an age of climate change, industrialisation and pollution has
moved into the heart of mainstream debate. This woman was a force and she always
conducted herself with grace, good humour and determination. She was a much loved friend
to many and a role model for many young women in the conservation movement.

At her memorial yesterday, which a good 200 people attended—including me, Senator
Rachel Siewert and the Deputy Premier and the environment minister of Queensland—there
were countless testimonials to her humanity and her character, many of which came from
young women who had had the pleasure of working with her in the conservation movement.
Her legacy will endure in the confidence she has instilled in those women and the courage she
has fostered in so many.

On the morning of Flic's passing, I read a quote from her in The Courier Mail in which she
was railing against the latest oil spill on the Great Barrier Reef and warning of further
accidents and damage from ships heading through the reef. So it was a shock for me to find
out later that afternoon that she had passed away in her sleep. I would like to read some
messages from a group on Facebook which has sprung up to pay tribute to Felicity. People
have been sharing their fond memories. The first one says: 'My enduring memory of Flic will
always be as the inspiring, relentless and thoughtful heart of a campaign that is on the verge
of achieving the almost unthinkable.' Another friend says: 'She was a giant among change
makers, and a mentor to many. Long live her eternal inspiration and wisdom, which we now
keep alive in each of us.' Another says: 'Flic, you were the lighthouse of our movement, and I
am certain so many of us will spend the rest of our days trying to emulate your spirit and see
your vision realised.'

That her passing should have made itself felt in so many corners of Australia is a testament
to her character. She was truly a model for how to be in the world. Flic's legacy will serve to
strengthen our collective resolve to fight for the ideals to which she dedicated her whole
working life: speaking up for the natural world against brutish and short-sighted vested
interests; cherishing and protecting the wondrous forms of life with whom we share this
beautiful planet; and intergenerational equity, leaving a safe and liveable climate on this
planet for our grandchildren to inherit.

The Australian Greens applaud Flic's momentous contribution, and we send our deepest
condolences to her partner, Todd, and her two young sons, Bardi and Clancy. In the words of
her colleagues and friends at the Australian Marine Conservation Society, who, like all of us,
will miss her dearly:

All Australians, whether they realise it or not, owe a debt of gratitude for her work. We are all
beneficiaries of her life and work … Her legacy will endure. Her fight is our fight.

Randall, Mr Donald James

Senator SMITH (Western Australia) (22:15): I cannot help but think that tonight is one of
those rare opportunities when Australians get to see the human face of the Australian Senate. I
want to acknowledge Senator Macdonald's contribution reflecting on the contribution of the
former members Mr Alby Shultz and Mr Don Randall, and, of course, Senator Waters's
contribution this evening. I would like to add my reflections on the sudden passing of Mr Don
Randall, a former Western Australian colleague and federal member for Canning.
As parliament has returned today from its winter recess, it has been the sad duty of our colleagues in the other place to pay tribute to the life and work of the late Don Randall MP, Member for Canning, who left us tragically and at far too young an age during the break. There have been many, many warm tributes paid to Don in the House today, and I was pleased during the course of the day to hear various snippets of contributions from our colleagues as they shared their own stories and memories of working with Don Randall over his many years as a member of this parliament. While its entirely fitting that the chamber in which Don served so proudly for so long has focused on honouring his memory, I did not want to allow today to pass without reflecting on Don's contribution here in the Senate—the states' house, as we were intended to be.

Don Randall was nothing if not a proud Western Australian. In his maiden speech to this parliament in 1996 as the new member for Swan, Don Randall emphasised his longstanding family history in Western Australia, noting his grandparents were among the founding families in the Wheatbelt town of Merredin, proudly pointing out that their success in the face of significant adversity was by dint of their own hard work, not government assistance. Don's maiden speech also underscored a commitment to federalism—something on which we are very keen in Western Australia. He said he wanted to get away from:
... the idea that every decision has to be made in Canberra in order for Canberra to justify its existence.

He then went on to replace it with the principle that:
... decisions are best made nearest the people that they affect.

Quintessential Don Randall; dare I say, quintessential Western Australian.

As we have heard time and again over the couple of weeks since Don passed away, he was a passionate advocate for his electorate—and I will come to a particular example of that in just a moment. But he was also a fierce advocate for Western Australia. In particular, he was a steady and longstanding ally in the battle for WA to get a better deal when it comes to a fairer GST distribution. As people in this place have been noting all day, you were never in any doubt where you stood with Don Randall. This was particularly so when it came to the important question—the crucial question, even—of WA's GST share. Because of the advocacy efforts on GST in which Don played such a significant role, we were able to obtain some additional money just this year for critical WA road infrastructure—an additional $499 million. I think it is fair to say this is probably one of the government's best investment decisions of recent times. Of course, the fight for a better and more sustainable GST deal for WA is a long way from being over, but, as we carry on, we will miss Don's commitment to the cause and his fierce and forthright arguing.

Don was not afraid of a fight, as we know. If he was, he would never have made it to this place. It is interesting to think that Don Randall won two different seats off the Labor Party in Western Australia. The first was the federal seat of Swan in 1996; he then defeated Labor in Canning in 2001. Neither of these were easy seats. I think it is a particular tribute to Don that after losing Swan in 1998 he was prepared to step forward to take on the challenge of winning Canning from Labor. Although the swing in 2001 ended up being towards the Howard government, at the time Don would have been weighing up preselection, as the political climate was generally not favourable to the Liberal Party or to the Howard government. It is a tribute to Don's tenacity that he was able to stage a political comeback in 2001. Many tributes in recent days have noted Don Randall's healthy margin in the electorate of Canning. It is not
a seat that was traditionally Liberal territory. The fact that Don held it for so long is a tribute to the professional and committed representation he gave to his constituents.

As an example of that, I would like to pay particular tribute to Don's longstanding commitment to an issue that has been of particular interest to me since I came to the Senate in 2012. It is an issue which Don raised in parliament many years before that—that, of course, the plight of grandparents caring for their grandchildren in our community. This was something that Don first raised when the Howard government was still in office. He spoke out about it frequently during that time. As he made clear time and again, his first loyalty was to his constituents, not his party. Don was not afraid to take on Liberal governments—dare I say, Liberal leaders, state or federal—if he felt his constituents were not getting a proper and fair deal. Don worked for many years to draw attention to the very difficult circumstances faced by grandparent carers. He was particularly angered by the rigidities of a system that seemed to have little trouble recognising foster parents but could not extend the same recognition to grandparents acting as primary caregivers for their grandchildren.

Don spoke movingly in the House of Representatives about the difficulties faced by one of his constituents, Margaret Saunders, whose own daughter had become a drug addict and had left her with primary responsibility for her grandchildren. However, Ms Saunders was not of pensionable age and was, therefore, required to seek work.

Don set out how he worked with then Prime Minister, John Howard, and the then Minister for Human Services, the Hon. Joe Hockey, to get the Commonwealth government to look better at the circumstances of grandparents on a case-by-case basis and acknowledge instances in which grandparents below pensionable age should not have to seek work because their primary responsibility was taking care of their grandchildren. It is interesting to note that as much as things change they stay the same, and the issue is still far from over. That was a small but important step—one that we have built on in this parliament in the years since Don's work through the inquiry that the Senate Community Affairs Committee recently undertook, exploring grandparents raising grandchildren. I thought it was important to note that Don Randall was among the first to put this issue on the national agenda. I know groups such as Grandparents Australia, Wanslea in WA and other advocacy groups have been deeply saddened at the loss of such a passionate advocate for their cause.

I first met Don Randall in 1992 as a young campaign manager in the federal seat of Cowan, which at the time was held by Labor's Carolyn Jakobsen. The Liberal Party subsequently won that seat in the 1993 Fightback! election. At the time, Don Randall had been a fierce campaigner and a fierce fundraiser. At a very young age I learnt the power of what Don called the 'one percenter', meaning that giving your time and energy to one per cent of tasks and doing them well would, over time, give you healthy margins, and he demonstrated that in his federal parliamentary career.

All of us in this parliament have lost a valued colleague in Don Randall. The WA Liberal Party has lost an incredibly effective campaigner, and the people of Canning have lost an energetic and committed advocate. More than that, though, his wife, Julie, and his children, Tess and Elliot, have lost a devoted husband and father. I am sure the thoughts of all of us are with the Randall family at this very difficult time.

The PRESIDENT: Thank you, Senator Smith. I might just add something that has been said on a number of occasions. I was at Don's funeral, as you would be aware, and one of his
staff members said, 'Don Randall never lost Canning; Canning lost Don Randall.' I think that was a very fitting tribute.

**Senate adjourned at 22:25**

### DOCUMENTS

**Tabling**

The following documents were tabled by the Clerk pursuant to statute:

- *Aboriginal and Torres Strait Islander Act 2005, Defence Service Homes Act 1918, High Court of Australia Act 1979 and Natural Heritage Trust of Australia Act 1997—Finance Minister's Orders (Financial Statements for reporting periods ending on or after 1 July 2011) Repeal Instrument 2015 [F2015L00889].*
- *Aged Care Act 1997—*
  - Aged Care Legislation Amendment (Removal of Certification and Other Measures) Principles 2015 [F2015L00998].
  - Aged Care (Subsidy, Fees and Payments) Amendment (Indexation, Pre-Entry Leave and Other Measures) Determination 2015 [F2015L00996].
  - Aged Care (Subsidy, Fees and Payments) Amendment (Removal of Certification and Other Measures) Determination 2015 [F2015L00997].
  - User Rights Amendment (Consumer Directed Care) Principles 2015 [F2015L01016].
- *Aged Care (Transitional Provisions) Act 1997—*
  - Aged Care (Transitional Provisions) (Subsidy and Other Measures) Amendment (Indexation, Pre-Entry Leave and Other Measures) Determination 2015 [F2015L01019].
  - Aged Care (Transitional Provisions) (Subsidy and Other Measures) Amendment (Removal of Certification and Other Measures) Determination 2015 [F2015L01009].
- *Agricultural and Veterinary Chemicals Code Act 1994—*
  - Agricultural and Veterinary Chemicals Code Instrument No. 4 (MRL Standard) Amendment Instrument 2015 (No. 6) [F2015L01139].
  - Agricultural and Veterinary Chemicals Code Instrument No. 4 (MRL Standard) Amendment Instrument 2015 (No. 7) [F2015L01226].

Australian Aged Care Quality Agency Act 2013—Australian Aged Care Quality Agency (Other Functions) Specification 2015 [F2015L01024].

Australian Border Force Act 2015—
Australian Border Force (Secrecy and Disclosure) Rule 2015 [F2015L00977].

Australian Citizenship Act 2007—
Exercise of Ministerial Discretion under subsection 22A(1A).
Instrument of Authorisation—IMMI 15/063 [F2015L01071].


Australian Communications and Media Authority Act 2005—Telecommunications (Charges) Amendment Determination 2015 (No. 1) [F2015L01153].


Australian Prudential Regulation Authority Act 1998—
Australian Prudential Regulation Authority (Commonwealth Costs) Determination 2015 [F2015L01101].

Australian Prudential Regulation Authority (confidentiality) determinations—
No. 11 of 2015 [F2015L00930].
No. 12 of 2015 [F2015L00897].
No. 13 of 2015 [F2015L00898].
No. 14 of 2015 [F2015L01196].


Australian Research Council Act 2001—
Approval of Australian Laureate Fellowships Proposals for funding commencing in 2015—Determination No. 137.
Approval of Linkage Projects Proposals for funding commencing in 2015—Determination No. 138.
Funding Rules for schemes under the Discovery Program 2015—Future Fellowships [F2015L00978].


Authorised Non-operating Holding Companies Supervisory Levy Imposition Act 1998—Authorised Non-operating Holding Companies Supervisory Levy Imposition Determination 2015 [F2015L01107].

Autonomous Sanctions Act 2011—

Autonomous Sanctions Amendment (Sanctioned Commercial Activity—Russia) Regulation 2015—Select Legislative Instrument 2015 No. 100 [F2015L00946].

Autonomous Sanctions Amendment (Suspension of Sanctions) Regulation 2015—Select Legislative Instrument 2015 No. 117 [F2015L01143].

Aviation Transport Security Act 2004—


Broadcasting Services Act 1992—Broadcasting Services (Events) Notice (No. 1) 2010—

Amendment No. 6 of 2015 [F2015L00942].

Amendment No. 7 of 2015 [F2015L01123].

Amendment No. 8 of 2015 [F2015L01203].

Building Energy Efficiency Disclosure Act 2010—


Building Energy Efficiency Disclosure Determination 2015 [F2015L01074].


Business Services Wage Assessment Tool Payment Scheme Act 2015—Business Services Wage Assessment Tool Payment Scheme Rules 2015 [F2015L01129].

Carbon Credits (Carbon Farming Initiative) Act 2011—


Carbon Credits (Carbon Farming Initiative) Amendment Regulation 2015 (No.1)—Select Legislative Instrument 2015 No. 120 [F2015L01202].

Carbon Credits (Carbon Farming Initiative) Amendment Rule 2015 (No. 1) [F2015L01201].
Carbon Credits (Carbon Farming Initiative—Commercial and Public Lighting) Methodology Determination 2015 [F2015L00980].
Carbon Credits (Carbon Farming Initiative—Emissions Reduction Fund) Methodology Determination Variation 2015 [F2015L00954].
Carbon Credits (Carbon Farming Initiative—Oil and Gas Fugitives) Methodology Determination 2015 [F2015L01230].

Christmas Island Act 1958—
Christmas Island Customs Amendment (Australian Border Force) Ordinance 2015 [F2015L01045].

Civil Aviation Act 1988—
Civil Aviation Regulations 1988—
Civil Aviation Order 100.7 Instrument 2015 [F2015L01127].
Civil Aviation Order 100.96 Instrument 2015 [F2015L01128].
Direction—number of cabin attendants in Boeing 737-800 series aircraft (Qantas Airways Limited)—CASA 109/15 [F2015L01210].
Direction—number of cabin attendants—Jetstar Airways—CASA 99/15 [F2015L00956].
Direction—number of cabin attendants (National Jet Systems)—CASA 103/15 [F2015L01125].
Direction—number of cabin attendants (Tiger Airways)—CASA 96/15 [F2015L00962].
Direction—number of cabin attendants (Virgin Australia Airlines)—CASA 94/15 [F2015L00957].
Direction—number of cabin attendants (Virgin Australia International Airlines)—CASA 95/15 [F2015L00958].

Instructions—V.F.R. flights conducted by CGG Aviation (Australia) Pty Ltd—CASA 105/15 [F2015L01176].

Civil Aviation Regulations 1988 and Civil Aviation Safety Regulations 1998—Authorisation—to carry out maintenance on manned free balloons; Exemption—to allow supervision of maintenance on manned free balloons—CASA EX115/15 [F2015L01149].

Civil Aviation Safety Regulations 1998—
Amendment of Exemptions—compliance with SIDs in the maintenance of Cessna aircraft—CASA EX114/15 [F2015L01010].


Exemption—class A aircraft used in private operations—CASA EX134/15 [F2015L01194].

Exemption—extended diversion time operation requirements (Qantas B747 and A380)—CASA EX111/15 [F2015L01000].

Exemption—from appointment of full-time check pilot—JetGo Australia Holdings Pty Ltd—CASA EX112/15 [F2015L01126].
Exemption—from CAO 100.7 requirement for aircraft to be weighed on scales calibrated by an accredited laboratory—CASA EX135/15 [F2015L01215].

Exemption—logging of time in flight for co-pilots on single-pilot certificated aircraft—CASA EX116/15 [F2015L01189].

Exemption—non-compliance with certain Supplemental Inspection Document requirements—CASA EX110/15 [F2015L01029].

Exemption—Parts 141 and 142—CASA approval of kinds of aircraft—CASA EX126/15 [F2015L01161].

Exemption—public address system—CASA EX105/15 [F2015L01014].

Exemption—recency requirement for air traffic control endorsement—CASA EX118/15 [F2015L01193].

Exemption—solo flight training at Coffs Harbour Aerodrome using ultralight aeroplanes and weight shift controlled aeroplanes registered with the RAA—CASA EX119/15 [F2015L01166].

Exemption—solo flight training using ultralight aeroplanes registered with the RAA at Moorabbin Aerodrome—CASA EX81/15 [F2015L00984].

Exemption—solo flight training using ultralight aeroplanes registered with the RAA at Sunshine Coast Airport—CASA EX129/15 [F2015L01173].


Part 66 Manual of Standards Amendment Instrument 2015 (No. 1) [F2015L00945].

Repeal—exemption—from standard take-off and landing minima—Virgin Australia International Airlines Pty Ltd—CASA EX99/15 [F2015L00943].

Repeal of Airworthiness Directives—
CASA ADCX 009/15 [F2015L01159].
CASA ADCX 010/15 [F2015L01160].
CASA ADCX 011/15 [F2015L01169].

Classification (Publications, Films and Computer Games) Act 1995—

Cocos (Keeling) Islands Act 1955—
Cocos (Keeling) Islands Customs Amendment (Australian Border Force) Ordinance 2015 [F2015L01033].

Utilities and Services Ordinance 1996—Water and Sewerage Services Fees and Charges (Cocos (Keeling) Islands) Determination 2015 [F2015L01076].

Commissioner of Taxation—Public Rulings—
Class Rulings—

Miscellaneous Taxation Rulings—Addenda—MT 2006/1, MT 2009/1 and MT 2010/1.


Taxation Determinations—
Erratum—TD 2015/14.
TD 2015/12-TD 2015/16.

Taxation Rulings—
TR 2015/2.

*Competition and Consumer Act 2010*—


Price Notification Declaration (Australia Post Letter Services) 2015 [F2015L01180].

*Corporations Act 2001*—

Amendments to Australian Accounting Standards—Fair Value Disclosures of Not-for-Profit Public Sector Entities—AASB 2015-7 [F2015L01167].


ASIC Corporations (Amendment) Instrument 2015/617 [F2015L01140].

ASIC Corporations (Amendment) Instrument 2015/624 [F2015L01158].

ASIC Corporations (Basic Deposit and General Insurance Product Distribution) Instrument 2015/682 [F2015L01184].


ASIC Corporations (Removing Barriers to Electronic Disclosure) Instrument 2015/649 [F2015L01187].

ASIC Corporations (Repeal) Instrument 2015/681 [F2015L01186].

ASIC Corporations (Repeal) Instrument 2015/684 [F2015L01181].


*Corporations (Fees) Act 2001*—Corporations (Fees) Amendment Regulation 2015 (No. 1)—Select Legislative Instrument 2015 No. 109 [F2015L00970].

*Currency Act 1965*—

Currency (Perth Mint) Determination 2015 (No. 3) [F2015L01216].

Currency (Royal Australian Mint) Determination 2015 (No. 7) [F2015L01170].

*Customs Act 1901*—

Comptroller Directions (Use of Force) 2015 [F2015L01085].

Comptroller Directions (Warrants) 2015 [F2015L01084].
Comptroller-General of Customs Instrument of Approval No. 1 of 2015 [F2015L01174].
Comptroller-General of Customs (Places of Detention) Directions 2015 [F2015L00891].
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Amendment to the lists of threatened species, threatened ecological communities and key threatening processes under sections 178, 181 and 183 (179) (18 June 2015) [F2015L00935].
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**Veterans’ Entitlements Act 1986**—

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No. 71 of 2015 [F2015L00903].
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Tabling

The following documents were tabled pursuant to standing order 61(1) (b):
Documents presented since the last sitting of the Senate, pursuant to standing order 166, were authorised for publication on the dates indicated
Auditor-General—
Audit reports for 2014-15—
No. 51—Performance audit—Administration of capital gains tax for individual and small business taxpayers: Australian Taxation Office.

No. 52—Performance audit—Australian Defence Force's medium and heavy vehicle fleet replacement (Land 121 Phase 3B): Department of Defence.

Audit reports for 2015-16—

No. 1—Performance audit—Procurement initiatives to support outcomes for Indigenous Australians: Across entities. [Received 8 July 2015]

No. 2—Performance audit—Regulation of unsolicited communications: Australian Communications and Media Authority. [Received 14 July 2015]

Australian and Pacific Presiding Officers and Clerks Conference, 46th, Hobart, Australia, 6 to 10 July 2015, dated August 2015.


Australian National Maritime Museum—Corporate plan 2015-19. [Received 28 July 2015]

Business of the Senate—1 January to 30 June 2015.


Centenary of Anzac and Anzac Day 2015—Ministerial statement by the Minister Assisting the Prime Minister for the Centenary of Anzac (Senator Ronaldson), dated 13 May 2015—Revised. [Received 8 July 2015]

Civil Aviation Safety Authority (CASA)—Corporate plan 2015-16 to 2018-19. [Received 31 July 2015]

Competition and Consumer Act 2010—Report pursuant to sections 60CA(5) and 60FD(11)—Australian Competition and Consumer Commission, dated August 2015.

Defence Abuse Response Taskforce—Report on progress, operations and future structure, dated 30 June 2015. [Received 30 July 2015]


Department of Defence—Special purpose flights—Schedule for the period 1 July to 31 December 2014. [Received 3 July 2015]

Department of the Senate—Register of Senate senior executive officers' interests incorporating statements of registrable interests and notifications of alterations of interests of Senate senior executive officers lodged between 3 December 2014 and 24 June 2015, dated August 2015.

Environment and Communications References Committee—Report—Recent trends in and preparedness for extreme weather events—Government response, dated July 2015. [Received 3 August 2015]

Gene Technology Regulator—Quarterly report for the period 1 January to 31 March 2015. [Received 14 July 2015]

Institutional Responses to Child Sexual Abuse—Royal Commission—Reports of case studies—

No. 10—The Salvation Army's handling of claims of child sexual abuse 1989 to 2014, dated June 2015. [Received 3 August 2015]

No. 12—The response of an independent school in Perth to concerns raised about the conduct of a teacher between 1999 and 2009, dated June 2015. [Received 4 August 2015]
Intelligence and Security—Joint Statutory Committee—Reports—
Potential reforms of Australia’s national security legislation—Government response to chapters 2 and 3. [Received 1 July 2015]
Review of the declaration of al-Raqa province, Syria—Government response, dated June 2015. [Received 23 July 2015]
Review of the declaration of Mosul District, Ninewa Province, Iraq—Government response, dated June 2015. [Received 23 July 2015]
Official visit to Papua New Guinea, Tonga, Fiji and New Zealand—Report on the visit by the President of the Senate, 12 to 25 April 2015.
Primary industries—Contribution of the agricultural sector—Letter to the President of the Senate from the Minister for Employment (Senator Abetz), dated 20 July 2015, responding to the resolution of the Senate of 24 June 2015.
Renewable energy target review—Report for 2014 on the operation of the Act—Government response. [Received 7 August 2015]
Rural and Regional Affairs and Transport References Committee—Report—Industry structures and systems governing levies on grass-fed cattle—Government response, dated July 2015. [Received 15 July 2015]

Order for the Production of Documents

The following document was tabled by the Clerk pursuant to the order of the Senate of 25 June 2014:
Estimates hearings—Unanswered questions on notice—Budget estimates 2015 16—Statement—Commonwealth Ombudsman

Tabling

The list read as follows—

DOCUMENTS PRESENTED OUT OF SITTING SINCE 25 JUNE 2015

GOVERNMENT DOCUMENTS (pursuant to Senate standing order 166)
Department of Defence—Special purpose flights—Schedule for the period 1 July to 31 December 2014. [Received 3 July 2015]
Gene Technology Regulator—Quarterly report for the period 1 January to 31 March 2015. [Received 14 July 2015]
Australian National Maritime Museum—Corporate plan 2015 to 2019. [Received 28 July 2015]
Defence Abuse Response Taskforce—Report on progress, operations and future structure, dated 30 June 2015. [Received 30 July 2015]
Civil Aviation Safety Authority (CASA)—Corporate plan 2015-16 to 2018-19. [Received 31 July 2015]

Institutional Responses to Child Sexual Abuse—Royal Commission—Report of case study no. 10—The Salvation Army’s handling of claims of child sexual abuse 1989 to 2014, dated June 2015. [Received 3 August 2015]

Institutional Responses to Child Sexual Abuse—Royal Commission—Report of case study no. 12—The response of an independent school in Perth to concerns raised about the conduct of a teacher between 1999 and 2009, dated June 2015. [Received 4 August 2015]


MINISTERIAL STATEMENTS (pursuant to Senate standing order 166)

Centenary of Anzac and Anzac Day 2015—Revised—Ministerial statement by the Minister Assisting the Prime Minister for the Centenary of Anzac (Senator Ronaldson), dated 13 May 2015. [Received 8 July 2015]

REPORTS OF THE AUDITOR-GENERAL (pursuant to Senate standing order 166(2)(a))

Audit report no. 1 of 2015-16—Performance audit—Procurement initiatives to support outcomes for Indigenous Australians: Across Entities. [Received 8 July 2015]

Audit report no. 2 of 2015-16—Performance audit—Regulation of unsolicited communications: Australian Communications and Media Authority. [Received 14 July 2015]

COMMITTEE REPORTS AND GOVERNMENT RESPONSES TO PARLIAMENTARY COMMITTEE REPORTS PRESENTED OUT OF SITTING SINCE 25 JUNE 2015

[reports and responses will be recorded in the Journals of the Senate and available for consideration on Tuesday under standing order 62(4)]

COMMITTEE REPORTS (pursuant to Senate standing order 38 (7))

Rural and Regional Affairs and Transport References Committee—Industry structures and systems governing the imposition and disbursement of marketing and research and development (R&D) levies in the agriculture sector—Report, dated June 2015, Hansard record of proceedings, document presented to the committee, additional information and submissions. [Received 30 June 2015]

Economics References Committee—Future of Australia’s naval shipbuilding industry: Long-term planning (part 3)—Report, dated July 2015. [Received 1 July 2015]

Rural and Regional Affairs and Transport References Committee—Report—Current and future arrangements for the marketing of Australian sugar—Erratum. [Received 21 July 2015]

Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru—Select Committee—Report, dated 30 July 2015. [Received 31 July 2015]

Wind Turbines—Select Committee—Report, dated August 2015, Hansard record of proceedings, documents presented to the committee, additional information and submissions. [Received 3 August 2015]

Economics References Committee—Digital currency—game changer or bit player—Report, dated August 2015, Hansard record of proceedings, additional information and submissions. [Received 4 August 2015]

Community Affairs References Committee—Availability of new, innovative and specialist cancer drugs in Australia—Interim report, dated 4 August 2015. [Received 4 August 2015]
GOVERNMENT RESPONSES TO PARLIAMENTARY COMMITTEE REPORTS (pursuant to Senate standing order 38 (7))

Intelligence and Security—Joint Statutory Committee—Report—Potential reforms of Australia’s national security legislation—Government response to chapters 2 and 3. [Received 1 July 2015]

Rural and Regional Affairs and Transport References Committee—Report—Industry structures and systems governing levies on grass-fed cattle—Government response, dated July 2015. [Received 15 July 2015]


Intelligence and Security—Joint Statutory Committee—Report—Review of the declaration of Mosul district, Ninewa province, Iraq, dated June 2015. [Received 23 July 2015]

Environment and Communications References Committee—Report—Recent trends in and preparedness for extreme weather events, dated July 2015. [Received 3 August 2015]

The responses read as follows—

Australian Government response to Chapters 2 and 3 of the Parliamentary Joint Committee on Intelligence and Security’s
Report of the inquiry into potential reforms of Australia’s national security legislation

Recommendation 1

The Committee recommends the inclusion of an objectives clause within the Telecommunications (Interception and Access) Act 1979, which:

- expresses the dual objectives of the legislation -
  - to protect the privacy of communications;
  - to enable interception and access to communications in order to investigate serious crime and threats to national security; and
- accords with the privacy principles contained in the Privacy Act 1988.

Supported

The Government will work with stakeholders to develop an appropriate clause, noting that the existing privacy protections in the Act extend beyond those contained in the Privacy Act 1988.

Recommendation 2

The Committee recommends the Attorney-General’s Department undertake an examination of the proportionality tests within the Telecommunications (Interception and Access) Act 1979 (TIA Act). Factors to be considered in the proportionality tests include the:

- privacy impacts of proposed investigative activity;
- public interest served by the proposed investigative activity, including the gravity of the conduct being investigated; and
- availability and effectiveness of less privacy intrusive investigative techniques.

The Committee further recommends that the examination of the proportionality tests also consider the appropriateness of applying a consistent proportionality test across the interception, stored communications and access to telecommunications data powers in the TIA Act.
Supported

The Attorney-General's Department will examine the proportionality tests within the Act, as amended by the Telecommunications (Interception and Access) Amendment (Data Retention) Act 2015 (Data Retention Act), as recommended.

The question of what proportionality test should apply when agencies seek lawful access to communications is closely linked to matters raised in other recommendations made by the Committee, which the Government also supports, being that:

- the Attorney-General's Department examine the standardisation of thresholds for access to the content of live and stored communications (Recommendation 6)
- interception be conducted on the basis of specified attributes of communications (Recommendation 7)
- interception warrant provisions be revised to develop a single interception warrant regime (Recommendation 10)
- the Attorney-General's Department review whether the agencies that may access the content of communications should be standardised, and that the Attorney-General report to the Parliament by 13 April 2017 on the findings of this review (Recommendation 19 of the Committee's Advisory Report on the Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2014 (Advisory Report)), and
- the Government review the Attorney-General's Guidelines in relation to the performance by the Australian Security Intelligence Organisation of its function of obtaining, correlating, evaluating and communicating intelligence relevant to security (including politically motivated violence) (Recommendation 4 of the Committee's Advisory Report on the National Security Legislation Amendment Bill (No. 1) 2014). Given the close interrelationships between these recommendations, it is appropriate that the Government's examination, review and development of detailed responses to these recommendations be progressed in a coordinated fashion. As such, the Government intends to finalise its detailed response to these recommendations following the delivery of the report of the review of access to the content of communications, by no later than 13 April 2017.

Recommendation 3

The Committee recommends that the Attorney-General's Department examine the Telecommunications (Interception and Access) Act 1979 with a view to revising the reporting requirements to ensure that the information provided assists in the evaluation of whether the privacy intrusion was proportionate to the public outcome sought.

Supported

The Government will continue to examine the reporting requirements contained in the Act, with a view to revising the requirements in the manner recommended by the Committee.

The Data Retention Act will substantially enhance the reporting requirements relating to stored communications and telecommunications data, including enhancements recommended by the Committee in its Advisory Report.

Recommendation 4

The Committee recommends that the Attorney-General's Department undertake a review of the oversight arrangements to consider the appropriate organisation or agency to ensure effective accountability under the Telecommunications (Interception and Access) Act 1979.

Further, the review should consider the scope of the role to be undertaken by the relevant oversight mechanism.
The Committee also recommends the Attorney-General's Department consult with State and Territory ministers prior to progressing any proposed reforms to ensure jurisdictional considerations are addressed.

**Supported**

The Attorney-General's Department will review the oversight arrangements for law enforcement agencies under the Act, and will consult with jurisdictions in relation to the appropriate allocation of oversight responsibility for State and Territory agencies.

The Data Retention Act will substantially enhance the powers of the Commonwealth Ombudsman to oversee access to stored communications and telecommunications data. Additionally, as recommended by the Committee in its Advisory Report, the Data Retention Act will enable the Committee to inquire, for the first time, into the operational activities of the Australian Security Intelligence Organisation (ASIO) and Australian Federal Police, as they relate to access to retained telecommunications data.

ASIO is already subject to oversight across all of its functions and activities by the independent Inspector-General for Intelligence and Security.

The Government will also consider the nature and scope of the oversight arrangements as an integral part of each element of the reform process, to ensure that oversight arrangements remain appropriate and adapted to agencies' powers and activities.

**Recommendation 5**

The Committee recommends that the Attorney-General's Department review the threshold for access to telecommunications data. This review should focus on reducing the number of agencies able to access telecommunications data by using gravity of conduct which may be investigated utilising telecommunications data as the threshold on which access is allowed.

**Implemented**

The Government has responded to the Committee's recommendation that my Department review the threshold for access to telecommunications data as part of the Data Retention Act, which reduced the number of enforcement agencies able to access telecommunications data, and which strengthened the proportionality test for access to telecommunications data by such agencies.

**Recommendation 6**

The Committee recommends that the Attorney-General's Department examine the standardisation of thresholds for accessing the content of communications. The standardisation should consider the:

- privacy impact of the threshold;
- proportionality of the investigative need and the privacy intrusion;
- gravity of the conduct to be investigated by these investigative means;
- scope of the offences included and excluded by a particular threshold; and
- impact on law enforcement agencies' investigative capabilities, including those accessing stored communications when investigating pecuniary penalty offences.

**Supported**

The Attorney-General's Department will examine the standardisation of thresholds for accessing the content of communications.

As noted above, this recommendation is closely related to recommendations 2, 7 and 10 of the Committee's Report, and recommendation 19 of the Committee's Advisory Report. As such, the
Government intends to finalise its detailed response to these recommendations following the delivery of the report of the review of access to the content of communications, by 13 April 2017.

**Recommendation 7**

The Committee recommends that interception be conducted on the basis of specific attributes of communications.

The Committee further recommends that the Government model 'attribute based interception' on the existing named person interception warrants, which includes:

- the ability for the issuing authority to set parameters around the variation of attributes for interception;
- the ability for interception agencies to vary the attributes for interception; and
- reporting on the attributes added for interception by an authorised officer within an interception agency.

In addition to Parliamentary oversight, the Committee recommends that attribute based interception be subject to the following safeguards and accountability measures:

- attribute based interception is only authorised when an issuing authority or approved officer is satisfied the facts and grounds indicate that interception is proportionate to the offence or national security threat being investigated;
- oversight of attribute based interception by the ombudsmen and Inspector-General of Intelligence and Security; and
- reporting by the law enforcement and security agencies to their respective Ministers on the effectiveness of attribute based interception.

**Supported**

The Government will consider developing an attribute-based interception regime in consultation with key stakeholders, including members of the telecommunications industry. The Government will also work to develop appropriate safeguards, and oversight and accountability measures.

The Government notes that careful consideration will need to be given to aspects of this recommendation, in particular:

- reporting on the attributes added for interception will need to balance the interests of transparency and accountability with operational security and the protection of sensitive investigative capabilities and methodologies;
- the nature of the oversight of attribute based interception by the ombudsmen, for law enforcement agencies, and Inspector-General of Intelligence and Security, for ASIO, will be contingent on the outcome of the Attorney-General’s Department’s review of oversight arrangements, as recommended by the Committee (Recommendation 4);
- reporting by the law enforcement and security agencies to their respective Ministers on the effectiveness of attribute-based interception;
- whether including a specific proportionality test for ASIO warrants would result in duplicative or inconsistent requirements to the proportionality requirements set out in the Attorney-General’s Guidelines, which apply across all of ASIO’s functions and activities, and
- any additional regulatory impact upon the telecommunications industry.

As noted above, this recommendation is closely related to recommendations 2, 6 and 10 of the Committee's 2013 Report, and recommendation 19 of the Committee's Advisory Report. As such, the Government intends to finalise its detailed response to these recommendations following the delivery of the report of the review of access to the content of communications, by 13 April 2017.
Recommendation 8
The Committee recommends that the Attorney-General's Department review the information sharing provisions of the Telecommunications (Interception and Access) Act 1979 to ensure:
- protection of the security and privacy of intercepted information; and
- sharing of information where necessary to facilitate investigation of serious crime or threats to national security.

Supported in part
The Attorney-General's Department will review the information sharing provisions of the Act.

Given the covert and intrusive nature of the powers under the Act, it is appropriate that there be strict limits on the circumstances in which agencies may share information lawfully obtained using those powers. However, the complex and prescriptive nature of the existing information sharing framework represents a significant barrier to the effective use of lawfully obtained information within agencies, and to meaningful cooperation between agencies.

Accordingly, the Government intends to develop a simplified regime that appropriately protects the privacy and security of lawfully accessed information, while facilitating the effective use and sharing of such information for legitimate law enforcement and national security purposes.

However, the Government does not support limiting the sharing of information to circumstances involving only 'serious crime' or 'serious threats to national security'. At present, the Act appropriately places more stringent restrictions on access to, and the use and disclosure of more sensitive information, such as the content of intercepted communications. Comparatively, access to, and the use and disclosure of less sensitive information, such as subscriber records, is permitted at a lesser threshold. The Government considers this arrangement should continue to apply.

Additionally, limiting the ability of law enforcement agencies to use and disclose information to circumstances involving 'serious crime' would remove the existing ability to use less sensitive information in enforcement-related proceedings, such as actions for proceedings of crime, or to enforce civil penalty provisions for corporate wrongdoing. Such an amendment may also be inconsistent with the Committee's recommendation, in its Advisory Report, that corporate regulators be granted the power to access both the content of stored communications and telecommunications data to empower them to investigate serious contraventions of the law.

Recommendation 9
The Committee recommends that the Telecommunications (Interception and Access) Act 1979 be amended to remove legislative duplication.

Supported
The Government will amend the Act to remove legislative duplication, consistent with the Government's Clearer Commonwealth Law's initiative.

Recommendation 10
The Committee recommends that the telecommunications interception warrant provisions in the Telecommunications (Interception and Access) Act 1979 be revised to develop a single interception warrant regime.

The Committee recommends the single warrant regime include the following features:
- a single threshold for law enforcement agencies to access communications based on serious criminal offences;
- removal of the concept of stored communications to provide uniform protection to the content of communications; and
The Committee further recommends that the single warrant regime be subject to the following safeguards and accountability measures:

- interception is only authorised when an issuing authority is satisfied the facts and grounds indicate that interception is proportionate to the offence or national security threat being investigated;
- rigorous oversight of interception by the ombudsmen and Inspector-General of Intelligence and Security;
- reporting by the law enforcement and security agencies to their respective Ministers on the effectiveness of interception; and
- Parliamentary oversight of the use of interception.

Supported

The Government will consider legislative amendments to revise the interception and stored communications warrant provisions to develop 'single warrant regimes' for law enforcement agencies and ASIO.

The Government notes that careful consideration will need to be given to whether including a specific proportionality test for ASIO warrants would result in duplicative or inconsistent requirements to the proportionality requirements set out in the Attorney-General's Guidelines, which apply across all of ASIO's functions and activities.

As noted above, this recommendation is closely related to recommendations 2, 6 and 7 of the Committee's 2013 Report, and recommendation 19 of the Committee's Advisory Report. As such, the Government intends to finalise its detailed response to these recommendations following the delivery of the report of the review of access to the content of communications, by 13 April 2017.

Recommendation 11

The Committee recommends that the Government review the application of the interception-related industry assistance obligations contained in the Telecommunications (Interception and Access) Act 1979 and Telecommunications Act 1997.

Supported

The Government will review the interception-related industry assistance obligations contained in the Act, in consultation with agencies and members of the telecommunications industry. The review will include careful consideration of the need to minimise the regulatory burden on the telecommunications industry, and will be closely linked to the development of detailed responses to the Committee's recommendations relating to:

- the introduction of an attribute-based interception regime (Recommendation 7)
- the expansion of the regulatory enforcement options available to the Australian Communications and Media Authority (Recommendation 12)
- amending the Act to include provisions which clearly express the scope of industry's obligations to provide assistance to law enforcement and national security agencies (Recommendation 13)
- amending the Act to clarify that the existing industry assistance obligations apply to all providers of telecommunications services accessed within Australia (including ancillary service providers), on a no-profit, no-loss basis (Recommendation 14)
- the development of an appropriate framework to preserve lawful access to the content of encrypted communications under warrant as a part of investigations into serious criminal activity and threats to...
national security, which does not compromise the security of communications for ordinary Australians (Recommendation 16), and

- whether to develop statutory timelines for industry assistance to law enforcement and national security agencies (Recommendation 17).

**Recommendation 12**

The Committee recommends the Government consider expanding the regulatory enforcement options available to the Australian Communications and Media Authority to include a range of enforcement mechanisms in order to provide tools proportionate to the conduct being regulated.

**Supported**

The Government will consider enforcement options available to ACMA, including lower-order options, as well as options designed to facilitate negotiated solutions to alleged non-compliance. As noted above, this recommendation is closely linked to recommendations 7, 13, 14, 16 and 17.

**Recommendation 13**

The Committee recommends that the Telecommunications (Interception and Access) Act 1979 be amended to include provisions which clearly express the scope of the obligations which require telecommunications providers to provide assistance to law enforcement and national security agencies regarding telecommunications interception and access to telecommunications data.

**Supported**

The Government will consider amendments to more clearly express the scope of the industry assistance obligations, mindful of the merits of laws that can be applied flexibly, particularly in response to changing technology. As noted above, this recommendation is closely linked to recommendations 7, 12, 14, 16 and 17.

**Recommendation 14**

The Committee recommends that the Telecommunications (Interception and Access) Act 1979 and the Telecommunications Act 1997 be amended to make it clear beyond doubt that the existing obligations of the telecommunications interception regime apply to all providers (including ancillary service providers) of telecommunications services accessed within Australia. As with the existing cost sharing arrangements, this should be done on a no-profit and no-loss basis for ancillary service providers.

**Supported in principle**

The Government strongly supports the principle that all companies operating in or supplying services to Australia should be subject to and comply with Australian law. However, the Government acknowledges that designing an appropriate regulatory framework for a globalised industry, such as the telecommunications industry, while minimising the regulatory burden raises complex issues.

Accordingly, the Government will consider appropriate amendments to place beyond doubt the scope of the industry assistance obligations. As noted above, this recommendation is closely linked to recommendations 7, 12, 13, 16 and 17.

**Recommendation 15**

The Committee recommends that the Government should develop the implementation model on the basis of a uniformity of obligations while acknowledging that the creation of exemptions on the basis of practicability and affordability may be justifiable in particular cases. However, in all such cases the burden should lie on the industry participants to demonstrate why they should receive these exemptions.
Supported in part

The Government supports the application of obligations across the industry, to minimise national security and law enforcement risks associated with unregulated industry participants, and to ensure a more even playing field in an increasingly converged communications environment.

However, given the fragmentation and diversification of the modern telecommunications industry, the Government considers that it may be appropriate to tailor, to some degree, the nature of the obligations imposed on distinct classes of providers, while minimising any increase in regulatory complexity. This would allow industry assistance obligations to better reflect the increasing diversity of the telecommunications industry, and would allow Government to minimise the regulatory burden associated with these social licence obligations by avoiding imposing unnecessary or inapt obligations on particular classes of providers.

Recommendation 16

The Committee recommends that, should the Government decide to develop an offence for failure to assist in decrypting communications, the offence be developed in consultation with the telecommunications industry, the Department of Broadband Communications and the Digital Economy, and the Australian Communications and Media Authority. It is important that any such offence be expressed with sufficient specificity so that telecommunications providers are left with a clear understanding of their obligations.

Supported

The Australian Government supports strong encryption, which underpins modern, secure communications technologies. These technologies are fundamental to a digital economy, and provide an unparalleled opportunity for exercise of the fundamental freedoms of expression, peaceful assembly and association.

However, the use of encrypted communications for serious criminal purposes and purposes prejudicial to security represents an increasingly significant barrier to the ability of governments to bring serious offenders to justice.

Accordingly, the Government will explore, in consultation with agencies and the telecommunications industry, the development of appropriate legislative provisions, including safeguards, oversight and accountability measures.

Recommendation 17

The Committee recommends that, if the Government decides to develop timelines for telecommunications industry assistance for law enforcement and national security agencies, the timelines should be developed in consultation with the investigative agencies, the telecommunications industry, the Department of Broadband Communications and the Digital Economy, and the Australian Communications and Media Authority.

The Committee further recommends that, if the Government decides to develop mandatory timelines, the cost to the telecommunications industry must be considered.

Supported

The Government recognises the potential regulatory burden of introducing industry assistance timelines and will consult with relevant agencies and the telecommunications industry about any proposal to develop timelines for the provision of industry assistance to law enforcement and national security agencies.

Recommendation 18

The Committee recommends that the Telecommunications (Interception and Access) Act 1979 (TIA Act) be comprehensively revised with the objective of designing an interception regime which is underpinned by the following:

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Supported

The Government recognises the potential regulatory burden of introducing industry assistance timelines and will consult with relevant agencies and the telecommunications industry about any proposal to develop timelines for the provision of industry assistance to law enforcement and national security agencies.

Recommendation 18

The Committee recommends that the Telecommunications (Interception and Access) Act 1979 (TIA Act) be comprehensively revised with the objective of designing an interception regime which is underpinned by the following:
clear protection for the privacy of communications;
provisions which are technology neutral;
maintenance of investigative capabilities, supported by provisions for appropriate use of intercepted information for lawful purposes;
clearly articulated and enforceable industry obligations; and
robust oversight and accountability which supports administrative efficiency.

The Committee further recommends that the revision of the TIA Act be undertaken in consultation with interested stakeholders, including privacy advocates and practitioners, oversight bodies, telecommunications providers, law enforcement and security agencies.

The Committee also recommends that a revised TIA Act should be released as an exposure draft for public consultation. In addition, the Government should expressly seek the views of key agencies, including the:
- Independent National Security Legislation Monitor;
- Australian Information Commissioner;
- ombudsmen and the Inspector-General of Intelligence and Security.

In addition, the Committee recommends the Government ensure that the draft legislation be subject to Parliamentary committee scrutiny.

Supported

The Government will comprehensively revise the Act in a progressive manner, rather than as a single legislative package. An iterative approach will allow the Government to make substantial and practical improvements to the telecommunications privacy and access framework sooner than would otherwise be possible. This approach will also allow the Committee, to which all substantive packages of amendments will be referred, Parliament, industry, and Australian public to consider each stage of this reform process in greater detail.

Recommendation 19

The Committee recommends that the Government amend the *Telecommunications Act 1997* to create a telecommunications security framework that will provide:
- a telecommunications industry-wide obligation to protect infrastructure and the information held on it or passing across it from unauthorised interference;
- a requirement for industry to provide the Government with information to assist in the assessment of national security risks to telecommunications infrastructure; and
- powers of direction and a penalty regime to encourage compliance.

The Committee further recommends that the Government, through a Regulation Impact Statement, address:
- the interaction of the proposed regime with existing legal obligations imposed upon corporations;
- the compatibility of the proposed regime with existing corporate governance where a provider's activities might be driven by decisions made outside of Australia;
- consideration of an indemnity to civil action for service providers who have acted in good faith under the requirements of the proposed framework; and
- impacts on competition in the market-place, including:
  - the potential for proposed requirements to create a barrier to entry for lower cost providers;
the possible elimination of existing lower cost providers from the market, resulting in decreased market competition on pricing; and

any other relevant effects

Supported

The Government will introduce legislation giving effect to Recommendation 19 this year, following the release of an exposure draft of the legislation for public consultation. The Attorney-General will refer that legislation and associated Regulation Impact Statement to the Committee for public inquiry and report.

**Australian Government response to the Senate Rural and Regional Affairs and Transport References Committee report:**

**Inquiry on industry structures and systems governing levies on grass-fed cattle**

**July 2015**

**Introduction**

The Australian Government welcomes the Senate Rural and Regional Affairs and Transport References Committee's report on the industry structures and systems governing levies on grass-fed cattle (the Report). The Australian Government thanks the Committee members for the work in delivering the report and associated recommendations.

The Report provides a number of insights into the issues affecting the ability of grass-fed cattle producers to remain viable in a competitive global market place, and how their industry governance arrangements support this objective.

The cattle industry was restructured in 1997 to advance industry towards management of its own affairs and increase its efficiency and competitiveness to continue as a world leader. At the time the industry was losing market share to most of its competitors overseas, many meat exports occurred under restrictive trade conditions and government owned bodies managed the levies for marketing, research and development.

Since that time the cattle industry has managed to deliver productivity increases (average carcass weight per animal has increased from 212 kg in 1997 to 263 kg in 2013) and has increased its volume of beef exports by 163 per cent, including over 1000 per cent increases to China and Middle Eastern markets.

The government has also pursued an aggressive trade agenda resulting in free trade agreements with Australia's largest beef export markets and opening a range of new markets for live export.

Last financial year beef and veal exports rose 29 per cent to more than $6 billion and six new markets have been secured to further support our $1 billion live exports industry.

All of this helps more of our farming families on the land, and gets them greater returns at the farm gate. With an estimated 71,300 farms across Australia, cattle production is a business that supports many families and is absolutely vital to the future sustainability of rural communities.

The government also knows there are beef farmers that have been struggling with drought. Being well-informed and well-prepared are the keys to managing any risk. It is important that farmers understand the risks they face and the tools that are available to them. However, even the best prepared farmers can require assistance in extreme droughts. The government recognises the importance of policy certainty, particularly in the context of drought. That is why we are investing almost $3 billion in a new drought and risk management package that will provide this certainty for farming families and their businesses.

The better that farmers can prepare for, manage through and recover from any adverse situation, including drought, the stronger our agriculture sector's contribution will be to the economy.
Innovation through research, development and extension (RD&E) has been a key factor in the rural sector's productivity growth and contribution to Australia's prosperity. Around 97 per cent of farms are classified as small businesses—having an annual turnover of less than $2 million. Because of this there is a low capacity to individually conduct or invest in RD&E and marketing on their own. There is limited incentive for private investment because it is difficult for a private investor to keep research and marketing benefits to themselves, and to stop people who did not financially contribute to the research from benefiting from it. Market failure such as this creates the case for the levy system.

The White Paper on Agricultural Competitiveness highlights the government's commitment to co-fund RD&E to deliver results on-the-ground that improve farm profitability and productivity. The evidence is overwhelming—research and development investment across agriculture has delivered productivity returns far in excess of the cost of the investment. The Council of Rural Research and Development Corporations has found that the system provides an average return of over $10 for every dollar invested.

The White Paper adopts a three-pronged approach to building stronger RD&E. This involves investing in the right RD&E by setting the right priorities; addressing the gaps in the system through more funding for collaborative research and adoption ($200 million for the Rural R&D Profit Program to 2021-22); and improving the efficiency of the system by reducing administrative costs and improving governance.

On this basis the government is resolute in its support of the levy system. To many of Australia's rural industries it is a vital way of increasing their profitability, sustainability and competitiveness. There is no "one size fits all" model for the system, but the flexibility of the Australian model allows it to evolve and respond to industry needs.

In recent years, Australia's rural and research development corporations have experienced some changes. These include the creation of Sugar Research Australia from a merger of existing bodies and the creation of the Australian Grape and Wine Authority from two existing bodies. These changes are consistent with a small government policy to consolidate existing bodies where possible.

It is vital the beef industry has the right systems and structures in place to capture the opportunities in the coming decades in Asia and elsewhere. Australia is a major player in the global beef trade, but as with anything, there is always room for improvement.

The government wants to ensure that the best possible arrangements are in place for the benefit of the whole industry. This is part of the government's commitment to work with industry to reinvigorate agriculture and help farmers prosper.

The government understands the difficulty of establishing a system that satisfies every producer and acknowledges that some producers will always want more control over the statutory levies.

While the current industry structures and systems governing the levies on grass-fed cattle are not perfect, they do provide a solid basis for the future. The government will work with industry to develop a more coherent and robust system for grass-fed cattle levy payers and assist in providing every opportunity for the re-invigoration of a strong and effective representative organisation.

Recommendation 1
The committee recommends that a producer-owned body be established by legislation. The body should have the authority to receive and disperse the research and development, as well as marketing component, of the cattle transaction levy funds. The producer-owned body should also be authorised to receive matching government research and development funds. Reforming the Cattle Council of Australia to achieve these outcomes should be examined as part of this process.

Response to recommendation 1
The Australian Government agrees in part with this recommendation and thanks the committee for its consideration of this complex issue.
The government notes that the intent of this recommendation is to address two clear problems; the lack of effectiveness of grass-fed producer say over levy expenditure due in part to the absence of a truly representative grass-fed cattle body, and funding for that body to perform its role effectively in the red meat system.

The government has facilitated industry discussion on this recommendation over a number of months, culminating in an industry round table discussion in December 2014. As a result of this meeting, it was agreed that grass-fed stakeholders would undertake to seek agreement on a new industry body which better represented the views of grass-fed levy payers. Representatives of grass-fed levy payers delivered a unified position on the structure of a new grass-fed levy organisation to the Minister for Agriculture on 17 February 2015.

The government agrees that producers should have an opportunity to influence the use of levy-funds, however it does not agree that this can be best achieved through a new rural research and development corporation. Rather, the government believes that transparent understanding of the expenditure of the levy can be achieved through several initiatives, not the least of which are current reforms being enacted by Meat & Livestock Australia.

Further options for a stronger role for the grass-fed sector within Meat & Livestock Australia and strengthening the governance of the red meat sector as a whole include continued reform to its skills based board through, for example, clearer representation of not just the grass-fed sector, but other red meat industries also. Revision of the Red Meat Memorandum of Understanding is also necessary to more clearly define the roles and responsibilities of each entity around consultation requirements and agreement on forward work plans and levy expenditure. Finally, the creation of a viable grass-fed levy representative organisation will assist in ensuring the views of levy payers are reflected in the way levy funds are spent.

Regarding the funding of a new industry body, the government does not agree that the best outcome can achieved through the redirection of the R&D and marketing grass-fed component of the cattle transaction levy to a new organisation. The government has formed this view on the basis that the full redirection of the grass-fed levy would fundamentally destabilise Meat & Livestock Australia, to the detriment of other components of the red meat industry. The administrative duplication associated with another rural research and development corporation is not efficient or cost-effective and is not consistent with the government's agenda of reducing regulation and the number of bodies. The government has therefore concluded that there would be little, if any benefit to grass-fed levy payers over and above that which can be achieved through modification of the current structure.

The government will however consider proposals from industry for funding arrangements for the new industry representative body. The government's preference is that industry representative bodies are funded from non-government sources and encourages the new entity to develop proposals for full financial viability through appropriate provision of services to its members.

The government recognises this may take some time and will work with industry on appropriate transition funding through existing mechanisms, such as the Red Meat Advisory Council fund. An important part of that will be the continued support of existing members of the Cattle Council of Australia until the new representative body agreed to by industry has completed its first Annual General Meeting.

Into the longer term there are a range of options open to the new body to ensure its ongoing financial viability. The government will work with industry on those options through the transition period and consider proposals which have the support of grass-fed cattle producers.

Additionally, the government will ensure the terms of reference for the independent performance review of Meat & Livestock Australia to commence in 2015 examines options to improve transparency, accountability and engagement with levy-payers, which will form the basis for considered industry consultation and potential reform.
Recommendation 2
The committee recommends the establishment of a cost-effective, automated cattle transaction levy system. The system should identify levy payers against levies paid. The automated system should provide for more immediate settlement of levy fees paid and the allocation of voting entitlements. It should be subject to regular independent auditing and verification.

Response to recommendation 2
The Australian Government agrees with this recommendation. The government is currently working with the red meat, horticulture and grains industries in a pilot project to establish levy-payer registers, including design options that are cost-effective and efficient. The government is also considering the recommendations of the Senate inquiry on industry structures and systems governing the imposition and disbursement of marketing and R&D levies in the agriculture sector.

Meat & Livestock Australia is also investigating more immediate ways to establish a cost-effective, automated cattle transaction levy system. As identification of levy payers is integral to the accountability of the levy system, the government will work cooperatively with Meat & Livestock Australia and industry to deliver this.

Recommendation 3
The committee recommends that the Primary Industries (Excise) Levies Act 1999 be amended to ensure that levies paid by processors are recognised as processor (or slaughter) levies and not as producer (or cattle transaction) levies.

Response to recommendation 3
The Australian Government does not agree with this recommendation. The government considers that any proposal to change a levy should come directly from levy payers, consistent with the Levy Principles and Guidelines.

The government notes that the development of a register of levy payers will ensure that levies paid by processors, lot feeders and producers can be clearly identified.

Recommendation 4
The committee recommends that the Australian National Audit Office conduct an audit of the cattle transaction levy system, tracing the levy from inception and focusing on the revenue from, and expenditure of, the respective components of the levy.

Response to recommendation 4
The Australian Government agrees with the principle of this recommendation. The Australian National Audit Office does not generally undertake audits of non-government entities, such as Meat & Livestock Australia. As an independent entity, the ANAO will consider undertaking an audit of the administration of levies by the Department of Agriculture as part of its future work plan.

An independent performance review of Meat & Livestock Australia is due to commence in 2015 which will examine levy revenue and expenditure, and make recommendations to improve transparency and accountability as well as options to improve engagement with levy-payers. The government will ensure that the terms of reference for this review sufficiently address the intent of this recommendation.

Recommendation 5
The committee recommends that the Minister for Agriculture dissolve the Red Meat Advisory Council. The committee further recommends that the Minister for Agriculture establish a new system to manage and disperse earnings from the Red Meat Industry Reserve Fund, in consultation with the industry.
Response to recommendation 5
The Australian Government does not agree with this recommendation. The government sees merit in a forum for whole of supply chain co-ordination to maximise the opportunities from the expected growth in the appetite for protein over the next 50 years.

The government does agree that improvements can be made to the efficacy of the Red Meat Advisory Council in terms of the delivery of its core mission and therefore notes the most beneficial course of action is to work with the organisation to make it more transparent and accountable to address the concerns raised in the inquiry.

Recommendation 6
The committee recommends that the Minister for Agriculture revoke the status of the MLA Donor Company as an approved donor under the Australian Meat and Livestock Industry Act 1997.

Response to recommendation 6
The Australian Government does not agree with this recommendation. The government considers that the rural research and development system benefits from voluntary contributions and they should be encouraged through matching contributions.

The government does however believe that initiatives undertaken with the use of voluntary contributions under the Australian Meat and Livestock Industry Act 1997 must deliver, and better communicate tangible and beneficial outcomes for both the broader industry and grass-fed producers, particularly where grass-fed levies have been contributed.

The government will therefore review its arrangements with the MLA Donor Company to strengthen its governance and operating framework in response to some stakeholder concerns raised in the Report.

Recommendation 7
The committee recommends that the Department of Agriculture, in consultation with the cattle industry, conduct an analysis of the benefits, costs and consequences of introducing legislation akin to the Packers and Stockyards Act 1921 and Livestock Mandatory Price Reporting Act 1999.

Response to recommendation 7
The Australian Government agrees in principle with this recommendation, and considers that the assessment being conducted by Meat & Livestock Australia will assist in identifying the benefits and costs of addressing deficiencies in price transparency.

The government wants an improved competitive environment for all businesses, including a fair return for Australia's farmers at the farm gate. The Agricultural Competitiveness White Paper has committed $11.4 million over four years to boost Australian Competition and Consumer Commission (ACCC) engagement with the agriculture sector to strengthen competition through fair trading investigations and enforcement actions. This will include more resources to get out into the field and the appointment of a commissioner with specific responsibility for agriculture. A further $13.8 million has been committed for a two-year pilot programme to provide farmers with knowledge and materials on cooperatives, collective bargaining and innovative business models.

Dissenting and Additional reports
The government notes the dissenting views of Senator the Hon. Ian Macdonald in relation to Recommendations 1 and 5, and Senator Rachel Siewert and Senator Peter Whish-Wilson's additional comments relating to long term farm gate prices and the processing industry.
Australian Government response to the Parliamentary Joint Committee on Intelligence and Security report:
Review of the declaration of al-Raqqa province, Syria
June 2015
Parliamentary Joint Committee on Intelligence and Security
Review of the declaration of al-Raqqa province, Syria
Tabled 18 March 2015
Government's Response to Committee's Recommendations
Recommendation 1:
The Committee recommends that, at the time a declaration is made, the Minister for Foreign Affairs provide to the Committee a document outlining the process underpinning the declaration of the area for the purposes of section 119.2 of the Criminal Code Act 1995.
Response:
The Government agrees with the recommendation. The Government notes that, at the time the Minister for Foreign Affairs declared al-Raqqa province, Syria on 4 December 2014, certain processes for publicising the declaration widely had not yet occurred. These processes were listed in the document provided to the Committee at the time of its review of the declaration of al-Raqqa province, Syria, which is included at Appendix B to the Committee's report. To ensure the Committee has a complete list of all the relevant processes at the time of its review, the Government will provide the Committee with a document outlining the process underpinning a declaration as soon as practicable following the making of a declaration by the Minister for Foreign Affairs.
Recommendation 2:
The Committee recommends that the legislative instrument declaring al-Raqqa province, Syria for the purposes of section 119.2 of the Criminal Code Act 1995 not be disallowed.
Response:
The Government agrees with the recommendation.

Australian Government response to the Parliamentary Joint Committee on Intelligence and Security report:
Review of the declaration of Mosul district, Ninewa province, Iraq
June 2015
Parliamentary Joint Committee on Intelligence and Security Review of the declaration of Mosul district, Ninewa province, Iraq Tabled 25 May 2015
Government's Response to Committee's Recommendations
Recommendation 1:
The Committee recommends that the legislative instrument declaring Mosul district, Ninewa province, Iraq for the purposes of section 119.2 of the Criminal Code Act 1995 not be disallowed.
Response:
The Government agrees with the recommendation.
Australian Government response to the Senate Environment and Communications References Committee report:
Recent trends in and preparedness for extreme weather events
July 2015

Introduction
The Australian Government welcomes the Senate Environment and Communications References Committee's report on recent trends in and preparedness for extreme weather events. In its report, the Senate Committee notes the significant impacts and costs of extreme weather events on Australia, including the extensive damage they cause to Australian homes, infrastructure, businesses, natural ecosystems and human health. In 2011, Australia experienced an unprecedented number of natural disasters with total insured losses of around $12 billion. Since 2010-11, the Australian Government has paid approximately $7.9 billion to state governments to support natural disaster relief and recovery, and it is expected that a further $3.6 billion will be expended in relation to past events over the next three years.

Effectively preparing for extreme weather can reduce the impacts and costs of such events now and into the future. The Australian Government agrees with the Senate Committee that preparing for, and responding to, extreme weather events requires cooperation, collaboration and coordination across a range of sectors and governments. Businesses, the not-for-profit sector and individuals all have a stake and a role in responding to climate challenges, as do all tiers of government. For a resilient nation, members of the community need to understand their role in managing the impacts of extreme weather, and possess the relevant knowledge, skills and abilities to take appropriate action.

Other recommendations of the Senate Committee include: improving the forecasting of extreme weather events, especially early warning capabilities; removing disincentives to insurance; ensuring emergency service organisations work together effectively; and continuing to implement the recommendations of the recent Productivity Commission inquiry on the Barriers to Effective Climate Change Adaptation in Australia.

As outlined in the following sections of this response, the Australian Government is committed to a range of practical measures to help reduce the impact and cost of extreme weather events and to build resilience to climate risks. These measures include:

- continuing to implement the National Strategy for Disaster Resilience to guide disaster management decision-makers;
- establishing a Productivity Commission inquiry in April 2014 into natural disaster funding arrangements to examine expenditure on natural disaster mitigation and recovery, and options to achieve an effective and sustainable balance of disaster recovery and mitigation to build the resilience of communities;
- supporting the establishment of an Extreme Weather Desk in the Bureau of Meteorology's National Operational Centre to provide additional response capacity during extreme weather events;
- working with state, territory and local governments to continue to improve emergency management coordination; and
- a commitment to provide $9 million over three years to the National Climate Change Adaptation Research Facility (NCCARF) to integrate its research into decision-making by governments, businesses and households.

Detailed response to recommendations
The Australian Government has considered the ten recommendations made in the Senate Committee's report and provides the following responses.
Recommendation 1

2.115 The committee recommends that the Commonwealth government, through the Bureau of Meteorology and CSIRO, continues to support data collection and research to improve forecasting of extreme weather events, especially early warning capabilities.

**Australian Government response:** Agreed.

The Australian Government continues to support research into the improved forecasting and understanding of weather extremes and the development of early warning capabilities though the Bureau of Meteorology's observations program and the Collaboration for Australian Weather and Climate Research (CAWCR), which is a partnership between the Commonwealth Scientific and Industrial Research Organisation (CSIRO) and the Bureau of Meteorology.

The Bureau of Meteorology collects and manages data relating to weather and climate elements through a robust and diverse observational network that includes radars, weather balloons, automated and non-automated instrumentation and volunteer observers. The Bureau of Meteorology is undertaking a strategic review of its observational infrastructure as part of its continuous improvement activities. A key consideration in this review is the capability for detection and monitoring of high-impact weather events, the robustness of the networks, and available technology.

In addition, the Bureau of Meteorology is investigating opportunities for research associated with the next generation geostationary meteorological weather satellite that has recently been launched by Japan, providing coverage over the Australian continent and the surrounding region. The potential for improvements to forecasting of extreme weather events will come from the increased frequency of data collection and improved remote sensing capability that will be delivered by the new geostationary meteorological weather satellite. This data will be used through the Bureau of Meteorology's existing forecasting models (and by forecasters other than the Bureau of Meteorology) and is anticipated to assist monitoring and forecasting.

The Bureau of Meteorology has a number of research commitments related to the goal of improved early warning of extreme weather events. These include the research investment in high resolution modelling through the Strategic Radar Enhancement Project, improved capability for forecasting tropical cyclone storm surges and improved prediction of flooding for both weather and hydrological modelling. The latter two activities are being implemented in response to the 2011 Munro Review of the Bureau of Meteorology's capacity to respond to future extreme weather and natural disaster events and to provide seasonal forecasting services.

The Bureau of Meteorology's research in advanced numerical modelling is using the Canberra National Computing Infrastructure research facility with a particular focus on very high resolution modelling—the finest scales being approximately 1.5 kilometres for weather forecast research and 400 metres for research into detailed processes associated with severe weather. The aim of the research is to improve the forecasting of significant weather, including severe thunderstorms, heavy rain leading to flooding, bushfire weather and tropical cyclones.

CSIRO and the Bureau of Meteorology will continue to work closely together on their joint research operation, the Collaboration for Australian Weather and Climate Research (CAWCR), to collaborate on data collection and research to improve forecasting of extreme weather events. The projection of extreme weather events is a relatively new area of research that includes significant challenges that stem from the coverage and quality of the observational record through to the development of skilful high-resolution modelling systems. As with general projections of future climate, there is currently greater skill in projecting changes in temperature extremes than there is in projecting changes in rainfall extremes, and this is likely to remain a research challenge for the next decade. CAWCR will continue to develop the Australian Community Climate and Earth System Simulator (ACCESS), to provide improved forecasting of extreme weather events in the near-term (days to weeks).
In addition, Geoscience Australia develops and provides datasets and services that support the delivery and improvement of forecasting of extreme weather events and early warning capabilities. For example, Geoscience Australia operates Sentinel, a national bushfire 'hotspot' mapping system that is used to alert operational agencies and the public to the presence of fires. Geoscience Australia collaborates with the Bureau of Meteorology on tsunami forecasts (through the Joint Australian Tsunami Warning Centre) as well as the development of a Geographic Information System of nationally consistent hydrological features (Geofabric). The Geofabric product is a publicly available resource that tracks how water is stored, transported and used through the landscape. Future versions will include jurisdictional data that will lead to higher resolution datasets. Geoscience Australia also develops information on natural disasters based on remote sensing observations. This is done for various types of disaster such as flood events while the event unfolds, as well as processing the available historical archive to generate a catalogue of information that may support warnings into the future.

Recommendation 2

2.117 The committee recommends that the Bureau of Meteorology and CSIRO continue to improve projections and forecasts of extreme weather events at a more local level.


The Australian Government agrees on the need for improved projections and forecasts of extreme weather events at local scales, particularly in the context of early warning systems.

The Bureau of Meteorology is developing improved methodologies for the use of weather radar to measure rainfall and track the movement, evolution, and severity of thunderstorm cells. New approaches provide probabilities of exceeding critical rainfall thresholds or storms impacting locations on the ground, both of which are useful for decision making and risk management to mitigate the impacts of extreme weather.

Continuing improvements in projections and forecasts of extreme weather events will depend on the Bureau of Meteorology's future supercomputing capacity, as well as optimal use of the international observing network and the Australian observations network, including the Bureau's weather radars. The 2014-15 Budget provided funding for the Bureau of Meteorology to replace its existing supercomputer, which will reach its expected end-of-life in mid-2016. The new supercomputer will be capable of providing more detailed forecasts more frequently, and will enable the Bureau of Meteorology to improve forecasting and warning capabilities. The new supercomputer and associated modelling and prediction systems will lead to improvements in forecasts of the location and timing of severe thunderstorms, the timing and direction of wind changes in bushfire situations and the intensity and location of rainfall leading to flooding. The Bureau will also have the capacity to produce more accurate forecasts of a tropical cyclone's path, intensity and structure, including the location and timing of coastal crosses.

The Bureau of Meteorology's Next Generation Forecast and Warning System has been rolled out across the country and underpins its graphical forecasts and seven-day predictions available for all locations in Australia. This has produced a step change in the Bureau's ability to provide local scale forecasts.

In response to the Munro Review of the Bureau of Meteorology's capacity to respond to extreme weather and natural disaster events and to provide seasonal forecasting services, the Australian Government has funded the establishment of a new Extreme Weather Desk in the Bureau's National Operational Centre. The Desk will provide a national focus for extreme weather intelligence and capability during periods of sustained demand. The Centre's expanded capability includes the development of new storm surge predictive capability and improved hydrological modelling to support flood forecasting.

Quantifying future risks associated with a changing and increasingly variable climate, especially at a regional scale in Australia, remains a high research priority for the Bureau of Meteorology and CSIRO, through the CAWCR partnership. This includes developing robust methods to "downscale" climate
model projections from coarse to more fine space and time scales; and ways to improve predictions of the likely increased frequency and intensity of extreme events at increasingly finer scales. The collaborative research aims to strike the right balance between the drive for finer-scale resolution, and the uncertainty in projections at these small scales. Underpinning process-oriented research, that is processes based on observations and modelling, will be needed to reduce uncertainties and meet these demands.

Geoscience Australia's capability and outputs also contribute significantly to improvements in extreme weather event projection and forecasting. The quality of local forecasts and projections directly depend on the resolution and reliability of the inputs to the models that generate the projection or forecast. This data is part of the National Foundation Spatial Data Framework (led by the ANLIC - Spatial Information Council) that is defining key national datasets and policies around data distribution/licensing. Geoscience Australia is the custodian of selected national-scale and high-resolution digital elevation information. National scale data is available for open access and high resolution digital elevation data is accessible to all levels of government in Australia under Restricted for Government Use Only licencing. This data can be discovered and accessed through the National Elevation Data Framework (NEDF) Portal at http://nedf.ga.gov.au.

Geoscience Australia continues to develop its capability in modelling high-resolution projections of extreme weather events. Geoscience Australia's capability complements that of the Bureau of Meteorology as it projects the impacts of extreme weather events (such as extreme wind events) on the built environment.

Recommendation 3

2.119 The committee notes the linkage between climate change and extreme weather events and recommends that the Bureau of Meteorology and CSIRO conduct further research to increase understanding in the areas of:

- the interaction between large-scale natural variations, climate change and extreme weather events;
- the impacts of climate change on rainfall patterns and tropical cyclones; and
- that Australia cooperatively engage, where appropriate, with international research initiatives in these areas.


Through CAWCR, CSIRO and the Bureau of Meteorology will continue to work closely together to improve understanding of the links between climate change and extreme weather events. This research will include:

- using models such as the Australian Community Climate and Earth System Simulator to simulate drivers of Australia's climate variability, and predict how these drivers may change in the future with increasing greenhouse gas concentrations; and
- providing projections of likely changes in the intensity and frequency of extreme events (heatwaves, bushfire weather, severe storms, droughts, tropical cyclones, storm surge, etc.) in the Australian region.

CSIRO and the Bureau of Meteorology are also committed to maintaining vibrant international collaboration to enhance scientific knowledge, build research capability, and have access to other nations' observations and programs. Key international collaborations include the Met Office in the United Kingdom and the National Oceanic and Atmospheric Administration in the United States of America.

Recommendation 4

3.60 The committee recommends that disincentives to insurance, such as taxes and levies applied by the states and territories, should be removed as part of a national reform process.
The Australian Government notes that the Committee's recommendation is in line with past reviews of the tax system and other inquiries including the Report of the HIH Royal Commission (2003), the Australia as a Financial Centre Building on our Strengths report by the Australian Financial Centre Forum (Johnson Review, 2009), and the Productivity Commission's Barriers to Effective Climate Change Adaptation (2012) report, as well as its draft report into Natural Disaster Funding Arrangements (September 2014), all of which recommended the removal or abolition of state taxes on insurance.

State and territory governments are responsible for state and territory taxes and levies. The Government notes that the Australian Capital Territory Government is already phasing out insurance taxes over the five years from 2012-13 to 2016-17 and would welcome any early moves by other state and territory governments to lower the burden of insurance taxes.

The Government has committed to release a comprehensive white paper on tax reform before the next election. The first step in this process, a discussion paper, was released by the Treasurer on 30 March 2015. The discussion paper includes consideration of state taxes.

Recommendation 5
3.109 The committee recommends relevant authorities work with community service organisations in both planning responses to and responding to extreme weather events, in particular those organisations that provide vital services to vulnerable groups.

The Australian Government recognises that communities and individuals who are vulnerable are disproportionately affected by extreme weather events due to their limited adaptive capacity. This limited adaptive capacity is generally associated with socio-economic disadvantage and geographic isolation, which expose vulnerable communities to direct and indirect climatic impacts to which they are unable to effectively prepare, respond and recover from.

Integral to the resilience of these communities are the community service organisations (CSOs) which build community resilience and provide support during and after disasters. Research demonstrates the importance of CSOs to helping communities recover after extreme weather events, and in supporting vulnerable community members to prepare for the impacts associated with extreme weather.

Improving the resilience of vulnerable sections of society is a priority for emergency management ministers nationally. This issue is being addressed with states and territories through the officials-level Australia-New Zealand Emergency Management Committee (ANZEMC), which is engaging with the Australian Council of Social Services, the Australian Red Cross and other potential partners to address this priority.

The Government maintains its role in supporting vulnerable community members through provision of a well-targeted social safety net, as delivered through the existing social welfare system.

Recommendation 6
4.104 The committee recommends that credible and reliable flood mapping activities and the development of other information that would best inform landowners or prospective landowners of potential risks from extreme weather events are prioritised and used to inform land use planning laws.

The Australian Government will continue to promote the dissemination of natural hazard information, including credible and reliable flood mapping.

Flood mapping and information provision
The Australian Government is working with state and territory governments to improve the availability and coordination of flood risk and other natural hazard information.
Geoscience Australia was allocated $12 million, over four years from July 2012, for the National Flood Risk Information Project (NFRIP). The Attorney-General’s Department is the lead policy agency. NFRIP aims to improve the quality, availability and accessibility of flood information across Australia. NFRIP includes the development of an online portal, which will provide free access to authoritative flood studies and associated flood mapping data to enable users to undertake their own analysis of the likelihood of flooding at a given location. Centralising this information will make it easier for planners, the public, insurers and engineering consultants to find out what flood mapping information exists, and to undertake their own risk assessments.

The portal will be complemented by national guidelines which will improve the quality and consistency of future flood risk modelling and mapping. The Australian Rainfall and Runoff Guidelines published by Engineers Australia, which is the underpinning authoritative document used for the estimation of design flood characteristics, is also being revised.

Phase 1 of NFRIP was completed in November 2012 and included:

- an enhanced Australia Flood Studies Database, including an expansion of the search capability and direct access to an increased number of flood studies; and
- an initial set of maps for three trial areas showing observations of water over the last ten years, derived from satellite imagery.

Phase 2 of NFRIP was completed in November 2013. It delivered and pilot tested:

- further enhancements to the Australian Flood Studies Database to enable the display and download of flood mapping;
- publication of guidelines and standards related to data entry; and
- improvements to data entry and retrieval capabilities.

Phase 3 of NFRIP is currently underway and includes:

- portal infrastructure that enables access to flood information from multiple authoritative sources, including from the Australian Flood Studies Database;
- the completion of the derivation of water observations across the whole of Australia from satellite imagery from the national archive; and
- continuing the revision of the Australian Rainfall and Runoff (ARR) Guidelines.

Over the next few years, further enhancements will be made to the database. NFRIP will be finalised by June 2016.

Another relevant activity, which is being progressed through ANZEMC, is the National Work Program for Flood Mapping which will ensure that Australia has high quality, consistent and comparable flood risk maps to inform emergency management, public policy and community safety. The Work Program consists of four short-term and four long-term projects that will contribute to the generation of high quality, consistent and comparable flood risk maps to inform emergency management public policy, planning and community safety. The first four short-term projects were completed in 2012 and included nationally-agreed principles for flood mapping, as well as a gap analysis of existing flood maps. Projects currently underway include the development of guidance on how future flood modelling and mapping should be undertaken.

Land-use planning

The Australian Government recognises that the state and territory governments are primarily responsible for statutory land-use planning, with some responsibilities delegated to local governments. The Australian Government has worked through a number of inter-jurisdictional bodies to improve land-use planning.
For example, under ANZEMC, a Land Use Planning and Building Codes Taskforce was established in 2011 to reduce risk in the built environment, which is a strategic objective of the National Strategy for Disaster Resilience. The Taskforce has developed the Enhancing Disaster Resilience in the Built Environment Roadmap to implement this objective. All jurisdictions, including the Australian Government, are developing action plans to implement the Roadmap.

**Recommendation 7**

4.106 The committee recommends that building codes incorporate mitigation measures that take into account foreseeable risks from extreme weather events.

**Australian Government response:** Agreed.

Building codes form an important component in managing long-term risks from extreme weather events. However, the siting and location of a building plays a significant role in minimising or eliminating much of the potential risk before construction work commences. For example, building on a floodplain, in a bushfire prone area or on hilltops in cyclonic regions will affect the level of risk and associated additional construction costs in managing that risk. Accurate and timely information from planning authorities in relation to flood and bushfire risk is required as an essential prerequisite prior to building work commencing. Existing buildings continue to present the highest level of risk, but these buildings are outside the scope of current building codes unless being significantly modified.

In relation to cyclonic winds, buildings constructed within the last 30 years have been demonstrably more resilient to extreme weather events. Building standards are reviewed after major hazard events to ensure adequate levels of health and safety are maintained for the community. Cyclone Tracy, which hit Darwin on 25 December 1974, provided the foundation for more stringent building requirements in cyclonic regions.

More recently, the Australian Building Codes Board (ABCB) has undertaken reviews of building code requirements, including reviews of referenced "deemed-to-satisfy" standards, for the following extreme weather events:

- Cyclone Vance (22/3/1999);
- Canberra Bushfires (18-22/1/2003)—Review of bushfire standard AS3959;
- Cyclone Larry (20/3/2006);
- Victorian Bushfires (7/2/2009)—Further reviews of AS3959 and development and implementation of a new standard for private bushfire shelters, as well as working with the Victorian Fire Services Commissioner on developing a guide for the construction of community bushfire shelters. The ABCB also provided evidence to the 2009 Victorian Bushfires Royal Commission;
- 2010-11 Queensland Floods—Development and implementation of a standard and handbook for building in flood-prone areas. Previously there were no standards in the National Construction Code (NCC) for the design and construction of buildings in flood hazard areas; and
- Cyclone Yasi (3/2/11)—Standards for garage roller doors and tiled roofs made more stringent. The review also found that buildings constructed since 1983 better withstood the impact of Cyclone Yasi than older buildings.

ABCB has also investigated the appropriateness of current cyclonic regions in the context of future extreme weather events. This included sensitivity analysis on the impact of increased severity of extreme weather events.

In April 2013, the ABCB hosted a roundtable between industry and government to discuss the adequacy of the NCC in relation to natural hazards, energy, water, material use and future weather events. The ABCB subsequently developed a discussion paper which was considered by the Board in November 2013. The paper was released in April 2014 for a twelve-week consultation period and the stakeholder responses informed the final paper. The final paper identified that most stakeholders considered the
current NCC adequately covers most natural hazards affected by climate (i.e. bushfire, flood, cyclone and extreme wind). However, the paper also recommended that the ABCB should investigate the hazards of heatwaves and hail and if necessary, and subject to cost benefit analysis, consider whether they should be addressed in the NCC or guideline material. The final paper is available on the ABCB website.

The ABCB is committed to comprehensively reviewing and considering the impacts of extreme weather events in relation to all new relevant regulatory initiatives and in consideration of a recommendation made by the Productivity Commission's report into Barriers to Effective Climate Change Adaptation, for the ABCB to monitor the effectiveness of standards to extreme weather events. The ABCB has robust impact assessment processes in place to ensure that, in addressing any natural hazard mitigation and extreme future weather events, any new measures are proportional and can provide demonstrated benefits.

A regulation impact statement (RIS), in accordance with the COAG Best Practice Regulation, is required for all major changes to the NCC. The RIS details regulatory and non-regulatory options, identifying costs and benefits for each. Extensive public consultation is included in this process. Where relevant, sensitivity analysis for extreme weather events is included. The ABCB will continue to review the NCC as further evidence and information on extreme weather events becomes available.

ANZEMC’s Land Use Planning and Building Codes Taskforce recognised the need for risk-based building codes for priority hazards in the Enhancing Disaster Resilience in the Built Environment Roadmap. All jurisdictions, including the Australian Government, are developing action plans to implement the Roadmap.

**Recommendation 8**

4.171 The committee recommends that Commonwealth, state and territory governments ensure that all facilities caring for vulnerable groups, in particular hospitals, schools, childcare and aged care facilities, have emergency management plans, relevant to their geographic settings, in place and regularly revised.

**Australian Government response:** Agreed in principle.

The Australian Government supports emergency preparedness and planning in a range of sectors that provide services for vulnerable groups.

**Childcare**

The care of children in formal types of care arrangements is regulated in order to ensure that they are protected from harm and that their opportunities for development are maximised. The majority of childcare services in Australia—long day care, family day care, outside school hours care and preschools/kindergartens—operate under the National Quality Framework (NQF). The NQF is underpinned by an applied law system which comprises the Education and Care Services National Law and the Education and Care Services National Regulations. The National Regulations provide details on the operational requirements for a childcare service, including a requirement to have emergency and evacuation procedures which set out: instructions for what must be done in the event of an emergency; and an emergency and evacuation floor plan.

**Schools**

While the Australian Government plays a collaborative role in education, it does not have a direct role in the administration or operation of schools, including matters with regard to emergency management plans for school facilities. This is a matter for specific schools and state and territory governments and non-government education authorities.
Acute care
State and territory governments are responsible for emergency preparedness, response and recovery in their jurisdictions. Hospitals and hospital networks administered by the states and territories have emergency plans and close links to local emergency services.

At an intergovernmental level, the Office of Health Protection, a division of the Australian Government Department of Health, takes a lead role in ensuring that health emergency planners can respond to any type of hazard impacting on the health of Australians or on the health system itself. This includes extreme weather events. The processes established under the National Health Emergency Response Arrangements provide a nationally-agreed emergency planning framework and a vehicle for nationally-coordinated responses to health emergencies, and for the health aspects of other emergencies.

Aged Care
Residential aged care service providers have an obligation to meet legislative requirements under the Aged Care Act 1997 (the Act) in relation to risk management for emergency events. The Act and associated aged care principles provide the regulatory framework for Australian Government subsidised residential aged care providers and protection for people receiving aged care. The Australian Aged Care Quality Agency monitors approved providers of residential aged care homes against the Accreditation Standards.

The Australian Government's Department of Social Services supports residential aged care service providers to meet their responsibilities under the Act by providing advice to help them put in place adequate emergency management plans. In particular, providers are reminded of their responsibilities and the need to review their plans ahead of each high-risk season. Specific heat wave advice is also provided proximate to extreme heat events. Providers are encouraged to liaise with local emergency management agencies to ensure that their emergency management plans are appropriate to their location. The Department of Social Services works closely with state and territory health and emergency service agencies regarding emergency events that impact people receiving aged care.

Recommendation 9
5.61 The committee recommends that Australian governments specifically address issues of compatibility and capacity to facilitate the most effective interoperability of emergency service organisations and their key personnel, especially for fire services.


Managing emergencies is largely the responsibility of state and territory governments, with local governments also playing a significant role. The Australian Government provides assistance and coordination in disasters that are beyond the capacity of a state or territory government to deal with effectively. State and territory governments have arrangements with each other to share resources when appropriate. The Australian Government, through the Attorney-General's Department (Emergency Management Australia), can assist states and territories with interstate deployments of resources, and provide a range of financial and non-financial assistance measures.

The Australian Government is supporting a number of initiatives which address and improve national interoperability. These are outlined below.

National Aerial Fire Fighting Arrangements
The National Aerial Firefighting Centre (NAFC) was formed by the states and territories, with the support of the Australian Government in July 2003. NAFC is responsible for the national coordination and sharing of aerial firefighting equipment between jurisdictions, ensuring that the type, timing and location of aircraft are managed to address the seasonal and/or immediate fire risk across Australia. NAFC is governed by a board of directors which is made up of fire and/or emergency management agencies heads from all states and territories.
The National Aerial Firefighting Arrangements encourage a cooperative national approach to the sharing of specialised resources. This enables states and territories to access specialist equipment, such as the high-capacity aircranes and Sikorsky S61N heavy lift helicopters that may otherwise be out of reach of individual jurisdictions. Aerial firefighting services sourced by NAFC are in addition to a range of other firefighting aircraft that states and territories provide independently.

The Australian Government contributes approximately $14 million a year towards this capability.

*National Situational Awareness Tool*

The Attorney-General's Department is coordinating a project to develop a consistent national-level geospatial situational awareness tool. The National Situational Awareness Tool (NSAT) will support federal, state and territory high-level decision-making and whole-of-government briefings in relation to emergencies and incidents in Australia. The NSAT is designed to enable sharing of geospatial data across all hazards between the Australian Government and states and territories.

*The Australian Government Disaster Response Plan*

The Australian Government Disaster Response Plan (COMDISPLAN) outlines the coordination arrangements for the provision of Australian Government non-financial assistance to states or territories in the event of a disaster where the jurisdiction's own resources are exhausted or unavailable. It is the primary mechanism for Australian states, territories and offshore territories to request official Australian Government non-financial assistance in an emergency or disaster. A review of COMDISPLAN was recently undertaken by the Attorney-General's Department and COMDISPLAN 2014 was approved and released in February 2014.

*Australasian Fire and Emergency Service Authorities Council*

The Attorney-General's Department is a member of the Australasian Fire and Emergency Service Authorities Council (AFAC). AFAC has been collaborating for over 20 years on industry views on a range of important matters and providing advice to various organisations, committees and stakeholders. As a long-standing peak body representing emergency management practitioners and technical experts, AFAC continues to champion emergency management issues and influence positive change. AFAC's membership includes the Australian and New Zealand fire, land management and emergency service agencies, and also has close ties with disaster risk management organisations and fire and rescue services within the Pacific.

*Emergency Management Assistance Teams*

The Emergency Management Assistance Team (EMAT) capability is based on a diverse pool of experienced emergency management personnel who are able to rapidly deploy both domestically and internationally to support emergency management operations across all hazards. EMAT personnel are drawn from Australian jurisdictions and the Attorney-General's Department (Emergency Management Australia). EMAT has the capability to assist or augment emergency management, response and recovery planning and coordination of a requesting jurisdiction. EMAT also provides enhanced networking and development opportunities, increased operational awareness of state and territory arrangements and facilitates increased information sharing.

*Harmonisation and standardisation of Bureau of Meteorology services*

The Bureau of Meteorology works closely with state and territory agencies and a wide variety of organisations to deliver its products and services, including detailed fire weather forecasts and tailored flood forecasting services. The Munro Review found that there would be value in the Bureau having nationally consistent standards and arrangements with all jurisdictions on the services provided to emergency service organisations, especially during severe and extreme weather and flood events. ANZEMC agreed in October 2013 to establish a time-limited taskforce to address key aspects of the Australian Government's response to the Munro Review. The taskforce presented its final report to the Law, Crime and Community Safety Council (LCCSC) in May 2015 which outlined recommendations.
to harmonise and standardise the Bureau's services to emergency service organisations and maximise the benefits to the emergency services community. LCCSC Ministers agreed to the report's recommendations, which are now being implemented across jurisdictions.

Radiocommunications

All Australian governments agree on the need to improve radiocommunications interoperability. This position emerged from a Council of Australian Governments (COAG) agreement on 7 December 2009 which agreed a range of measures to improve natural disaster arrangements including the introduction of a national framework that will lead to improved radiocommunications interoperability in the emergency services sector. As directed by COAG, the National Coordinating Committee for Government Radiocommunications (NCCGR) has multijurisdictional responsibility for this task, including representing the views and needs of the state and territory public safety agencies. The Australian Government members of the NCCGR include the Attorney-General's Department, the Department of Defence, the Australian Federal Police and the Australian Communications and Media Authority.

On 21 November 2014, the Australian Government announced that the Productivity Commission had been engaged to conduct a cost benefit analysis on the most effective means of delivering a mobile broadband capability to meet the long-term needs of Australia's public safety agencies. The Productivity Commission commenced its analysis on 25 March 2015, with the Commission's final report expected to be released at the end of 2015.

Bushfire and Natural Hazards Cooperative Research Centre

The National Strategy for Disaster Resilience recognises the importance of research in building resilient communities and the benefits that focus, co-ordination and sharing of this nationwide effort can bring nationally.

The Australian Government is providing funding of $47 million over eight years for the Bushfire and Natural Hazards Cooperative Research Centre (which commenced on 1 July 2013). The entity ensures that the work of the Bushfire Cooperative Research Centre continues while developing complementary natural hazards research in other areas such as flood, earthquake, cyclone and tsunami events.

Common Alerting Protocol

The Common Alerting Protocol (CAP) is a standardised system that allows consistent and easy to understand emergency messages to be broadcast across a variety of communication systems. CAP can be used to alert and inform emergency response agencies, media and the general public. CAP ensures that messages remain consistent and clearly indicate to the recipient the severity of the threat and best response. CAP provides a template for effective warning messages based on best practices identified through academic research and real-world experience.

The Australian CAP Standard, released in May 2012, was developed using the National Standards Framework pathway. Governance through this pathway was provided by the Cross Jurisdictional Chief Information Officers Group with regular reporting provided to ANZEMC through the Capability Development Sub-Committee.

Recommendation 10

5.136 The committee recommends that the Commonwealth government works with state and territory governments to continue to implement the recommendations of the Productivity Commission report, where possible, to improve coordination in relation to climate change adaptation.


The Australian Government responded to the Productivity Commission report on Barriers to Effective Climate Change Adaptation on 14 March 2013. The Government response noted that recommendations 8.1 and 8.2 (both on local government), 9.1 (on land-use planning), 10.1 (on building regulation), 11.1
(on existing settlements) and 16.1 (on the role of insurance) were matters for state and territory government consideration.

Recommendation 13.1 of the report related to a proposed review of disaster prevention and recovery arrangements. On 28 April 2014, the Australian Government commissioned a Productivity Commission inquiry into natural disaster funding arrangements. The Productivity Commission was asked to examine the full scope of national expenditure on natural disasters, and the effectiveness of current mitigation support arrangements. The Australian Government tabled the Commission's final report on 1 May 2015 and is consulting with states and territories on possible reforms.

Detailed response to additional recommendations

The Australian Government has considered the two additional recommendations made in the Senate Committee's report and provides the following responses.

Additional recommendation 1

That the Commonwealth Government protect communities from extreme weather by increasing expenditure on pre-disaster resilience to around $350 million a year. A National Resilience Advisory Group should be established to ensure supported projects are appropriately prioritised and targeted.


Under Australia's constitutional arrangements, state and territory governments have primary responsibility for emergency management and for the protection of life and property. However, the Australian Government supports state and territory work designed to enhance Australia's resilience to natural disasters through initiatives like the National Emergency Management Projects grants program and the Natural Disaster Resilience Program (NDRP).

The Australian Government will contribute $52.2 million over two years from 2013-14 through the National Partnership Agreement on Natural Disaster Resilience to states and territories towards disaster resilience activities. The Australian Government is also providing $15 million over three years from 2014-15 to states and territories through the National Bushfire Mitigation Programme to implement long term bushfire mitigation strategies and better fuel reduction programmes.

The Productivity Commission inquiry into natural disaster funding arrangements will inform future decisions of the Australian Government on disaster resilience building programmes. The Australian Government tabled the Commission's final report on 1 May 2015 and is consulting with states and territories on possible reforms.

The Australian Government does not support the creation of a 'National Resilience Advisory Group' at this time as there are already collaborative arrangements in place. Due to the cross-cutting nature of emergency management policy, decision making occurs on a collaborative basis through national fora, primarily:

- COAG, comprising heads of governments;
- the Law, Crime and Community Safety Council, comprising emergency management ministers nationally;
- ANZEMC, comprising senior officials and chaired by the Secretary of the Australian Government's Attorney-General's Department; and
- at a working level, through ANZEMC sub-committees, including the following four permanent sub-committees:
  - the Capability Development Sub-committee;
  - the Community Engagement Sub-committee;
  - the Recovery Sub-committee; and
  - the Risk Assessment, Measurement and Mitigation Sub-committee.
Additional recommendation 2
Maintain funding of the National Climate Change Adaptation Research Facility for a further five years.


NCCARF, hosted by Griffith University, has generated research into managing the risks associated with climate change impacts. In the 2014/15 Budget, the Government committed $9 million over three years to integrate NCCARF's research into decision-making by governments, businesses and households.