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**SITTING DAYS—2016**

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FORTY-FIFTH PARLIAMENT
FIRST SESSION—FIRST 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 Susan Lines
Temporary Chairs of Committees—Senators Back, Bernardi, Gallacher, Ketter, Marshall, O'Sullivan, Reynolds, Sterle and Whish-Wilson
Leader of the Government in the Senate—Senator Hon. George Henry Brandis QC
Deputy Leader of the Government in the Senate—Senator Hon. Mathias Cormann
Leader of the Opposition in the Senate—Senator Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator Hon. Don Farrell
Manager of Government Business in the Senate—Senator Hon. Mitchell Peter Fifield
Manager of Opposition Business in the Senate—Senator Katy Gallagher

Senate Party Leaders and Whips
Leader of the Liberal Party in the Senate—Senator Hon. George Henry Brandis QC
Deputy Leader of the Liberal Party in the Senate—Senator Hon. Mathias Cormann
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. Don Farrell
Leader of the Australian Greens—Senator Richard Di Natale
Co-deputy Leaders of the Australian Greens in the Senate—Senators Scott Ludlam and Larissa Joy Waters
Chief Government Whip—Senator David Christopher Bushby
Deputy Government Whips—Senators David Julian Fawcett and Dean Anthony Smith
The Nationals Whip—Senator Matthew James Canavan
Chief Opposition Whip—Senator Anne Elizabeth Urquhart
Deputy Opposition Whips—Senators Catryna Louise Bilyk and Jennifer McAllister
Australian Greens Whip—Senator Rachel Siewert

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

Chosen by the Parliament of Victoria to fill a casual vacancy (vice S Conroy), pursuant to section 15 of the Constitution.

Vacancy created by the resignation of Senator Bob Day on 01 November 2016.

**PARTY ABBREVIATIONS**

AG—Australian Greens; ALP—Australian Labor Party; CLP—Country Liberal Party; DHJP—Derryn Hinch's Justice Party; FFP—Family First Party; IND—Independent; JLN—Jacqui Lambie Network; LDP—Liberal Democratic Party; LNP—Liberal National Party; LP—Liberal Party of Australia; NATS—The Nationals; NXT—Nick Xenophon Team; PHON—Pauline Hanson's One Nation

**Heads of Parliamentary Departments**

- Clerk of the Senate—R Laing
- Clerk of the House of Representatives—D Elder
- Secretary, Department of Parliamentary Services—R Stefanic
- Parliamentary Budget Officer—P Bowen
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<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
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<tr>
<td><strong>Minister for Women</strong></td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td><strong>Cabinet Secretary</strong></td>
<td>Senator the Hon Arthur Sinodinos AO</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister for the Public Service</strong></td>
<td>Senator the Hon Michaelia Cash</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister for Counter-Terrorism</strong></td>
<td>Hon Michael Keenan MP</td>
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<tr>
<td><strong>Minister Assisting the Cabinet Secretary</strong></td>
<td>Senator the Hon Scott Ryan</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister for Cyber Security</strong></td>
<td>Hon Dan Tehan MP</td>
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<tr>
<td><strong>Assistant Minister to the Prime Minister</strong></td>
<td>Senator the Hon James McGrath</td>
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<tr>
<td><strong>Assistant Minister for Cities and Digital Transformation</strong></td>
<td>Hon Angus Taylor MP</td>
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<tr>
<td><strong>Deputy Prime Minister and Minister for Agriculture and Water Resources</strong></td>
<td>Hon Barnaby Joyce MP</td>
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<tr>
<td><strong>Assistant Minister for Agriculture and Water Resources</strong></td>
<td>Senator the Hon Anne Ruston</td>
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<tr>
<td><strong>Assistant Minister to the Deputy Prime Minister</strong></td>
<td>Hon Luke Hartsuyker 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, Tourism and Investment</strong></td>
<td>Hon Steve Ciobo MP</td>
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<tr>
<td><strong>Minister for International Development and the Pacific</strong></td>
<td>Senator the Hon Concetta Fierravanti-Wells</td>
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<tr>
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<td>Hon Keith Pitt MP</td>
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<tr>
<td><strong>Attorney-General</strong></td>
<td>Senator the Hon George Brandis QC</td>
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<tr>
<td>(Vice-President of the Executive Council)</td>
<td>(Leader of the Government in the Senate)</td>
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<td><strong>Minister for Justice</strong></td>
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<tr>
<td><strong>Treasurer</strong></td>
<td>Hon Scott Morrison MP</td>
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<td><strong>Minister for Revenue and Financial Services</strong></td>
<td>Hon Kelly O'Dwyer MP</td>
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<td><strong>Minister for Small Business</strong></td>
<td>Hon Michael McCormack MP</td>
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<tr>
<td>Minister for Human Services</td>
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<td><strong>Minister for the Environment and Energy</strong></td>
<td>Hon Josh Frydenberg MP</td>
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Each box represents a portfolio except for (1) which is in the Education portfolio, (2) which is in Treasury portfolio and (3) which is in the Health portfolio. Shadow Cabinet Ministers are shown in bold type.
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The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 09:30, read prayers and made an acknowledgement of country.

DOCUMENTS
Tabling

The Clerk: Documents are tabled pursuant to statute. The list is available from the Table Office or the chamber attendants.

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

COMMITTEES
Meeting

The Clerk: Proposals to meet have been lodged as follows:

Environment and Communications References Committee—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 24 November 2016, from 1.15 pm.

Legal and Constitutional Affairs Legislation Committee—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 24 November 2016, from 4 pm.

Legal and Constitutional Affairs References Committee—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 24 November 2016, from 4.10 pm.

The PRESIDENT (09:31): Does any senator wish to have any of those motions put? There being none, we will proceed to business.

Economics Legislation Committee
Report

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (09:31): On behalf of the Chair of the Economics Legislation Committee, Senator Hume, I present the report of the committee on the provisions of the Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016 and related bill, together with the documents presented to the committee.

Ordered that the report be printed.

BILLS

Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016
Superannuation (Excess Transfer Balance Tax) Imposition Bill 2016

First Reading

Bills received from the House of Representatives.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (09:32): 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 CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (09:33): I move:
That these bills be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.
Leave granted.
The speech read as follows—
TREASURY LAWS AMENDMENT (FAIR AND SUSTAINABLE SUPERANNUATION) BILL 2016
SUPERANNUATION (EXCESS TRANSFER BALANCE TAX) IMPOSITION BILL 2016

These Bills implement the Government's election commitment to improve the fairness, sustainability, flexibility and integrity of the superannuation system.

We want superannuation to keep working for all Australians in their retirement as we move through the twenty-first century and grapple with some key challenges, including the ageing of our population and the need to return the Budget to surplus.

The measures in these Bills also reduce the extent to which the superannuation system can be used for tax minimisation and estate planning.

But the changes recognise that in a modern economy, working patterns are changing across the population and over the course of people's lives.

That's why our reforms will allow the system to work more flexibly for Australians; it will reflect their changing work-life patterns, particularly for those whose work patterns and incomes vary over time.

While some measures place limits on the amount of contributions that can be made to superannuation or amounts that will receive tax-free earnings status, at the same time these measures target the tax concessions to ensure they are fairer and more fiscally sustainable.

A key change to ensure the sustainability of the superannuation system is the introduction of the transfer balance cap, which is contained in Schedule 1 to the Fair and Sustainable Superannuation Bill. This introduces a $1.6 million cap on the total amount of superannuation savings that can be transferred from an 'accumulation account', where earnings are concessionally taxed, to a 'retirement account', where earnings are tax-free.

Importantly, the cap only limits the amount that can be transferred into the tax-free environment; once there, that amount can continue to grow through investment returns.

On top of introducing the transfer balance cap, the Government is also lowering the non-concessional and concessional contribution caps. As we look ahead, we want the superannuation system to give individuals strong incentives to make additional savings over the course of their working lives. At the same time, we want to make sure that these tax concessions are better targeted. This involves changes to both non-concessional and concessional contribution arrangements.

Schedule 3 to the Fair and Sustainable Superannuation Bill lowers the annual non-concessional contributions cap from $180,000 per year to $100,000 (or $300,000 every three years).
In addition a lower annual concessional contributions cap of $25,000 will apply from 1 July 2017 to all individuals, and will index in line with wages growth in $2,500 increments.

As with all caps that form part of the Government’s superannuation reforms, the concessional cap continues to be set at levels well above the average and median contribution levels. For example, the median Australian worker currently receives annual concessional contributions to their superannuation of around $4,200 per year.

We are also reducing the income threshold above which high-income individuals are required to pay 30 per cent tax on their concessional superannuation contributions — commonly referred to as the Division 293 threshold — to $250,000 per annum.

To be liable for a total of 30 per cent tax, a person would need to have more than $250,000 in combined income and concessional superannuation contributions in a financial year.

We are introducing a number of important flexibility measures. First, we are abolishing the so-called ‘10 per cent rule’. This rule prevented anyone earning more than 10 per cent of their income from salary and wages from claiming a deduction for personal superannuation contributions.

As a result of abolishing this rule, more people will be able to claim a tax deduction for personal contributions to superannuation. Now all workers will have the flexibility to make concessional contributions up to their annual cap.

This reform will benefit up to 800,000 Australians, particularly self-employed contractors, individuals employed by small businesses and freelancers. It offers flexibility to people who are partially self-employed, partially wage and salary earners and in instances where employers do not offer salary sacrifice arrangements.

Take the example of a firefighter who works part-time. They might also be a contract tradesman. Under the current rules, they can’t access the superannuation concessions available to most of the population because more than 10 per cent of their income comes from their firefighting wage. They wouldn’t be able to make concessional superannuation contributions from their contract work as a tradesman.

The second important flexibility measure we’re introducing is giving Australians the flexibility to make catch-up concessional contributions when they can afford it.

From 1 July 2018, people with superannuation balances less than $500,000 will be able to access any unused component of their concessional contributions cap on a rolling basis for a period of five years. This is a crucial step in providing assistance to those – particularly women – who have interrupted work patterns, whether it be to raise children, look after elderly parents, or seek to boost their retirement savings just before retirement.

Thirdly, we’re expanding the current spouse superannuation tax offset to help more couples who make contributions to their spouses’ superannuation savings. We’re extending it by making the offset available to those whose spouses earn up to $40,000. This is up from the current threshold of $13,800.

It will encourage an additional 5,000 people to make contributions to the superannuation accounts of their low-income partners, who are disproportionately women.

Taken together, the removal of the 10 per cent rule, the introduction of the catch-up contributions measure and the extension of the spouse tax offset provide more opportunities for couples to jointly decide how to balance their superannuation savings between each other.

The superannuation system is designed to encourage Australians to save for their retirement. That’s why superannuation is taxed at a lower rate than income outside of superannuation.

But, for low income earners, the 15 per cent tax on superannuation contributions means they pay more tax on their superannuation contributions than on their take home pay.
So, we are improving the fairness of the superannuation system by also introducing the Low Income Superannuation Tax Offset.

This offset will ensure most individuals with taxable incomes of $37,000 or less don’t pay more tax on their concessional superannuation contributions than on their take-home pay.

It’s estimated that the Low Income Superannuation Tax Offset will increase the superannuation savings of around 3.1 million low-income Australians, or one in every five fund members. Almost two-thirds of these beneficiaries are women.

We are also improving choice and flexibility for Australian retirees looking to better manage the risk associated with outliving their retirement savings.

Currently, innovative income stream products that could help people to better manage the risk of outliving their retirement savings are not available because they do not qualify for tax-free earnings status. This has restricted the ability of retirement income providers to develop and bring new retirement products onto the market.

Extending the tax exemption on earnings in the retirement phase to products like deferred lifetime annuities will also play its part in providing more flexibility and choice for Australian retirees, as well as helping them better manage consumption and risk in retirement.

We are also improving integrity by making a taxation change for people who have reached preservation age but are under 65 and not retired.

Those people will still be able to access a transition to retirement income stream ahead of their retirement but earnings on the amount supporting it will be taxed in the fund at 15 per cent.

Taxing earnings on these accounts at 15 per cent will provide the same tax treatment as that which applies to all other individuals who are not yet retired.

The integrity of the system will also be enhanced by the removal of the inconsistently applied and outdated anti-detriment provision.

As part of this package of reforms, the Government is also streamlining some of the ATO’s administrative processes.

Notably, these reforms will replace the existing release authority requirements with standardised timeframes and processes. Schedule 10 to the Fair and Sustainable Superannuation Bill will also introduce a default process for individuals who do not make an election within 60 days when dealing with all release amounts from superannuation, ensuring that the majority of individuals will be better off if they do nothing.

Finally, unlike some previous changes to superannuation taxation, the Government has carefully analysed the impact of this package of reforms and is making changes to ensure commensurate tax impacts on members of defined benefit schemes.

Many of our superannuation tax reforms will make the system fairer and more sustainable.

These vital and important goals would be undermined if the tax treatment of defined benefit schemes and constitutionally protected funds was not similarly adjusted.

In the past, governments have baulked at the challenge of tackling defined benefit schemes.

But this Government can not only identify tough issues – we can deal with them in a way that’s fair and workable.

Full details about these Bills are contained in the explanatory memorandum.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (09:33): I welcome the opportunity to make a contribution on the Treasury Laws Amendment (Fairer and Sustainable Superannuation) Bill 2016 on the Superannuation (Excess Transfer Balance Tax) Imposition Bill 2016, which have taken a while to get here this
morning. I think over the last few months, particularly since budget night, we have seen a very messy policy process from the government, which started with the announcement of these budget measures back in May. Within days of these measures being announced on budget night the unrest was evident within government ranks. The retrospective changes undermined confidence in the retirement system and sparked what we all saw as a very unseemly civil war inside the Liberal Party. I think it is worth reflecting on how we got to this point and how much the division within the government over these reforms and this shambolic process have undermined confidence in superannuation.

Back in April 2015 Labor led the way from opposition and proposed its policies to reform superannuation tax concessions. We had done the hard work and put out this policy in time for people to consider and consult on the implementation long before the election was called. The government spent much of 2015 and 2016 arguing against the sensible changes to superannuation concessions that Labor had put forward. Then in the May budget the government announced its planned changes to superannuation. Done in a hurry and without consultation, the government's proposed $500,000 lifetime cap on non-concessional contributions triggered significant concern across the community, the superannuation sector and the media that the government was making retrospective changes to superannuation laws. Yet the government arrogantly ploughed on. In the hurry to an early election, when asked if he could foresee any circumstances in which the policy as detailed in the budget would change following the election, Prime Minister Malcolm Turnbull said, 'It is absolutely ironclad'—a choice of words I am now positive the Prime Minister regrets.

After one of the longest election campaigns of recent times, the divisions within the government became clearer. We saw several members of the coalition raise concerns about retrospecitivity and we saw the spectacle of George Christensen MP threatening to cross the floor and oppose the government's budget proposals if changes were not made. We then saw the Treasurer and the Assistant Treasurer travel the country hosting forums with coalition MPs, convincing them and consulting with them over what changes should be made. This is a very unusual process, after the government has delivered its package in a budget. It seems to me that they have gone through the process of outlining what the reforms should be. Having to go and renegotiate these issues with members of your backbench on a national tour, while backbenchers are speaking out against the changes, seriously undermined confidence in the superannuation system. I think we see that reflected in some of the reports we have seen today about the massive drop-off in voluntary super contributions. After this national tour the government eventually announced a revised package which benefits high-income earners and fails to deliver the budget repair that is needed. While the government has now reluctantly scrapped its flawed and retrospective changes, Labor believes the current proposals do not go far enough to return fairness to the system, or to deliver substantial budget repair.

Labor is the party that built our superannuation system—something we on this side of the chamber are very proud of—and it is Labor that will always work to ensure that the superannuation system is fair and sustainable. A system that currently sees half of all superannuation benefits flowing to the top 20 per cent of income earners—with 40 per cent of superannuation benefits flowing to the top 10 per cent alone—is a system that clearly needs reform. The government's package that is before the Senate today goes some way to addressing the issues. Indeed, we do support the majority of the measures that are before us.
In particular, we support the continuation of the low-income superannuation contribution. The low-income superannuation contribution, originally a Labor initiative, was to be scrapped by the government. However, we acknowledge that the government has now had a change of heart. When you seek to abolish something and then realise you have made a massive mistake that will significantly affect lower income earners and you realise that the Labor policy was correct, what do you do? You put it back in but you rename it something else so it presents as a new initiative and something that you can take credit for. This is simply a rebadging of the low-income superannuation contribution, now known in this bill as the low-income superannuation tax offset.

There are two areas where Labor proposes changes to the government's legislation. Firstly, Labor believes that the annual non-concessional contributions cap should be lowered from the $100,000 cap proposed by the government to an annual cap of $75,000. Statistics show that fewer than one per cent of Australian taxpayers made $100,000 or more in non-concessional contributions in 2012-13, while over 86 per cent of taxpayers made no non-concessional contributions whatsoever that same year. Many Australians will make a single, large non-concessional contribution at some stage in their working life, for example in the form of an inheritance or a property sale. The superannuation system allows for this by letting Australians bring forward three years' worth of contributions into a single year. But Treasury figures indicate the average contribution for these one-off lump sums is $135,000, well below the $300,000 that would be allowed under the government's plan or the $225,000 under our proposal. By lowering the annual non-concessional contributions cap to $75,000, Labor will ensure the carry-forward allowance remains generous enough to accommodate the kind of one-off contributions middle- and low-income taxpayers make while maintaining the fairness of the overall system.

Secondly, Labor believes that the higher income superannuation contribution threshold should be reduced to $200,000, rather than the $250,000 proposed by the government. Parliamentary Budget Office analysis estimates that less than four per cent of taxpayers would be affected by this change, which will deliver substantial improvements to the budget bottom line over time.

There are also two measures that Labor opposes in this legislation. Labor will not support the extension of super tax concessions to allow additional catch-up contributions. The government has specifically pitched this as a solution for women who may have had fragmented working years and as a result had lower superannuation balances. Despite this being the argument of the government, the evidence tells a very different story. This measure would allow individuals to carry forward their unused concessional contributions cap for a period of five years. Only around 2.3 per cent of taxpayers made $25,000 or more worth of concessional contributions in 2012-13, with their average income being $182,000. Most Australians on lower incomes are simply not in a position to afford to make additional contributions from their take-home pay. Despite what the government claims, this measure will not provide a vehicle for women on lower incomes who have been out of the workforce for several years to contribute extra to their super balances. I have talked with many women's groups about this issue and I have read the independent analysis. There may well be women who take advantage of catch-up payments, but we maintain that these women will be
predominantly higher income earners who have the capacity to contribute over and above their employer contributions.

We need to look no further than the answer that Treasury officials gave in the recent Senate estimates hearings where it was revealed that the Treasury had been unable to model any gender split. The government has also been unable to provide data to support its claims that this measure would help address the issue of improving super balances for women. And they have no answer to the Grattan Institute's work which finds that this measure will actually benefit more men than women and that the men who will benefit from it are those on higher incomes. At a time when we are trying to work to make superannuation tax concessions fairer and at a time when we need to repair the budget, Labor does not support opening up new areas for tax concessions.

The other proposal we do not support is the extension of the provisions which allow tax deductibility for personal superannuation contributions. The problem with the government's approach here is that it is not targeted at all. Improving concessions for the relatively small number of people who cannot currently make salary sacrifice contributions or claim a tax deduction for their voluntary contributions cannot be a fiscal priority at this time. If there is a genuine problem with people falling through the cracks, then Labor will look at this, but this deduction would cost almost $1 billion over the forwards and it will be primarily taken up by higher income earners. We do not believe it is not the answer. These two measures combined that Labor opposes would also cost the budget $12.3 billion over the next decade and, at a time when we have a government that has more than tripled the deficit, Labor does not believe that they are in any way affordable.

In terms of some of the other measures in the package, we support the introduction of a $1.6 million superannuation transfer cap, the low-income superannuation tax offset, improving the superannuation balances of low-income spouses, removing the antidetriment provision for death benefits from superannuation, and strengthening the integrity of retirement income streams. Labor will continue to work towards a superannuation system that is fair, sustainable and sets Australians up for their future. We announced our package when we responded to the government's finalised package, which came out in three tranches of legislation just over a month ago. We have looked at that government package and we have finalised our proposals based on that. We have been leading the debate on reforming superannuation tax concessions for over a year and, while we do accept that the government's superannuation package goes some way to reforming these concessions, we believe they should go further.

I am in the process of circulating amendments in relation to Labor's position for the debate later this morning. These amendments reflect the position that Labor announced a couple of weeks ago on lowering the higher income superannuation contribution threshold to $200,000, lowering the annual non-concessional contributions cap to $75,000 and opposing those two measures I spoke about this morning, the introduction of the catch-up concessional contributions and the changes to tax deductibility for personal superannuation contributions. I look forward to speaking about these further when they are considered in the committee stage of this debate. I encourage other senators to look at Labor's amendments and to consider support for Labor's amendments, which we believe will certainly better target the
superannuation tax concessions and also contribute to the very important task of budget repair.

Senator WHISH-WILSON (Tasmania) (09:45): I also rise to talk about the Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016. To put it in a nutshell, this is a step in the right direction, but it is nevertheless disappointing in terms of the quantum of reform to our superannuation system. This is the first piece of legislation we have had before us in the 45th Parliament that actually attempts some economic reform, so I will acknowledge that the government has brought this forward, and it does attempt to reform the superannuation system. However, most of the reforms we are dealing with here are just fiddling around the edges. They are very similar to previous reforms that we have seen in this country in the last 15 years, looking at things such as the contributions caps. We have done this before.

The Greens have been leading the superannuation reform agenda when no-one else was talking about it. This goes back to before the 12 months that Senator Gallagher said Labor has been focused on this. Under our previous leader, Christine Milne, we came out with the first proposal to make super fairer and progressive and to save government revenue at the same time—revenue that, we all admit, we desperately need. We may disagree on whether we have a spending problem or a revenue problem and how we should be prioritising this, but I think we all agree that we need to raise revenue in this country.

Superannuation is a critical area for us to tackle if we are going to not only make revenue gains but make this country fairer and more equitable. It has long been used by financial planners as a tax- and estate-planning tool. Let us not mince words here. Superannuation has become, in decades past, a tax haven for wealthy Australians, and it does need reform. While I recognise that this is a step in the right direction, it is a missed opportunity for us not to have made more progressive structural changes to superannuation. That is what we are here to do. We are here to reform the economy to make it more fair and equitable and to help balance budgets to provide the revenue we need for safety nets. This is a missed opportunity. Most of the measures in this legislation do improve the situation—I will go through some measures that we oppose in a minute—but many of the big gaps will remain. And two measures put forward by the government—those are the catch-up contributions and tax deductions for contributions—will open up new opportunities for economic exploitation.

Even after all these changes in the bill pass into law, the system will still be skewed to benefit wealthy Australians. Someone earning $240,000 a year—which is you and me, Mr President, I am guessing—will get a 30 per cent benefit for every dollar, while a single mother earning only $18,000 gets absolutely no benefit for putting money into super. The superwealthy will be able to transfer a significant amount of assets into super just before retirement and enjoy tax-free capital gains and a tax-free income stream from those assets.

We are haemorrhaging revenue in this country with no corresponding policy rationale. Mr John Howard, our previous Prime Minister, made this change when he was floating on the rivers of gold. We all remember those good old days during the mining boom. He wanted the older vote in this country, and essentially Australians are still paying for it.

Labor, along with the Liberal backbench, protected the wealthiest one per cent of super funds when they forced the government to back down from the lifetime non-concessional cap of half a million dollars. This is something we were very disappointed about. That did seem to
be a reasonably significant reform. Understandably, significant economic reform is going to be difficult, but the difficulty in this case proved to be within the party room of the Liberal Party. We knew there was a rebellion on around that. The vested interests were swooping, and unfortunately the Treasurer backed down on that. But that would have been a reasonably significant structural reform had it gone ahead.

It is another example of how this parliament is making income inequality worse in this country. I have talked already in this new parliament about the range of bills we have seen already—the omnibus bill taking nearly $5 billion of spending cuts from tertiary students, from Newstart recipients, from single parents and from renewable energy. And then, only a couple of weeks later, we voted—including our friends at One Nation—to pass a bill in this parliament to give a tax cut to the wealthiest Australians. So we raised $5 billion by taking it from probably the most disadvantaged Australians, and then we gave it back two weeks later to the most wealthy Australians.

But I again acknowledge that at least this is some kind of economic reform that we are dealing with here today. We welcome the restoration of the low-income super tax offset, which was repealed by Mr Tony Abbott with Clive Palmer and Ricky Muir while they were still in this building. It disproportionately affected casual and part-time workers, who are overwhelmingly women and young Australians. We all know—or we should all know—that we have a real issue in this country with intergenerational equity, with issues such as housing affordability. Giving young Australians a leg up is one of the more important things that we can do as a parliament.

But it should ultimately be doubled because people below the tax-free threshold do not get the 15 per cent benefit that people earning between $19,000 and $250,000 enjoy. These people will also be unlikely to own a home, so they will be vulnerable in retirement and will end up costing future governments more.

There are still many problems in our superannuation system. Let us not be foolhardy and think that that is not the case and that somehow this legislation before us today is going to fix the problems. It will not. It is a compromise piece of legislation. It is still unfair. It still favours wealthy Australians. But these changes will make it slightly less unfair.

I am pleased to hear that Senator Gallagher, on behalf of Labor, will be putting up amendments, because the Greens agree with Labor's amendments. We recognise the package that Labor announced on this recently. There are multiple variations of how we believe the system could be improved. I will say—it is on the public record already—that we have had chats to the Treasurer and the Treasurer's office about what the Greens believe should be done to superannuation.

We took a very strong policy to the last federal election to make the super system more progressive, ending unfair tax breaks, supporting low-income earners and raising the revenues we need in this country to fund schools, hospitals and infrastructure. Our proposal is for progressive tax rates on superannuation contributions. At the moment, all Australians pay a 15 per cent tax on contributions into super regardless of whether you earn $15,000 or $500,000. Everybody pays the same tax rate. We want to see a system that taxes superannuation contributions in accordance with a table that we set out labelling a new set of progressive taxes that are higher than 15 per cent, based on the income that you earn.
Admittedly, if I am in the 49 per cent tax rate my contribution should be higher than that of someone who earns $15,000, but it will not necessarily be at 49 per cent. I will not go through the details of all that with you, but I will say that for $180,000 upwards, which is all of the senators in this chamber, where your current marginal tax rate is 45 cents in the dollar you are currently paying 15c. We believe you should be paying 32c. We believe that people earning between $100,000 and $150,000 should be paying a 22 per cent contribution, that the 15 per cent contribution should stay for tax rates between $37,000 and $100,000, and that there should be no tax on your contributions if you earn less than $37,000.

This would actually bring the super system in line with the progressive tax system that we have in this country on income. Let us face it, super is set up to pay your income in retirement. This would make it a lot fairer. Just as importantly, the Greens approach to reforming the super system would have brought in $11 billion of revenue over the forward estimates. That is significantly more than we are looking at with this package. It is what I would call a significant structural reform.

The amendments that I understand Labor are going to move—I would urge that they be passed by the Senate—are about improving the integrity of the tax system and preventing exploitation by financial advisers and are to slightly shift tax rates further to make the super system fairer. We have seen reports from the Grattan Institute and other commentators in this country that we could take them even further and still provide the incentive necessary to help Australians save. The tension in the super system is giving people enough of an incentive to save for their retirement, because a lot of us are busy and we do not necessarily think rationally in our busy lives. The super system was set up to provide a nest egg in our retirement on top of the pension. So we do need to give people an incentive—a slightly lower tax rate on their contributions—but at the moment it is still being rorted by too many Australians.

We would support removing the ability for catch-up contributions for someone who has contributed less than $25,000 and could be put in a lump sum on the difference. We would support allowing individuals up to the age of 75 being able to deduct super contributions from their income taxes. That would split the long held nexus between income from work and superannuation. We would support making super more progressive. Currently, people who with incomes over $300,000 pay 30 cents in the dollar for their super contributions. The bill lowers the high-income super charge to $250,000. The amendment that Labor is introducing to lower that further to $200,000 will still affect the top three to four per cent of income earners. That will raise an additional $700 million. The final amendment that, I understand, Labor will be putting forward is to clean up the mess on non-concessional, or what is commonly referred to as after-tax, contributions. These are what are exploited by the very wealthy individuals in this country. They pour their assets in and protect them from future taxation.

As I said earlier, this is a step in the right direction but it is a missed opportunity to bring in very significant reform. Even if we support Labor's amendments or were to put in new, targeted changes to super tax concessions, the billions of dollars we could raise would help us take pressure off other workers in this country, such as backpackers. We still have not sorted out the mess, the catastrophe, that has come to the Senate and the House that has put Australia's agricultural producers at risk. That is an attempt by the Treasurer to rip a couple of
hundred million dollars out of some of the lowest paid people in this country—seasonal workers, itinerant workers, who are here on holiday. They choose to come here for a holiday because they can get work—and it is lucrative for them to work here. We know they spend most of their money in Australia when they are here, which is good for our economy. As workers they are available when they are needed. Agricultural producers, certainly in my state of Tasmania, always try to employ locals first—they have that policy—but when they need to pick, when they need hundreds of workers, sometimes it is very hard to get that labour, and backpackers supplement that labour.

We are in a situation at the moment—the Treasurer calls it belt-tightening—that is like the proverbial squeezing of the lemon; you cannot get any more out of the lemon. The lemon is low-income Australians, disadvantaged Australians and workers such as backpackers. Most of them earn, on average, only $14,000 when they are here. It is enough for them to choose to come to Australia for a holiday. We are penny-pinching. We are going after them for a miserly amount of money. With just a slight tweak to the bill that we are looking at today, on the contributions cap for after-tax contributions, we could raise billions of dollars and would be enacting progressive reform on a piece of legislation that essentially makes us, to use the term of Chris Richardson from Access Economics, Robin Hoods. That is what the budget was set up to do: tax the rich and give that money to the poor. Those not my words; those are the words of the man that the Treasurer was quoting the other day, saying we have budget crisis and we need to cut spending. Mr Richardson made it clear that the budget is our Robin Hood. It is about taxing the rich and giving to the poor. We have taxed a little bit off the rich, but we could do a lot more. There are still a lot of wealthy Australians using superannuation as a rort. Rather than putting our agricultural producers at risk by tweaking, fiddling around the edges and taking money off those who come here to help Australian industry and come here for a holiday, we could actually fix it here today by recouping that revenue by enacting some of the amendments that Labor are putting up.

I have said it before: it is a privilege to have this job here in the Senate and have the ability to represent the people who voted for you and the people who believe in your philosophy, whatever side of politics you happen to come from. We have the unusual position of privilege where we can take the will of the people who voted for us and try to enact reform and change legislation to fix this country to help the growing crisis of inequality—the same crisis that has driven the rise of Donald Trump in the US, the Brexit backlash in the UK and, I would also suggest, the rise of One Nation in Australia by the people who feel that they have been left behind. Inequality joins those dots. This is the issue that we have to face. It is the moral challenge of our generation. Everything we do here in the Senate in terms of legislation around economic bills should be viewed through the prism of trying to tackle the moral challenges of our time, such as inequality and, I dare say, climate change as well.

We at least have a piece of legislation before us today that goes some way to trying to raise revenue and taking more money from the rich. I reiterate: it is a shame it did not go further. It is a missed opportunity. The Greens will not be giving up on real superannuation tax reform. We will not be giving up on it. There is a lot more we can do. This is an area that we need to ratchet up in terms of taking away the structural system that allows wealthy Australians to use superannuation as a tax and wealth planning vehicle and allows them to avoid paying tax—
the tax that pays for our hospitals and our schools. I look forward to having the debate in committee with Labor on the amendments.

On behalf of the Australian Greens, I move the following second reading amendment to the Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016:

At the end of the motion, add "but the Senate notes that this bill to tighten tax breaks for superannuation should be considered together with legislation to address the tax advantages for investors in real estate or more capital will be diverted into existing housing stock, making it even harder for young Australians to buy their first home and further entrenching wealth inequality between generations and therefore calls on the Government to undertake a review into how these superannuation changes will affect housing affordability for aspiring first home owners and report the results of the review to the Senate".

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (10:04): When Australia came into being as a nation, it was known as a real bed for social innovation. Australia was the place where we pursued a living wage and where we were able to establish a community in which everybody had what they needed. A core part of the origins of our nation was the pursuit of a secure income in retirement and so the pension was one of the very earliest elements of the Australian social wage. It came into play in the early decades of the Australian federation. I was fascinated to find that, when the pension was first introduced, women were able to access it and so from the very beginning the idea that both women and men deserved a secure retirement was built in. I suppose that is my focus, but I am concerned about the overall systemic integrity of our superannuation system. My interest in the last year or year and a half in this place has been to ensure that system works for all Australians—and not just men but women as well.

Much of what I want to contribute this morning relates to the ways in which this bill does or does not deliver a fair retirement outcome for women. For many Australians their superannuation account is the single largest asset that they will have outside their home. Superannuation represents an enormous component of Australians' savings. For those who do not own a home at all their superannuation might be the only real form of savings that they have. In this way it is incredibly important that the system is trusted and is perceived to be fair. It is also important for Australia in a macro-economic sense. There are now over $2.1 trillion in assets under management by superannuation funds, which represents an enormous source of financial stability for Australia, but again it underlines the significance of having a system that has integrity and is perceived to be fair.

I started by talking about the age pension but the development that happens with superannuation is that it comes in as a supplement to the age pension. It is not intended to replace the age pension; it is there to make sure that as many Australians as possible and enjoy a comfortable retirement when they come to the end of their working life. Superannuation is a Labor innovation and it is an innovation that we are very proud of. Again I say for us on this side of the chamber, the integrity of that system is enormously important.

Of course, the problem I have alluded to as I began is that this system at the moment really is not working for women and does not work for some other low-income earners either. We held an inquiry into the economic security for women in retirement, and the trigger there is the vast disparity between men and women's superannuation but the problems extend well beyond that. Women have half the superannuation of men on average when they retire. That
is quite a shocking statistic. I think people are aware of the gender pay gap which sits somewhere between 16 and 19 per cent, and that has been fairly static for about 20 years. If we have a gap in pay, then we have a chasm in superannuation. That has real consequences. More than half of all retired women have an income that is less than $30,000 a year and there are more single women over 60 living in poverty than any other category in Australia. What was uncovered during the inquiry into the experience of women in retirement is that this has very real human consequences. We had many women come and tell their stories; and many other women have told their stories to me privately outside the process of the inquiry. We hear stories about people getting rid of their pet because they could not afford to keep a dog. You can imagine that is a very cruel circumstance for somebody who is living a very modest life having to let go of that source of comfort. I have heard stories anecdotally of people in Victoria who turn off their hot water in summer and only put it back on when it starts to get cold again, in an effort to save money.

There are women acknowledging that, if their husband leaves them, they are stuffed, that they are tied financially into their marriage and that the prospect of poverty is a real disincentive for them. In the context where we are absolutely concerned to see women safe and secure in the relationships that they are in, I think that level of financial insecurity for older women ought to be something that we are very, very concerned about.

There are many, many such stories. We ought to be thinking very carefully about what it means to be an older woman who has retired, because the stories that we heard are heartbreaking. My concern is that there is very little on the table from the government at the moment to address this problem.

The reasons for it are quite complex, and they are not simple to address. Nobody comes to this chamber and says, ‘Oh, we could fix it overnight, if only we would do this one thing.’ In fact, when we undertook our inquiry, we made 19 recommendations. They spread across a very broad range of policy areas. But, at the root of it, the reason that women find themselves in this predicament, with half the superannuation balance of men, overwhelmingly reliant on the age pension in retirement, is partly that women take breaks in their career for caring responsibilities. It is women stepping out of the workforce to look after children, to look after people with a disability. And we know from the work done by the Humans Rights Commission that women overwhelmingly bear the caring responsibilities in this society.

It is also true that the reason women have less superannuation than men is that they are concentrated in low-paying jobs. In fact, women are significantly more likely to be in the bottom two quintiles of income earners. I will come back to tax arrangements shortly, but it means that when we are thinking about tax arrangements, when we are thinking about the rate of tax paid by the most wealthy and the poorest in our society, we must think about gender as well, because women and men in their access to income and their access to wealth are not equal. Women and men have very different economic lives and very different economic experiences. When we are thinking about how we construct a tax system for retirement savings—or for anything else, for that matter—we ought to be paying attention to the very specific impacts that these measures might have on Australian women.

My concern is that that is not the approach that the government have taken in assembling this package. The government have said—they have asserted publicly—that this is a package
that helps women and low-income earners. That is their public view. The Assistant Treasurer, for instance, made a point of this in a media release that she put out earlier this month. She said:

Our changes will help women, who may have taken time out of the workforce to raise children or to care for a family member.

But unfortunately I do not believe that that is borne out when you look at the details of this package.

Let us start with the changes to the tax arrangements for high-income earners. Now, I do congratulate the government for taking some action on this. Our super system should not be a tax avoidance system or an estate management tool. But the changes simply do not go far enough. The annual non-concessional cap should be lower. It should be $70,000, not $100,000. It makes a great deal of difference to fairness and, as my colleague Senator Gallagher pointed out, it makes a great deal of difference to the budget bottom line. Similarly, the higher contribution tax for people on very high incomes really should cut in much sooner than $250,000 a year.

It is true that changes to high-income arrangements will certainly go some way to making the system fairer. They will go some way to redressing the situation where the current distribution of tax concessions sees them go two to one to men and women. That is the situation at the moment. Of the tax concessions that are made available under the current arrangements, they overwhelmingly go to men. This package starts to deal with that problem, but it really does not go far enough.

On the second measure, the catch-up concessional superannuation contributions, the government claims that this measure will help women by allowing them to make additional tax-free super contributions when they are working, to make up for the period of time spent out of work. The problem is that most women are not earning enough to contribute an amount capable of making a difference. It is difficult to find extra money to put into your super when, like so many women, after a career break to care for a child or to care for a parent, you probably return to work part time. You probably return to work in a job that is not particularly highly paid. You are probably earning less than the average wage. The idea that a catch-up concessional contribution of, say, $25,000 might be in range for a woman who is returning to work after a period out of the work force for care is simply ludicrous. That is not the experience of ordinary Australian women; it is really not possible to argue that a measure of this kind will assist. Industry Super Australia estimates that this measure will help less than two per cent of women who have superannuation accounts, and it will mostly help people with super balances over $600,000.

The government proposes to improve superannuation balances of low-income spouses by allowing people, by allowing men, to put money into their partner's accounts. The government claims that this measure will help women by providing a tax incentive for more men to make contributions to their partner's super accounts. This proposal says quite a lot about the Liberals' view of gender relations, but it does not do a lot for women who cannot, or do not want to, rely on a partner for their economic security. Indeed, the title of the report produced by the Senate committee was *A husband is not a retirement plan*. Australian women crave economic independence. Economic independence is a pathway for a broader kind of independence, a broader autonomy for more choices. We all understand that—those are the
messages we send our children and that is the approach that we ought to be taking when we are trying to construct reasonable retirement incomes, comfortable retirement outcomes, for Australian women.

The low-income superannuation tax offset is probably the only measure in this package that will have a real impact on the retirement gender gap. Of course, it is essentially a renamed version of a Labor policy that the government has been trying to cut for the last three years. It used to be called the low-income superannuation contribution. This is a program that made sure people earning less than $37,000 a year did not have to pay more tax on their super than they did on their ordinary wages. The people who have been helped by this program are honest people, working honest jobs. They are teacher's aides, they are security guards, they are cleaners, they are shop assistants—and, for the most part, they are women. This is a measure that overwhelmingly has been accessed by women, and it was extremely important as an element in a package to try to address the gap in women's super. It is quite remarkable that at any point in this process the government sought to remove that measure, which overwhelmingly benefited low-income women.

I am pleased see that the low-income superannuation contribution has been retained, albeit with a new name, and I pay tribute to those people in the community who have fought for this—the superannuation funds, women in super, the women's groups who campaigned so hard. It is quite hard to run a campaign about tax—tax is complex, super is complex. You want to go out and have a public discussion about it and it is very hard to communicate what the implications are of a proposal of this kind. But the women's groups and the super groups went out there and made the case, and they did a very good job. They drew to people's attention that this proposal to remove the low-income superannuation contribution would have real consequences for women, was grossly unfair and represented yet another attack on low-income Australians which really ought not to have been supported.

In the context of a package that is spruiked by the government as supporting women I think it is of real concern that the only measure that really addresses the inequity facing women is a Labor policy. There has not been much creativity on the other side of the chamber in terms of what could be done to address this problem. We do not see very much in this package—we do not see a real attempt to address this glaring inadequacy in the super arrangements. The only measure that really goes anywhere near it is the LISTO, and that is a Labor policy that the government was dragged to kicking and screaming. It is a policy that they did not want to implement but were forced to do so by an excellent community campaign and because, as the conversation wore on, as the community and indeed Labor started talking about the fairness of super, it became clear that cutting the LISC would not be tenable, would not be perceived as fair and was completely unacceptable.

I am pleased that we are having a debate. I am pleased to see a package brought into this chamber so that we can start discussing it. As I said, it is hard to talk about tax and it is hard to talk about super, but it is absolutely critical that we do. We have built a system where Australians can expect a comfortable retirement and we have built that over many decades—in fact, over a century. But that job is never complete and we need to make sure, particularly as the superannuation system matures, that it is fair. It is important that we are able to keep talking about this. There is a lot that could be done to improve the package. Labor colleagues will be moving amendments later in the chamber.
I want to say, though, that whenever we are talking about super we need to think about it in the broader context of retirement income. There is sometimes a temptation to talk about super and super alone. Because of the vast sums of money involved it is very tempting, especially for the professionals involved in it. But we need to remember that super is a component in a broader retirement system that imagines a pension and superannuation, and that is the reality for most Australians. Most Australians are not in a position to save the amount of money that will sustain them independently in retirement. Most Australians rely in some part on the age pension. So, whenever we are talking about retirement incomes, we ought to also think about the age pension and make sure that it is not whittled away, make sure that the amount is enough to keep people comfortable and start to think about what it means for all the single women living on the age pension who do it so tough and whose heartbreaking stories were told to our committee.

We do not want to see the age pension whittled away. We do not want to see the coverage of the age pension whittled away. We do not want to see changes, as were proposed by the government earlier in its life, to the way that we index the pension so that it does not, in fact, keep pace with the cost of living. These are all things that this chamber ought to be concerned about because a comfortable retirement, a retirement that is dignified and a retirement that does not see people living in poverty was an objective in the foundations of the Australian Federation. It is something that we all ought to be deeply committed to. My concern in this debate about superannuation and in future debates about superannuation, the pension and retirement more generally, we are very careful to keep our eye on the impacts that any changes will have on Australian women.

**Senator LEYONHJELM** (New South Wales) (10:22): Taxation is a necessary evil rather than some highly principled act. So, if you think you can arrive at a perfectly designed tax system, you will end up disappointed. That said, there are some rules of thumb that should be followed when designing a tax system. One rule of thumb is that it is better to tax consumption rather than income. For those who want the well-off to pay more tax, taxing consumption does the job just as well as taxing income, if not better, and taxing consumption does less damage than taxing income. If there were no tax, we would choose a mix of spending and saving that was in our best interests. Saving is simply deferred spending. If a consumption tax is imposed, we would pay tax on our immediate spending and then we would pay tax on our savings when we eventually used them to boost our consumption. So the imposition of consumption tax would not change our mix of spending and saving by much.

Income tax is different. Apart from taxing wages, it taxes returns to savings, like interest, dividends and capital gains, and because income tax attacks these returns to savings each year it has a compounding effect. Someone who saves for a long time ends up paying far more tax than someone who saves for a short time or not at all. It is natural then for people to react to income tax by saving less and spending more than they would otherwise in their best interests. As a result, people end up worse off under income tax than they would be under a system that raises the same revenue through consumption tax.

Superannuation is a form of saving: it is putting money away for the day when we are retired and no longer working. It is good that people save for their retirement. If nobody did it, the country would be crippled by the cost of supporting millions of retired Australians. In fact, the more people save for their retirement the less a burden there is on those who are still
working. The taxes on those still working can be lower, making it easier for them to save for their retirement.

We recognise this in our superannuation system. Taxes on savings in the superannuation system are lower than taxes on wages. But this differentiation is pretty half-hearted, and, with this bill, it will be even more so. Taxes on superannuation contributions and earnings should be zero. If they must be taxed, they should be taxed as lightly as possible. The right time to tax them is when they are used for consumption. But, over the coming three years, we can expect more than $30 billion of taxes to be extracted from superannuation savings. Some of that will be attributable to the bills before us today. They propose to increase superannuation taxes by more than $5 billion over the coming three years. That represents a tax hike of $70 a year, on average, per Australian.

But, obviously, not everyone will pay them. Even if you think these specific tax hikes will not hurt you, what they indicate is that your superannuation savings are not safe. Eventually, your savings will be attacked because we are governed by big-spending parties that think superannuation is a resource to be plundered. These bills impose a $1.6 million cap on the amount that can be transferred to the retirement phase of superannuation, where earnings are tax-free. This means that earnings on amounts over $1.6 million will now be taxed at 15 per cent even after retirement. Getting to $1.6 million will be made a great deal harder. The bills impose marginal tax rates on annual superannuation contributions in excess of $25,000. They also increase the tax rate on a person's annual contributions up to $25,000 if the person's annual income exceeds $250,000. They also limit annual contributions to superannuation to $100,000 so that earnings on amounts in excess of $100,000 are taxed at marginal tax rates outside of the superannuation system rather than at 15 per cent inside the superannuation system. The bills also remove an income tax deduction that is currently available to superannuation funds when they pay lump sums because of the death of a member. I oppose all these changes because they lift the taxation of superannuation savings towards our excessively high taxation of wages. I also oppose them because they will inevitably lead to more Australians relying on the pension in their retirement.

With the disincentives, building up your superannuation will be harder and saving more than $1.6 million will not be attractive. Instead, there will be increased spending, leaving more people eligible for the pension as they run down their savings. The opposite should occur. We need more people saving for their retirement so that they do not need the pension. We need to send clear signals that there is nothing wrong with saving and aiming for a prosperous retirement. In public policy terms, fewer people on the pension means reduced government expenditure and a greater chance of balancing the budget—and, of course, more funds available for helping the genuinely poor.

But, amidst all this terrible treatment of Australian savers, I will finish my contribution on a high note. Some proposed changes in these bills will slightly offset the tax hikes. One such change is close to my heart because my lobbying made it happen. It is a rule change to allow people to deduct personal contributions to superannuation, even if their wage income exceeds 10 per cent of their income. This change is estimated to save hardworking Australians $850 million over the coming three years. It is the first tax cut the Liberal Democrats can claim some ownership of, and I am proud of it. I applaud this tax cut and the other small tax cuts in these bills, but I condemn the tax hikes. We need any taxes on superannuation to be far less
than our excessive taxes on wages so that fewer of us end up dependent on taxpayer funded pensions when we retire. The major parties should keep their grubby paws off our savings.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (10:29): I would like to thank all those senators who have contributed to this debate. These bills will ensure that superannuation tax concessions are better targeted and that the superannuation system is fairer and more sustainable as the population ages and fiscal pressures increase. I commend these bills to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Sterle): The question is that the second reading amendment moved by Senator Whish-Wilson be agreed to.

The Senate divided. [10:35]

(The Acting Deputy President—Senator Sterle)

Ayes .................12
Noes ....................45

Majority ...............33

AYES

Di Natale, R
Hanson-Young, SC
Leyonhjelm, DE
Rhiannon, L
Roberts, M
Waters, LJ

Hanson, P
Lambie, J
McKim, NJ
Rice, J
Siewert, R (teller)
Whish-Wilson, PS

NOES

Abetz, E
Bilyk, CL (teller)
Burston, B
Cameron, DN
Chisholm, A
Cormann, M
Dodson, P
Farrell, D
Ferravanti-Wells, C
Gallagher, KR
Hinch, D
Kakoschke-Moore, S
Kitching, K
Marshall, GM
McCartney, M
McKenzie, B
O'Neill, DM
Paterson, J
Pratt, LC
Ruston, A
Smith, D
Watt, M
Xenophon, N

Back, CJ
Birmingham, SJ
Bushby, DC
Cash, MC
Collins, JMA
Culleton, RN
Duniam, J
Fawcett, DJ
Fifield, MP
Griff, S
Hume, J
Ketter, CR
Lines, S
McAllister, J
McGrath, J
Moore, CM
O'Sullivan, B
Polley, H
Reynolds, L
Sinodinos, A
Sterle, G
Williams, JR

CHAMBER
In Committee

Bills—by leave—taken together and as a whole.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (10:41): by leave—In relation to the Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016, I move opposition amendments (1) to (4) on sheet 7980:

(1) Schedule 2, item 15, page 61 (lines 5 and 6), omit the item, substitute:

15 Section 293-1

Omit "$300,000", substitute "$200,000".

(2) Schedule 2, item 17, page 61 (lines 9 and 10), omit the item, substitute:

17 Section 293-10

Omit "$300,000", substitute "$200,000".

(3) Schedule 2, item 18, page 61 (lines 11 and 12), omit the item, substitute:

18 Subsections 293-20(1), 293-155(1) and 293-200(1)

Omit "$300,000", substitute "$200,000".

(4) Schedule 2, item 19, page 61 (lines 14 and 15), omit the item, substitute:

19 Subsection 133-15(1) in Schedule 1 (note)

Omit "$300,000", substitute "$200,000".

We also oppose schedules 3 to 6 in the following terms:

(5) Schedule 3, item 2, page 63 (line 20) to page 65 (line 2), subsections 292-85(3) to (6) to be opposed.

(6) Schedule 5, page 77 (line 1) to page 78 (line 29), Schedule 5 to be opposed.

(7) Schedule 6, page 79 (line 1) to page 80 (line 25), Schedule 6 to be opposed.

With regard to senators having the opportunity to consider these amendments, I acknowledge that they were circulated quite late this morning. I would say, however, that these amendments go directly to the position that the Labor Party announced publicly when we considered the revised government bills, once they had been released. I would like to draw senators' attention to item (5):

Schedule 3, item 2, page 63 (line 20) to page 65 (line 2), subsections 292-85(3) to (6) to be opposed.

Item (5) relates to non-concessional contributions. There is an error in that item. The item as drafted seeks to oppose subsections 292-85(3) to (6). I would like to amend that amendment to reflect opposition to subsection 292-85(2)(a). That is a fault of ours. I am sorry if that is not very clear.

Taken as a group, these amendments implement Labor's position, which seeks to lower the higher income superannuation contribution threshold to $200,000, from the government's proposal of $250,000. We believe there is further room to reduce the higher income cap to that level and also to lower the non-concessional contributions cap to $75,000, to oppose the introduction of the catch-up concessional contributions and to oppose the changes to tax deductibility for personal superannuation contributions. Again, this reflects our view that a
system that currently sees half of all superannuation benefits flowing to the top 20 per cent of earners is a system that clearly needs reform.

While the government's superannuation package—and we acknowledged this in the second reading stage—goes some way to reforming these concessions, they could go further. Labor's proposed changes are fairer than the government's and deliver more substantial budget repair. In fact, if our amendments were to be successful they would improve the budget by $1.4 billion over the forward estimates and by $18.9 billion over the medium term. We believe these are sensible. They ensure that superannuation will be fairer and that superannuation tax concessions are targeted to reduce the overwhelming benefit that is provided to higher-income earners and, again, as we said, in the time that we are trying to ensure that there is structural budget repair, that they would contribute more to that, certainly over the forward estimates but also over the medium term. I hope people have been able to follow my amended amendment.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (10:47): I thank Senator Gallagher for her contribution and generally. I thank the opposition for the way they have engaged with the government in relation to this very important reform package.

First of all, to perhaps facilitate some further work to be done in relation to the amendments Senator Gallagher has flagged to Labor's amendment (5), while we have not seen a written version of it, my advice is that the effect of the amendment the way we understand it—you have spelled it out in the chamber—would be to effectively maintain the current threshold at $180,000; it would not have the effect of reducing it to, as we understand to be your policy, $75,000. So, you might just want to have a look at that. We understand what your policy is, but my advice is that the way it is currently drafted it would not actually achieve that outcome.

In order to facilitate the debate I might just quickly put forward the government's position in relation to all of the opposition's amendments. In relation to the division 293 threshold, Labor has proposed to reduce that to $200,000. Under Labor's proposal the number of people who are paying that higher so-called division 293 tax in 2017-18 would double. Lowering that division 293 tax threshold from $250,000 to $200,000 would result in around 290,000 individuals paying additional tax on their contributions in 2017-18. Compared with the government's policy, we believe we got the balance right in relation to our package overall, and we do not support the further reduction of this threshold to $200,000.

In relation to the proposal to lower the annual non-concessional contribution cap to $75,000, again, the government believes that in the package we have put forward we got the balance right. We do not support a further reduction to the non-concessional contribution cap to $75,000. We are already proposing to reduce it from $180,000 to $100,000. So, the $100,000 annual cap, together with the $1.6 million total superannuation balance eligibility test, does in our view strike the right balance between providing flexibility for those who are saving for their retirement and targeting the tax concessions to prevent superannuation from being used as an estate planning vehicle. The government is saying that only if you have a balance of less than $1.6 million will you be eligible to make non-concessional contributions, and in that context we believe that the $100,000 threshold is appropriate, that Labor's
amendment would impact a further 90,000 individuals compared with the government's policy, so we do not support that proposal.

In relation to the amendments relating to this proposition that we should not improve access to tax deduction for personal contributions, we are disappointed that Labor does not support the Turnbull government's legislation to allow more people to make tax-deductible personal superannuation contributions. Senator Leyonhjelm has touched on this particular feature of the government's reform package. We are disappointed that Labor does not want to provide Australians with flexible options for saving for their retirement. This is an important measure that levels the playing field and provides all Australians, regardless of their employment circumstances, with the same opportunity to make concessional contributions to their superannuation.

Not proceeding with the changes to deductible personal contributions would prevent around 800,000 Australians from making voluntary concessional contributions in 2017-18. The removal of the 10 per cent rule will provide many employees whose employers do not offer salary sacrifice with the opportunity to make voluntary concessional contributions to improve their superannuation balances. Employees who do not have access to salary sacrifice—around 1.8 million Australians—have lower average taxable incomes and lower average superannuation balances compared with those who do. The average adjustable taxable income of employees who do not have access to employer salary sacrifice is around $45,000, and the average superannuation balance is around $60,000. In comparison, the average adjusted taxable income of employees who have access to employer salary sacrifice is around $69,000, and the average superannuation balance is around $108,000.

Access to voluntary contributions to salary sacrifice varies by the size and sector of people's employers. Of businesses with 50 employees or fewer, around 700,000 Australians in total, around 80 per cent do not offer superannuation salary sacrifice arrangements to their employees. Almost half of farm workers and more than one third of hospitality sector workers do not have access to salary sacrifice. So, again, we believe that the government's reforms in this space strike the right balance.

In relation to Labor's proposal not to allow catch-up concessional contributions, we believe it is very important that people who spend time out of the workforce and whose income varies considerably from one year to the next are able to catch up on their retirement savings. This is why, from 1 July 2018, we will allow people who have superannuation balances of less then half a million dollars to carry forward any unused concessional cap space amounts. It is an important measure that levels the playing field and provides all Australians with the opportunity to make full use of the concessional contributions cap to boost their superannuation savings. This is expected to help around 230,000 Australians in 2019-20. This will assist people who take time out of work or whose income varies considerably from one year to the next or who find that their circumstances have changed—for example, mortgage payments or school fees have ceased—and are in a position to increase their contributions to superannuation. Many or the majority of people in these circumstances are women.

Labor's proposal on the other hand, in not supporting this change, means that they do not want to help 230,000 Australians who have taken time out of work to look after children, to care for an elderly parent, or to improve their employment prospects through further study who find themselves in a position where they are able to save more for their retirement to
save for their retirement. In summary, the government will not be supporting Labor's amendments and commends that the bill be supported by the Senate as it stands.

**Senator GALLAGHER** (Australian Capital Territory—Manager of Opposition Business in the Senate) (10:52): I thank Senator Cormann for assisting there, as we resolve some of the issues around my amendment (5). You are right, Senator Cormann, in relation to what we are seeking to do, which is to lower the annual non-concessional contributions cap to $75,000. We believe that this is a reasonable position to take.

We are mindful of the evidence that shows that only 0.7 per cent of Australian taxpayers made $100,000 or more in non-concessional contributions in 2012-13, and over 86 per cent of taxpayers made no non-concessional contributions whatsoever that same year. That does show, in terms of the capacity for people to put more non-concessional contributions into super, that there is the capacity, if the cap is set at $75,000—along with the concessional contributions at $25,000—for an individual, in any year, to put $100,000 into super savings. Again, it is no surprise that only a very small percentage—less than one per cent—of Australians are able to do this. Just thinking it through: how many people do you know have a spare $75,000 to add into their superannuation savings? It is clearly reflected in the evidence. This proposal would allow people to still put in significant amounts of savings into super, and it would also accommodate those large one-off lump sum payments that some Australians might be in the position to make.

By bringing forward three years of contributions into a single year, the Treasury figures—and these were provided, I think, during estimates and in answers to questions by Labor—show the average contribution for one-off lump sums is $135,000, which is well below the $300,000 that would be allowed under the government's plan and the $225,000 that would be allowed under Labor's plan. By lowering the annual non-concessional contributions cap to $75,000 Labor would ensure the carry-forward allowance remains generous enough to accommodate those kinds of one-off contributions that middle- and low-income taxpayers make but would also do a proper job of cutting back opportunities for higher income earners to gain tax concessions for large annual contributions—something on which, we believe, there is further room to move in relation to the positions being put by the government and by Labor.

Through these amendments we are trying merely to reflect the position that Labor has taken publicly, as I said, around the positions that we have outlined in our budget. It has not been an ideal to work through the amendments, as everyone has been very busy this week—particularly with registered organisations and the drafting of amendments for that—and this has led to this issue that we are trying to resolve at this point in time. What I would like, if I need to amend my amendment (5), is to have that merely reflect the position of Labor's position of lowering the non-concessional contributions cap to $75,000.

**Senator McALLISTER** (New South Wales—Deputy Opposition Whip in the Senate) (10:56): Minister, you heard my remarks in the second reading debate. I am interested to understand which of the measures in this package you consider support women?

**Senator CORMANN** (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (10:56): The first measure that comes to mind that supports women is one that you oppose. The most important measure in this package is one that enables Australians who have not used the fully available concessional contribution cap to play catch-up on their retirement savings. The evidence is overwhelming that this is
something that predominantly supports women. Another measure that is very good for retirement savings, in particular those of women, is the one that improves the flexibility for all Australians to make tax-deductible personal contributions. It is something that, again, Labor has decided not to support.

You mentioned the government's decision to introduce the low-income super tax offset as something that you also recognise is a very good feature of this package for women, and you suggested that this is just copying the Labor Party policy. The problem with Labor's policy at the time was that it was not funded. Labor put this particular low-income super contribution measure in place as part of its mining tax package, saying it would be funded by the mining tax, which ended up raising no money. In fact, it ended up costing the budget bottom line money.

We have put forward a package of measures which is designed to make the system fairer and more sustainable. It is a package that we believe goes some way to making the system fairer and better for women across Australia. You will say that there is more that can be done, and we would agree that in the months and years to come we should continue the conversation. But a very good start today would be for Labor to support our proposals to enable Australians to play catch-up on their retirement savings and our proposal to enable tax-deductible personal contributions to be made, as well as the reintroduction of the low-income super tax offset.

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (10:59): You mentioned that the evidence overwhelmingly supports the catch-up contribution measure as a measure for women. What evidence are you relying on?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (10:59): We are relying on the evidence that was presented to us in the course of all of the various internal processes of government.

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (10:59): If you could be more specific about that, I would appreciate it. During the estimates process we questioned departmental officials about whether a gender analysis of the impact of the package has been undertaken, and they told us that it has not. Given that that is the case, what other evidence, specifically, are you relying on in relation to your assertion?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (10:59): It is a matter of public record—and I am surprised that we even have to have the conversation—that women across Australia have on average lower superannuation balances. It is a matter of public record, when it comes to disrupted working patterns, that that is something that is particularly an issue confronted and faced by women, whether it is in the context of caring for children or caring for an elderly parent. You are essentially suggesting that this is not so when the reality in the economy is that every Australian knows it is so. You ask what the evidence is. Talk to the women of Australia. They will tell you that that is a challenge they are facing. The women of Australia will tell you that they would appreciate the opportunity to be able to play catch-up on their retirement savings when the opportunity arises.

Labor argues that this catch-up provision will be utilised predominantly by high-income men, yet this analysis is based on contribution patterns of the past. What the government is
doing is setting the superannuation system up for the future by making it more flexible going forward. When the law changes you can reasonably expect taxpayers' behaviour to change, and that is what we fully expect to occur as a result of this measure. And, based on Treasury figures, approximately 230 Australians will benefit from this change in 2019-20. Based on everything that we know about the current status of superannuation savings in Australia, our expectation is that this will significantly improve flexibility and fairness of the system for women.

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (11:01): Minister, I think you just said that based on Treasury analysis 230 people will benefit from this—

Senator Cormann: It is 230,000.

Senator McALLISTER: Thank you. I am pleased that that is the number. How many of those are women or likely to be women in your modelling and projections?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (11:02): As we have previously indicated, we do not have that breakdown, but it is self-evident that this is a measure that particularly favours women. You are entitled to vote against it. That is, of course, your right. You have already indicated that you are voting against it. I think we are now really just wasting time.

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (11:02): I do not think that questioning the value of this package, when there are explicit assertions in the public domain about it being a package for men, and questioning the basis of the analysis of which those assertions are being made is wasting time, and I do not think Australian women will believe that that is the case either. You indicated that your modelling does not allow you to tell us how many of those 230,000 people will be women. Do you know what the average income of those 230,000 people might be? The reason I ask this is that at the moment, even without the measure that you propose, it is possible to put up to $25,000 a year into your superannuation on a concessional basis. I do not think that many women in part-time work returning from maternity leave or a period out of the workforce have a lazy $25,000 or more that they seek to put into their retirement. I just do not understand what analysis you can possibly have that suggests a behaviour changed that will see such a very significant change in behaviour for women working in low-income jobs.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (11:03): I am really surprised at the nature of this conversation given that there has been an inquiry through a Senate committee into these bills, which delved into these sorts of issues in some detail, and given that there has been—as you suggest, Senator McAllister—the opportunity at various Senate estimates committees to delve into these questions in some great detail. I am also surprised that you would not recognise that women across Australia today have greater breaks from the workforce, that women in Australia today have more variation in their income and that women today have lower balances than men. And that is why we put it to you that there is more room for women, proportionately speaking, to make catch-up contributions.

Catch-up concession contributions, as I have indicated, will help around 230,000 people according to the information that we received from Treasury in 2019-20. The take-up and cost
of this measure will be dependent on behavioural responses from individuals. But what I will
again point out is that women typically have lower account balances than men. Of the
individuals estimated to have an account balance of more than $500,000 in 2018-19, only 37
per cent are women. Of the 14.4 million account holders with balances less than half a million
in 2013-14, 47.3 per cent are women. Women make up 46.9 per cent of all account holders;
96.8 per cent of female account holders have balances less than half a million compared to 95
per cent of males; and average balances in 2018-19 are expected to be around $108,000 for
females and $141,000 for males.

Given the pattern of greater breaks from the workforce for women and the pattern of more
significant variation in income for women, we believe that the additional flexibility that
comes with being able to play catch-up on retirement savings that would come with this
particular measure is particularly beneficial for women. You are entitled to take a different
view. You are entitled to move your amendment. You are entitled to seek support for your
amendment in the chamber. The government, as I have indicated, will not be supporting it,
but in the end we might have to agree to disagree.

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate)
(11:06): Can you explain for us the difference between the LISTO and LISC?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the
Government in the Senate) (11:06): You obviously did not listen to my previous answer. The
first and the most important difference is that, under the government's package, it is actually
fully funded, because you know that the superannuation package, overall, actually delivers an
improvement to the budget bottom line even after we introduce the low-income
superannuation tax offset, whereas Labor said that it would fund its proposal to introduce the
so-called low-income super contribution through, initially, resource super profits tax, which
was then morphed into the minerals resource rent tax, which we said all along would not raise
any money and which in the end did not raise any money. The money that it initially raised
had to be refunded because of the way the deal was very badly structured by then Prime
Minister Gillard and then Treasurer Swan, something that we asserted all the way through. In
the end, only the Labor Party is able to come up with a supposedly multibillion dollar new tax
which leaves the budget worse off. Having spent all the money they thought it would raise,
and more, we had a situation where not only have they created massive uncertainty for an
important industry for Australia and for investors in that industry, they left the budget worse
off to the tune of billions and billions of dollars.

The government has worked over the last three years to put our budget on a more
sustainable foundation for the future. We have pursued reforms that now enable this to be
afforded in the context of this package. We are structuring it as a tax offset recognising that
we do not want people at low income levels to end up paying more or the same level of tax as
if they took their income as take-home pay. You structured it as a payment; we are structuring
act as a tax cut. That is the technical difference, but the most important and fundamental fiscal
difference is that, unlike the Labor Party when you were in government, we have actually
found a way to pay for it.

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate)
(11:08): Minister, you mentioned the changes to tax arrangements for high-income earners as
one of the elements of the package that benefits women. Have you done any modelling or
analysis on that? We have talked a little bit about the LISC, the LISTO and the catch-up contribution measure. What are the other measures in the package and can you talk about the analysis that supports your claim that they benefit women?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (11:09): I always pride myself on being as helpful as I possibly can be, but I feel that this is now getting quite repetitive, because I did take you through that list in response to an earlier question. It is a sign of my respect for your particular interest in this matter that, unlike when other senators go through repetitive questions like this, I am prepared to go there again.

As I have indicated, the government is introducing a range of superannuation measures that ensure that the superannuation system is accessible and relevant for all Australians. Many working Australians, especially women, take time out of the workforce to raise children or care for an elderly relative. Women spend twice as much time in unpaid work as men. This contributes to women having lower lifetime earnings and, therefore, lower superannuation balances. While women are most likely to experience interrupted work patterns, they also have a longer life expectancy than men and need higher superannuation balances to support a longer retirement.

This is why the government is introducing measures to boost women’s superannuation savings. You have mentioned the low income super tax offset, as I have. This will support the accumulation of superannuation for low-income earners by avoiding the situation of paying more tax on savings placed into superannuation than on income earned outside of superannuation. In addition, the government will extend the current spouse tax offset to help more families to support each other in accumulating savings. The current 18 per cent offset of up to $540 will become available for any individual, whether married or de facto, contributing to a recipient spouse whose income is up to $37,000. This is an increase from the current income threshold of $10,800. The new income test for the recipient spouse will be $37,000 for the full offset, retaining the current $3,000 phase out with the offset zeroing out at $40,000.

From 1 July 2017—we have also discussed this, of course—any unused concessional superannuation contributions amount will be able to be carried forward on a rolling basis for up to five years for individuals with super balances of $500,000 or less—predominantly women. Together with existing measures, such as the government’s co-contribution scheme, these changes will assist many working Australians, especially women who have low incomes or who take time out of the workforce to raise children or to care for an elderly relative. I would also say that the opportunity to make tax-deductible personal contributions and the additional flexibility that this provides for Australians across the hospitality sector and other sectors is something that we believe will also improve the flexibility of superannuation arrangements for women.

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (11:12): In your contribution earlier today you indicated that you do not have a gender breakdown of the take-up of the catch-up contribution measure. Do you have gender breakdowns for the estimated take-up of any of the other measures?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (11:12): The short answer is no.
Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (11:13): Minister, you have indicated that you believe my questioning to be tedious and repetitious, but the reason I am asking again—and I have asked many of these questions of your officials in estimates before, but I am asking you now—is that I am actually very concerned that in this and many other economic measures that are developed by the Treasury and the other economic agencies of government we do not have information about their gender impacts.

You yourself have acknowledged in your remarks that women get the rough end of the deal on a lot of economic questions in this country. They have lower wages and lower superannuation balances; they have less secure retirements; they are more likely to live in poverty. There are a range of ways that our economic arrangements, which are absolutely supported by government, are unfair and produce very wide disparities in the experience of women and men in the economy and their ability to enjoy a comfortable standard of living whilst working and after work. Are you comfortable with the present practice, which is not to provide information to you as a decision maker about the gender impacts of economic proposals?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (11:14): I do not accept the proposition that has been put. I have very concisely and very directly addressed why the government is of the view that our superannuation reforms make the system fairer and more sustainable, in particular for women, and which measures will help achieve that and why. I have very explicitly and very directly addressed that point. As I have also previously indicated—and I say it very directly in black and white again—gender splits on measures like this are very difficult to put together because they are reliant on behavioural responses. The gender distribution of behavioural responses is highly uncertain. That is why we are not able to provide an overall gender split of those affected across the measures that you have asked me questions about. While you might want me to put the thumb in the air give you a number, it would not be honest.

I have explained to you very directly why we believe these measures, including measures that you propose to oppose, will make the superannuation system better and fairer for women. We believe it is based on very good information. We believe it is an accurate prediction that we are making. But, in the end, once these measures are in effect and have been in effect for some time, we will be able to review the impact that they have had. We will be able to review over time how the data on superannuation has evolved. To make these assessments prospectively about future behaviours is nigh impossible. What we can do is we can see where we are now and we can make a judgement on where we would like to be. In a few years time we will be able to make an assessment on whether we have made the sort of progress that we thought we would make, that we wanted to make, and then we can make a judgement on whether further adjustments need to be made in order to address the issues that Senator McAllister quite rightly points to.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (11:17): I acknowledge and thank the committee for allowing us to resolve some of the issues with my amendment (5). In particular, I thank Senator McAllister for stepping in and asking some of those questions to the minister. I originally moved my amendments as a group of amendments. I would like to withdraw amendment (5), put the
other amendments together and then deal with the issues around amendment (5) separately once we have dealt with those other issues.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (11:17): Alternatively, to facilitate, if it helps, you could seek leave to just amend that part of the amendments that have been moved as a whole in the way that you would need to amend it. That way we can continue to deal with them as a whole, but the government is happy to facilitate for amendment (5) to be adjusted accordingly.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (11:18): Thank you very much, Minister. That is good. In terms of amendment (5), there are three amendments to that that need to be moved now, which I think we are circulating.

Senator Cormann: I have got them.

Senator GALLAGHER: Oh, they have gone around; okay. This is called doing it on the run. I move amendment (5):

(5) Schedule 3, item 2, page 63 (lines 12 and 13), paragraph 292-85(2)(a), omit "4 times", substitute "3 times".

Schedule 3, item 6, page 67 (line 31), paragraph 292-85(1)(c), omit "$460,000", substitute "$435,000".

Schedule 3, item 6, page 68 (line 13), subsection 292-85(2), omit "$380,000", substitute "$330,000".

These three amendments deal with the difference between the government position on the non-concessional cap being set at $100,000 and the opposition position that it should be set at $75,000. There are some other consequential transitional arrangements which are impacted by lowering the cap to $75,000, which are dealt with in Nos 2 and 3 of my amendments to amendment (5). I know that is very confusing, but it is absolutely straight down the line implementing our position on the $25,000 difference between the non-concessional cap, and I do acknowledge the minister and indeed your officials for assisting us with that. It has not been an ideal arrangement for dealing with these amendments; I do accept that. It has been very rushed. The Senate office has been very constrained with other commitments this week, and these amendments as finalised were not available until late this morning, which has compounded some of the issues that we have been dealing with on the floor, but I do accept everyone's willingness to cooperate and to ensure that the amendments as put to the committee reflect the policy position that we have taken, which is around lowering the annual non-concessional cap to $75,000 and subsequently amending sections of the bill which deal with the transitional arrangements to that lowering of the cap.

Senator ROBERTS (Queensland) (11:20): As a servant to the people of Queensland and Australia, I need to speak up for my constituents after both Liberal and Labor speakers, and particularly after Labor's amendments. I acknowledge Senator Gallagher's open admission that this is 'doing it on the run.' My comment is not a reflection on her but on the system. In fact, this is an extraordinary bill to be introduced by a supposedly Liberal government. In fact, peering beyond the verbiage, one can be forgiven for thinking that this a bill being introduced by a Labor-Greens government. This is because it penalises the thrifty and hardworking to subsidise the lazy and the feckless, and this is being hidden by an increasingly complex
system. This is simply a tax grab for the now, a short-term sugar hit and bandaid at the expense of medium- to long-term savings, investments and jobs.

This confirms yet again that our potentially abundant nation is being crippled by economic mismanagement and that this has been the case, sadly, for years. This bill is a dog, and all the amendments are just making it a different species of dog. A government that seemingly lacks the strength of will to cut spending is instead raising taxes. Does that sound like a true Liberal government? Rather than solving the long-term problem of an ageing population increasingly burdening the welfare system, in order to raise a relatively small amount of revenue in the short term this legislation will actually increase the future burden expected to be placed on the welfare system and on our children and grandchildren. Those who are striving to provide for themselves in old age are being kicked in the guts so that the government can continue the Gillard-Rudd-Milne government's profligate spending.

This legislation is yet another bandaid on a repeatedly amended superannuation legislative tangle of byzantine complexity. What is desperately needed is a coherent policy reflecting the philosophy that hard work and thrift should be rewarded. I previously thought that the Liberals believed in this, yet this legislation before us attacks the interests of working, everyday Australians and, worse still, contributes to the long-term problem of growing dependency on the age pension.

Pauline Hanson's One Nation believes in rewarding hard work and thrift and in safeguarding the superannuation savings of everyday Australians. We argue that what is needed is a replacement of this dog's-breakfast approach with a superannuation policy akin to the United Kingdom pension system in which contributions from taxpayers are quarantined from general revenue and pensions are paid without means or assets tests in addition to, not instead of, any additional superannuation savings.

Superannuation in this country was intended to replace the age pension. The Hawke government introduced the superannuation guarantee levy to this end because it recognised that an ageing society would progressively place greater and greater burdens on the social security system. Yet there are people rorting the system. That is what happens when government regulates to control people's behaviour. It is a fact. The system as it now stands is broken. It has been broken by successive governments looking for sugar hits at the expense of the people. Just who do these political elite think they are?

Responsible financial governance is non-existent. The Treasurer in recent weeks admitted that the backpacker tax provisions were proposed without a cost-benefit analysis. We as a nation under Labor-Greens and Liberal-Nationals have wasted tens of billions of dollars on so-called climate initiatives without any cost-benefit analysis. We need to quarantine people's savings from the avaricious clutches of a spendthrift government buying short-term votes through bogus promises while avoiding hard fiscal decisions. The impacts of years of pandering to the Greens are now coming home to roost.

This is our money—the people's money. It is people's hard-earned money. The fact that the ATO is the keeper of these funds tells us all we need to know. People need the reassurance that comes from rules that are consistent and unchanging. Yet, instead, every government changes the rules when we need people to save and be rewarded for their saving. It is no wonder that I am told this morning that a retailer at home safes storage says safe sales are quadrupling. The system as it is now is so filled with jargon. We are supposed to be
simplifying it, yet it becomes ever more complex and makes people more dependent on the advice of professionals and funds leeching fees.

People's longevity is increasing, and we need to plan for a system based on hard data and empirical evidence. Super was designed to encourage savings for investment. Next year—and I would invite other parties to join us in this—forums will be held around the country by our party so that we can listen to people's needs and get the data. All we know now is that the system is being destroyed and that our country's tax system is being crippled.

We must turn our attention to the tax system because it is destroying our country. Why, for example, do we tax employment? We in our country all know that when something is taxed its usage is reduced. So why do we tax employment? We tax employment through PAYE schemes. So when a company has just paid a certain amount of net income increase then they are actually paying the total on top, which adds an enormous burden because that is a disincentive to employment. Then we have a direct tax in the states on payroll.

Jim Killaly, the former deputy commissioner for taxation for large companies in international matters, said in 1996 and in 2010 that 90 per cent of Australia's large companies are foreign owned and since 1953 have paid little or no company tax. Just doing rough figures indicates that that could earn us $100 billion a year in taxation revenue.

The Australian Bureau of Statistics in the late 1990s and early 2000s said that for a person who is earning the average annual income 68 per cent of their income is spent on government. Sixty-eight per cent goes to government in the form of taxes, rates, fees, levies, charges and special charges. Our taxation system currently levies fuel at an effective tax rate of 230 per cent. Our taxation system currently levies an effective tax rate on a loaf of bread at around 100 per cent. Similarly for housing it is around 90 per cent.

We could fix the budget black hole and reduce the tax burden of everyday, hardworking Australians with a simple, comprehensive review of our taxation system. We could fix the debt with a simple, modern, fair, efficient tax system. We cannot keep limping along with the current dog of a tax system and the current dog of a superannuation system. We need a comprehensive review, not the fiddling on the run that is coming to us from the major parties and the Greens. Simply increasing tax is not a solution. That is destroying this country. We need to listen to the people. We need to come up with a simple tax system and a fair, efficient and honest tax system. We are blindly stumbling around the real issue, and that is tax. We need to make Australia great again for everyone.

The CHAIR: The question is that opposition amendments (1) to (5), as amended, on sheet 7980 be agreed to. Just to be clear, that includes amendment (5), as circulated, on revised sheet 7980, and the two additional amendments circulated on separate sheets.

The committee divided. [11:33]

(The Chair—Senator Lines)

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

AYES

Bilyk, CL
Cameron, DN

Brown, CL
Carr, KJ
Question negatived.

The CHAIR (11:36): The question now is that schedules 5 and 6 stand as printed.

The committee divided. [11:38]

(The Chair—Senator Lines)

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

AYES

Abetz, E Back, CJ
Birmingham, SJ Burston, B
Bushby, DC Canavan, MJ
Cash, MC Cormann, M
Culleton, RN Duniam, J
Fawcett, DJ Fieravanti-Wells, C
Fifield, MP Griff, S
Hanson, P Hinch, D
Hume, J Kakoschke-Moore, S
Leyonhjelm, DE Macdonald, ID
McKenzie, B O’Sullivan, B
Parry, S Paterson, J
Reynolds, L Roberts, M
Ruston, A Scullion, NG
Seselja, Z Smodinos, A
Smith, D (teller) Williams, JR
Xenophon, N

NOES

Abetz, E Back, CJ
Birmingham, SJ Burston, B
Bushby, DC Canavan, MJ
Cash, MC Cormann, M
Culleton, RN Duniam, J
Fawcett, DJ Fieravanti-Wells, C
Fifield, MP Griff, S
Hanson, P Hinch, D
Hume, J Kakoschke-Moore, S
Leyonhjelm, DE Macdonald, ID
McKenzie, B O’Sullivan, B
Parry, S Paterson, J
Reynolds, L Roberts, M
Ruston, A Scullion, NG
Seselja, Z Smodinos, A
Smith, D (teller) Williams, JR
Xenophon, N
Question agreed to.

Senator WHISH-WILSON (Tasmania) (11:41): by leave—In respect of the Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016, I move Greens amendments (1) and (2) on sheet 7986:

(1) Clause 2, page 2 (at the end of the table), add:

10. Schedule 12
The day after this Act receives the Royal Assent.

(2) Page 135 (after line 24), at the end of the Bill, add:

Schedule 12—Review of operation of Act

30 Review of operation of Act

(1) Before 1 July 2017, the Minister must cause to be conducted a review into the operation of the Treasury Laws Amendment (Fair and Sustainable Superannuation) Act 2016.

(2) The review must consider how the superannuation changes in the Act will affect housing affordability for aspiring first home owners.

(3) The Minister must cause to be prepared a report of a review under subsection (1).

(4) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sittings days of that House after the completion of the preparation of the report.
This is fairly simple. The Greens have raised the issue repeatedly in relation to legislation on the economy that we want to see the crucial issues and moral challenges we face addressed in every piece of legislation that comes to parliament.

Senator Cormann was present when I raised the issue with the Secretary of the Treasury, John Fraser, in the last estimates about what the government and Treasury were doing on issues like housing affordability for young Australians. The Treasury secretary agreed that this was a significant issue in this country and that more needed to be done. He said it was a complex issue and he made some statements, which of course were reported in the media about parents becoming 'the bank of choice' for their children because children were not able to afford houses, especially in places like Sydney and Melbourne.

My point to the Treasury secretary was a simple one: how do we better prioritise issues like housing affordability for young Australians? How do we have a process or a discipline where everything we do is viewed through the prism of things like housing affordability? In the last inquiry we had on the omnibus bill I raised the same issue, and Senator Cormann would be aware of that. We also looked at inequality of gender pay, and I am glad that Senator McAllister spent some time today going through issues on gender equality in this bill.

Senator Cormann, what the Greens are asking for in this amendment is that before July 2017 the minister must cause to be conducted a review into the operation of the Treasury Laws Amendment (Fair and Sustainable Superannuation) Act 2016. For anyone listening, that is the bill we are currently debating and looking to pass through the Senate. The review must consider how the superannuation changes in the act will affect housing affordability for aspiring first-home owners. The minister must cause to be prepared a report for review under subsection (1) and the minister must cause a copy of the report to be tabled in each House of the parliament within 15 sitting days of that House after the completion of the preparation of the report.

Now, why am I asking for housing affordability to be included in this legislation package and how is it relevant? While we see it as a good thing that this legislation at least goes some way to reducing the tax rorts that are enacted through our super system by people taking advantage of superannuation concessions to avoid paying tax and to maximise their wealth, and while we are making some inroads into that with this bill, a potential of that—I do not think an unlikely or improbable unintended consequence—will be that wealthy Australians, especially the most wealthy Australians, who will be impacted by today's legislation will seek to put their money elsewhere. What other tax shelters or tax incentives are we offering wealthy Australians in terms of where they can put their money to minimise their tax, especially in the field of investment, because that is really what we are dealing with here.

Superannuation is an investment in all sorts of forms. We are very concerned that, if we start tightening the screws for wealthy Australia, which we should be doing, we also need to be cognisant of the fact that that money may find its way into the housing market—an already overheated housing market, especially in Sydney and Melbourne—with a crisis of affordability for low-income Australians and for young Australians. How do we know that this money is not going to prop up the bubble in real estate in this country and lead to rising inequality?

What we are proposing is fairly simple: we would like the minister to take on board that we would like a review into whether this will have any impact, similar to what I moved in the
second reading. What we see at the moment are tax breaks in the form of superannuation, with people using superannuation funds; tax breaks in the form of capital gains tax concessions, with people not paying the full capital gains tax on property investment; and tax breaks in the form of negative gearing, especially when negative gearing is combined with capital gains tax breaks to provide an incentive for investors to invest in housing to avoid paying tax and to maximise their wealth. We are concerned about these tax breaks in real estate. We do not want to see more capital diverted into existing housing stock, making it even harder for young Australians to buy their first home and further entrenching inequality between generations. We call on the government to undertake this review. Minister, I do not think it would be a difficult thing to do. Will you give it consideration?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (11:48): The government will not be supporting these amendments. The Greens are asking the government to conduct a review into these bills before they have come into effect. There has already been a review of the bills by the relevant Senate committee before they are to come into effect. Down the track, after the bills have been in place and after this legislation has been in effect for some time, if the Senate chooses to pass it, I am sure our government or future governments will have another look at how these reforms have benefitted people across Australia with a more flexible, sustainable and fair superannuation system. But the time is certainly not, in the government's view, the time suggested in this Greens amendment.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (11:49): The Labor Party will not be supporting this amendment either for a similar reason, which is around the commencement of the review. It is difficult for a review to be conducted into the operation of an act where substantial parts do not start for another year and other parts will either have just come into effect or only have been in effect a number of months. Having said that, I think it is incumbent upon all of us to continue to look at and assess how our tax laws are operating and at any distortions or changes in behaviour that may be occurring because of legislative reform. That is part of our day-to-day responsibility, and we will continue to make sure that superannuation tax concessions are fair and sustainable for the long term.

In relation to the issues about housing affordability: I do not disagree with Senator Whish-Wilson. There are significant issues affecting people's ability to afford housing, particularly for younger people and people on low-to-moderate incomes. I think that is an issue that the Senate has looked at through various committee reports and that we took policies on to the election—negative gearing and capital-gains-tax exemptions. Again, I do not disagree with the concerns that Senator Whish-Wilson has raised, but I would question whether or not an amendment to this act is the right place to pursue those concerns.

Certainly the Labor Party will continue to work with other senators who have an interest in addressing housing affordability and the current tax arrangements. We have made our position on that very clear, but I do not think an amendment to the Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016 is the right place to pursue that particular issue.

Senator XENOPHON (South Australia) (11:51): On behalf of my colleagues Senators Kakoschke-Moore and Griff, I indicate that we do not support this amendment. I understand
and commend Senator Whish-Wilson for moving this amendment but I think we should see how these changes operate. There is nothing to preclude a review or an inquiry by the Senate economics committee towards the end of next year. If I could be indulged very briefly for 60 seconds or 90 seconds: we have not supported the other amendments and I foreshadow that we will not support the amendments moved by the Greens and the ALP for these reasons. We think the government has come up with a compromise package of an extra $3.1 billion in revenue. This is a very vexed and hard-fought area. Of course, the ALP, as the alternative government, can take these matters to the people at the next election.

In terms of the catch-up contributions, to allow catch-up contributions for up to $500,000 is not unreasonable. In terms of the flexibility measure—what some colloquially put as the tradies measure—work arrangements in Australia have changed very much over the years. There are 800,000 people that this would apply to that are contractors in addition to a full- or part-time job where they are getting an income. This would make it easier for them to get to that $1.6 million benchmark or threshold.

The government is already reducing the high-income super threshold from $300,000 to $250,000. I think they have stepped out in a reasonable way. I think there is always scope to improve. We do not support the Labor amendment lowering the high-income super threshold from $250,000 to $200,000, or limiting the after tax contributions to $75,000 from $100,000. We think that a compromise has been struck. Of course, these issues can always be reviewed, but $3.1 billion in revenue will be raised from this and I think that that, on balance, strikes an appropriate public policy response at this stage. But, of course, these are things that ought to be looked at.

In terms of housing affordability, Senator Gallagher is right: these are major issues that need to be addressed. I think it will take not a bipartisan but a whole-of-parliament approach to address these issues. It is not just about super; it is about capital gains and other measures that we need to look at for housing affordability, and even some innovative measures we have seen overseas, including one that none other than Ronald Reagan—that right-wing conservative warrior—introduced in the eighties. Successive administrations, including the Clinton administration, have embraced that measure, and it has had a dramatic effect on low-cost affordable rental accommodation for many hundreds of thousands of Americans. That is the sort of innovative approach we need to look at.

**Senator WHISH-WILSON** (Tasmania) (11:54): Senator Cormann, you understand finance and how things work. People go to their financial planners and they speak to their accountants. Some of them do not need to—they are very sophisticated, especially very high income Australians. We are asking for a review in about nine months time. People will anticipate this legislation. They will make changes to their financial planning well before then. They will not make the changes after the bill has kicked in when they have changes to their contribution caps; they will make changes prior to that. So I think a review is very reasonable, but we would be happy to amend it to 2018, if you felt that that was more reasonable. Either way, we would like to see a review into these matters.

I am disappointed that Senator Xenophon and the Nick Xenophon Team have not supported this amendment or Labor’s amendments to this superannuation bill. What we discussed in committee and what has been a theme certainly for the Greens here today—and I note the same for Labor—is that this is an opportunity to go a little bit further. This is an
opportunity to reduce perverse tax incentives that are allowing wealthy Australians to use superannuation as a tax avoidance vehicle. We are not asking much. I would like to have seen the amendments go a lot further and I would like to have seen the superannuation system be made a lot more progressive with significant reform that would have raised a lot more revenue for this counter and made it a lot fairer.

I suspect that the Nick Xenophon Team have been asked not to vote for these amendments because they might actually pass and we might have the numbers to amend this bill and send it back to the House. Those are just my own thoughts on the matter. Nevertheless, I do not think Senator Xenophon's case for not voting for Labor's amendments or the Greens' amendment is very strong at all. We have an opportunity to raise more revenue here, which would take pressure off backpackers, off wine producers and off other low-income Australians, who the government is intent on taking money off all the time. We can actually take some money off wealthy Australians here, raise revenue and have some real reform, and I think the amendments being put up by Labor are quite reasonable and help make this system just a little bit fairer. I just wanted to get that on record.

Question negatived.

Bills agreed to.

Bills reported without amendments or requests; report adopted.

Third Reading

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (11:57): I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016

Treasury Laws Amendment (Working Holiday Maker Reform) Bill 2016

Superannuation (Departing Australia Superannuation Payments Tax) Amendment Bill 2016

Passenger Movement Charge Amendment Bill 2016

Second Reading

Consideration resumed of the motion:

That these bills be now read a second time.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (11:58): It is good to have the opportunity to speak to the Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016 and related bills. It is worth having a look at the history of elements of this package. The so-called backpacker tax first appeared in Joe Hockey's last budget in 2015. The government failed to introduce legislation enacting this original measure prior to the last election. That measure, if implemented, would have treated most people temporarily in Australia for a working holiday as nonresidents for tax purposes. They would have been taxed at 32.5 per cent from their first dollar of income.
It was not surprising that this was met with a wave a criticism. The government's own 2015 budget papers made clear that many backpackers were paying tax at the same rates as residents. The budget measure marked a significant increase in the tax rates on backpackers, and it was not surprising that the agriculture and tourism sectors recoiled at this change. What was surprising was how long the government took to heed their concerns. Given that the reforms were originally set to commence on 1 July 2016, it is amazing that this issue was left unresolved a year later, in the 2016 budget.

We then got to the election campaign, where, after months of criticism from outside and from within, the government announced a review of the backpacker tax. And then, just over a month ago, the Treasurer announced a compromise: instead of the proposed 32.5 per cent tax rate from their first dollar of income, a lower rate of 19 per cent was proposed from the first dollar of income up to $37,000, which is still a significant hike on the tax that many backpackers are currently paying. Above this level, marginal tax rates would apply. The government also proposed to raise the passenger movement charge by $5 and to increase the tax on the departing Australia superannuation payment to 95 per cent.

We referred the package to the Senate Economics Legislation Committee to give the industries that the government had ignored a voice in this debate. Given the government had nearly 1½ years to sort this matter out, it was more than reasonable that we took a closer look at what the government have proposed here. The government were not listening to the industries that had a stake in this debate. They wanted to avoid scrutiny, just as they wanted to avoid scrutiny when they silenced debate on this package of bills in the House of Representatives. Unlike the review conducted by the government, which did not consider all the tax measures, the Senate committee was able to consider the package as a whole and was able to hear directly from farmers and tourism operators on the ground. It is also important to note that the authors of the Deloitte report, commissioned by the government prior to the announcement of the legislative package, acknowledged:

Deloitte has not undertaken any additional research or analysis, and the information contained in this report is reflected as it has been provided by the stakeholders engaged through this process. Deloitte has also not reviewed the quality or validity of the information presented to us.

These two points are critical as to why Labor has undertaken the responsible position of further scrutinising the legislation currently before the parliament.

By contrast, the government resisted these calls for consultation with stakeholders. This was despite the fact that the government had announced new measures not previously put forward to stakeholders. Adding insult to injury, the inquiry process has also revealed that the government are already spruiking the 19 per cent tax rate in the United Kingdom, regardless of the fact that this legislation has not passed the parliament. It is worth reflecting on the sheer arrogance that was on show: poor consultation with stakeholders and with the industries affected, and then, in the name of giving people certainty, the Treasurer demands that the parliament pass legislation. Not only does the Treasurer demand that this parliament come to heel, but the government then goes and gags debate in the House of Representatives, preventing members in the House from speaking on the legislation. Their disregard for this parliament is matched only by their disregard for the industries affected by some of the measures contained in these bills.
Let me now turn to the bills in this package. The bills, as they currently stand, would apply a 19 per cent income tax rate to working holiday-maker taxable income on amounts up to $37,000, with ordinary tax rates for taxable income exceeding this amount; allow the Commissioner of Taxation to disclose certain information to the Fair Work Ombudsman; require employers of working holiday-makers to register with the commissioner; require the commissioner to give a report on working holiday-makers; reduce the visa application charge for working holiday visas and work and holiday visas; increase the rate of the departing Australia superannuation payments tax to 95 per cent for working holiday-makers; and increase the passenger movement charge from $55 to $60.

Parts of this package of bills attempt to address issues in relation to the working holiday visa system and the treatment of workers on working holiday visas. Here it is worth mentioning the recent report released by the Fair Work Ombudsman. The report detailed exploitation of working holiday visa holders, including underpayment or nonpayment of wages, workplace health and safety issues, and other significant exploitation. Labor took to the election a policy for a fairer system that would ensure working holiday-maker visa holders were afforded proper pay and conditions. Our proposed review would have looked at the effectiveness of the current visa programs, the effect on the labour market and the instances of exploitation and abuse.

Labor wanted to give affected sectors and affected people the opportunity to make a submission through the Senate Economics Legislation Committee. This was to give them what they had so far been denied: a chance to have their say. We wanted to wait until the bills had been subjected to the scrutiny and the consultation that the Senate committee process provides. The Senate Economics Legislation Committee gave these industries the opportunity to have that say. There were three public hearings on the working holiday-maker reform package—in Canberra, in Cairns and in Tasmania. Fifty-three submissions were received and, of those submissions, by our count, 16 supported the tax package, 28 opposed the tax package and nine supported only certain aspects of the tax package. Many of those nine were opposed to the increase in the passenger movement charge.

The concerns in the submissions centred on ensuring that Australia remains internationally competitive in being able to attract backpackers, who do crucial work for our agriculture sector and who provide crucial income for our tourism sector. It also became apparent that none of the second-round negative effects were properly taken into account with regard to the impact of the tax measures. It came out that the National Farmers Federation believes that there has been a decline of up to 40 to 90 percent in backpacker numbers while this issue has remained unresolved. The inquiry also showed that the labour shortages caused by the drop-off in backpackers will hit rural and regional Australia much harder than our capital cities.

The evidence from the Senate inquiry on the government's backpacker tax shambles is clear: Australia needs a lower tax rate to remain internationally competitive and to ensure rural and regional businesses can continue to attract the seasonal workers they need. Labor believes that the government should compromise on the 10.5 per cent tax rate that industry, regional communities and members of the Senate crossbench are calling for. Labor will guarantee that, through this package, any changes will not disadvantage Australian workers. The government should stop misleading Australians to cover up for their continued failure to
get this tax right after almost two years. Our farmers need a competitive rate and they need certainty.

Labor will oppose the increase to the passenger movement charge, and I turn now to our reasons for doing so. Through the inquiry process, it became apparent that the passenger movement charge increase was introduced with no meaningful consultation. The passenger movement charge is a $55 impost on every traveller leaving Australia. It is embedded in the cost of air and sea tickets. As part of the working holiday-maker reform package, the government wants to raise this charge by $5, which is an increase of nine per cent.

Australia already has the second highest departure tax in the developed world after the UK air passenger duty. However, the UK air passenger duty applies at different rates. There is a lower rate for short-haul flights. Australia's passenger movement charge applies to all outbound overseas flights. This means that Australia's passenger movement charge is in fact higher than the UK's with respect to short-haul flights. Our passenger movement charge applies to flights departing to overseas countries, regardless of distance. It applies to travellers going to family reunions in New Zealand or taking advantage of discount flights to go to Fiji or Bali. On trans-Tasman routes, the passenger movement charge can represent nearly 10 per cent of the average return fare.

Despite the government's abysmal approach to consultation and despite the gagging of debate in the other place, we gave the industry a chance to be heard with a Senate inquiry. That inquiry encouraged interested industries to make submissions. It held hearings in Canberra, Cairns and Launceston. Overwhelmingly, stakeholders across the tourism and aviation sectors have rejected the proposed passenger movement charge increase. The submissions to the Senate inquiry raise serious concerns about increases to the passenger movement charge.

The Qantas Group submission to the Senate inquiry highlights the disproportionate impact an increase in the passenger movement charge will have on Australian airlines. They argue that it is not as simple as passing increases on to passengers through airfares, as that has an impact on competition. The Qantas Group also points out that the 'structure and level of the passenger movement charge is inequitable for price sensitive Australian travellers and international tourists'. For example, Jetstar's fares on some international routes start at $130, which means the passenger movement charge alone already represents 46 per cent of that fare.

The Tourism and Transport Forum argues that an increase in the passenger movement charge will have a serious impact on Australia's ability to compete with other destinations, because when you 'add to the PMC the high visa costs and complicated visa processes applied to visitors from our key Asian markets, Australia is a less attractive option'. Similarly, the Australian Chamber—Tourism believes that, without proper modelling, an increase in the passenger movement charge should not be introduced. Their submission states:

… there is far greater potential for revenue growth from a policy focus on increasing passenger numbers by removing up front barriers to travel than there is by imposing a demand dampening 9 per cent increase on this charge.

The International Air Transport Association believes that increasing the passenger movement charge would create significant harm for consumers as a consequence of higher fares. It would harm Australian exporters through 'higher travel costs and reduced competitiveness', which will also act as a 'brake on the Australian aviation sector'.

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Wednesday, 23 November 2016

SENATE

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CHAMBER
What is becoming clear is just how little consultation was undertaken with the tourism industry before the increase to the charge was announced. This is consultation that should have occurred before this industry was blindsided by this poorly thought out measure, because this announcement from the coalition came as a complete surprise. I want to quote from the head of the Tourism & Transport Forum. She said:

Industry has been completely blindsided by this decision to increase the PMC by $5—a 9 per cent hike in the rate. At no point was it flagged in any discussions in which we took part and is a bitter disappointment that we’ve been slapped with this tax hike on every traveller—Australian or international visitor—heading overseas.

This is a bill from a government that is always saying how it never increases taxes. Well, this is a tax increase on travellers, it is a tax increase on tourism, and it is a tax increase on holidays. This is an increase that impacts industries that are crucial to Australia's economic prosperity. The passenger movement charge is an entirely separate issue to working holiday-maker reform and should be treated as such. The original package did not touch the passenger movement charge.

In our economy's transition from the mining boom, we are going to depend on industries like tourism to provide Australians with jobs and prosperity. As the Queensland tourism minister noted recently, 'Tourism in Queensland is booming.' Her government has been working closely with the industry to achieve double-digit growth in tourism arrivals from overseas. This bill will no doubt hamper these efforts. In Tasmania, the state government has set ambitious targets for growth in the tourism industry. This bill will make meeting these targets more difficult.

We should remember this government's history in relation to the passenger movement charge. The Treasurer used to be a vocal opponent of increases to the passenger movement charge. Then there is the Minister for Trade, Tourism and Investment, a minister who, until recently, was a trenchant critic of increases to the passenger movement charge. In question time in the other place on 31 August this year, the member for Bowman asked him:

... how is the tourism industry supporting the transitioning Australian economy? Are there any policies that could put the growth of the tourism industry at risk in my electorate of Bowman and South-East Queensland?

The minister responded by boasting about how his government had frozen the passenger movement charge so that Australia was a more competitive destination.

We had the minister for tourism, the member for Moncrieff, saying that increasing the passenger movement charge was akin to 'choking the golden goose that is Australia's tourism industry' just weeks before his own government announced an increase to the passenger movement charge. The minister represents an electorate on the Gold Coast. As the Queensland minister for tourism has noted:

Brisbane and the Gold Coast had the largest international visitation numbers on record, reaching 1.17 million and 984,000 visitors respectively.

Overnight visitor expenditure on the Gold Coast reached a record $1.3 billion …

Given how important the tourism industry is to the electorates like that of the member for Moncrieff, it is unfortunate that his government was unwilling even to properly consult the industry on this issue.
So, here we are. After 18 months of dithering, after 18 months of uncertainty, the government have demanded that we accept their poorly thought out package without amendment. Their message is that it is all right for the government to take 18 months to sort themselves out and to keep the farmers, growers and tourism operators in the lurch for 18 months. But they demand that this parliament fall into line and then they expect this parliament to congratulate them. Well, industries like the tourism industry deserve much better than what they got in relation to this increase in the passenger movement charge. In their own words, they were completely blindsided for no reason other than this government was too discourteous to pick up the phone and engage in meaningful consultation with them.

We will oppose the Passenger Movement Charge Amendment Bill 2016. Given the effect it will have on Australian travellers and on our tourism industry, it deserves meaningful consultation and proper consideration. Given the alarming facts that have come to light about the absence of that proper consultation with the industry, given the absence of a full and proper debate in the House and given the effect that this increase will have on our tourism sector, this parliament should not allow this increase to the passenger movement charge to pass.

I foreshadow that, when the question is put on the second reading of these bills, the opposition will ask for the question to be divided to enable us to oppose the Passenger Movement Charge Amendment Bill 2016 whilst supporting the remaining bills at that stage, with support for further amendments from Senator Lambie.

Senator WHISH-WILSON (Tasmania) (12:14): This would have to be one of the most stupid pieces of legislation I have seen in this chamber—and I say this with a lot of passion, from the bottom of my heart. I really thought that the Treasurer, Scott Morrison, who I understand has been pushing this, even though a number of his party room have pushed back, would see the sense in compromise on this bill. I have really learnt a lesson in how stubborn our Treasurer can be.

This bill—the Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016—puts at risk our agricultural producers who need seasonal labour from backpackers. It takes money—penny pinching—from some of the lowest-income workers in this country, and it flies against what I would have thought was an obligation for us to treat all workers the same. This bill differentiates between foreign workers and Australian workers who are working side by side them and discriminates against foreign workers who we desperately need in this country. In the first week of the double dissolution I went and stood with agricultural producers in the Tamar Valley—apple growers who I have known for years and who I have had to go to as a small vineyard owner in the Tamar Valley to see whether I could get some backpacker labour for my own vineyard at harvest time.

This is an issue I feel very deeply about, and I understand its importance to the community in Tasmania and around the country; I really, genuinely do. When you are growing fruit, as an example, the biggest risk you face is agricultural risk. You need to get your fruit off when the time is right. Growers do not have any second chances. When they need to pick, they need to pick, and they need workers. All the big agricultural producers in Tasmania, in the Tamar Valley, have a policy of employing locals first. They always try to employ Australians first. But the truth is that, as is the case around the rest of the country, there is just not enough labour when it is needed urgently. Backpackers who choose to come to Australia on working
holidays fill that gap. They are absolutely critical. Without the workers in these fields, on these orchards, these businesses will fail.

I have already heard some Tasmanian producers talk about potential litigation against the government—suing the government if they lose their crops in the future because they cannot find the workers. This tax, and talk of this tax, has gone through two elections—a double dissolution, two budgets—yet the government brings it to us now. They say they have compromised on 19 per cent. They say backpackers should all be paying 32 per cent. Well, that is actually not true. If backpackers elect to be residents for tax purposes, they do not have to pay 32 per cent on the first dollar they earn. If they meet the criteria to be residents for tax purposes, they pay the same rate of tax as Australians—zero per cent tax.

The easiest way to fix this is to amend the income tax bill of 1982 so that all backpackers, whether they elect to be residents or not, are residents for tax purposes. That means they pay the same tax as Australian workers when they are working side by side with them. They pay zero per cent tax on the first $18,000, and then they pay 19c in the dollar up to $32,000. That is the fairest, simplest way to fix this problem. And let me tell you, that is exactly what agricultural producers want.

I do want to take this opportunity to say that it has also been a lesson to me to see the National Farmers' Federation and other groups come into the Senate, come into parliament—you would think they were there to get a deal for agricultural producers, but it looks a lot more like they are there to get a deal for this government, for the Liberal-Nationals government, rather than for farmers. I have had a lot of feedback directly from producers as to how let down they felt by the NFF and other groups that purport to be representing them on this issue. It was very clear from the evidence at the Senate inquiry in Launceston that Tasmanian producers do not want a tax rate of 19 per cent or 32 per cent. They actually want no tax for the first $18,000, the same as Australians. That is what they want. So, why aren't we giving it to them?

Senator O'Sullivan: That's right; of course they do!

Senator WHISH-WILSON: The senator from Queensland, who purports to represent the bush—

Senator O'Sullivan: Don't you lecture me on agriculture!

Senator WHISH-WILSON: and called himself an 'agrarian socialist', in his first speech to the Senate, is probably one of the wealthiest men in parliament and he is not representing the agricultural producers in his state who do not want the government to take 19 per cent of the first dollar that backpackers earn when they are in their orchards. They come and work because it is lucrative for them to work in Australia. No-one is denying that. We are giving up our competitive advantage. Compared with New Zealand and Canada and other destinations, Australia is a lucrative place to come and work. And guess what? It is a lucrative place to send your money, Senator O'Sullivan, if you are a backpacker.

And that is what they do. They come to Australia for a holiday, they have a great time and hopefully they go home and tell their family and friends to come here as well. They do it as a working holiday where they also meet people, and they spend their money here, and they solve a critical problem for our agricultural producers, and that is getting labour when it is desperately needed. And they are hard workers—
Senator Polley: And tourism.

Senator WHISH-WILSON: and very important for tourism. So why are we penny pinching, trying to raise what is essentially a couple of hundred million dollars from some of the lowest-income workers in this country? What we should be doing—and let us be totally frank about this—is raising revenue by real economic reform.

We just debated and passed a super bill that will raise us some revenue. But, if we had actually taken more money off the super wealthy in this country that rort superannuation to pay their tax, we could have got billions of dollars more to help pay for services in this country and balance the budget. Instead, Senator O'Sullivan's National Party are trying to put agricultural producers at risk and take money off backpackers. How pathetic! How dangerous! This bill is stupid. It has been poorly thought through. It has been hanging around like a bad smell for 18 months—and it raises no money.

One agricultural producer who gave evidence in Tasmania said: 'If it ain't broke, why fix it?' Absolutely. Why are we supposedly fixing this system? Why are we changing the tax rates for backpackers? I can tell you why: it is because of this government's obsession with what they call deficit repair. I do not even buy that argument in this case, because they are virtually raising no money. They are taking money off backpackers who, on an average, earn $14,000 when they are in Australia, when what we could be doing is getting rid of the diesel fuel rebate that we give to the big, dirty mining companies in this country—$25 billion.

What we could be doing is making the deficit repair levy on the highest income earners in this country permanent. There are a couple of billion dollars that would well and truly cover our poor backpackers. What about other areas of significant reform where we could raise money? We could get rid of negative gearing and capital gains tax concessions that allow wealthy Australians to invest in real estate and not pay tax.

Senator O'Sullivan interjecting—

Senator WHISH-WILSON: There is another $11 billion or $12 billion, Senator O'Sullivan. Why on earth are we trying to take money off backpackers? I cannot think of a good explanation—I really am stumped—except for the stubbornness of this Treasurer. I know, Senator O'Sullivan, from discussions with your side of the chamber, that a number of Liberals and Nationals do not like this bill. They are vehemently opposed to it. Yet here we are debating this bill with no compromise at all from the government.

We have taken a clear, strong, unambiguous position on this bill from the day it was raised. We said no to a tax on backpackers. We want backpackers to pay the same tax as Australians. A tax on backpackers puts at risk our agricultural producers, and it is not the way that we should be raising revenue in this country. We have never wavered from that position from day one. It is good to hear the Labor Party are considering amendments, but I have been disappointed with their stance on this bill as well.

Senator Polley: I have been very strong on this.

Senator WHISH-WILSON: I am glad you are very strong on this, Senator Polley, because I had to work really hard to try and get Labor take a position on this during the double dissolution election. That, as I said earlier, was genuine and heartfelt, because I understand agricultural producers. I have worked with them in the past, so I know them well and I know how serious this issue is for them.
As Treasury spokesman for the Greens, it just does not make sense to me. It is not good legislation. It is really bad policy. It is a sad indictment of the government that you cannot sort out this kind of mess and that you are bringing this legislation to the Senate after very poor consultation. Every stakeholder we talked to, whether they were tourism stakeholders, in relation to the increased fee for the passenger movement charge, or agricultural producers—excluding the NFF, who are the cheerleaders for the National Party and the Liberal Party; we heard evidence from the producers themselves—want backpackers to be taxed at the same rate as Australians.

This brings us to the point: will the Senate vote for something like the Greens amendment, which simply amends the income tax amendment 1982 and makes it crystal clear that backpackers are residents for tax purposes. At the moment backpackers can self-elect to be residents or not residents when they leave the country, and that determines their tax status. Whether they are doing that correctly or not, is not investigated by the ATO. That is pretty much the evidence we heard. The ATO does not see that as a priority, because they hardly pay any tax anyway, and the ATO has no jurisdiction over them when they leave this country. They go back to their country. So the ATO made it very clear—unless Senator O'Sullivan's leader, Mr Barnaby Joyce, orders the tax department to crack down on backpackers when they are leaving the country and make the situation even worse for our reputation—the situation in this country is de facto that most backpackers will not pay tax on their first $18,000.

Senator O'Sullivan interjecting—

Senator WHISH-WILSON: I will take that interjection. A number of these backpackers are legally residents for tax purposes.

Senator O'SULLIVAN: No, they're not.

Senator WHISH-WILSON: They are. You could not provide the information from your side of the chamber—nor could the ATO—on how many backpackers were or were not legally residents for tax purposes, because there is no information. I gave an example, during a recent debate, of two Patagonian gentlemen who stayed on our family farm. They rented an old cottage from my mum and dad. They worked on the local strawberry farm. They were in Tasmania for nearly nine months. They went and climbed all the mountain peaks in the state because they are extreme mountain climbers. They had a year in Australia and they based themselves in Tasmania for nine months.

Senator O'Sullivan: A tax-free holiday.

Senator WHISH-WILSON: They would be residents for tax purposes, under any of the box-ticking exercises the ATO makes you do. We would like to make it very clear, by changing the income tax amendment, that all backpackers pay the same tax as Australians. Are they on a tax-free holiday while they are here? That is Senator O'Sullivan's contribution to this debate. They pay the same tax as Australian workers. Australian workers, for good reason, if they earn less than $18,000, do not pay tax, because they are low-income earners who need our support. That is a progressive taxation system. Why should it be different for foreign workers, when foreign workers are paying Australian tax when they earn over $18,000. It is exactly the same.

That is our competitive advantage. Other countries do not offer that, Senator O'Sullivan. That is why backpackers come. Your stuff-up in this bill today is why backpacker
registrations in Tasmania are down 40 per cent since you said you were going to introduce this legislation. You are the economic vandals. You love to point it out to us, the Greens, across the chamber but, seriously, you could not have stuffed this up any more than you have. This has been a total catastrophe, and I think you have lost an incredible amount of support in the bush, Senator O'Sullivan, over this legislation.

This brings us to the other amendments that will be before the Senate today. Senator Lambie will be introducing an amendment for a 10½ per cent tax rate. I have to be honest: I do not want to support a 10½ per cent tax rate, because I passionately believe that these workers should pay the same tax rates as Australians, but I know that a number of agricultural producers will accept that. And there is a good reason they will accept the 10½ per cent tax rate: it is still competitive with other foreign jurisdictions where backpackers can go and work, like New Zealand. Given the awful superannuation clawbacks, where backpackers get paid superannuation and when they leave this country the government takes 95 per cent back off them—the government is going to take off 95 per cent of the super these backpackers pay—that is a de facto tax increase anyway. That takes us to around 19 per cent, so the effective amount of money that backpackers are losing will be around 19 per cent. If the underlying rate is 19 per cent on top of these superannuation clawbacks, the effective rate is going to be a lot higher than 19 per cent. And these backpackers will do their sums. They will look at these things and they will choose to go elsewhere for their holidays. We lose in tourism; we lose in agricultural production. It is a lose-lose situation for this country. We raise bugger-all money—almost nothing in the scheme of things—and it distracts away from the important issues we should be dealing with in this Senate and this country, and that is raising revenue and tackling inequality—income inequality, gender inequality and age inequality. This is nothing but a distraction from the things we really need to be doing.

I would urge all senators in this chamber to take the strongest possible position on this legislation. Stand up for your agricultural producers, because Senator O'Sullivan and the National Party will not; stand up for the tourism industry; and reject the increases in the Passenger Movement Charge Amendment Bill. Labor are looking to split these bills up. The Greens see that as a very sensible thing to do. Reject the passenger movement charges, which put tourism at risk—another penny-pinching exercise by Mr Scott Morrison—and reject this backpacker tax, which will put our agricultural producers at risk.

God only knows this is not just a Greens senator standing up in this chamber and saying it. I know some of my colleagues will say it. This is, Senator O'Sullivan, the clear evidence we heard in the Senate committees when we went around the country. It is what I have heard from feedback. I have contacted every agricultural producer in Tasmania to raise this issue with him. I absolutely have.

Senator O'Sullivan: What a nonsense statement! Every agricultural producer—

Senator WHISH-WILSON: And you would know!

The DEPUTY PRESIDENT: Order, Senator O'Sullivan!

Senator WHISH-WILSON: Thank you. Some of us are here to represent the people.

An opposition senator interjecting—

Senator WHISH-WILSON: Yes, that is right. Look at the Orange by-election. I think that the Nationals might have lost that for the first time in 45 years. You might get the idea
that something is wrong and that you are not representing your electorate. It is the same with coal seam gas and fracking. It is the same with coalmining on farming land. It is the same with not fixing the beef levy, Senator O'Sullivan, which I hold you personally responsible for. The rot set in and it showed in your numbers. Here is an opportunity for you to stand up, cross the floor, Senator O'Sullivan, and get your mates in the National Party when the bill comes—

The DEPUTY PRESIDENT: Senator Whish-Wilson, I remind you that you are to make your remarks through the chair and not directly to senators in the chamber.

Senator WHISH-WILSON: Thank you, Madam Deputy President. Through you, I remind Senator O'Sullivan: here is the chance to cross the floor and vote against this awful legislation. I will be bitterly disappointed, as will many Tasmanians and Australians, Senator O'Sullivan, if you do not cross the floor and vote against this legislation so that we can actually at least get a good deal in time for Christmas for Tasmanian and Australian agricultural producers. (Time expired)

Senator O'SULLIVAN (Queensland) (12:35): Farmers all over the country will have just broken out in a big sweat when they think that the Greens are finally standing up to articulate matters that are in their interest. I will say that one of the features that come out of the contribution from the Australian Labor Party and their coalition partners, the Australian Greens, is of course that they leave the facts out. The story does not sound anywhere near as compelling when the facts are left out.

Senator Polley interjecting—

Senator O'SULLIVAN: I am pleased that I have the attention of Senator Polley. Let's first of all debunk the story about our government introducing the backpackers tax. The facts of the matters are that in the 2012-13 budget, the best Treasurer the world has ever seen, Mr Swan, introduced the rate of 32.5c, which is now loosely referred to as the backpacker tax. So it is a Labor-Greens backpacker tax that we are dealing with. I am pleased to see that Senator Whish-Wilson fits the description of another senator here now who understands the Constitution better than the High Court, and we now have a situation where he understands tax rules and tax laws better than the Taxation Office and the Administrative Appeals Tribunal, who visited this question in 2015. This where this dilemma comes from. The Greens-Labor backpacker tax was tested in the—

Senator Polley interjecting—

Senator O'SULLIVAN: Through you, Madam Deputy President, I know this is really inconvenient rhetoric for Senator Polley, but if you sit there quietly, kick your shoes off, throw your legs up and have a listen, you are going to learn something out of this, Senator Polley. Here are the facts: you introduced the tax at 32.5c, so it is a Greens-Labor backpacker tax, if you want to give it that name. In March 2015 the tax office took three matters to the Administrative Appeals Tribunal, where the question posed was whether these backpackers were residents of Australia. The Administrative Appeals Tribunal ruled that they were not residents and, therefore, they were subject to the 32.5c—

Senator Whish-Wilson interjecting—

Senator O'SULLIVAN: I know that Senator Whish-Wilson often does not put as much research into matters as he ought to, but I am happy to help him, because I have put the effort in. It was the Administrative Appeals Tribunal that made the ruling that they could not—in
the contribution made by the senator before me it was almost suggesting that if you are confronted with the form, and you are a foreign national, a backpacker from Panama or Patagonia—I do not even know where Patagonia is—confronted with a form asking, 'Are you a resident of Australia?' you would tick the box. On your version of events, that is all that needs to happen. In fact, that is inconsistent with the law. The law does not support your principle. I really think that people looking at the Hansard of your speech ought to do a little bit of due diligence themselves. I expected a bit more from someone who has been a banker. But of course the contribution was not being made by a banker; it was being made by a grape-grower who uses this labour on their farm and does not want them to pay any tax. You talk about a conflict when you made some reflections on me. But let's get back to the issue at hand. This was Labor's—

The DEPUTY PRESIDENT: Senator Whish-Wilson, on a point of order?

Senator Whish-Wilson: Senator O'Sullivan just snurred me. It was unparliamentary. I do not know what conflict he was referring to there. I think he needs to clear the record on that.

The DEPUTY PRESIDENT: I do not believe there was a slur, Senator Whish-Wilson. It has been a wide-ranging debate.

Senator O'SULLIVAN: The donkey will continue to bray, to use your own words, as we are talking about slurs. Let's get down to the serious issue here. We have the Labor-Greens backpacker tax at 32.5c. We have a confirmation that the existing law of the land was to be followed by the Australian Taxation Office. That is supported by the Administrative Appeals Tribunal. That is the simple pathway by which we found ourselves where we were. What did the government do? The government of the day, with a great deal of support and energy from members of the National Party, which has been under attack here, went to industry. We eventually took 1,760 submissions. Let me repeat that for effect: 1,760 submissions from all interested parties right across all the sectors of tourism, service industries, agriculture, particularly in horticulture, and, in pockets, meat processing. We went to them all. I must confess that even if I had rung every agricultural producer in Queensland, I would not have said it because it would have been met with the incredulous disbelief that met your statement that you have somehow rung every agricultural producer in Tasmania. I know there are not a lot of people in Tasmania, but that statement was outrageous. For you to present to this place and suggest that somehow you have caucused every interested party in Tasmania diminishes your argument. It puts your argument under clear doubt.

What I can tell you—this is a matter of public record, and these submissions are available for you on the government website—is that we took 1,760 very well-made and comprehensive submissions from all those industries. As a result of that the government settled on a position. We settled on matters to resolve this. You know who the first one was to agree with us? The Labor Party's shadow Treasurer, at the Press Club. He was the very first one. If you have a laptop here today, whip it open and have a look: you have still banked 32.5c in your budget—Labor's budget. You have not put it down to zero, as Senator Whish-Wilson would want. You have not even put it down to 10.5c. You have it in there at 32.5c.

Senator Polley interjecting—

Senator O'SULLIVAN: Senator Polley, when you make a contribution today, what you should do is say to the Australian people, 'We've had a big change of mind and change of
heart: we're going to cut the billyo out of this $540 million that we have in our budget papers, online, today, contemporaneously,' and when the $370 million disappears from revenue, you tell them what you are going to cut out of your services or what other taxes you are going to provide.

Senator Polley interjecting—

The DEPUTY PRESIDENT: Order, Senator Polley!

Senator O’SULLIVAN: When I get Senator Polley going without a breath, I know that I am right on the money. This is proving to be grossly embarrassing for our Labor-Greens coalition sitting opposite here, because this has been their problem. This remains a problem for you. It is not for us. After we have consulted industry extensively and had 1,760 submissions, we have settled on a very balanced and fair position for this backpacker tax.

Let me now make a point. I promise you this: if the sun sets today and this legislation has not passed the Senate, the tax rate is 32.5c. All of these industries that you all pretend that you are supporting, with your crocodile tears—I tell you what: I move around the bush of Australia a lot, and I have never cut the tracks of any of you. No-one ever said that you were at bloody Wagga Wagga, or you were up the re at Chinchilla or Cunnamulla or Dalby or all the places where I spend my entire time. This is a very serious matter and I should no longer make light of my contribution.

Debate interrupted.

STATEMENTS BY SENATORS

Road Safety

Senator GALLACHER (South Australia) (12:45): I am very pleased to inform the Senate that the Parliamentary Friends of Road Safety Group has been re-formed in this parliament. I—along with Llew O’Brien MP, the member for Wide Bay—look forward to making an contribution in this space. The friendship group has been established with the aims of elevating within the federal parliament greater awareness of road safety, informing federal parliamentarians of the need for continual improvement in safety outcomes, informing federal parliamentarians of the national and international initiatives with the potential to improve road safety, and ensuring that members of the federal parliament are aware of the enormous social and economic cost to the economy of failing to continually prioritise improving road safety outcomes. I would also like to put on record my appreciation of the support and work of the honourable Darren Chester MP, Minister for Infrastructure and Transport, who was the co-chair of the friendship group in the last parliament.

I have had a lifetime, as have a number of senators, of either working on the road or spending a lot of hours driving on the road. That has made me aware of the ever-present danger that every Australian faces each day when they drive their vehicle. I do have a passion for road safety, and our country's prosperity is in part reflected in the love affair that we have with motor vehicles. The freedom and mobility achieved by owning a car are sometimes tempered with the sickening human and economic cost of vehicle accidents. The various authorities that are charged with the third-party insurance provisions understand that death is relatively cheap when compared with the costs associated with serious and catastrophic injuries. The attendant economic costs are enormous. The last study estimated that $27 billion was lost to the Australian economy in the cost of failure to address road safety. I have always
believed that the Swedish model of Vision Zero was an excellent starting point. That starts off with the statement:

… we are human and make mistakes.

… … …

… our bodies are subject to biomechanical tolerance limits and simply not designed to travel at high-speed—
yet we do so, and—

An effective road safety system needs to take human fallibility into account.

I just want to put clearly on the record what has happened since 1986. In 1986 there were 2,888 fatalities. In 2015 there were 1,205, so real, quantifiable work has been done: 1,683 Australians are here who would not have been had we not endorsed and accepted effective policing, better road design and safer car design. That is an enormous number of lives. If we break down the 2015 statistics of who does die in our fatalities, we will find that 164 of them were pedestrians—so they really had nothing to do with the motor vehicle other than the collision—203 were motorcyclists, 51 were pedal cyclists, 249 were passengers, and 555 were drivers. Very clearly, we have a situation where we can do better. We as a country can do better, each state can do better, each parliament can do better, and the tragedy is that we are not. The figures for 2016 are, sadly, on the increase. We are accepting a situation where 1,205 Australians will go out in the morning and not make it home. Very sadly, in 2001 we had 27,482 hospitalised injuries by a road user. In 2013, which was a lull in the stats, we had 35,059, an increase of 7½ thousand Australians who were hospitalised as a result of a road traffic accident.

Very clearly, we have been effective at reducing the number of deaths, and that has been done by vehicle design, road design and effective law enforcement. If I were to say one thing about law enforcement, it would be that parliaments do not have the backbone, in my humble view, to stand up and call things out for what they are. When people make the statement that fixed-point speed cameras are about revenue-raising, clearly that is the case—they do raise revenue—but, more importantly, they change behaviour. No-one gets a hefty fine or loses three demerit points without thinking about it, and behaviour is changed. Effective enforcement is behind the lowering of our toll, and we as politicians should never shy away from that. When people get these articles up in newspapers around the country saying the state government is only revenue-raising with a red-light camera or a fixed-point speed camera—for goodness sake, do you really want to go through a red light? Do you really want to face those consequences? They change behaviour.

Secondly, I think we ought to bite the bullet instead of letting the marketplace advertise cars that park themselves. That is exactly the same technology that stops you from running into the car in front of you. So we should mandate autonomous braking technology. We are not going to make, to our great shame, any more motor vehicles in Australia once Holden closes. We are not going to manufacture cars, and that it is a great shame. There is a one-off opportunity that parliament, which controls Australian design rules, could take. We could mandate the safest cars in the world be imported here. That would include things like autonomous braking technology, which simply means you are less likely to run into the car in front of you. Senator Williams, in the country if you have fallen asleep and you are going off the road and you are going to hit a tree, lane-assist technology will correct your vehicle. If
you are going to cross over that white line and collide head-on with another vehicle, lane-assist technology will help you. These things are cheap. The technology is available. They could be mandated. We could have the one million-plus cars that are sold in Australia every year having a high level of technological safety features. That is something to aspire to. That is something that I am hoping that the Parliamentary Friends of Road Safety will take on board.

In the few moments I have left I want to touch on what this subject looks like globally. There is an excellent World Health Organization report where we are in the category of one of the 28 countries representing 449 million people in the world who have adequate laws in respect of all five risk factors—speed, drink-driving, helmets, seat belts and child restraints. Only 28 countries and seven per cent of the world's population have appropriate legislation in respect of this. Over 1.24 million people will be killed in road accidents over the next 12 months. Only 88 countries have reduced the number of deaths on their roads. The total number is extraordinary—1.24 million.

These factors should not dissuade us from going faster to improve our situation to get down to zero, if that is possible. We know that there are risk-takers out there in the community who drive without a licence and do silly and stupid things, causing death and injury to other people. But the majority who are law-abiding citizens can take regulation and enforcement and change our behaviour and be safe citizens. We can drive safer cars because the government can mandate them. We have taken evidence in the parliamentary inquiry into road safety which simply says that it is quite cheap to do that. In fact, this is a one-off opportunity, I believe. If we are not going to make motor vehicles in Australia, we can simply and quickly mandate the safest vehicles for our most vulnerable road users.

**Geelong Star**

**Senator WHISH-WILSON** (Tasmania) (12:55): I rise during senators' statements today to talk about the extraordinary development overnight where it was reported that the supertrawler—the large factory freezer vessel—the *Geelong Star* has fled Australia and is steaming around the bottom of South Africa on its way to Scotland. As those who have been following the debate on this very closely over the last four years know, Australia has seen the arrival of two large factory freezer vessels. The first one was the *Margiris*, which arrived in 2012. After the then Labor government banned the *Margiris*, a second supertrawler came to Australian waters called the *Geelong Star*.

We have no explanation as to why the *Geelong Star* left Australian waters. We do not know why the *Geelong Star* left Melbourne nearly two weeks ago. The arrival of this boat 18 months ago and its operations have been a significant matter of public interest in Australia. When the *Geelong Star* arrived in Australia, nearly 100 metres long with a couple of thousand tonnes of freezer capacity, it killed nine dolphins in its first few weeks of operation. Since then, estimates provided by AFMA are that up to 50 seals have been killed by the 300-metre nets of this boat. A number of albatrosses, sharks and other marine creatures have also been killed. This boat was not welcomed by the conservation movement in Australia. These boats and poor fishing practices right around the world have been fingered for the collapse of some fisheries. The crews, management and subsidies that go into these boats have also been called into question.

We do not know why the *Geelong Star* left Australian waters. We do know that when the boat arrived and carved its way through the marine life the government, under pressure from
the Greens, fishing groups and other conservation stakeholders, put strong environmental regulations on the *Geelong Star*, including dolphin exclusion zones. The boat could not operate for six months in areas where they had previously killed a dolphin. We know a night ban was put in place on the *Geelong Star* so it could not operate at night-time, which is deemed to be the highest risk of time for mortalities of marine mammals. We know that AFMA was forced to put two observers on board the *Geelong Star* so that it could be monitored 24 hours a day.

Since then, the management of this company have lobbied hard to have the night ban removed. Unfortunately, they were successful. In recent months evidence has also come to light that the second observer has been removed from the boat. So we know the management of this vessel were lobbying hard to have environmental regulations around its activities either loosened or deregulated.

We also know from data provided by AFMA to the Senate that this boat has struggled to catch anywhere near its quota of fish that was set out. In some cases they have been able to catch less than 10 per cent of their allowable catch. In some cases it has been a third, with a maximum of half. We do not know the reasons why the *Geelong Star* has caught nowhere near its quota. The company have made statements that the environmental regulations here precluded them from going back into those zones where they had killed dolphins. That may have played a part in it.

But we also know that there is scientific uncertainty around the biomass estimates of the Small Pelagic Fishery. This fishery off Tasmania and south-east Australia almost went into collapse nearly 12 years ago. Now, we do not know if that was from warming waters or whether it was from overfishing; that is still disputed. But we do know that the fishery was not accessed or exploited for nearly a decade. Then we have the arrival of these large factory-freezer vessels. These vessels have been targeted by rec. fishing groups because the small pelagic fish that they catch are the element of the food chain that are targeted by fin fish.

What I would be interested to know, Mr Acting Deputy President Back, is: did the boat leave simply because it was not commercially viable to operate here anymore; and, if that is the case, did it leave because there were not enough fish there or did it leave because it felt that our environmental regulations in Australia were too tough? Unfortunately, we have no information. We have no declaration from the company itself. AFMA have simply said: 'The boat has left. Take it up with the company if you want more information.' I understand that the fisheries minister has no additional information on that. But it is very important that we get this information.

I would like to know: is this boat going to come back? It does not make sense that it is leaving before the beginning of Australia's fishery season. It is steaming nearly 12,000 nautical miles to Scotland. That is a 40-day trip, at 12 knots, from Australia—a long time to move to another fishery. But is it still open to this boat to come back to Australia? These are the questions stakeholders want answered, and I will be asking the government to address these issues.

Most Australians do not want large factory-freezer vessels operating in small pelagic fisheries in midwater trawls. We in the Greens believe that the science has never been fully established, especially around localised depletion, which means the acute impacts of these
trawlers in areas that are accessed by rec. fishermen and also in areas where we have a high abundance of marine life that relies on these small pelagic fisheries.

We do not know anything about the fate of the workers. How many of these workers were Australian? Have they been paid out their wages and conditions? We know absolutely nothing about the departure of this boat. It is incumbent on us, given it is a matter of significant public interest, to get answers to these questions.

I understand the Senate Environment and Communications References Committee will be reporting on its inquiry into large-capacity fishing vessels—and Senator Urquhart is in here, who was on the inquiry—later this afternoon, with its recommendations. But it is very odd that this boat is leaving the day the Senate committee is handing down its report, and why it was announced today by AFMA that this boat had left.

Are we going to have more supertrawlers in Australia? I think now is the time to get these answers and actually find out the information we need as to why it was not sustainable for this company. I am presuming it was a financial decision, because they could not catch enough fish. It clearly was not commercially viable for them here; they have gone off to plunder another fishery. If that is the case, I would like to see some sort of statement from the Fisheries Management Authority, who had an observer on board, so they must have been aware that the boat was leaving a long time before last night, when the Fisheries Management Authority let us know. We have asked questions about how much fish has been caught or where the fish is going, because the small pelagics were supposed to be feeding the poor in Africa. I understand the fish are being made into fishmeal. Is that going to fish farms? Did it go to Africa? I have seen pictures of it sitting out on the dock in the sun.

This has become a bit of a mystery ship, almost like the Marie Celeste. But these are important questions to which I would like to see the answers, and I think the Australian people, rec. fishermen and conservationists would like to put this issue to bed. I do not think many Australians support these large factory-freezer vessels, especially when they came to our waters and killed so much marine life. Dolphins and seals are protected species under EPBC law. This boat came here in a sea of controversy, and it caused a catastrophe in the first few weeks. It lost its social licence then. Now is the time for us to find out the information we need, and make a statement and look at legislation that would ban these kinds of factory-freezer vessels from ever again operating in the Small Pelagic Fishery in Australia.

National Adoption Awareness Week

Diwali

Hungarian Revolution: 60th Anniversary

Australian Capital Territory Australian of the Year

Senator SESELJA (Australian Capital Territory—Assistant Minister for Social Services and Multicultural Affairs) (13:05): It is great to get up today to highlight some important events that have taken place here in Canberra in the last few weeks.

In particular, two weeks ago we celebrated National Adoption Awareness Week, and it was my pleasure to launch the week and help shine a spotlight on adoption in Australia. I do not think enough Australians are aware of just how many children across Australia are in out-of-home care. The numbers are quite staggering: over 40,000 Australian children are in out-of-
home care at any given time—around 43,000 currently. Yet only 209 domestic adoptions took place in 2014-15, the last year that we have statistics for. It is worth repeating those numbers. There are 43,000 kids in out-of-home care and there were only 209 adoptions in Australia in that 2014-15 year.

This is a fundamental problem. There are tens of thousands of kids who are not being given the kind of stability that we know that they deserve, that they need and that is critical to their wellbeing. We all know intuitively that stability and love are critical for children. But science is telling us more and more. We see study after study showing that, when kids have that stability, their life outcomes tend to be much better. We know that, when they lack stability, when they go from place to place, from home to home—in many cases, several foster-care placements; in some cases, more than 10, 12 or 15—the life outcomes for those children are nowhere near what they should be and in many cases are quite tragic.

The Australian Institute of Health and Welfare released a report in October which found that young people who were in the care and protection system were 14 times more likely to be part of the youth justice system. This is another shocking statistic that goes to this point. At the end of National Adoption Awareness Week I had an opportunity to meet with relevant state and territory ministers and made some undertakings to continue to advance permanency. These are good sentiments, and it is important that we now start to put them in place with actions so that more kids have stability, more kids are adopted and more kids have the kind of care they need and deserve.

I want to commend the work of Adopt Change for their advocacy in this space and their work on Adoption Awareness Week. Its CEO is Renee Carter and it has a wonderful board. Catherine McDonnell is the chair; Victoria Buchan, Kerry Chikarovski, Helen McCabe, John O'Neill and Deborra-Lee Furness—who founded Adopt Change—are members. They have done some wonderful work.

I would also like to thank Lisa Stahlekar, Brad Murphy and Bernadette Blenkiron for sharing their stories at the launch here during that week, and Chauntelle McNamara, who was ACT Barnados Mother of the Year 2015 also attended. I want to thank all those people in the ACT who have shared their experiences with me of adoption, foster and out-of-home care.

Another event that I want to highlight is Diwali. Diwali is, of course, the Festival of Lights; it is a celebration of peace and the victories of good over evil, and knowledge over ignorance. I had the honour of co-hosting the Hindu Council of Australia's Diwali celebration at Parliament House on 7 November, which has been a regular affair here since 2004. We host a lot of functions here in the people's house, but I think our Diwali events are among the best celebrations we have each year. It was great fun to share in the festivities with members of the Hindu community and many of my parliamentary colleagues. I know that all around the country local communities are coming together to share in the Diwali spirit of giving among family and close friends.

I had the opportunity to attend other Diwali functions in Castle Hill and Liverpool; they were wonderful events. I would like to thank His Excellency Navdeep Suri, the High Commissioner of India, for joining us for the celebrations, and I think his presence is indicative of the strong friendship between Australia and India and the strong links between the Hindu and wider Australian community. I would also like to thank Professor Nihal Agar and Prakash Mehta, who are the chairman and director of the Hindu Council, respectively.
would also like to acknowledge the vibrant Indian community of the ACT, represented by the President of FINACT—the Federation of Indian Associations of the ACT—Mr Amardeep Singh, who is a great community leader and a great representative of his community.

On another issue, 23 October is an important day for Hungary as it marks the 1956 Hungarian revolution. It was a great honour to be part of commemorations for the 60th anniversary of this important day with members of the Canberra Hungarian community. This event reminded me of time in the not-too-distant past when the Soviet Union sought to control the lands and the peoples of Europe under their brutal regime. The dictatorial ambition of Stalin and the Soviets drove many to flee from their homelands to escape oppression—many Hungarians who since have made their lives in Australia, as well as people from other parts of Europe which had also come under communist control, including the former Yugoslavia, where my own family came from.

The Hungarian revolution shook the Soviet machine and began the long march towards the fall of the Berlin Wall in 1989 and the fall of the USSR a couple of years later. This anniversary is a celebration of freedom and the belief that human liberty can overthrow the forces of violence and oppression. We remember the 2500 Hungarians who lost their lives fighting in the revolution and the 1200 executed by the communist government in the aftermath. It may have taken another 40 years for the Soviet Union to fall, but the human desire for freedom and human dignity lingered on in the Hungarian people during that time, thanks to the sacrifice of their fellow countrymen and women. Their fight for freedom in 1956 reminds us of the value of freedom. It is something worth fighting for. It was great to have Steve Doszpot, MLA, himself a Hungarian refugee, at the event to show his support.

Finally, I would like to acknowledge a great Australian and a great Canberran, Alan Tongue, who was recently named the ACT Australian of the Year. I want to thank Alan for his hard work in our community in working with at-risk youth and mentoring juvenile offenders. I am really glad to see Alan get recognition for his efforts in the Canberra community since retiring from the NRL. I think he really understands the vulnerable position a lot of youth offenders are in, and his Aspire program gives them the life skills and the strong role models they need to find some stability and put their lives back together.

Alan has worked closely with community organisations across the ACT and beyond, and I commend him for his work with the Bimberi Youth Justice Centre, the Alexander Maconochie Centre and in schools across Canberra, as well as his efforts at the Early Morning Centre, serving breakfast to people sleeping rough in Canberra. I think that Alan is a wonderful example to young people today. It is always inspiring to see our local sporting heroes, as Alan is, giving back so thoroughly to our community. I think all Canberrans are very proud of Alan Tongue. We do not know who will be the Australian of the Year, but can I say that Alan Tongue would be an outstanding choice. I commend him for his contribution to our community, to Canberra and to our nation more broadly.

**Employment**

**Senator WATT** (Queensland) (13:14): I rise today to talk about something that the government does not seem particularly interested in—and that is jobs. And, no, I am not talking about the Prime Minister's job, or the immigration minister's job, or even the 'very, very mediocre job' being done by the Attorney-General and his mates in the LNP in Queensland. I am talking about jobs for people from my home state of Queensland, especially
in regional Queensland—people who are afraid of being left behind by our globalised economy, people who are being passed over or taken advantage of by dodgy employers. If you listen to the government, you would be fooled into thinking that these people did not even exist. My message to the government is that maybe they should spend a little bit less time worrying about their own jobs and little bit more time talking to real Queenslanders and real Australians about their jobs. That is exactly what I did last Friday. I travelled to Rockhampton in Central Queensland to host a roundtable with local union and community leaders to discuss Labor's plan to help more Australians into good local jobs.

Rockhampton is in the Fitzroy region of Queensland and that region has been hit hard by the economic downturn over the last few years. Unemployment in the Fitzroy region is running at 5.8 per cent and youth unemployment is even higher at 8.6 per cent. That is before we even get to the issue of underemployment, where people are not able to get the hours of work that they either want or need to pay their bills.

Despite the number of local residents in the Fitzroy region looking for work, currently there are 665 overseas workers in that region working on 457 visas. As I have said in all of my public statements, Labor absolutely agrees that there will always be a place for overseas workers in Australia to meet areas of genuine skill shortages, but we do have very serious concerns about the abuse of 457 visas by some dodgy employers both to overlook local workers and also to exploit overseas workers on much lower wages and conditions than are fair in a country like Australia.

My roundtable in Rockhampton last week showed that indeed 457 visa rorts are a very big issue for workers in Central Queensland. Local jobseekers are fed up with dodgy employers avoiding fair wages and conditions by flying in overseas workers on 457 or other work visas to do jobs that locals could be doing on local wages and conditions. At the roundtable, I spoke to Paul from the meat workers’ union about workers and friends of his who had been let go from the local meatworks, which is one of the largest employers in the region, only to be replaced by workers on 457 and 417 visas. Some of Paul’s friends had been working at the meatworks for over a decade and had taken a lot of pride in their work but found themselves laid off and overlooked in favour of cheaper overseas labour.

Similar problems were raised at the roundtable by representatives of the mining and manufacturing industries, so this is a very widespread problem in Central Queensland. Job losses like these are devastating to communities like Rockhampton and many other regional centres in Queensland. I also spoke to several attendees who were worried about the fate or their children or grandchildren and their chances of accessing training or jobs locally. One of the other really big complaints that day was that too often there are employers locally who are not properly investing in training and who are not putting on apprentices or giving young people opportunities to enter the workforce. One of the other concerns was the use of 417 visas, which are supposed to be for backpackers and working holidaymakers, being used by employers for lower-skilled positions and depriving local young people of entry-level jobs that they could use as stepping stones to more highly skilled jobs in the future.

It was fitting, on that note, that last Friday when I held the roundtable was the last day of school for a lot of Queensland year 12s. These kids are now ready to begin the next leg of their journeys of life and they are excited for the future. It is really important that politicians ensure that our laws and regulations are structured in a way that do give young people
opportunities by providing job and training opportunities. It is our job as legislators to make
sure that kids leaving school know that they do have opportunities within their own local
communities—again, this is the importance of making sure that employers are properly
investing in training young people rather than taking the easy way out and bringing in
overseas workers on lower wages and conditions.

Unlike the government, who have no plan to secure jobs for Australians, the Labor Party is
committed to making sure that, when it comes to local jobs, locals get a fair go. That is why
we will toughen rules so that, where there are locals willing to learn and work, employers will
have to make a genuine effort to advertise and fill jobs locally before turning overseas. We
will introduce a requirement that jobs be advertised for a minimum of four weeks. The
situation we have at the moment is that, as long as an employer has advertised a position once
in the preceding 12 months, if they have not managed to find someone for a particular
position, they can find someone for a 457 visa or 417 visa and bring them in rather than
making sure that they are consistently looking for local people instead. The new requirement
that Labor will insist on is that jobs are advertised for a minimum of four weeks within four
months of an overseas worker being hired. This will make a really big difference and put a lot
more pressure on employers to do the right thing and genuinely look locally first.

In addition, we will ban job advertisements that only target overseas workers. We think it is
important that local workers do have first dibs before getting to situations where overseas
workers might be needed. As I have mentioned, too many young jobseekers are being
overlooked by employers who are not interested in investing in training for locals. We do
recognise that there are situations where an overseas workforce is required, but under Labor's
proposal employers who do use a large number of overseas workers must have a training plan
in place to train local workers.

Labor's plan is not just going to be beneficial for locals and young local
jobseekers. It is
actually beneficial for all workers. When overseas workers arrive in Australia, we see far too
many instances where they are being exploited by their employers and forced to work for less
pay, sometimes in downright dangerous workplaces. The litany of scandals go on day by
day—7-Eleven, Caltex and fruit picking. There are so many situations in Australia at the
moment where we are finding employers bringing in overseas workers and paying them
below the EBA or below award rates and conditions. People often feel very threatened and
isolated in their workplace and feel they cannot make complaints about their wages and
conditions or workplace safety. That is not the kind of Australian workplace that we want to
see for either overseas workers or local workers. That kind of exploitation not only hurts
foreign workers; it undermines Australian wages and safety standards and hurts us all.

While I was up in Rockhampton, it became very clear to me—if I did not know already,
which I did—that the issue of jobs and unemployment is a really key issue in Central
Queensland. I have made a commitment to spend even more time in Central Queensland next
year, particularly talking to people about what we can do to create jobs in the local area and
protect those jobs that already exist. As part of that, I will make sure that I take the outcomes
of those discussions directly to Labor's leadership so that we can see more policies like this
which really respond to local circumstances.

It was also very clear when I was in Rockhampton that locals feel totally abandoned by this
government, which is not looking out for their best interests. Unfortunately, it would appear
that the member Capricornia, Michelle Landry, does not take these issues seriously and does not want to stand up for the needs of local workers, to make sure that they do get the best opportunities to take local jobs. A week on from Labor's announcement to crack down on 457 visa rorts we still have not heard anything from the member for Capricornia about what she is going to do to tackle this issue. She remains totally silent; she continues to say and do nothing about local employment, while training and jobs remain big issues for her region. While Ms Landry herself was not prepared to make comments herself about this issue, luckily for her, her white knight Senator Canavan came to the rescue. He had all sorts of comments to make in the local media. As he is wont to do, he spent a lot of time attacking me. Interestingly, in his comments he did not talk about 457 visas whatsoever. Well, I do not know about you, Mr Acting Deputy President, but I find it embarrassing that Rockhampton locals cannot rely on their lower house representative or their locally based senator to actually stand up for them about an issue that is of deep concern there.

Senator Canavan spoke about this issue yesterday in the Senate. Again, he criticised me for being up there in Rockhampton talking about this issue and said that he thought that there were only about 300 people in the area on 457 visas, when in fact there are over 600. He also said that talking about this issue does not make sense to him. Well it does make a lot of sense to people in Rockhampton. They are very concerned about job options for themselves and for their kids. If the local representatives are not prepared to stand up, I certainly am.

Trade with Mexico

Senator BACK (Western Australia) (13:24): This year marks the 50th anniversary of diplomatic relations between Mexico and Australia, and this time last year Senator Gallacher and I put forward to the Senate a report on our relationship with Mexico. I want to reflect on that in the few minutes available to me today. As we know, President-elect Trump has determined that America will not be participating in the TPP. The TPP, of course, is a tremendous opportunity for Australia and Mexico.

I was in Mexico on a self-funded study tour in January last year, and I want to reflect for a few minutes on where the opportunities lie for a far closer relationship between Mexico and Australia. Let me start in an area that was addressed only in the last few minutes, and that is vehicle manufacturing. The Mexicans are well aware of Australia's vehicle component manufacturing industry and how well-respected it is. Of course, Mexicans are currently producing three million vehicles a year and they will move to five million by 2020. They have said to me that there are tremendous opportunities for Australians, and, as a result of that visit, there have been meetings in Adelaide and in Melbourne coordinated by Austrade and the Mexican embassy to inform vehicle component manufacturers of the opportunities that exist for Australians servicing that market. Indeed, I will be urging our Minister for Trade, Tourism and Investment to look for the opportunities for bilaterals between Australia and Mexico so that we can exploit those, obviously without paying the tariffs that might currently exist.

The second area is hard-rock mining. Obviously, Senator Smith, who is in the chamber, and I are very, very close to this industry. They showed me a geological survey of Mexico down in Pachuca and the maps that are used by seismologists and geologists to have a look at the metalliferous states and regions of Mexico, and they very proudly told me that the software that developed those maps came from Geoscience Australia and the CSIRO. One of them at that meeting told me that he is just commencing a PhD in mining technology at the...
WA School of Mines at Kalgoorlie, and they are well versed in those skills that Australians have in terms of mining exploration and related sciences—mine management, drilling expertise et cetera—which they believe would be of enormous benefit to them.

In the oil and gas sector, some 50,000 young Mexican students leave those shores each year to pursue higher education opportunities. Again, as a result of that visit in January of last year, the representative for Austrade in our embassy in Mexico City led a delegation to Australia—to UWA, Curtin University and Queensland—to explore further where the opportunities might be for Australia to assist the Mexicans and particularly Pemex, the Mexican government owned oil company, which is establishing a Pemex university in the oil and gas space. Again, there are tremendous opportunities in oil and gas exploration and extraction and in higher education.

The report that Senator Gallacher and I brought down spoke to some extent also of opportunities in tourism. If we could, for example, commence direct flights between Australia and Mexico we would see a radical increase in the volume and the value of tourism between our countries. Of course, with tourism comes understanding and with understanding comes higher education opportunities. In that vein, I note that our Minister for Foreign Affairs, Ms Bishop, of course has developed the excellent New Colombo Plan, which at the moment is involving thousands of students going into some 30 countries in the Asian region, and I have urged her that we should extend that over time to enable our young students, in their undergraduate years, to go and study in countries like Mexico.

In the few seconds left available to me I will speak about the opportunities in agriculture. Only this morning I had in my office representatives from the Sheepmeat Council talking about the opportunities, should we be able to remove tariffs between Australia and Mexico, for the export of sheepmeat, beef and wine. They are well aware of Australia's capacity and the excellence of our wine industry. There are opportunities for the export of grapes, grains, malting barley, et cetera. So when one door closes, another one opens. We are, as you know, an exporting country. So even if the TPP, in its current form, does not proceed, the opportunities for Australia and in this case with Mexico are well worth exploring.

Tasmania

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (13:29): Despite the government barely scraping in at the last federal election, there is no doubt that the result in Tasmania was a disaster for the Liberal Party. They returned only four senators, and we saw the departure of the self-styled 'Three Amigos' from the House of Representatives. In fact, the Liberal Party now have no House of Representative members in Tasmania. Four and a half months later, it appears that Mr Turnbull either has not learnt his lesson or has simply given up on Tasmania for good.

Since the election, time and time again, Mr Turnbull has been leaving Tasmania off the map—which might account for why he has only been to Tasmania about four or five times since the election of the Abbott Turnbull government. Most of those visits have been to the north and north-west of the state; he does not really seem to know anything about the southern part of Tasmania at all. So, as I said, time and time again Mr Turnbull has been leaving Tasmania off the map. It started with the announcement of his ministry, where not a single Tasmanian was included. Senator Abetz was clearly unhappy with the decision, and he said...
that the Prime Minister needed to explain why Tasmanians were overlooked for ministerial positions. Senator Abetz told ABC Radio in Hobart:

If he didn't want to look at me then clearly Senator David Bushby … is a future ministerial talent and the Prime Minister needs to explain why he was overlooked …

The failure to include even one Tasmanian in a ministry of 40 speaks volumes about Mr Turnbull's commitment to Tasmania.

Then, in September, when Mr Turnbull announced the government's Smart Cities and Suburbs Program, Tasmania was left off the schedule of meetings to discuss how the $50 million program would be spent. Hobart was eventually included, after a very hastily arranged backflip. This followed a similar incident a month prior, where Tasmania was excluded from consultations over the introduction of the government's botched backpacker tax, despite being one of the states worst affected by their bungling of the issue. Fortunately, this decision was also reversed after lobbying by the industry, and the department scheduled a face-to-face meeting in Hobart.

As if the Turnbull government abandoning Tasmania is not bad enough, we have a state Liberal government that is so weak that it will not stand up to the federal Liberal government. When Mr Turnbull's government decided to close the Antarctic scientific research station on Macquarie Island, Premier Will Hodgman was not even notified. Red-faced—very red-faced, I think—Mr Hodgman was forced to admit in parliament that he did nothing to stop the closure of the centre, because nobody in the federal government had warned him about it. In a further snub to Mr Hodgman, his demands to the Turnbull government on health and education, issued several months ago, continue to go unaddressed. The Turnbull Liberal government has ripped $60 million out of Tasmanian schools, $125 million from the University of Tasmania and $1.2 billion from Tasmania's hospitals.

One of the many victims of the Liberals' cuts to health is the Better Access to Palliative Care program, which faces a dire future without further funding. Those who have been following my speeches in this place will well know that I have been advocating for Palliative Care Tasmania for some months now. They are facing the prospect of closing their doors by Christmas. It does not look like there is going to be any joy. Once again, the Turnbull government just could not care about what is happening in that respect. Tasmania has been hit particularly hard by cuts to the Rural Health Outreach Fund, which has had devastating consequences for health outcomes in regional communities. So have the savage cuts to the Youth Connections program, a program which has helped 1,400 young people in northern Tasmania get back on the path to finishing school.

The Liberals' record on serving Tasmania stands in stark contrast to that of Labor in government. Labor delivered the Brighton Bypass, the Brighton Transport Hub and the Royal Hobart Hospital redevelopment, and made massive investments in our rail freight network and irrigation schemes. It was Labor that commenced the National Broadband Network rollout in Tasmania ahead of the rest of the country and, had Labor won the last election, the north-west coast of Tasmania would have received a full fibre NBN, not the Liberals' second-rate copper network. It was Labor who first committed to the University of Tasmania's $150 million expansion of its Launceston and Burnie campuses, with the Liberals belatedly playing catch-up.
Perhaps Mr Turnbull and his Liberals would sit up and take notice if they had a Tasmanian in the federal cabinet, fighting for Tasmania's interests—but, of course, to do that, they would actually need to get some more members. If we had a Premier and a state government in Tasmania with some backbone, ready and willing to take the fight up to Canberra in any meaningful way, that might help us too. Unfortunately, Premier Hodgman does not have the spine to stand up to his federal counterparts, and Mr Turnbull and his Liberals continue to leave Tassie off the map.

**Australian Defence Force**

**Pensions and Benefits**

**Euthanasia**

**Australian Federal Police**

**Senator LAMBIE** (Tasmania) (13:34): Yesterday I raised in this Senate life and death matters regarding high-level official corruption, crime and misconduct in the Australian Defence Force, which involved the deliberate targeting and harming of two veterans and their families by a number of high-ranking Defence officers and officials. Yesterday, retired Lieutenant Colonel Dubsky and retired commando Mick Bainbridge sat in the Senate as I detailed their stories and described the sneaky, malicious, vindictive and illegal behaviour of high-ranking Defence officers and others which caused so much harm to both veterans and their families.

I used a secret and damning New South Wales police report, as well as testimony from Lieutenant Colonel Dubsky and retired commando Mick Bainbridge, to build my argument for the establishment of a royal commission to properly investigate these matters, to bring the guilty to account and to deliver justice to the many victims. Many powerful and influential people would be witnesses before a royal commission should it be established, including the Governor of New South Wales, former General Hurley; Australian of the Year and former Chief of Army David Morrison; senior police detectives from New South Wales and from other states; and prominent members of the Australian media, including Channel 7 television reporter Robert Ovadia.

Mr Ovadia's initial report into the so-called Jedi Council sex scandal was based on false information illegally leaked to him by unknown criminals in the Defence Force, causing significant harm to retired Lieutenant Colonel Dubsky and his family. In effect, Mr Ovadia initially produced an unbalanced, sensationalist and factually incorrect report after he was played for a fool by people in Defence who illegally leaked information about the Jedi Council and Karel Dubsky to him. He went on to correct the record in other award-winning reports, but the damage was already done. You will recall that Karel Dubsky has survived two suicide attempts and six months of electroshock therapy, takes 24 tablets a day and is fighting hard to make a new life for his family after being used as a scapegoat and a career stepping-stone by General David Morrison and, to some degree, journalist Robert Ovadia.

Today, I referred to the Australian Federal Police an email from journalist Robert Ovadia that one of my staff members received late last night. The unsolicited email contains a cryptic, ambiguous message that could be interpreted as a veiled threat. Its reads, 'Words spoken today will not be forgotten.' I will let the Federal Police assess whether or not it is a veiled threat from Mr Ovadia—but I am not playing games with the safety of my staff. The Lambie staff
have all been subject to a number of threats to our physical safety that we immediately referred to the proper authorities. Nor will I allow anyone to improperly interfere with the free and fair performance of a member of this Senate. Yesterday, Mr Ovadia also sent a terse email to Mr Dubsky, a man in fragile mental state, after I used information from a secret New South Wales Police report, Strike Force Civet—which found lies, cover-up and corruption in Australia's military—to support Mr Dubsky's claims he was unfairly targeted by high-ranking corrupt officers for appalling treatment.

I do not want my office to have any further communications with Mr Ovadia, except if he wants to tell me the names of the criminals in the ADF who illegally released the names of Karel Dubsky and other innocent victims of the Jedi Council scandal to him. If Mr Ovadia tells me the names of those criminals in the military, I will refer those people as well to authorities for a proper investigation. I will also use Mr Ovadia's information in this Senate in order to force this government to establish a proper, independent judicial investigation into the systemic corruption and crime that has infected the upper ranks of our Australian Defence Force. In relation to retired Lieutenant Colonel Dubsky and retired commando Mick Bainbridge, I ask once again that this government establish a special mediation process to hear and remedy the considerable harm and injustice suffered by both veterans and their families.

I turn to cuts to pensions. With Christmas just around the corner, it is time that this chamber consider the cuts to pensions that this government has guaranteed. As recent reports in the media, such as in *The New Daily*, remind us:

The government’s forewarning to pensioners to expect letters in the mail warning of pension cuts has triggered widespread concern.

... ... ...

Centrelink will send about one million letters in coming weeks to pensioners potentially affected now or in the future, the office of Human Services Minister Alan Tudge confirmed to *The New Daily*.

In December, a second letter will be sent to about 313,500 (8 per cent) of pensioners telling them their part pension is about to be cancelled or cut. About 225,000 will be told to expect less money, and about 88,500 to expect cancellation.

Australia's politicians and political parties have forgotten that the age pension is not welfare—it is a right and reward for working hard and paying taxes for 40-odd years!

I will now address the issue of euthanasia. Euthanasia for the terminally ill has been debated for decades, with no real progress. Only last week, South Australia voted down the 15th dying with dignity legislation in 10 years. And the Tasmanian state opposition announced they would try again next year. Victoria is currently considering whether to put up legislation. I have been told that around 70 per cent of Australians support euthanasia for the terminally ill, which raises the question as to why it has yet to be legalised in any Australian state. A plebiscite to determine that the majority do support euthanasia for the terminally ill would provide state governments the confidence they need to move forward with legalising this sensitive issue. This plebiscite will not be an additional burden to the taxpayer, as it would be held in conjunction with a plebiscite on same-sex marriage and a referendum on Indigenous recognition at the next federal election. The current environment is ripe for a renewed debate as to whether Australia should follow in the footsteps of the Netherlands, Canada, Germany, Japan and some states in the US.
I presume you have heard the pro-euthanasia argument that you would not let your dog suffer, so why would we allow our loved ones to suffer? For decades the response to this has been one of fear—fear of a slippery slope if euthanasia for the terminally ill is legalised. But I am here to tell you that we have evidence to refute the arguments brought by the 'no' camp. Producer and comedian Andrew Denton, lawyer Greg Barns, and the Dean of the Law Faculty of the University of Tasmania, Margaret Otlowski, who completed her PhD on this topic, have spoken to me regarding the details of euthanasia.

Turning to another matter, I have received a very concerning brief from the Australian Federal Police Association which shows this government is cutting back on resourcing, funding and staffing of the AFP by $112 million, despite our nation being on high terrorist alert. While the government has grandly announced an additional $1.2 billion of counterterrorism funding for keeping Australia safe and secure, none of the money is finding its way to the Australian Federal Police. The brief reads:

The 2015-16 Budget Papers indicate the AFP’s fiscal position through the forward estimates will deteriorate to the tune of $112 million.

As an operational agency, the brunt of this deterioration will be borne within employee ranks, with funds available for employee benefits reducing by $61 million. By straight division, this represents a reduction of 450 staff, though the actual number will be higher. Of an organisation numbering 6500, this reduction is approaching ten percent of total personnel.

Against this declining revenue, the operating environment could not be more complex. Australia’s National Terrorism Threat Level is Probable, whilst the Threat Level against police is Likely. Recent years have seen such developments as:

- Increasing numbers of foreign fighters, where Australians have travelled abroad to participate in conflicts in Syria, Iraq and Afghanistan;
- The rise of ISIS and the increased prevalence of home-grown terrorist threats targeted domestically;
- Technological advancements enabling fraud and other internet based crimes.
- Traditional crime types including drugs, organised crime and people smuggling still pervade.

In the 2015 Budget, an additional $1.2 billion of counter terrorism funding was announced for Keeping Australia Safe and Secure.

Despite being central to the Government's counter terrorism arrangements, the AFP received none of this funding.

Racial Discrimination Act 1975

Senator REYNOLDS (Western Australia) (13:43): Today, I rise again in this place to speak on what I believe is an essential pillar of our democracy—that is, freedom of expression. Free speech underpins every successful modern democracy. In fact, there is no greater democratic value or individual freedom more prized or oft cited in the modern Western world. While freedom of speech is really never fully free in any democracy, history shows us that freedoms are never successfully preserved through legislative or in-practice censorship of deeply held opinions or beliefs in the community.

Freedom of speech—no matter how uncomfortable it may be to some in society to hear and to listen to other people's points of view—is always the ultimate protector of minority groups in all democracies. Minorities inevitably suffer when the majority voice of the day dominates
the debate and the minorities' voices are effectively silenced. Their opinions do not go away. Instead, they get disenfranchised and they look for alternative avenues in which to be heard.

I think in Australia today we conceptually understand that our society is improved by the diversity of ideas which are robustly but respectfully contested and debated. In this way we know that the bad ideas wither away and the good ones gain traction, which then enables contemporary social norms to be reflected through us here in this place in the legislation of the day. But today I do not think this is always the practice. To me, we seem to be losing this ability to have free, frank and robust debate on important social issues, and I think that is to the detriment of all Australians.

Recent well-publicised cases against the QUT students and the Australian cartoonist Bill Leak demonstrate to me that we have serious constraints on freedom of speech in Australia. One way this has manifested itself is through the utilisation of section 18C of the Racial Discrimination Act. I see it today being used as a cudgel by those who do not like what they hear from others to silence those who are deemed to be politically unacceptable or politically incorrect. In Mr Leak's case, it was a cartoon that explored personal responsibility and fatherhood in Indigenous communities which drew the ire of the perpetually offended in our society. What he said through the cartoon may have been insulting and offensive to some, but surely the most important issue for Australian society and for all of us in this place is the social issue he so graphically brought to our attention.

And it is not just me saying this. Three senior Indigenous women last week told the National Press Club the same thing even more graphically than Bill Leak did in his cartoon. These women shared with the nation their own truths on this issue, and that truth was very clear and very stark. Their truth is that Indigenous communities and their supporters alike were guilty of reverse racism and that an indefensible adherence to traditional law was denying women and children their own basic human rights. Professor Marcia Langton observed that the outrage over the Leak cartoon ignored the fact that just under 10,000 Indigenous fathers are serving time in prison today for acts intended to cause injury, sexual assault and other crimes, mostly against the women and children in their family. This is exactly the point the WA Police Commissioner Karl O'Callaghan made in relation to the Bill Leak cartoon. Jacinta Price, a Warlpiri antiviolence campaigner and Alice Springs councillor, was quoted in *The Australian* as saying:

There's a social inability to criticise anything indigenous and Aboriginal people are encouraged not to evolve with the rest of humanity.

And it is not one of us saying this; an Indigenous leader from Alice Springs is saying that this is their own truth. Bill Leak, the WA police commissioner and these three women are all speaking their own truths and highlighting this completely unacceptable social situation in our society.

The stark fact is that no amount of use of 18C can hide the truth that endemic human rights abuse of thousands of Indigenous women and children is nothing short of a national disgrace. There is never, ever any excuse for violence and domestic abuse, just as there is never an excuse for anyone, including those of us in this place, to ignore it. Tragically, however, I think this is exactly what we are doing, and this is what happens when a society loses the ability to robustly and respectfully debate horribly uncomfortable issues that may actually cast a poor reflection on all of us in Australian society. But the question I ask today is: why is Bill
Leak still before the Human Right Commission when, to the best of my knowledge, the Western Australian police commissioner, who said the same thing as Bill Leak, and these three proud and courageous Indigenous women, are not? Why are they not before the Human Rights Commission? They have said exactly the same thing.

Section 18C protects people from hurt feelings while effectively censoring those who are brave enough to cause a social dissonance on important issues such as this. This clearly was never the intent of the Racial Discrimination Act, which, as the name suggests, was intended to limit discrimination based on a person's race. Section 18D is often quoted by those who support section 18C, and those proponents insist that is makes 18C a reasonable and just law. Section 18D, on the face of it, excludes from prosecution those who have spoken reasonably and in good faith—the so-called 'get out of jail free' card. But history clearly demonstrates that it is anything but.

I would like to share with those in the chamber here today the story of another cartoonist who fell afoul of section 18C, nearly 20 years ago. Dean Alston, from The West Australian, drew a cartoon about a group of Western Australian Aboriginals travelling to England to retrieve the head of Yagan. As Dean Alston said:

The cartoon highlighted the infighting over the taxpayer-funded trip as people fought for limited spaces on the touring party. The final panel had an image of Yagan's head in a box saying, 'Give me a warm beer in a quiet Pommy pub any day.'

After the cartoon was published an 18C complaint was made to the Human Rights and Equal Opportunity Commission. The complaint was subsequently dismissed under section 18D, but that was not the end of the saga; it was only the beginning.

An appeal was made to the Federal Court, which commenced seven years of legal action before it was eventually dismissed. While the case was ultimately found in the cartoonist's favour, the emotional and financial stress throughout the duration of these lengthy proceedings was unjust punishment in itself. Today, the facts of this case resonate very strongly with the Bill Leak case and also the QUT students case.

As my old Army boss, Lieutenant General David Morrison, noted: 'The standard you walk past is the standard you accept.' That we walk past and justify as 'culture' endemic violence against thousands of women and children in Australia's Indigenous communities shames us all here in this place and more broadly in Australian society. In Australia today we walk past far too much—all in the name of political correctness and, I think, the absence of courage to tackle and discuss the darker sides of Australian society.

Next year the Parliamentary Joint Committee on Human Rights, of which I am a member, will be examining, through a new inquiry, the state of freedom of speech in Australia. This is a debate that I hope all Australians will engage in, as there is no more important democratic freedom for all Australians. But, like all freedoms, it must be regularly reviewed, debated and fought for to ensure that those of us in this place make sure that the legislation that we pass, review and reform reflects contemporary Australian community standards.

I have a great deal of faith in the ability of all Australians to have a robust but respectful debate on this particular issue. Every single Australian citizen is a stakeholder on this issue, which is of importance to them, their family and their family's future.
I rise to talk about a story that was in today's *Mercury*, a Hobart newspaper, about the closing of Tasmania's Special Olympics branch. If this is indeed the case, it is very disappointing and quite concerning. The article in today's *Mercury* reveals:

It is feared Tasmanians with intellectual disabilities will be denied access to sports and activities after it was announced the state's Special Olympics branch will be closed next month.

I understand that the branch is to close on 16 December, so the proposed closure is going to take place very soon. It will leave Tasmania as the only state without a Special Olympics office. This is, as I said, very disappointing because Tasmania has a very proud history regarding Special Olympics. In fact, I understand the first mini Special Olympics were held in Tasmania in 1979, and we were one of the first states where a Special Olympics branch office was opened. The story goes on to say:

*Special Olympics provide a wide range of sports and programs for people with intellectual disabilities but these events could be hurt by the closure, with direction now to come from Victoria.*

Tasmania, again, is to lose out and become a sub-branch of Victoria.

The Tasmanian Special Olympics branch employs one person, Ms Bec Foster, and caters for sports for all three regions in Tasmania for about 130 athletes. It recently organised a school program that had 250 participants state wide— and I also note that the Special Olympics has Australian Governor-General Peter Cosgrove as its patron. I understand that Ms Foster has been told that the reason for the closure was, indeed, financial. The Special Olympics has an issue with its finances, and it has made the decision to cut the branch to save funds.

Ms Foster has said that her major concern regarding this proposed closure was really about the athletes. She does not want the athletes and the participants to miss out on what has been provided. That service will not exist anywhere else. No-one else is going to go into special schools, running programs and things like that. Ms Foster told the *Mercury*:

"I just don't want there to be a lack of opportunity for people with a disability. That is the main thing that I'm disappointed about."

Eighty-year-old Geoff Tringrove, who has been coaching basketball for intellectually disabled players at Glenorchy every Tuesday night for the past five years, is also concerned about what the future holds.

"It will affect us of course," Mr Tringrove said. "Who knows what will happen?"

"Who takes over? Who runs it? Or is Tasmania just forgotten per usual? It is really sad."

The story goes on to say that he, Mr Tringrove, and Ms Foster were:

… implementing new programs that would now cease to exist when the branch closes on December 16.

Ms Foster said sports and programs were hugely beneficial not only for the participants but for the families as well.

You can well imagine how important these programs are for the participants and their families. Ms Foster said:

… people gained confidence from being included without being judged, while parents were able to talk to other parents with similar experiences.
"If they go to a mainstream sport, they are a little bit different, but if they come to ours, it doesn't matter what their ability is," she said.

"They come along and participate and we don't care where they are at. "We just want to see them improve bit by bit. It helps improve their co-ordination and just gives them a lot more confidence…"

Ms Foster went on to say:

"We have a child who has been with us a for a few years. She is actually speaking now. She goes to school and gets involved with so many other things because being involved with sport has given her so much confidence.

"There is no judgment for the parents and they can talk about their own experiences to each other.

"It is about sport, but it is about building a community as well."

I understand Special Olympics Australia was contacted for comment, but as far as I am aware there has been no comment. There are questions to be answered. There are questions that have been asked for in the story. We need Special Olympics Australia to tell us exactly what is going on with this branch.

The PRESIDENT: Thank you, Senator Brown. It being 2 pm, we now move to questions without notice.

QUESTIONS WITHOUT NOTICE

Murray-Darling Basin

Senator GALLACHER (South Australia) (14:00): My question is to the Minister representing the Minister for Agriculture and Water Resources, Senator Canavan. I refer to the Assistant Minister for Agriculture and Water Resources, Senator Ruston, who yesterday said:

… the MDBP cannot be altered in any way at all, without the agreement of all the jurisdictions.

But the same day the Deputy Prime Minister's office told the world that states do not need to approve changes. Who is correct: the assistant minister or the Deputy Prime Minister's office?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (14:01): I thank the senator for his question. As I said yesterday, we are implementing the Basin Plan as agreed to. We are committed to that plan. We are making sure that plan is implemented and we will do so consistent with the way the plan was put in place. Of course, under that plan, there are certain elements that need to be implemented. There are certain elements that were contingent on things happening. For example, there was agreement in that plan to investigate and look into whether or not more environmental water could be delivered—under the plan, environmental water that was called 'upwater', this 450 gigalitres. There were set criteria for that water to be delivered.

The PRESIDENT: Point of order, Senator Wong.

Senator Wong: The point of order is on relevance. The question went to a very specific point: the difference between Senator Ruston's statement that the plan cannot be altered without the agreement of jurisdictions and the Deputy Prime Minister's office, which was reported to have said that the states do not need to approve changes. We want to know which of those is the government's position.
The PRESIDENT: Thank you, Senator Wong. It is difficult for me to arbitrate in some respects. I am going to tell you the reason why. The question was asked: who was correct in relation to the Murray-Darling Basin Plan? The minister, at the commencement of his answer, said the plan will be implemented in full. I can only assume that that means the plan will be implemented, and that means that the plan is there; it is the correct plan. I cannot interpret whether the plan relates to one minister or another minister. So I am going to call the minister, and the minister has the call.

Senator CANAVAN: I am trying to, in the short time I have, provide some context here. I obviously have not seen those quotes that have been reported in the question, so I cannot comment on them completely in the context that they were made in, but what I am explaining is that we are committed to implementing the plan in full. But under that plan there are certain changes to the water delivery that might be made contingent on other events, and there are set criteria that have to be met for those events to occur. So for this 450 gigalitres the plan explicitly says that the additional water can only be delivered if it is done in a way which achieves mutual or improved social or economic outcomes. So to make that change, and to add this additional water, if you like, as a change—if you want to use it in those terms, although it is not changing the plan as such, but it would change the amount of water delivered—we need agreement on that outcome. And there is some disagreement among states and territories—that is my understanding—about what can be achieved or whether this water can be delivered consistent with that criterion that was agreed to in the plan.

The PRESIDENT: A supplementary question, Senator Gallacher.

Senator GALLACHER (South Australia) (14:04): This morning Minister Frydenberg gave a clear commitment that there would be no backtrack on the delivery of water to South Australia. Will the minister confirm Minister Frydenberg's commitment that the Basin Plan, including 450 gigalitres of upwater, will be delivered in full and on time as Mr Turnbull promised?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (14:04): I am happy again to reiterate and confirm that the Basin Plan will be implemented consistent with what was agreed. And, under that agreement, there have to be certain tests outlined in that agreement. It will be met and we are committed to it. Can I say that this is an area that requires cooperation among the states and territories to create the plan and to implement the plan. It is an area where it is difficult, of course, to get that agreement from time to time. I refer the senator—through you, Mr President—back to a quote that Minister Tony Burke made in 2012, where he was referring to this when he was responsible minister. He said, 'If we worked on the basis that the only way to get an agreement was for every state to be completely happy, we would wait another century before we manage the Murray-Darling Basin.' And he is right about that that: it is difficult to get agreement among the states, but we have got an agreement. We are implementing that agreement; we are implementing it in exactly the way that it was designed and we are committed to it.

The PRESIDENT: Senator Gallacher, a final supplementary question.

Senator GALLACHER (South Australia) (14:05): This morning the Nationals member for Mallee congratulated the Deputy Prime Minister for admitting the delivery of 450 gigalitres was 'never going to be achievable'. Isn't it clear the coalition never intended to implement the Basin Plan in full and on time as Mr Turnbull promised?
Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (14:06): That is completely incorrect. It is completely incorrect, because the facts do not align with that version of events. The facts say that we are implementing the plan. We are recovering the water, and can I say that we are doing so in a way which is a lot more balanced and a lot more coordinated than what the former government was doing. It is not just how much water we recover in this process; what is also very important is how we do that recovery and what we use that water for. That has a lot of impact on the environmental benefits that this water will achieve and also the social and economic harm that it may cause in basin communities. We are doing so in a way that is strategic, that is coordinated and that is not just buying water back willy-nilly all over the basin, with no consideration of what its impact is, just to meet a target. We are not interested in just meeting numbers. We are interested in the overall outcome and the overall health of the basin, and that is exactly what we are doing. (Time expired)

The PRESIDENT: Senator Macdonald, on a point of order?

Senator Ian Macdonald: On a point of order, I want to apologise to you and the Senate. I came in wearing this, and I know I should not have.

The PRESIDENT: You should not be holding it up, either.

Senator Ian Macdonald: I had forgotten I had it on. I apologise to you and the Senate.

The PRESIDENT: Senator Cameron, on the point of order?

Senator Cameron: I think it should be compulsory for Senator Macdonald to wear it, with the drivel that comes out of him all the time.

The PRESIDENT: There is no point of order, Senator Cameron.

DISTINGUISHED VISITORS

The PRESIDENT (14:07): Could I indicate to honourable senators that in the gallery we have the Senate Commission of Foreign Affairs, International Cooperation, Media and Information delegation from the Kingdom of Cambodia, led by His Excellency Mr Kim Yeat. I welcome them to Australia and, in particular, to the Senate.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

National Security

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:08): My question is to the Minister representing the Prime Minister, Senator Brandis. Can the Attorney-General update the Senate on the Prime Minister’s national security statement made in the other place earlier today?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:08): Senator Bushby, as you know, earlier today the Prime Minister did make an important national security statement in the other place, particularly in relation to the international efforts against ISIL in Syria and Iraq and on the threat environment in Australia. I can assure the Senate, as the Prime Minister today assured the other place and indeed the Australian people, of this government’s commitment to ensuring Australians remain safe, secure and free. The global terrorism threat
environment continues to evolve. Even as we speak, Iraqi forces, including units trained by the Australian Army, continue in the liberation of the former ISIL stronghold of Mosul. Coalition efforts in Syria and Iraq, which include the ADF, have put ISIL under increasing pressure. As a result of the efforts of Australia and our coalition partners, ISIL is losing territory, finances and fighters. Its illusion of legitimacy is being shattered.

But as ISIL loses ground we can expect its fighters to seek to return to their countries of origin, including in our region. I can assure the Senate that our law enforcement and national security agencies have long been prepared for this challenge and are constantly monitoring Australia's threat environment. I can also assure Australians that our agencies, supported by the comprehensive counterterrorism law reforms that this government has introduced in this parliament and the last, are doing everything that is necessary to keep our communities safe from terrorism. Nevertheless, the national terrorism alert level remains at 'probable'.

The PRESIDENT: Senator Bushby, a supplementary question?

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:10): Can the Attorney-General apprise the Senate of Australia's current domestic threat environment?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:10): As I said at the conclusion of my answer to your initial question, the threat level remains at 'probable'. What that means is that our authorities advise the government that they assess that a terrorism event on the Australian the mainland is likely. That has been the position since 12 September 2014, when the national terrorism threat level was elevated on the advice of ASIO and the Australian Federal Police. Since that time, Australia has experienced four terror-related attacks, three of them involving fatalities and one involving serious injury. But it is important to know that 11 attacks in an advanced stage of preparation have been disrupted and prevented by our agencies. We have the robust legislative, policy and operational arrangements in place to deal with the current threat environment.

The PRESIDENT: Senator Bushby, a final supplementary question?

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:11): Is the Attorney-General aware of any threats to bipartisanship on Australia's national security?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:11): I want to acknowledge the support of the Australian Labor Party and the opposition in relation to Australia's counterterrorism measures. Each of the measures that we have introduced into the parliament in the last three years has had the constructive support of the opposition, and I acknowledge that. But national security, of course, is a broader canvas than counterterrorism alone. I am sorry to say that on other aspects of national security policy the opposition has in recent times declined to maintain a spirit of bipartisanship. We saw that with the caucus's decision some three weeks ago not to support Minister Dutton's strong new measures to keep Australia's borders safe and secure. We saw it as recently as last week in Senator Wong's decision to call into question the American alliance.

Employment

Senator PRATT (Western Australia) (14:12): My question is to the Minister representing the Prime Minister, Senator Brandis. Australian Bureau of Statistics data released last week
shows that over the past year part-time employment has increased by a full one percentage point to 32 per cent of all employment. Is the Turnbull government concerned about the growth in part-time jobs at the expense of full-time jobs?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:13): What we are concerned about is making sure that all Australians who want to work can work. And we are having success—

Senator Pratt: Not working enough!

Senator BRANDIS: Senator Pratt, I wish you would not interject when you have just asked a question and I am trying to give you the answer. What the Turnbull government is concerned about—

Opposition senators interjecting—

The PRESIDENT: Order on my left! Pause the clock. The Attorney-General is entitled to be heard in silence.

Senator BRANDIS: I thought the Australian Labor Party was also concerned that Australians who want to work should be able to find work. That is certainly what motivates this government, which is why we are delighted that the unemployment rate in Australia today has fallen to 5.6 per cent, its lowest rate in three years. We also note that casual work is a genuine choice for many people. To imagine that full-time work is the only legitimate measure of the health of the labour force is a delusion. Casual work is a genuine and fulfilling choice for many people. Casual and part-time work also helps create new jobs, is vital to the economy and very often suits the choices of those individuals. Particularly, it is the option of many parents, many women and many students. The percentage of employees who are in casual employment has in fact been relatively steady over the past decade. As at August, 25.1 per cent of employees were casual, representing approximately 2.5 million participants in the workforce, compared to the peak in 2004 of 25.7 per cent.

The PRESIDENT: Senator Pratt, a supplementary question?

Senator PRATT (Western Australia) (14:15): I again refer to ABS data which shows that since December 2015 the number of Australians in part-time employment has increased by 133,000 people, while the number of Australians in full-time employment has decreased by 89,000 people. Why are workers who are seeking the security of full-time employment amongst Mr Turnbull's 'losers'?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:16): I think the most recent statistics in fact give the lie to your assertion, because the number of Australians in part-time employment in October of this year—which are the most recent figures available, of course—was 3,812,000, compared to 3,844,000 in the previous month in September 2016. So there has been a slight decrease in the number of people in part-time employment, month-on-month, over the past month. But that, with respect, is scarcely the point. As I tried to point out to you in my answer to your initial question, casual employment and part-time employment are the preferred options of many Australians, and flexibility in the workplace, including flexibility in the choices people make, is a very important value. (Time expired)

The PRESIDENT: Senator Pratt, a final supplementary question?
Senator PRATT (Western Australia) (14:17): On Monday the minister told the Senate:
You can ask about the participation rate, but it does not follow from that proposition that the labour market is in a poor condition.

Why isn't the minister concerned about jobseekers so despondent about work and the state of the labour market that they are giving up on finding work?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:17): Honestly and truly, I have just pointed out to you that the part-time employment rate has actually fallen slightly in the last month, but the unemployment rate, which is the headline figure, the most important measure, has significantly fallen to 5.6 per cent, so that we now have the lowest unemployment in Australia for three years.

Senator Pratt: Tell that to the people who are giving up.

The PRESIDENT: On my left.

Senator BRANDIS: I know the Australian Labor Party does not like to hear the good news, Senator Pratt, but the good news is that when we have a decline in the rate of unemployment to a three-year low of 5.6 per cent, and within the workforce a slight increase in the proportion of people in full-time employment versus those in part-time employment, those are a good set of outcomes.

Migration

Senator McKIM (Tasmania) (14:19): My question is to the Attorney-General. Attorney, I draw your attention to the remarks of immigration minister Peter Dutton, who said it was 'a mistake' to allow Lebanese Muslim immigrants into Australia in the 1970s. He pointed to charges laid against a tiny number of second- and third—

Senator O'Sullivan: Bring Sarah back!

Senator Seselja: Start by telling the truth rather than verballing.

Senator Ian Macdonald: Do you have a question?

The PRESIDENT: Members on my right!

Senator McKIM: I will just start that sentence again, Mr President, because there was a bit of interjection over there. The immigration minister pointed to charges laid against a tiny number of second- and third-generation Lebanese Australians—who, by the way, are Australians, Attorney—as proof for his ignorant and divisive claim. Do you accept that by making these remarks Mr Dutton has made the government's attempts to engage with Australian Muslims more difficult and, by doing so, has undermined the government's deradicalisation agenda?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:20): I do not believe he has done so at all. I speak as the minister who, in partnership with my junior minister, Mr Keenan, is responsible for the agencies that conduct Australia's deradicalisation agenda and its engagement with Muslim communities. But that is certainly not the case. The Australian government, the Attorney-General's Department, the Australian Federal Police and our national security agencies work in very close collaboration with Australia's Muslim leadership and Australia's Muslim communities to help in the joint endeavour in which we are both
engaged: to defeat the siren song of terrorism recruiters and radical extremists who would lure their young on a path of self-destruction. The level of cooperation that we receive from the Muslim leadership of Australia is of a very high order and it is essential to our national security and counterterrorism efforts. The level of engagement is shared as well by state and territory police forces. Nothing that Mr Dutton has said has in any way compromised or prejudiced that engagement, and I have had no suggestion from any of my agencies or my department to that effect.

The PRESIDENT: Senator McKim, a supplementary question?

Senator McKIM (Tasmania) (14:21): Now that you have denied that assertion, you are in direct contradiction of the comments of ASIO Director-General Duncan Lewis, who, in answer to a question I asked at Senate estimates last month, said:

… commentary … about members of the Islamic faith being unwelcome here … can make engagement with the Islamic community more difficult and, ipso facto, that makes our job—

ASIO's job of making Australians safe—

more difficult.

Is he wrong or are you wrong? (Time expired)

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:22): Through you, Mr President—Senator McKim, if you are going to try these dodgy questions at least you should be good at it. I was sitting beside General Lewis during Senate estimates when he made that observation. General Lewis's observation is precisely right, and it is something that I have said both in estimates and in this chamber very often. He was not asked about Mr Dutton's remarks because Mr Dutton's remarks had not been made at the time of the Senate estimates hearing. I have met General Lewis in my office as recently as yesterday afternoon. No concerns have been raised with me either by him or by any other national security agency in relation to those remarks.

The PRESIDENT: Senator McKim, a final supplementary question?

Senator McKIM (Tasmania) (14:22): Yes. I draw the Attorney-General's attention to the comment made by Prime Minister Turnbull in the House today when he said:

Terrorist groups seek to identify weakness and vulnerability and to drive and exploit fear and division. Actions and behaviours that target particular sections in society merely play into their hands. Hasn't Mr Dutton played into the hands of terrorists just as the Prime Minister asserted today?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:23): No, Senator. Your conclusion, as is usual with you, Senator McKim, does not follow from the premise of your question. The position that the Prime Minister expressed in the national security statement reflects his views, it reflects my views, it reflects Mr Dutton's views and it reflects the very wise advice of our agencies. It is the policy that every minister of the Australian government adheres to and follows.

Domestic and Family Violence

Senator REYNOLDS (Western Australia) (14:23): My question is to the Minister for Employment and the Minister for Women, Senator Cash. Can the minister inform the Senate
of the importance of the International Day for the Elimination of Violence against Women and White Ribbon Day?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:24): I thank Senator Reynolds for her question. On Friday we mark White Ribbon Day, which is the International Day for the Elimination of Violence against Women. This year marks the 13th consecutive year that White Ribbon Day has been celebrated in Australia and of the White Ribbon campaign.

At the White Ribbon breakfast this morning the Prime Minister spoke of the role that we all have in changing the attitudes that create and sustain the endemic culture of violence that we do see in our community. As he said, not all disrespect results in violence against women, but all violence against women begins with disrespect. I, too, want to acknowledge that there are men in Australia and indeed globally who also are subjected to violence. This can also never be dismissed.

In relation to attitudes, senators will be aware of the $30 million Commonwealth funded, with the states, 'Let's stop it at the start' campaign. This campaign is all about Australians taking personal responsibility by showcasing the links between violence and disrespect. The campaign itself was based on extensive research which shows that when influential adults, whether they are parents, family members, teachers or coaches, say or do things that reinforce the stereotype of disrespect they are listened to and then those things are implemented in some cases by young adults.

The three-year campaign is now into its six month and the response has been overwhelming. Between April and June of this year it was YouTube Australia's most-watched advertisement and it has now had in excess of 36 million views. It received the YouTube board leadership award and has been shortlisted for a number of advertising honours. Almost half of influencers have seen the campaign, and the feedback is that those who have seen it have then taken action as a result of the campaign and changed their own personal attitudes.

The PRESIDENT: Senator Reynolds, a supplementary question?

Senator REYNOLDS (Western Australia) (14:26): Before I do, I would just like to say—and this probably should have been a point of order—that when the minister stood up one of the senators opposite made a highly derogatory comment to the minister about her appearance. I think particularly on this subject on this day to refer to her as a zebra, in fact, is highly inappropriate, as it would be at any time.

Opposition senators interjecting—

Senator Sterle: I was sharing a joke with Senator Collins. I just said, 'What's black and white and eats like a horse?' I did not mention anything about anyone over there.

The PRESIDENT: Thank you, Senator Sterle. It is probably time just to advise senators that respect must be shown at all times and even the perception of respect. Senator Reynolds, you can continue with your supplementary question.

Honourable senators interjecting—

Senator REYNOLDS: Senator Collins might think it being precious, but making a joke, particularly on this day, about the minister's appearance is, I think, highly inappropriate.
The PRESIDENT: Order, on both sides. Senator Reynolds, we will start the clock again for you to ask your supplementary question.

Senator REYNOLDS: Can the minister please explain what action the Turnbull government is taking to tackle the scourge of domestic and family violence?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:27): I am very proud that the first decision of the Turnbull government was a cabinet decision in relation to the announcement of a $100 million women's safety package. I will take the time now to advise the Senate on the progress of some of the outcomes of the package.

We have expanded the 1800RESPECT frontline service, and our new model for telephone counselling has reduced the average call waiting time for victims of domestic violence from 10.3 minutes to 35.11 seconds. Our cross-border intelligence desk cuts across remote communities in the tri-border regions of WA, the NT and South Australia. It successfully identified and tracked 13 high-risk offenders in the first six months of this year. These offenders have been convicted or are currently before the courts. And we have implemented specialist domestic violence units and health justice partnerships around Australia which are already assisting 534 clients with 1,400 services. (Time expired)

The PRESIDENT: Senator Reynolds, a final supplementary question?

Senator REYNOLDS (Western Australia) (14:29): Will the minister please update the Senate on today's announcement of the expanded role of the new eSafety Commissioner and the introduction of civil penalties for non-consensual sharing of intimate images?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:29): Minister Fifield and I today announced the appointment of a new Children's eSafety Commissioner, with expanded responsibilities, to take a lead role in combating the non-consensual sharing of intimate images, often known as 'revenge porn'. Online safety expert Julie Inman-Grant has been announced as the new commissioner and will commence in January. The office will also be renamed the Office of the eSafety Commissioner, taking out the word 'children' quite deliberately, because this reflects the office's expanded responsibility for online safety issues affecting adults.

As part of a comprehensive range of measures to combat the non-consensual sharing of intimate images, the commissioner will also now develop a new online reporting tool which will allow victims to report incidents as well as access immediate and tangible support. We are also conducting a public consultation process on proposed civil penalties targeted at both the perpetrator and the host site. (Time expired)

Murray-Darling Basin

Senator XENOPHON (South Australia) (14:30): My question is to Senator Brandis, the Minister representing the Prime Minister. The Deputy Prime Minister has told South Australia that the previously agreed 450 gigalitres in recovery of environmental water for the Murray-Darling cannot now be delivered because, he says, there would be 'significant social and economic detriment'. Given the Prime Minister's statement today, where he said, 'We are committed to the Basin Plan. We're committed to ensuring that we do the right thing by the environment, the right thing by irrigation communities,' does the minister acknowledge that
the funds in the Water for the Environment Special Account can and should be used according to section 86AD(2)(c)(ii) of the Water Act, using the act's wording 'address any detrimental social or economic impact on the wellbeing of any community in the Murray-Darling Basin so as to offset any such impact'? Minister, what detailed consideration and planning has the government undertaken to ensure the special account is used as intended in the act? Will the minister table all such documents relating thereto?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:31): Thank you very much, Senator Xenophon, and thank you for your courtesy in giving my office advance notice of the question. I do not think you were in the chamber, Senator Xenophon, when a question was asked of the relevant minister, Senator Canavan, by the opposition. Senator Canavan in his answer gave a very, very detailed exposition of the government's position, and I would commend it to you.

But in any event, Senator Xenophon, as the Prime Minister stated this morning, we are committed to the Basin Plan, we are committed to the environment and we are also committed to doing the right thing by irrigators. We are committed to delivering the plan in full. The conditions around the expenditure of the Water for the Environment Special Account are that it must be used in accordance with the intergovernmental agreement agreed to by jurisdictions, including your state of South Australia. The additional 450 gigalitres must be recovered through efficiency improvements, with neutral and improved social and economic impacts—a point made by Senator Ruston, the Assistant Minister for Agriculture and Water Resources, in her letter to the Premier of South Australia on 20 November. The measures are dependent on the voluntary participation of irrigators and water users. The act, and the intergovernmental agreement, which are both public documents, determine how the funding can be spent.

The PRESIDENT: Order! Pause the clock. Point of order, Senator Xenophon?

Senator XENOPHON (South Australia) (14:34): Does the Attorney concede that the Commonwealth government as holder of the special account, with almost $2 billion in it, can drive water efficiency measures to achieve the 450 gigalitres agreed to, in cooperation with the states? What steps has the government actually undertaken to request the basin states to
provide details of such projects? And I ask again: will the minister table all such documents relating to that?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:34): Senator Xenophon, as I said in answer to your initial question, the key documents here are public agreements. But can I also point out to you that basin governments have already agreed to pursue 450 gigalitres of additional water for the environment. The Commonwealth has established programs through which water users and state governments can pursue funding for the efficiency measures.

The PRESIDENT: Senator Xenophon, a final supplementary question.

Senator XENOPHON (South Australia) (14:34): Well, that is contrary to the Deputy Prime Minister's statement to the South Australian government.

Has the government commissioned any modelling on the impact of not reaching the 450 gigalitres target, of abandoning that target, on the health of the river system, particularly in the lower reaches of the Murray? Has the government actually sought advice from the CSIRO and other scientists as to whether it can reduce the return of water from 3,200 gigalitres to 2,750 gigalitres and not increase the risk to the river's health when the next drought hits?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:35): Senator Xenophon, your question is based on the premise that the government is abandoning part of the plan. The government is not abandoning any part of the plan.

Building Better Regions Fund

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:35): My question is to the Minister for Regional Development, Minister for Local Government and Territories, and Minister for Regional Communications—just to mention a few—Senator Nash. Can the minister inform the Senate how the coalition government is delivering improved infrastructure and community investment for regional Australia?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:36): I thank the senator for his question and for his very longstanding hard work for the people of regional Australia. I am delighted to advise the chamber that this morning I announced and launched the coalition government's Building Better Regions Fund. This is a fund that is going to continue to strengthen our rural and regional, and remote communities. As many would know, prior to this we had the National Stronger Regions Fund. I believe moving to the new structure of the Building Better Regions Fund will be a positive step forward and a great opportunity to deliver even more.

What we see is investment in our regions. We have to change the narrative from propping up the regions and talk about negativity into a positive language about investment, because there is an economic case to invest in the regions, which are absolutely the driver of this nation and they underpin this nation's economy. That is why we have made the changes and included not just an infrastructure stream, as we saw under National Stronger Regions Fund, but also a community investment stream, which will allow local communities to expand and identify ways to strengthen their communities. We know that when we invest in the regions it gives those regions confidence. Investing in partnerships with regional communities ensures
that confidence builds and that the local people and local businesses with an eye to their future have that confidence to invest. So we will now see applications come forward from the beginning of next year, and out there right now the guidelines are available for communities to start doing their planning.

The PRESIDENT: Senator Williams, a supplementary question.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:38): I thank the minister for that good news. Can the minister outline how the new Building Better Regions Fund will better support regional communities, the people who live in them and their future?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:38): One of the new additions to this program has been the Community Investment Fund. What that will do is across three areas: local events and activities, strategic planning and leadership capability. It will allow local communities to determine those activities or projects that will allow them to strengthen and build; it will allow them to, in a very positive way, add to the ability to provide infrastructure projects. Those are things that I know our local communities need flexibility in providing. We see that local leaders drive our local communities, and this particular community investment stream is going to give those local leaders in those communities the ability to identify things in areas such as tourism expansion, which was not available before, to look at how they can drive their future to be stronger in the regions.

The PRESIDENT: Senator Williams, a final supplementary.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:39): Can the minister further advise the Senate how the Building Better Regions Fund will be targeted to ensure that investment is delivered to areas where it will be most effective?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:39): Under the new Building Better Regions Fund, compared to the previous National Stronger Regions Fund, major capital cities will no longer be able to apply for funding. This is going to be a regional program for regional communities. In the knowledge that many of our rural regional and remote communities occasionally face hardship and challenges, for the first time, there is going to be capacity for exemption for the requirement for co-funding. This is very important for our local rural, regional and remote communities who do on occasion not have the ability to have that co-funding. While I expect this will be very rare, there will be, for the first time, opportunity for those communities to access in partnership funding with government to drive their futures in their regions for a stronger regional Australia.

Domestic and Family Violence

Senator LEYONHJELM (New South Wales) (14:40): My question is to Senator Ryan as the Minister representing the Minister for Social Services. As has already been mentioned today, White Ribbon Day is this Friday—a day that is about preventing domestic violence. We can all agree that domestic violence is abhorrent and that victims deserve support. Given that the Australian Bureau of Statistics tells us that one in three victims of domestic violence...
is male, do you think male victims deserve a proportional level of support services as female victims?

Senator RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (14:41): I thank Senator Leyonhjelm for alerting my office to the fact that this issue would be raised today. The Commonwealth recognises that all victims of violence, regardless of their sex or gender, need compassionate and highly responsive support. Similarly, all perpetrators, regardless of their sex or gender, must be held accountable for their violence as individuals. I am sure that is a point that Senator Leyonhjelm would agree with me and the Commonwealth upon.

I am advised that from the Personal Safety, Australia, 2012 survey we do know that one in six women and one in 19 men has experienced physical or sexual violence by a current or former intimate partner. The ABS's Recorded Crime—Offenders 2014-15 data for all included states and territories where men are between four and eight times more likely to be offenders of family and domestic violence related offences than women. While current evidence shows that the majority of victims are indeed women, these statistics do not always reflect personal experiences of violence. I am sure everyone hopes that when a complaint is made, regardless of someone's sex or gender, that the appropriate services—whether they be police forces or other government or public services—respond accordingly.

The PRESIDENT: Senator Leyonhjelm, a supplementary question.

Senator LEYONHJELM (New South Wales) (14:42): I accept that most domestic violence is suffered by women, but about 24 per cent—nearly 25 per cent—of victims of homicide by intimate partners are male. As male victims of domestic violence are notoriously reluctant to seek help—often because they are automatically assumed to be the perpetrators—can you point to any government services or awareness programs specifically designed to help male victims overcome this problem?

Senator RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (14:42): the National Plan to Reduce Violence against Women and their Children 2010-22 does recognise that men and boys can be victims of domestic and family violence and sexual assault. The Australian government funds a number of initiatives to support men and boys who experience violence. These include: MensLine Australia, accessible by phone or over the internet; a counselling service that assists men to manage family and relationship difficulties including issues of violence; the 1800RESPECT service, again by telephone and available over the internet; and the National Sexual Assault, Family & Domestic Violence Counselling Service. This is a free and confidential telephone and online counselling service for any person, regardless of age or gender, who has experienced, or is at risk of, domestic and family violence and/or sexual assault and their family and friends. Centrelink social workers can also provide up-to-date information about community support services, as well as provide counselling and support to people facing difficult personal circumstances.

The PRESIDENT: Senator Leyonhjelm, a final supplementary question.

Senator LEYONHJELM (New South Wales) (14:43): I have heard from constituents that boys in some Sydney schools are asked to stand and take the White Ribbon Day oath while female classmates sit and watch. Do you support this form of public shaming based on gender?
Senator RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (14:44): If I could just add to the comments I made in response to the last question—it is not unheard of for men across a whole range of services, including health and mental health, to not be inclined to go forward and seek assistance. I think we could all say, when it comes to this issue as well as many others, we would encourage any and every Australian who is aware of someone suffering violence to actually take action or to encourage someone to take action and seek support. I am not aware of the claims that you have made there, Senator Leyonhjelm. White Ribbon Australia encourages men to highlight the role they can play alongside women to stop violence against women based on the understanding that the majority of men are not violent. It is not compulsory to participate and I am not necessarily always in favour of everything that happens in our schools, Senator Leyonhjelm. What I will say, though, is that raising awareness and voluntary participation in such activities is, I think, important to the issues you raised in your first two questions, and that is encouraging people to seek assistance when they need it.

National Broadband Network

Senator O'NEILL (New South Wales) (14:45): My question is to the Minister for Communications, Senator Fifield. I refer to the minister who, when asked about the cost of the NBN in May of this year, stated:

Well, the Commonwealth has indicated that our cap on equity contributions will be $29.5 billion. NBN will have to borrow money beyond that, but 29.5 billion is the Commonwealth cap.

Last week, the government announced it would abandon its plans for NBN to source private debt funding instead funding the remainder of the rollout through taxpayer-backed loans to NBN. Why is the government breaking this election promise?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (14:46): I thank my colleague from New South Wales for the question. There is absolutely no breach of election commitment here. I think those opposite are having difficulty understanding the difference between equity and a loan. We have said there would be a cap on government equity contributions of $29.5 billion. It remains the fact that the cap on equity is $29.5 billion. It has always been clear that NBN would be required to borrow additional funds. NBN are borrowing additional funds and they are doing so from the Commonwealth government. We, quite rightly, ensured that NBN obtained an indicative credit rating for the organisation and what NBN received was sound. But we took the very logical decision that if the Commonwealth was able to borrow the funds at lower rates then that made good sense for the taxpayer and good sense for NBN. There has been absolutely no change to the cap on Commonwealth equity of $29.5 billion. Those opposite do not understand the difference between equity and a loan. Let me explain that an equity is different to a loan. We have also indicated that NBN will be required to go to the open market to refinance that loan and that is something that we have been entirely up-front about.

The PRESIDENT: Senator O'Neill, a supplementary question.

Senator O’NEILL (New South Wales) (14:47): I am interested in the truth and not that answer. Can the minister explain to the Australian people why the market rejected his plan for the NBN to source private debt?
Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (14:48): The market did not reject NBN's status. The NBN did seek indicative credit ratings as they indicated they would. So, based on all of the available information and advice we received, we decided that the best approach for the NBN to secure funding was for the Commonwealth to secure it and loan it to NBN. NBN could have secured financing in the markets—absolutely they could have secured funding on the markets—but we determined, looking at the options, that the best interests of the taxpayer were for the government to provide the loan to NBN.

Honourable senators interjecting—

The PRESIDENT: Thank you, Minister. Order on both sides! Senator O'Neill, a final supplementary question.

Senator O'NEILL (New South Wales) (14:49): Why should Australians have any confidence in Mr Turnbull's economic plan when his NBN plan is a clear failure?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (14:49): The government's NBN plan is going from strength to strength. As I have previously shared with colleagues in this place, in 2013 when this government inherited the NBN it inherited what was a failed project. Contractors had downed tools in four states. Despite $6½ billion having been spent by our predecessors, only 51,000 Australians were actually paying customers of the NBN. I am very pleased to advise colleagues that the NBN is now available to 3.34 million premises nationwide. Isn't that fantastic? That is 28 per cent of the nation. By the middle of next year that will be 50 per cent of the nation, and it will be all done and dusted by 2020—six to eight years sooner than would have been the case under those opposite.

Murray-Darling Basin

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:50): My question is to the Minister for Resources and Northern Australia, Senator Canavan, representing the Deputy Prime Minister and Minister for Agriculture and Water Resources. Following yesterday's announcement of the northern basin water taskforce, can the minister advise the Senate of the findings made by the northern basin review?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (14:51): I thank Senator Fawcett for his question. As he mentioned, the government is establishing a northern basin taskforce and that taskforce will be charged to ensure that we better recover water from the northern basin and that we do so in way that is better managed than that of, particularly, the former government.

It is in the context of the northern basin review, which was reported recently, and also the Murray-Darling Basin Authority's recommendation, that the water recovery target in the northern basin be reduced as a result of that review. That review found that the water recovered in the basin so far had had a tremendous impact on jobs, employment and the communities of the north. That review found a particularly big impact on a town called Collarenebri in my colleague Senator Nash's state. I remember driving through Collarenebri four or five years ago. I stopped and got something at the local store and got talking to them. They said they were absolutely devastated and that their whole community had been devastated. The gin had just closed. It had just closed after Senator Wong—while she was
minister for water—had bought back over $300 million of water from one company, and that had led to devastating impacts on the town. That is just an anecdote. But in this basin review from the Murray-Darling Basin Authority they said for Collarenebri the recovery of water occurred some time ago and—and this was just reported last month—that:
The reduction in total employment from the recovery of water is estimated to be around … 21% in Collarenebri.
A fifth! Now the people of Collarenebri do not get much of a voice here in this chamber very often. But just imagine for each one of us if we went back to our communities and a fifth of the jobs were not there next week. Just imagine the devastating impact that would have in your towns and your communities. That is directly what happened because of the recovery of water, according to the Murray-Darling Basin Authority. That is the impact and the devastation that were caused by the decisions of the former government. That is what is happening in those towns and communities. They deserve those impacts to be reported to this place.

The PRESIDENT: Senator Fawcett, a supplementary question.

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:53):
Could the minister outline what changes the review proposes to improve outcomes in the basin?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (14:53): As discussed, the review and the Murray-Darling Basin Authority have come to the conclusion that, as a result of those devastating impacts, there does need to be a reconsideration of the amount of water recovered in the northern basin. They have recommended that the water recovery target be reduced from 390 gigalitres to 320 gigalitres. According to the chief executive of the Murray-Darling Basin Authority, Mr Phillip Glyde, this would ensure a sensible balance between social, economic and environmental interests. He says that reducing the water recovery target will save about 200 jobs in irrigation dependent communities while continuing to deliver about the same level of environmental outcomes. That is exactly what we need: a more sensible approach to this big issue for our country and an approach which protects those regional communities, the jobs they rely on and the good hardworking Australians that deserve to have their interests balanced through this review.

The PRESIDENT: Senator Fawcett, a final supplementary question.

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:54):
Can the minister explain how the Northern Basin Review fits into the government's broader commitment to deliver the Basin Plan?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (14:54): As I stated earlier in this chamber, the government is fully committed to ensuring the Basin Plan is implemented, and this Northern Basin Review is a part of that plan—it is a part of the plan that now has been delivered. Those that support the implementation of the plan should get behind this now, because the experts, the independent Murray-Darling Basin Authority, are recommending this result, and those are the people that we should take advice from on this issue.
That review has also found that we should ensure that we have a toolkit of measures that recover water and improve environmental outcomes in the Murray-Darling Basin. This system, as I was told up in St George recently, is not like two-minute noodles—you do not just add water to it and expect better outcomes. You need to make sure you deliver better results in terms of fish management and better results in terms of cold water pollution. We need a suite of measures to make sure that we actually improve the environment in the basin, not just hit arbitrary targets. That is our goal and that is why we are implementing the Basin Plan in full.

**Broadband**

**Senator KITCHING** (Victoria) (14:55): My question is for the Minister for Finance, Senator Cormann. I refer to the minister, who, when asked in May whether the government was open to the possibility of more equity funding for the NBN, said:

No. The equity cap that is in place is $29.5 billion, and our planning is for nbn to source the remaining funding requirements by raising debt from external markets. We have outlined that very clearly. We believe and are confident that that will be able to be achieved.

Isn't the market's rejection of your plan to source private debt a vote of no confidence in Mr Turnbull's second-rate copper dominated NBN?

**Senator CORMANN** (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:56): The answer to the last question is no. Under the Turnbull government, the NBN is going from strength to strength. The NBN is meeting all of its rollout targets and all of its various other targets. In fact, it is exceeding all of its various key targets over the past two years. I stand by what I said in May when I said the equity cap would remain at $29.5 billion, because that is of course precisely where it remains. It is true that our plan was for NBN to source the remaining funding requirement on external markets by sourcing private sector debt. But when we assessed all of the information, when we assessed all of the analysis, and when we took into account the indicative credit rating that NBN was able to achieve, it became apparent that the best deal for taxpayers, in pursuit of our commitment to deliver the NBN faster and more affordably for taxpayers than would have happened under Labor, was for the government to provide a loan on commercial terms to NBN. And that is, of course, the announcement that we have made. The announcement is there for all to see. It is self-explanatory: $19.5 billion. The government will be receiving interest, of course. The debt will be fully refinanced by 2020-21. Essentially, it is there for all to see—open and transparent. It was the best possible deal for taxpayers and it also makes sure that NBN now has the certainty to focus on finalising the rollout so that the NBN will be delivered in full, much more cheaply than would have been the case under Labor.

**The PRESIDENT:** Senator Kitching, a supplementary question.

**Senator KITCHING** (Victoria) (14:58): Given that the minister committed to capping the government's contribution to the NBN at $29.5 billion only days before the July election was called, when did it first become clear to the minister that the market was not going to provide access to private debt on acceptable terms?

**Senator CORMANN** (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:58): The senator has just misrepresented what the government actually said before the election. I accept and understand that the senator would have been
handed the question and it would have been drafted by somebody else, but when she said that we made a commitment to cap the government's contribution at $29.5 billion that is false. If she refers to her own first question she will actually see that we said that we would cap the equity contribution at $29.5 billion. We remain committed to cap the equity contribution at $29.5 billion. What we have done is make a decision to provide a loan on commercial terms to the tune of $19.5 billion to NBN so it can complete the rollout. So the equity contribution by the government to NBN is capped at 29.5 per cent, 100 per cent consistent with the commitments and the statements that we have made all the way through.

The PRESIDENT: Senator Kitching, a final supplementary question.

Senator KITCHING (Victoria) (14:59): I refer to the minister, whose media release of 18 November 2016 was titled 'Government loan secures NBN rollout'. Shouldn't the title read instead 'Government bails out Mr Turnbull's NBN'?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:59): It is all very droll. I know that the Labor Party hates the fact that the Turnbull government is delivering the NBN project, which was a complete mess under Labor. It started under Labor on the back of a beer coaster. I would have liked to have been on that plane with the then Prime Minister, Kevin Rudd, and the then communications minister, Stephen Conroy. We all know how much they loved each other. We all know how much they enjoyed sharing a drink together. They would have been sitting there saying, 'What do we do with this beer coaster? Let's write up a plan to build a NBN.' Of course, it was not funded. It was a complete mess.

The former minister for communications went to Darwin five times to launch five connections. For every single connection he took a trip up to Darwin to announce it. So excited was he when he was able to make a little bit of progress. The truth is that under the Turnbull government the NBN is being delivered. It is being delivered at a lower cost, faster and more effectively than it ever would have been under the Labor Party. You are embarrassed by it. (Time expired).

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:00): I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Murray-Darling Basin

Senator FARRELL (South Australia—Deputy Leader of the Opposition in the Senate) (15:01): I move:

That the Senate take note of the answer given by the Minister for Resources and Northern Australia (Senator Canavan) to a question without notice asked by Senator Gallacher today relating to the Murray-Darling Basin Plan.

I very reluctantly rise to speak, because, as you may recall, I spoke on this topic yesterday. I had expected that with the return to Australia of our Prime Minister the problems that we saw with the Murray-Darling Basin, the confusion and chaos in the government, would have been resolved. A strong Prime Minister would have come back to this country, realised the terrible things that were being said by the Acting Prime Minister in his absence and would have pulled the Deputy Prime Minister, as he now is today, into line, and we would have got back
to a situation where Senator Birmingham, from South Australia, would know that the Murray-
Darling Basin Plan—which was negotiated and implemented in the parliament before last—
was going to be achieved.

I rise because I have been so disappointed in the response from the returning Prime
Minister. Not only hasn't he done what I thought he would have done, which was pull
Barnaby Joyce into line and say, 'You can't desert South Australia. You can't desert the
Murray-Darling Basin. We have to give the people of South Australia, and all Australians,
that guarantee that what we promised to do in respect of the Murray-Darling Basin we will do.'
But that is not what happened, I am very disappointed to say. Not only do we find that he has
not rebuked the Deputy Prime Minister on this issue but now other members of the
government are running rampant on this issue.

I refer to the very good question that Senator Gallacher asked the minister. He referred to a
statement this morning from the Nationals member for Mallee, who congratulated the Deputy
Prime Minister for admitting the delivery of 450 gigalitres was 'never going to be achievable'.
So not only has the returning Prime Minister not pulled Barnaby Joyce into line, he has let the
cat out of the bag, and all of the Nationals members of parliament are now getting behind the
Deputy Prime Minister, and they are all saying that they cannot achieve or deliver on the
Murray-Darling Basin Plan.

I referred yesterday to the fact that the Murray-Darling Basin Plan was one of the crowning
achievements of the Gillard government. There were many achievements in that government
but this was one of the crowning achievements. I have had some comments, since I made that
comment yesterday, from a lot of people who are now saying, 'The Gillard government is
looking like a golden era in governance.'

Senator Birmingham interjecting—

Senator FARRELL: I can hear you laughing, Senator Birmingham, but why aren't you
standing up for South Australia? Why aren't you going to the Prime Minister and saying,
'Why don't you deliver on that 450 gigalitres?' Why don't you go to your Prime Minister and
say, 'Slap down Barnaby Joyce.'

Senator Birmingham: We are delivering.

Senator FARRELL: If it is being delivered upon, why has the member for Mallee freely
gone out this morning—not yesterday morning, not the day before—and said, 'The delivery of
the 450 gigalitres is never going to be achievable.' We now know who runs this government,
unfortunately, because I know you would like to deliver on this, Senator Birmingham. I do
know that. I concede that. But your problem is that your Prime Minister is now in thrall to the
Nationals. He cannot move. He cannot attack them. We saw it on guns. He cannot pull them
into line on that. But let me tell you—


Senator FARRELL: Let me tell you this: you will regret not delivering on the Murray-
Darling Basin Plan. If you think you had a problem with submarines, wait until you fail to
deliver on the Murray-Darling Basin Plan.

Senator RUSTON (South Australia—Assistant Minister for Agriculture and Water
Resources) (15:06): I will direct through you, Madam Deputy President, to Senator Farrell,
some advice: we have two choices in relation to the Murray-Darling Basin Plan. We can sit
down at the table and discuss how we are going to deliver the Murray-Darling Basin Plan in full, and that includes the 450 gigalitres of so-called upwater to which the senator, I assume, is referring. We can do that—just as I have arranged to do so with minister Hunt this weekend. We are going to sit down and we are going to talk through ways that we can resolve this unnecessary impasse that has occurred through a whole heap of overly-heated discussion that has not really been based in fact.

We can do that, or we can do something else—

Senator Farrell: You know—

Senator RUSTON: We can do something else, Senator Farrell: we can blow the plan up. South Australia, through its actions since this discussion has started, has basically put on the table that it would rather blow up the plan for political imperative and political outcome than actually work with us to deliver a plan and all the challenges that go with the situation that occurs when you are trying to achieve environmental outcomes—return of water to the river system to deliver environmental outcomes. At the same time we have to be very mindful of the fact that we have a very strong economy in rural and regional Australia, and much of it exists along the Murray-Darling Basin corridor. We need to make sure that we do not destroy those river communities and also destroy the underpinning component of agriculture in our regional communities at the same time.

We have agreed in this place and we have agreed through the negotiation between the governments that exist within the Murray-Darling Basin that we are going to deliver 2,750 gigalitres of water for environmental use via the plan, and that an additional 450 gigalitres will be delivered through an agreement between the governments in a way that does not have any detrimental impact on the river communities that rely so heavily on this water.

We have the situation where we have identified that we have some challenges. We always knew the delivery of the Murray-Darling Basin Plan was going to be difficult. But with great fanfare we celebrated the passing of the Murray-Darling Basin Plan and everything that went with it. We were all proud. We took a bipartisan approach to the delivery of this plan for the betterment of Australia, its river, its communities and the people who live along the river system. So we were all very pleased about that.

What I am calling on the South Australian government for is—and I did this this morning, when I wrote an opinion piece in the paper—please, do not blow up the plan. Please do not do that, because that is what you will do if you continue to pursue the political outcomes that you are trying to achieve by destroying this plan. This is not going to serve the best interests of the health of the Murray-Darling Basin or of South Australia.

Blowing up the plan is not going to achieve, nine years out of 10, the water flows out of the Murray Mouth. Blowing up the plan is not going to deliver water to the Chowilla wetlands, which are at the back door of the place where I live. They are on the Murray River, a place that I love. There is nobody in this place, Senator Farrell, through you, Madam Deputy President, who is more determined to deliver the Murray-Darling Basin Plan in full for the betterment of the river system, of the river communities that rely on it and for everybody in Australia who benefits from a healthy Murray-Darling Basin than I am.

Senator Gallacher: Take it up with your boss, Barnaby!
Senator RUSTON: I would call on you and your colleagues, Senator Gallacher—and you, Senator Wong—to make sure that you impress on Premier Weatherill and Minister Hunter that the most important thing they can do is to work with us, the federal government, and with the governments of Queensland, New South Wales, Victoria and the ACT, to make sure that we deliver this plan, because if we do not sit down and have these discussions and work out how we are going to do that then the plan gets blown up. And it will be on your head and on the head of the South Australian Labor government if that happens.

I certainly call on you—and why don't you stand by me?—to help me, to help Senator Birmingham, to help Senator Fawcett and to help Senator Bernardi. Why don't you stand next to us and help us deliver this plan? Because you know, Premier Weatherill knows, Senator Gallacher knows and Minister Hunter knows that the Commonwealth government cannot change the plan without bringing it back to this place and getting this parliament to change it. They also know, as you know, that we cannot change the 450 gigalitres of up-water without the agreement of all states, including South Australia.

Stop your scaremongering; save the Murray! (Time expired)

Senator MOORE (Queensland) (15:11): We have heard lots of words today about the Murray-Darling Basin Plan. We asked the minister to make a commitment today in terms of words that were spoken by Senator Ruston—and I really do admire the commitment that Senator Ruston has brought to the discussion here, asking for people to work on the plan. It is very important that people work on the plan and remember that it was actually a plan that was developed by the Labor Party. This plan was to make a healthy and sustainable basin.

At that stage, it was cross-party—it was absolutely cross-party. One thing that we have heard a lot of today is about how committed everyone is. If I had had the time to count the number of times the word 'committed' was used in the process today it would have come to a very large number. But we have had confusion. Again, there seems to be confusion and some disagreement about how exactly that commitment is going to operate.

When we asked Minister Canavan to actually respond to a question from Senator Gallacher about whether exactly it was the Deputy Prime Minister's words or Senator Ruston's words which said how this plan was going to operate, it was very hard to hear anything in that answer except 'commitment'. There was no detail; there was no knowledge about exactly how the plan was to go operate. But we do know, and we can hold it to our hearts, that there is commitment. We need more than that. South Australia needs more than that. South Australia has been asking for so long to have a clear understanding of exactly how this plan will work to benefit South Australians.

I spoke with the Queensland minister on this issue over the weekend, and his concern, again, was to ensure that an agreement was actually established with all the states that were going to be involved in this process. He did not feel that that particular agreement was actually being supported by the Deputy Prime Minister. His understanding was that there was a sense of agreement, that there was an understanding of what was going to happen. The Deputy Prime Minister is the man who actually said to South Australians when this plan was being developed that the way South Australians should actually handle their water is to move to where the water is.
It beggars belief that the man who is now the minister responsible for the plan is the same person, with a different title, who said that South Australians should move to where the water is! I am actually not quite sure what that means. I would think it means that the whole population of South Australia should pick themselves up and move down to the coast, that that would be the only way they would be able to have effective water in their state!

Remember, the whole reason for this plan was a shared acknowledgement that this wonderful Murray-Darling Basin should be treasured and supported, and that this was an agreement that needed to be developed, agreed and understood by all the states through which the Murray-Darling rivers flow. Somehow, between the discussions that began and where we are now, there seemed to be a feeling that this plan is not being supported by today's government. I think that is really disappointing because we just heard Senator Ruston talk about how much she wants South Australia to have an effective plan. I think that is something that everybody shares.

What we do not feel is that there is true trust about the way this is going to operate, particularly in the way that the Deputy Prime Minister, who is responsible for the plan, is acting with regard to the discussions and the openness with all the states that are involved. We know that there was concern when the responsibility for the plan for water was given to Mr Barnaby Joyce in his role. In this place we heard the Liberal member for Barker, Tony Pasin, being quoted saying he was 'concerned about the fact that we now have a deeper involvement of the National Party with respect to the implementation of the plan'. There is concern not just about the National Party but in particular about Mr Barnaby Joyce, who is now the minister responsible. With the background he has and with the statements he has made in the past, it is very difficult for the people of South Australia to actually accept that their interests will be well protected by the man who said that their water management should be linked to moving near where it is. (Time expired)

**Senator BIRMINGHAM** (South Australia—Minister for Education and Training) (15:16): The Turnbull government could not be any clearer that we will deliver the Murray-Darling Basin Plan in full and on time. That is our absolute commitment, as Senator Moore indicated, which we have emphasised again and again. There are no proposals to change the plan coming from the Turnbull government. We are working to see the plan implemented.

Madam Deputy President, you would be forgiven for thinking that those opposite either have never read the plan that was developed during their time in government or are deliberately misrepresenting the content of it. The plan is not a magic wand or a magic pudding that just says, miraculously, 'You get all of this water back into environmental flows.' The plan is a complex plan with a whole series of different conditions put at different junctures for how things work. We have seen in this complex document that we have worked to implement it to the letter of the document and to the letter of the plan, and yet those opposite seek to misrepresent what is occurring.

Firstly, we have had, most recently, the release of the work of the northern basin review. I have heard those opposite criticise the work of the northern basin review, which suggests that there are some adjustments to the sustainable diversion limits that could be achieved in the northern basin. What they ignore is that Mr Tony Burke himself, the then water minister, wrote to the Murray-Darling Basin Authority as water minister asking for that northern basin review to be included in the plan. We have simply followed through with doing exactly what
Tony Burke asked us to do—exactly what the then Labor government put into the plan by having the northern basin review. That is actually implementing and delivering the plan in full and on time, because the plan called for that northern basin review to be undertaken.

Equally, in relation to the 450 gigalitres, the plan is very proscriptive about the process for the development of what is known as the sustainable diversion limit adjustment mechanism. The adjustment mechanism has a number of tests and barriers to it. Those tests include that that adjustment must be achieved with neutral or improved socioeconomic outcomes. It sets out in the plan the criteria of how improved or neutral socioeconomic outcomes are defined. The criteria say it has to either be through the voluntary participation of water users in projects to recover works or through the participation of consumptive water users in other projects in relation to farm efficiency, or through arrangements proposed by a basin state and assessed by that state as achieving water recovery. In fact, to achieve the 450 gigalitres requires either the voluntary participation of farmers or proposals from basin states—that is, the cooperation of basin states, the action of basin states working together—to make it happen.

That is exactly what Senator Ruston just told this chamber: of course, to achieve the full capacity of the plan it requires the basin states to work together. The only threat at present is the failure of the basin states to be able to work together, led by the actions of the South Australian Labor government. When Mr Joyce put on the agenda how it is that those states need to work together and how they are going to address some of the challenges of ensuring that water is recovered with no socioeconomic disadvantage, what happened? The South Australian water minister sat down with the other water ministers and decided to direct the c-word to the Victorian Labor minister—that's right! Then he told everybody else that they could all eff off. That was the approach undertaken by the South Australian Labor water minister. That is not a way that is going to get cooperation from the other states. That is not a way that is going to get them to deliver their commitments or their obligations under the plan as to how it is actually implemented in full, on time and delivered in the way that we want to see that occur.

What we desperately need to see is those opposite urge their political friends and cousins in South Australia to actually engage cooperatively with the other states. They must work with the Labor government in Victoria to engage cooperatively on developing their responsible components of the plan so that it can be implemented as we want it to be: in full, on time and delivering the water flows back into the river to ensure its health, as we are determined to achieve and see occur.

Senator GALLACHER (South Australia) (15:21): To use an old-fashioned colloquialism: there are some strange bedfellows in this debate. Here we have the opposition leader of South Australia saying: 'We need to take this fight on the states which are upstream.' That is the Hon. Steven Marshall. The Liberal Party in South Australia is unequivocal: 'We want the full environmental flows.' Who started this blue? Barnaby Joyce. Very clearly, he has been completely spooked by the loss of the seat in Orange. He has been completely spooked. A 79-year history of only the Nationals owning that seat appears to have disappeared. He is now attempting to unwind one of the hallmarks of good parliamentary legislation: 100 years of history reduced to legislation, with a bipartisan view to do a very simple thing, and that very simple thing was to deliver the Murray-Darling Basin Plan in its
entirety. This includes the additional 450 gigalitres of environmental water that the science shows is the minimum necessary amount of water diversion required to keep the Murray River healthy, flowing and the mouth open in at least nine out of the 10 years, as well as the South Australian agricultural sector and environment thriving.

I agree with what Senator Ruston said. And she does lives on the river; it is a beautiful place just outside of Renmark. As you move up the river, what you realise from a South Australian perspective is that efficiency gets worse. In South Australia, where water is precious, the environmental outcomes are better because of the infrastructure investment. Drip irrigation is the norm. All of the possible improvements that you can make in the use of water are exhibited in South Australia. But every year when I drive across the Hay Plains to Canberra, I see the open channel irrigation of the rice and cotton areas. Those features need to change. They have not been frugal with their water. There are infrastructure investments that can make their use of water much better.

It is a really sad day when the Hon. Barnaby Joyce looks at his electoral patch and says: 'Okay, I'm going to go out as the best retail politician in Australia and promise my constituents what they want.' The reality is that he is the Deputy Prime Minister, and when he did this he was acting as the Prime Minister. You cannot be a retail politician, a member of cabinet, a Deputy Prime Minister or an Acting Prime Minister and walk away from legislation of this parliament because you might be able to get a few more votes in certain electorates. That is not the way that a responsible minister in any government should behave.

Senator Joyce has form on this. It does not matter whether it is coal seam gas, it does not matter whether it is the Shenhua coalmine, when it is in a regional area and it suits his political expediency he changes the game. He leads with his foot—in his mouth, generally. He wrote the letter that caused this problem. No-one can make any apologies for the behaviour of the South Australian minister. He did what he did and he should cop what he cops for it. But that is a diversion. That is a simple diversion—and there is no pun intended there. We want the environmental flows. Senator Farrell is dead right: if you think submarines was a widely held and deeply felt issue then water and the River Murray is an even greater issue. It is a greater political issue, evidenced by the statements of the Liberal leader, who said: 'We need to take this fight on with the states which are upstream.' That is what he said on 22 November. The Liberal Party in South Australia is unequivocal: 'We want the full environmental flow.' There it is in a nutshell. We are on a unity ticket with the Liberal Party of South Australia and against this attempt by the Acting Prime Minster at the time and the Deputy Prime Minister of Australia to take electoral advantage of something that has been sorted out.

It is a difficult issue. But I believe that, with the correct application of infrastructure improvements, we can minimise any potential job losses in the areas that we are talking about. The Deputy Prime Minister has gone off on a frolic of his own. I do not believe that Senator Ruston actually agrees with his position. Senator Birmingham is there trying to defend his position. The Deputy Prime Minister is off on a frolic of his own and he needs to be brought into line, brought into gear, and put us on the right track.

Question agreed to.
Migration

Senator McKIM (Tasmania) (15:26): I move:

That the Senate take note of the answer given by the Attorney-General (Senator Brandis) to a question without notice asked by Senator McKim today relating to comments made by the Minister for Immigration and Border Protection (Mr Dutton).

I thought my questions to the Attorney today laid out calmly and logically the case that comments made by the Minister for Immigration and Border Protection, Peter Dutton, which linked a group of Australians, in this case Lebanese Muslim Australians, to terrorism made Australia a less safe place and played into the hands of terrorist groups. The Attorney's rejection of the assertions contained in my question beggar belief. In support of that contention, I remind the Attorney again of comments made by Prime Minister Turnbull in the House of Representatives this morning, when he said:

… terrorist groups seek to identify weakness and vulnerability and drive fear and division. Actions and behaviours that target particular sections in society merely play into their hands.

The Prime Minister quite rightly, in the view of the Australian Greens, says that people who indulge in actions and behaviours that target particular sectors in our society merely play into the hands of terrorist groups. That is an entirely reasonable and accurate statement, and I think the Attorney would agree with that statement. There is no doubt that, viewed calmly and logically, the comments made by the immigration minister, Mr Dutton, who said recently that it was a mistake to allow Lebanese Muslim immigrants into Australia in the 1970s and who linked Lebanese Muslim Australians with terrorists by going into facts and figures about the number of Lebanese Muslims who have been charged with terrorist offences played into the hands of terrorists. For the Attorney to reject that is completely illogical and an abrogation of his responsibility to treat the safety of Australia seriously and to call out threats to Australia's safety and national security when they occur.

There is no doubt that Minister Dutton is a threat to Australia's safety and security. If you want further proof of that, Attorney-General, I again draw your attention to the question I asked today and the comments I quoted from ASIO Director-General Duncan Lewis, who said, in response to questions I asked him last month at Senate estimates, about comments made 'about members of the Islamic faith being unwelcome here make engagement with the Islamic community more difficult and, ipso facto, that makes our job,'—that is, ASIO's job—'more difficult.'

One of ASIO's primary responsibilities is to make Australia a safer place to live by defending us against the actions of terrorist groups. Again, I make the argument calmly and logically, that the comments made by the immigration minister, Mr Dutton, make the job of ASIO more difficult and therefore make Australia a more dangerous place to live. It is simply not acceptable and it defies logic for the Attorney to get up and say he agrees with Mr Lewis and he agrees with Mr Turnbull, but refuse to draw the link between the comments made by those two men and the comments of the immigration minister, Mr Dutton.

Make no mistake, for base political purposes, Mr Dutton is acting in a way that makes it less safe to be in Australia. He is not only engaging in racism; he is actually engaging in counterproductive commentary that, in the view of the Prime Minister and the view of the Director-General of ASIO, makes Australia a less safe place.
But, of course, that is what the government does—it is left hand and right hand stuff. On one hand, they talk about the need to deradicalise and engage with the Islamic community; on the other hand, they roll their racist, idiot immigration minister, Mr Dutton, out to make comments that actually defy the comments made by the Prime Minister and the Director-General of ASIO.

Senator Brandis: A point of order, Mr President. That should certainly be withdrawn. Senator McKim referred to a minister as a racist idiot. That is a disgusting thing to say. He ought to be ashamed of himself and he ought to be sanctioned by the Senate for saying that. In any event, it ought to be withdrawn.

Senator McKIM: On the point of order, if the Attorney wishes to move a censure, there are opportunities available to him under the standing orders to do it, and simply referring to that in a point of order does not constitute a genuine attempt to have me censured. However, Mr President, to forestall what I believe will be your inevitable suggestion to me, I do withdraw those comments.

The PRESIDENT: Thank you, Senator McKim. The question is that the motion moved by Senator McKim be agreed to.

Question agreed to.

PETITIONS

The Clerk: Petitions have been lodged for presentation as follows:

Indigenous Australians: Retirement Age

To the Honourable President and members of the Senate in Parliament assembled:

The petition of the undersigned shows:

A recommendation and consideration for the optional retirement age of Indigenous Australians to be amended to the age of 55 years. A retirement age for Indigenous people at 65 years of age is not in line with Closing the Gap initiative to Close the Gap in life expectancy within a generation (by 2031). This petition asks that the retirement age of Indigenous Australians be set at an optional age of 55 years of age (with full superannuation benefits and old age pensions if entitled) until the year 2031.

Your petitioners ask that the senate:

amend or add an optional retirement age of 55 years for Indigenous people. To consider, debate and vote by conscious vote on Indigenous Australians having the option to retire at the age of 55 years of age with full superannuation benefits and old age pensions (if entitled) until the year 2031.

by Senator Siewert (from 79 citizens).

Indigenous Australians: Retirement Age

To the Honourable President and members of the Senate in Parliament assembled:

The petition of the undersigned shows:

A recommendation and consideration for the optional retirement age of Indigenous Australians to be amended to the age of 55 years. A retirement age for Indigenous people at 65 years of age is not in line with Closing the Gap initiative to Close the Gap in life expectancy within a generation (by 2031). This petition asks that the retirement age of Indigenous Australians be set at an optional age of 55 years of age (with full superannuation benefits and old age pensions if entitled) until the year 2031.

Your petitioners ask that the senate:
amend or add an optional retirement age of 55 years for Indigenous people. To consider, debate and vote by conscious vote on Indigenous Australians having the option to retire at the age of 55 years of age with full superannuation benefits and old age pensions (if entitled) until the year 2031.

by Senator Siewert (from 1,607 citizens).

Petitions received.

NOTICES

Presentation

Senator Rhiannon to move:

That the Senate—

(a) notes that:

(i) the Federal Government intends to grant $25 million towards building the proposed Ellerton Drive Extension (EDE) in Queanbeyan, New South Wales,

(ii) the EDE would not provide a real solution to the community's transport needs,

(iii) the EDE would result in the destruction of 55 hollow-bearing trees and a loss of White Box-Yellow Box-Blakely's Red Gum Grassy Woodland, listed nationally as a critically endangered ecological community, and

(iv) the EDE would involve destroying 44 termite mounds, habitat for Rosenberg's Goanna which is listed as a threatened species in New South Wales; and

(b) calls on:

(i) the Minister for the Environment and Energy (Mr Frydenberg) to decline approval for the EDE under the Environment Protection and Biodiversity Conservation Act, and

(ii) the Government to support the Queanbeyan City Council to develop more sustainable transport solutions with a focus on reducing dependence on cars by improving public transport services and facilities for cycling and walking.

Senator Polley to move on 29 November 2016:

That—

(a) where the Scrutiny of Bills Committee writes to a minister it expects a response to be received in time to be considered by the committee and reported on while the bill is still before the Parliament;

(b) if the committee has not completed its inquiry due to the failure of a minister to respond to the committee's concerns, senators should have the right to ask the responsible minister why the Scrutiny of Bills Committee has not received a response; and therefore:

(c) the following amendment to standing order 24 operate as a temporary order from the first sitting day of 2017 to the last sitting day of March 2018:

Add the following paragraph:

(1) (d) If the committee has not finally reported on a bill due to the failure of a minister to respond to its concerns then, immediately prior to the consideration of government business on any day or immediately prior to the consideration of the bill:

(i) any senator may ask the minister for an explanation as to why the minister has not provided a response to the committee, and

(ii) the senator may, at the conclusion of the explanation, move without notice either a motion relating to the consideration of the bill or - That the Senate take note of the explanation; or

(iii) in the event that the minister does not provide an explanation, the senator may, without notice, move a motion with regard to the minister's failure to provide an explanation.
Senator Rice to move:
That the Senate—
(a) notes:

(i) deeply concerning reports of unethical organ procurement procedures in foreign countries, including forced organ procurement from executed prisoners and prisoners of conscience in state-led processes,
(ii) that a number of countries including Israel, Spain and Taiwan have banned organ tourism, and the United States and the European Union have passed strong resolutions against it, and
(iii) that limited data is available on Australians receiving organ transplants overseas; and
(b) invites the Australian Government to consider:

(i) making it an offence to travel overseas to receive an organ acquired from a non-consensual donor, and
(ii) establishing a register of Australians travelling overseas to receive organ transplants, including details on the country in which they receive them.

Senator Lambie to move:
That the Senate—
(a) notes that the Australian Federal Police Association warns that:

(i) the 2015-16 Budget Papers indicate the Australian Federal Police’s (AFP) fiscal position through the forward estimates will deteriorate to the tune of $112 million,

(ii) as an operational agency, the brunt of this deterioration will be borne within employee ranks, with funds available for employee benefits reducing by $61 million,

(iii) by straight division, this represents a reduction of 450 staff, though the actual number will be higher,

(iv) enterprise bargaining is currently underway in the AFP, with employees being unable to sacrifice sufficient terms and conditions to fully offset the $94 million cost of delivering a two per cent per annum salary increase over a three-year agreement,

(v) the consequence of this will be a further reduction in staffing numbers, by perhaps as many as an additional 400 to offset the cost, and

(vi) in total, the AFP is confronting a situation where up to 1,000 employees could be lost through budgetary deterioration and enterprise bargaining; and

(b) calls on the Government to identify which operational outcomes will no longer be required as the AFP cannot deliver business as usual into the future in this environment.

Senators Kakoschke-Moore, Moore and Waters to move:
That the Senate—
(a) notes that 25 November:

(i) is the International Day for Elimination of Violence Against Women which is also White Ribbon Day, and

(ii) marks the start of the United Nations, 16 Days of Activism against Gender-Based Violence Campaign, a time to galvanize action to end violence against women and girls around the world, leading to 10 December, Human Rights Day;

(b) acknowledges the important work of women’s organisations to respond to family violence, to provide frontline services like housing and legal assistance, and the work of other organisations who are part of the nation’s response to family violence, like Our Watch;
(c) recognises that:
   (i) the White Ribbon campaign is a national male-led campaign to end men's violence against women and is now active in over 60 countries around the world,
   (ii) the work of White Ribbon is strongly linked with the National Action Plan to reduce violence against women and their children and build collaborative partnerships stemming from initiatives under the Plan,
   (iii) one in three women have experienced physical and/or sexual abuse perpetrated by someone known to them, and on average, one woman is killed every week in Australia as a result of domestic violence,
   (iv) across the world, violence against women and girls remains one of the most serious, and the most tolerated, human rights violations, both a cause and a consequence of gender inequality and discrimination,
   (v) prevention strategies have a proven effect on levels of violence, and if we engage the whole community in prevention and give them skills for respectful relationships, we will reduce the costs associated with violence, and
   (vi) social policy initiatives and law reform addressing gender inequality are central to reducing attitudes that support violence against women; and
   (d) reinforces the need for broad community support, as well as support across at all levels of government, in the response to end the scourge of family violence.

**Senator Moore** to move:

That the Senate—

(a) notes that:
   (i) from 2009-2013, Australia was one of the world leaders in Disaster Risk Reduction, and
   (ii) in 2013, the Organisation for Economic Co-operation and Development (OECD) praised Australia as a 'lead donor and potential role model in Disaster Risk Reduction';

(b) recognises that Disaster Risk Reduction protects lives and livelihoods, protects development gains, and is cost-effective, in that the World Bank estimates that every $1 invested in Disaster Risk Reduction saves $7 in disaster response and recovery costs; and

(c) acknowledges that:
   (i) Australia's investment in Disaster Risk Reduction has decreased; so that; between 2014 and 2016, Disaster Risk Reduction spending was reduced from around 3 per cent of the total aid program to less than 1.4 per cent of a dramatically reduced aid program, and
   (ii) with the severity of natural disasters increasing in the Asia-Pacific region, it has never been more important to help our neighbors build resilience to disasters.

**Senator Siewert** to move:

That the Senate—

(a) notes that the National Disability Insurance Scheme (NDIS) was introduced to improve the supports, choice and accessibility for people with disability;

(b) notes reports that blind and vision-impaired Australians have been unable to access the NDIS because materials such as the application form and pamphlets are not available in braille or large print;

(c) acknowledges that blind and vision-impaired Australians continue to face barriers to joining the NDIS; and
(d) calls on the Minister for Social Services to commit to addressing these barriers and to work with the National Disability Insurance Agency to ensure that all information and documentation for the NDIS is accessible for the vision-impaired.

BUSINESS

Consideration of Legislation

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (15:33): I move:

That the order of the Senate agreed to on 22 November 2016 relating to the consideration of private senators’ bills on Thursday, 24 November 2016 be varied to add general business order of the day no. 13 (Landholders’ Right to Refuse (Gas and Coal) Bill 2015)

Question agreed to.

NOTICES

Postponement

The Clerk: Postponement notifications have been lodged in respect of the following:

Business of the Senate notice of motion no. 1 standing in the name of Senator Gallagher for today, proposing a reference to the Economics References Committee, postponed till 24 November 2016.

Business of the Senate notice of motion no. 2 standing in the names of the Chair of the Rural and Regional Affairs and Transport References Committee (Senator Sterle) and Senators O’Sullivan and Back for today, proposing a reference to the Rural and Regional Affairs and Transport References Committee, postponed till 1 December 2016.

COMMITTEES

Community Affairs Legislation Committee

Reporting Date

The Clerk: Notifications of extensions of time for committees to report have been lodged in respect of the following:

Community Affairs Legislation Committee—Social Services Legislation Amendment (Transition Mobility Allowance to the National Disability Insurance Scheme) Bill 2016 [Provisions]—extended to 24 November 2016

DOCUMENTS

Ministerial Conduct

Order for the Production of Documents

Senator Waters (Queensland—Co-Deputy Leader of the Australian Greens) (15:35): I, and also on behalf of Senator McAllister, move:

That—

(1) There be laid on the table, by each minister in the Senate, in respect of each Commonwealth Department or Agency administered by that minister, or by a minister in the House of Representatives represented by that minister, by not later than 7 days before the commencement of the budget estimates, supplementary budget estimates and additional estimates hearings, a statement in accordance with the succeeding provisions of this order:

A statement, covering the period since the previous statement was tabled, in respect of each former minister, listing:

CHAMBER
(a) all meetings, including teleconferences, at which lobbying, advocacy or the consideration of business took place, including date, location and duration, between current ministers, secretaries or deputy secretaries (or equivalent), of any Commonwealth Department or Agency and former ministers;

(b) how many people attended or participated and the capacities in which people attended or participated; and

(c) what topics were considered at each of the meetings.

(2) This order has immediate effect with the first statement for 2016-17 additional estimates covering all meetings from the date of commencement of this order to 7 days prior to additional estimates.

(3) In this order:

(a) "Commonwealth Department or Agency" means a Commonwealth entity, other than the Parliamentary Departments and the Office of the Official Secretary of the Governor-General, within the meaning of the Public Governance, Performance and Accountability Act 2013;

(b) "former minister" means a person who is no longer a member of the Australian Parliament and who has been a minister in the 18 months prior to the estimates hearing at which the statement is due.

(4) If the Senate is not sitting when a statement is ready for presentation, the statement is to be presented to the President under standing order 166.

(5) This order is of continuing effect.

I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator WATERS: Our politics in this country have been captured by big polluters, big corporates and big money. While our government tries to cut taxes for big business, it is cutting unemployment benefits and handing out billions of dollars in subsidies to big polluters. Dirty donations and the revolving door between big money and big parties keep this whole sorry mess limping on. This motion is designed to jam up that revolving door. Former ministers will no longer be able to walk into lobbying jobs for the big end of town and expect to walk the halls of this building without scrutiny. Former ministers routinely ignore Prime Minister Turnbull’s own non-binding code of conduct, but today we are seeking to give that code of conduct some teeth. To take our democracy back we will need a range of things—donation reform, a federal corruption watchdog and actual binding standards on ministers—but this is a significant step in the right direction and I urge the government to join with the others to support this motion.

The PRESIDENT: The question is that the motion moved by Senator Waters be agreed to.

The Senate divided. [15:41]

The President (Senator Parry)

Ayes .......................... 34
Noes .......................... 26
Majority ....................... 8

AYES

Bilyk, CL .......................... Brown, CL
Cameron, DN ......................... Carr, KJ
Chisholm, A ......................... Collins, JMA
Dastyari, S .......................... Di Natale, R
Dodson, P .......................... Farrell, D

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Question agreed to.

MOTIONS

Rural Primary Health Services Program

Senator WHISH-WILSON (Tasmania) (15:44): I, and also on behalf of Senators Di Natale, Urquhart and Lambie, move:

That the Senate—

(a) notes that the Meander Valley Council, Tasmania, is characterised by an aged population, high youth unemployment and under-employment, and low household income; and that it experiences all the attendant health and social challenges associated with rural areas across Australia;
(b) notes the success of the Meander Valley Council in utilising federal funding to develop essential youth and social work practices to support the community, including in health prevention and mental health, particularly through the Westbury and Deloraine Community Health Centres;

(c) recognises that health outcomes in rural and regional Australia continue to lag behind the rest of the country;

(d) notes the motion of the Meander Valley Council expressing concern about the impact of the proposed changes to funding for the Rural Primary Health Services Program;

(e) notes that these changes follow harsh cuts by the Federal Government to the Health Flexible Funds which have disproportionately impacted regional communities; and

(f) calls on the Federal Government to recognise the importance of the Westbury and Deloraine Community Health Centres to the Meander Valley when implementing its changes to the Rural Primary Health Services Program.

Question agreed to.

**MATTERS OF PUBLIC IMPORTANCE**

**Turnbull Government**

The PRESIDENT (15:44): I inform the Senate that at 8.30 am this morning Senators Gallagher and Siewert each submitted a letter in accordance with standing order 75 proposing a matter of public importance. The question of which proposal would be submitted to the Senate was determined by lot and, as a result, I inform the Senate that the following letter has been received from Senator Gallagher:

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

The very, very mediocre performance of the Turnbull Government.

Is the proposal supported?

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

The PRESIDENT: I understand that informal arrangements have been made 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 POLLEY (Tasmania) (15:45): Thank you very much, Mr President. Some of my colleagues wanted me to come back into this place and again place on record that I agreed with Senator Brandis so that they could be assured that I did actually say that in this place yesterday. I agreed with Senator Brandis when he made the comment on air that he thought that the Queensland LNP were 'very, very mediocre'. Just to assure my colleagues that I really did say it, I have put it on the record again.

If it were just a matter of me putting that on the record and taking on face value what the Leader of the Government in the Senate actually said about the Liberal National Party of Queensland, that would be fine. But the reality is that this government is very, very, very, very mediocre—at best. I would have thought that someone like the Leader of the Government in the Senate would at least reflect on his own contribution to this government and to this chamber before even he was willing to pass judgement on his coalition partners and his own party in Queensland. Because of all the backflips, failures and let-downs of this
government, I would not be alone in saying that the performance of the Turnbull government is in fact very, very mediocre at best.

The Turnbull government are truly the gift that keeps on giving. They cannot help themselves. Week after week since they have been re-elected, they have stuffed things up. It does not matter what area of policy you want to talk about; it is just the reality of life with this government. We have people in the House of Representatives—the other place—who actually vote against their own government. In fact, it was a minister in the Turnbull government who voted, and who had her colleagues vote, against the government. We have also seen, time and time again, a very desperate Prime Minister grabbing thought bubbles as they pass by, around a whole range of policy areas. The problem is that, when he grabs those thought bubbles, they burst—and that happens before they even hit the ground.

So, if the Leader of the Government in the Senate casts aspersions about the ability of his colleagues in Queensland, I would have thought that the government would have a look at their own performance. We know that the Turnbull government ran around the country before the election and during the election campaign chanting 'jobs and growth'. In fact, as I have said previously in this place, the former Liberal member for the federal seat of Bass would have his staff gather around and do their daily chant, 'jobs and growth', trying to motivate themselves. Not once have they actually delivered anything when it comes to having a strategy, a plan, for the economic future of this country. They have done nothing when it comes to creating jobs or to giving the platform and the framework so that jobs, very important jobs, can be established in this country.

What we found during that election campaign was that there was a lot of noise but not much else. We know that the Prime Minister promised so much to the Australian people and that he has, in fact, delivered nothing. He has delivered nothing but disappointment, but we know that he is very capable of doing whatever it takes to ensure that he keeps his own job. He is certainly—almost on a daily basis, with all his backflips and his burst bubbles—doing whatever he has to do to keep the right wing under control. He is doing what he needs to do to keep his own job. That has been the Prime Minister's priority since 2 July: to do whatever it takes to keep his own job.

But we also know that his big economic plan is all about giving the big end of town, big business, $50 billion in tax cuts. That is their priority—nothing for the Australian people. What we also know, and what demonstrates how mediocre their performance is, is that we are almost at the end of the parliamentary sitting year. What have we already seen about the sitting pattern of next year? That they are doing everything that they can to keep out of the parliament, because they know that, when they sit in the parliament—in the House of Representatives and here—they have to face the scrutiny of the opposition. Of course, when the government is in trouble, there is always a telltale sign, because they cut the number of weeks that they sit, and there has not been a better champion of that than Mr Turnbull himself.

I understand that this week the National Party called a panicked meeting, lasting for two hours, which I would have thought was an extremely long time for the National Party to meet on Monday night, because there were issues around the fact that they had—what was it?—three cabinet ministers who failed to support the cabinet decision on the Adler gun.

**Senator McGrath:** You know that's not true!
The PRESIDENT: Order on my right.

Senator POLLEY: That is exactly what happened. We have heard the contributions and seen what happened, with a Nationals senator this morning talking about the backpacker tax. But he is not prepared to cross the floor to help rural and regional Australia—no, he will not do that when it comes to the backpacker tax. But what he will do is cross the floor in support of bringing in an automatic gun. Where are the priorities, I ask?

We know that Mr Turnbull has a very divided caucus. We know that because we hear the mutterings around Parliament House all the time and we read about it in the newspaper. What I find extraordinary is that the Minister for Immigration and Border Protection, Mr Dutton, has been, as I understand—

Senator McGrath interjecting—

The PRESIDENT: Senator McGrath, interjections are disorderly. I notice you may be seeking the call to speak in this debate, and you will have an opportunity to speak then.

Senator McGrath: I apologise, Mr President.

The PRESIDENT: Thank you, Senator McGrath. We will have Senator Polley heard in silence. I am sure the same courtesy will be extended to you, Senator McGrath.

Senator Bilyk: On a point of order, Mr President: while Senator McGrath is over there, he might like to reflect and withdraw the comment about Senator Polley’s reading abilities.

Senator McGrath: I was surprised she could read—but I am impressed!

The PRESIDENT: Thank you, Senator McGrath.

Senator McGrath: I withdraw.

The PRESIDENT: Thank you. Senator Polley, you have the call.

Senator POLLEY: In relation to the inability of the Prime Minister to lead a united government, to show that he is the Prime Minister of the 21st century and that he would lead a government that is agile and innovative, he has failed on all of those things. Very, very mediocre—that is what I would say. Under his watch, we have seen the second-rate NBN rolled out in this country. We have also seen underfunding of the education sector in this country. We have also had to endure cuts to family payments, which will leave so many Australians worse off—very mediocre. When I said they did not have a strategy for the future, one strategy they do have, because it is in their DNA, is to undermine Medicare. Through you, Mr President, Senator Bushby should hang his head in shame, when he knows that Tasmanians are putting off going to the doctor because they cannot afford the increases that his government has brought in.

We also know that down in their bottom drawer they still have their plan to charge young Australians $100,000 to get a university degree—we know that to be a fact. As I said before, we have a Prime Minister who promised so much but has delivered nothing at all. The Leader of the Government in the Senate attacks his own Queensland colleagues for being very, very mediocre. I think this government will be recorded in history very, very well, and when people look back on this government they will say that they were indeed very, very mediocre.

We would really encourage the Prime Minister to break out of the shackles that the right wing of his caucus has on him and to show the leadership he promised during the election campaign. Quite frankly, what he is doing now as the Prime Minister of this country is
presiding over a government that is very, very bad indeed. 'Mediocre' does not really cover how bad they are, because they just keep stuffing things up day after day. We need a strong leader— (Time expired)

**Senator McGrath** (Queensland—Assistant Minister to the Prime Minister) (15:56): It is a pleasure to speak in this matter of public importance debate and to look at the hypocrisy we have already seen in terms of mediocrity in a mere 10 minutes of this debate starting. When I think of mediocrity, I look opposite and I see a sea of mediocrity. It is something that scares me, because the Labor Party, the opposition, are the government in waiting; they are the alternative to my government. When I look at the Labor Party I am scared, I am fearful, because, if we fail to win the next election in 2½ years time, these knuckle draggers opposite, these oxygen thieves, will have their fingers on the levers of power.

To those poor people who may be listening at home, who were searching for Triple M or Triple J and accidentally wandered onto this broadcast, I say that, to understand what mediocrity is, you just have to listen to the Labor Party and watch the Labor Party. And be very, very afraid, because this is the Labor Party that is led by Bill Shorten. I am chairman of the 'Bill Shorten appreciation society', because we want Bill Shorten—

**The President:** Senator McGrath, refer to the Leader of the Opposition by his correct title or his seat name.

**Senator McGrath:** I am chairman of the 'Bill Shorten Leader of the Opposition appreciation society'. The Leader of the Opposition is actually our patron. We want the Leader of the Opposition to stay being the Leader of the Opposition, because he is not doing a very good job of being Leader of the Opposition, but it is suited to him. We do not want the Leader of the Opposition to become the Prime Minister. We also do not want the member for Grayndler. He is not a bad guy—the member for Grayndler is a pretty good guy. I do not know if I can say his name, but the member for Grayndler is lurking in the shadows. A book is being published. Half the people opposite cannot read—it does not really matter, because it does not have pictures in it.

This is the modern Labor Party, who believe in playing politics. This is the modern Labor Party, who exist purely and solely for politics. Those opposite do not care about public policy and they do not care about the interests of this country; they care about the game of politics. That is what is so sad about the Labor Party. They have not evolved; they have devolved. They are going backwards. The Labor Party of Curtin and Chifley—indeed, you could say the Labor Party of Keating and Hawke—is not the modern Labor Party. The modern Labor Party is purely about politics, purely about saying anything and doing anything in order to win an election, and that is sad.

We witnessed that during the recent election in Australia on 2 July, when the Labor Party, led by the Leader of the Opposition, Bill Shorten, went around the country with Senator Dastyari. Remember Senator Dastyari? I do not know where he has gone lately—Senator Dastyari, with his little EFTPOS machine that he walks around with when he meets people from China. Remember that guy? Senator Dastyari and the Leader of the Opposition were on that bus, going around Australia. And do you know what they did when they went around Australia? They lied. They told the truth never. They fibbed, they fiddled. When truth entered a room they left the room very quickly.
Senator Bilyk interjecting—

Senator McGrath: You are all fibblers opposite, all of you—these mugwumpian fibblers opposite who do not understand what truth is. In fact, the modern Labor Party treat the truth like anyone would treat a cow pat: they try to avoid it. But I tell you what, cow pats are good for you, and truth is good for you, and the modern Labor Party should understand that one day it should tell the truth, and it will be good for it, because at the recent election the Labor Party's entire campaign was based upon lie after lie after lie. That is bad, and that is sad for Australian democracy and sad for the Australian Labor Party, because they should be presenting a viable opposition to the government. That is the nature of the system of government, of the parliamentary democracy that we have in this country—that we have the coalition, the Liberal-Nationals party, on the right and then we have those ratbags over there on the left. And they should present a viable opposition, but they do not, because all they can do is lie. What is fascinating is we look at this actual—

The President: Senator McGrath, I have been listening very carefully to what you have been saying. You have been sailing close to the wind. You cannot really make accusations about members opposite the way you have. So, just be very careful with how you present the rest of your speech.

Senator McGrath: I shall focus on the achievements of this Liberal-Nationals government, who have done so much for Australia, so much to ensure that Australia transitions to a new economy where there are jobs for people, rather than just lies. We understand that Australia should focus on our resources, because we are a resource-rich country.

And talking about resources, let us talk about the support of the Labor Party for our resources sector. Hands up, over in the Labor Party—for anybody listening at home—wave your hands in the air: do you support our resources sector? For those who are listening at home, no-one put their hands up, because the modern Labor Party does not support the resources sector, because they have been captured—it is fascinating: they have become an axis of incompetence and an axis of far-left green politics, because Labor are focused on the preferences of the Greens at every election. So, we have a Labor Party that does not support the resources industry. In Queensland we have the New Hope mine at Acland, which is a wonderful opportunity for more people to get more jobs. We can talk about Adani and the wonderful things Adani will do for Australia that this government has pushed. But has the Labor Party really come out strongly and supported Adani? Not really, actually, because they are so worried, they are so concerned about Greens preferences. Of all the many factions in the Labor Party—there are more factions in the Labor Party than there are M&M's in a packet—the most important one is the green one, the green faction in the Labor Party, because they need their preferences for the coming election.

So, we have a modern Labor Party that specialises in being below average. They are not even a C minus; they are a D, they are an E, they would probably even be a Z, if I were a teacher marking them on what they are doing for modern Australia. They are playing politics with motions like this. They have not put a motion up to talk about serious policy issues, a motion to talk about how we deal with youth unemployment. We could talk about the PaTH project, or what we are going to do with taxation reform. We could talk about how we want to lower people's taxes. They could put a motion up on free trade agreements. But no, they do
not support the free trade agreements, the wonderful agreements of Andrew Robb, a fantastic
person, followed by Steven Ciobo, a great minister. They do not want to talk about the policy
issues, because they know that on every single policy issue we have won and are winning. We
are a government that is delivering for Australia, and the only thing the Labor Party are
delivering is, sadly, a below-average approach to public policy development in this country.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (16:04): This matter
of public importance put forward by the Labor Party is titled 'The very mediocre performance
of the Turnbull government'. Now, I think calling the Turnbull government mediocre is giving
them too much credit, frankly. But I did not rise to speak about the performance of the
Turnbull government; it speaks for itself. What I want to talk about is the performance of
this parliament. I am not going to disagree that this is a government that is ignoring the big issues
that confront us as a nation, but we have to do better than this. It is this parliament that runs
the risk of not just being mediocre but also being a laughing stock if we do not start
challenging the big issues that lie before us as a nation.

So, here is a reality check, people. We have a looming crisis in Australian democracy, and
until we take heed of that we are going to see further alienation and division within our
community, and that is bad for good government. There was a survey just prior to the 2016
federal election from the University of Canberra. It showed that less than half of Australians
are happy with the performance of our politicians. The survey from the Scanlon Foundation,
*Mapping social cohesion*, is very interesting reading. Have a look at the section on trust and
democracy. A whole range of issues are listed regarding people's concerns about life here in
Australia. The second most important, after management of the economy, is the quality of
government and of politicians. That is the second-ranked issue of concern for the Australian
community.

And we are starting to give reason for Donald Horne's saying that this is a country run by
second-rate people, because the performance of this parliament has been appalling—
absolutely appalling. In the Scanlon Foundation's survey the proportion of people who think
we need to tinker around the edges, make some minor change to improve our democracy, is
falling. But the number of people who want to see major reform to Australian democracy is
on the rise, and it is no wonder when you see silly debates like this.

How about we have a debate about matters of public importance that really matter to
people? How about we have a debate about the corrosive influence of political donations?
How about we have a matter of public importance about the establishment of a national
anticorruption watchdog? That would be a good start. People are angry—and they have a
right to be angry—because they have lost faith in the people who govern them. Yet here we
are. We have had a Greens proposal to establish a national anticorruption watchdog
consistently voted down by both major parties.

People are angry that we have the great challenge that lies ahead of us as a nation—that is,
tackling dangerous global warming—and what are we doing? We have pathetic targets and
we do not even have a plan to reach those targets. We have governments that continue to
chase away foreign investment and job creation in the renewable energy sector, which is a
pathway for new employment for people in regional communities—nothing of that. We
witness those record breaking temperatures year on year on year and see the tragic images
from the Arctic, where the sea ice is melting, and yet what do we have? We have the
government—with it must be said, the support of the Labor Party—slash funding for the Australian Renewable Energy Agency. More than half a billion dollars was taken from it.

People are angry that there is a growing gap between the rich and poor. Property prices are through the roof, yet the government is not prepared to take on issues like negative gearing and capital gains tax reform. We have wealth concentrated within a privileged few, yet we see the two major parties, with the support of One Nation, get together to give a tax cut to the people who need it least—the richest 20 per cent of Australians get a tax cut while, at the same time, we are cutting services for ordinary people.

Just yesterday we were told that we do not have time to have a debate about important issues like the US alliance and Australia's national security. What does the alliance mean for us now? How can we better forge an independent path into the future? No; what we see are silly little games played out in this chamber. We had a sitting convened until 3 am in the morning to discuss an issue that no-one understands or, to be frank, cares about, except for the ideological warriors from this government.

No; it is not the government that is mediocre. I think that is giving them too much credit. It is this parliament that is mediocre. It is the parliament that needs to be reformed. How about we focus our energy on something much more important? Our democracy is broken. People have lost faith in the people who govern us—and it is about time we fix that.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (16:09): Speaking of the Turnbull government being very, very mediocre, I have to say that the previous performance by Senator McGrath was one of the most bizarre and off-topic performances we have had. I am not quite sure what he was rehearsing for, or what he thought he was interviewing for. Maybe it was part of that McGrath government he mentioned. I presume that will come after the Abbot-Turnbull-Joyce government. It is going to be the McGrath government. I do wish you could just sort out which one it is.

Senator Williams interjecting—

Senator BILYK: He said 'the McGrath government'—'my' government. I do wish that you could sort that out. Even that much would help us. When Senator Brandis described the Queensland LNP's performance as 'very, very mediocre' I had no doubt that what he said was sincere and correct. It is not often that I agree with Senator Brandis, as people in this place know, but I do think it was sincere and correct. I will be interested to hear if Senator Williams—I notice he is next on the speakers list—actually takes it up to Senator Brandis over this. That would be interesting to watch too. Having said that, I do think that Senator Brandis should look in a mirror sometimes, because when he talks about mediocre performances, given his own performance and that of the government he represents, a phrase about pots and kettles springs to mind.

It was Senator Brandis, as Minister for the Arts, who was the author of the disastrous 'Catalyst' arts ministerial slush fund, which caused a wave of devastation to sweep through Australia's arts industry, and it was Senator Brandis, in his current position, who launched an all-out assault on the independence of legal advice to government, forcing the resignation of one of the most prominent constitutional lawyers in this country. This was a crisis of Senator Brandis's own making—in fact, both crises were of Senator Brandis's own making—and it is he, not Mr Gleeson, who should have resigned. Let's also not forget the long-lasting damage
Senator Brandis has inflicted on legal assistance in Australia through his cuts to legal aid. All of this obviously explains why the LNP member for Ryan, Jane Prentice, encouraged journalists to ask Queensland MPs what they thought of Senator Brandis’s own performance.

But when it comes to this government’s performance, the word mediocre is, as Senator Di Natale said—and I agree with Senator Di Natale in this respect—just a bit too kind; it is a bit too complimentary. This is a government at war with itself. It is obsessed with the myopia of its own internal squabbles and it is trapped in a quagmire, with no plan to deal with slow economic growth and a budget deficit which is deteriorating on a daily basis. After waxing lyrical about jobs and growth and after all the talk about being innovative and agile, what has this government put forward as a policy agenda in the last year?

The government has put forward: a couple of bills to give effect to their ideological war against the trade union movement—which took about three years to get up anyway; a bill to give effect to a wasteful and expensive $170 million opinion poll on marriage equality; a thought bubble on states and territories raising income taxes; and an inquiry into changes to section 18C of the Racial Discrimination Act, which is designed to appease the conservatives on Mr Turnbull’s backbench. On that last matter, we know that the conservatives are the ones who are actually in power. Time and time and time again Mr Turnbull has been forced to cave in to the extreme Right in the Liberal Party.

We know Mr Turnbull is the leader in name only, while right-wing ideologues like Mr Christensen and Senator Bernardi call the shots. Senator Bernardi, even from as far away as New York, where he is at the moment, is able to pull the strings of the puppet Prime Minister. Not only are there factional divisions within the Liberal Party; there are divisions between the Liberals and the Nationals, as we heard from the comments Senator Brandis made and as was shown by the recent vote over the Adler shotgun. It was this government’s infighting that led to a former Treasurer, Peter Costello—one of their own—to declare that Mr Turnbull is ‘in government but not in power.’

Mr Costello also observed, when he spoke to the ABC’s Four Corners, that the former Prime Minister, Mr Abbott, did not plan ‘to be a backbencher for the rest of his life’ and questioned what the government could possibly achieve with a razor-thin majority and its own internal divisions. It is no wonder that those opposite are in disarray in this place—with members who head home early and miss crucial votes, or, when they do turn up, actually vote to condemn themselves!

While this government fights a war with itself, its budget continues to deteriorate to an even worse position than when Mr Abbott declared a so-called budget emergency. The Treasurer’s promise of a budget surplus by 2020-21 has become an absolute joke. In 2015-16, the Treasurer, Mr Morrison, delivered a budget deficit eight times bigger than those opposite inherited. The 2016-17 deficit has tripled and net debt for this year has blown out by more than $100 billion. Just this week we have had warnings from Deloitte Access Economics that Australia’s AAA credit rating is at risk. It begs the question, after more than three years of a Liberal-National government: how long do we have to wait for those opposite to start taking responsibility for their own poor fiscal management and stop pointing the finger at Labor? In fact, I am still waiting for good government to start.

The closest thing this government has to an economic plan is a $50 billion tax cut to big business—a tax cut which is overwhelmingly going to benefit shareholders overseas, and a
tax cut which Treasury itself says will only deliver a 0.1 per cent benefit to Australia's economy. That is $1 of benefit for every $1,000 this government spends on its tax cuts. It defies logic that the government would continue to pursue a wasteful $50 billion tax cut at a time when the budget position continues to deteriorate.

In pursuit of budget repair, those opposite have continually tried to target the most vulnerable and disadvantaged in our community all the time failing to take real action on the waste of multinational tax avoidance or negative gearing. While I am pleased to finally see some real action on the blowout in VET loans and generous superannuation concessions, Labor has been calling for these issues to be addressed for years while the government has been sitting on its hands. Despite all the talk of budget repair, through budget estimates we keep revealing examples of waste and mismanagement, like the Minister for Foreign Affairs, Ms Bishop, who sent 23 public servants to Paris at a cost of $200,000 to talk to each other about how to save money. How bizarre is that? That is not very, very mediocre; that is just very, very stupid.

The task of budget repair certainly has not been helped by Mr Turnbull's disastrous management—first as communications minister and then as Prime Minister—of Australia's largest infrastructure project, the NBN. We know that Mr Turnbull and Mr Abbott's decision to roll out a second-rate copper network has caused delays and cost blowouts. Despite insisting that the government would only invest $29.5 billion equity in the project, the cost blowouts and lack of revenue from Mr Turnbull's second-rate NBN have prompted the government to invest a further $19.5 billion. At the same time, there has been an almost 150 per cent increase in NBN-related complaints to the Telecommunications Industry Ombudsman compared to last financial year. NBN issues now account for almost 12 per cent of all TIO complaints, even though the NBN only comprises less than four per cent of fixed and mobile internet services. As a result of Mr Turnbull's second-rate NBN, Australia has fallen from 30th to 60th in global rankings on broadband speed. That is also less than very, very mediocre.

Not only has the government mismanaged the budget, but it has been lacklustre on the issue of economic growth. The self-proclaimed government of jobs and growth—that is what we kept hearing—is one of the worst performing in Australia's history according to recent research by the Australia Institute. The research examines the performance of governments since Menzies across a range of indicators including GDP per capita, the unemployment rate, employment growth and the growth of real business investment and intellectual property investment. In fact, the economy under the former Gillard Labor government, which those opposite continue to criticise for supposed poor economic management, actually performed better on 10 out of the 12 indicators than under Mr Abbott and Mr Turnbull—and they did not have to steer Australia through the global financial crisis.

The Australian economy certainly has not been helped by this government's backpacker tax fiasco. This process has been bungled from the beginning and, because of the uncertainty, accommodation, agriculture and tourism businesses in my home state of Tasmania are reporting huge drops in applications, putting agricultural production across the state at risk. I am sure it is not only in Tasmania that that is happening. I attended the inquiry in Tasmania, but I know from the report that that is not just happening in Tasmania.
Also putting Australia’s economy at risk has been the government’s intransigence on climate change and renewable energy. Australia’s ratification of the Paris climate agreement is welcome but is meaningless without a commitment to strong targets. Bloomberg New Energy Finance recently reported:

Australia’s current climate policy framework is insufficient to meet the current targets, let alone deeper commitments.

(Time expired)

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (16:19): I rise to contribute to this waste of time in the Senate—this MPI and the way it has been presented. That is what it is: a waste of time and a waste of taxpayers’ money. I am following on from Senator Bilyk, who did a pretty good job reading that speech that her staff put together. The problem is that, when they read their speeches, they run out of time. They cannot complete it.

The ACTING DEPUTY PRESIDENT (Senator Back): Senator Bilyk, on a point of order.

Senator Bilyk: It has been mentioned before in this place—

The ACTING DEPUTY PRESIDENT: What is the point of order, Senator Bilyk?

Senator Bilyk: The point of order is that it has been mentioned before in this place that I admit to using copious notes because I have had two brain tumours. If you want to get personal, Senator Williams, I am happy to take it up to every single person on your side doing that.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Bilyk.

Senator WILLIAMS: I am not getting personal.

Senator Bilyk: Yes, you were.

Senator WILLIAMS: No, I am not, Senator Bilyk. I am not getting personal. I simply said that, when you read your speech and the time runs out, you leave yourself without completing your speech. That is the point I am making.

The ACTING DEPUTY PRESIDENT: Through the chair, Senator Williams, please. Continue.

Senator WILLIAMS: Certainly. I am sorry. My apologies, Mr Acting Deputy President. I rise to contribute to this debate, which I think is a waste of time—a political hand grenade thrown across the chamber. It is about the only time I ever agreed with the Greens leader, Senator Di Natale: we should actually talk about proper, decent issues that relate to the people.

We have the criticism from those opposite. Senator Bilyk says it is our financial management. How ironic is that? You would remember 2007, when the Rudd government were elected. What sort of financial position were they in? What were they in? They were in a position of money in the bank—net debt free. What sort of a mess did they make of it? The first budget was going to be a surplus, and, then, of course, they were into debt building. Remember the handing out of the money. Remember the schools building program, the economic stimulus package and Building the Education Revolution, where many builders did not even get paid. The contractors went broke, sadly. And even down at Wagga Wagga,
where they built one of the buildings, we were launching a National Party campaign there, and the building fell over. So it was not built very well or very solidly.

I want to talk about some positive things we have done in government—some real positives. The coalition has committed an additional $60 million to the Mobile Black Spot Program. That would make a total of $220 million. The Mobile Black Spot Program has already delivered 499 new services and upgraded mobile base stations. How many new mobile towers did the Labor Party build in government in six years? Have a guess. We have now completed 499. How many do you think Labor built in their six years? Would it have been 200? We have done 499 in a bit over three years. Do you think they would have done 200 in six years? No. Do you think it might have been 100, Senator Ruston? No. Let us go down to 10. They did not build 10 new mobile towers for people in regional areas especially—they did not build any. Zero! That is what regional telecommunications means to the Australian Labor Party. They do not care about people in regional areas having a telecommunications system. They built zero. I am pleased to see that my colleagues Senator Fiona Nash and Minister Barnaby Joyce have pushed hard on these very issues to succeed and have those rollouts of the mobile black spot phone system being done, and more every day.

Senator Nash announced today the Building Better Regions Fund. What a good fund this is—almost $300 million. Regional Australia allows our cities to exist. That is the fact: regional Australia allows our cities to exist. It supplies the energy sources, the food—you name it, regional Australia provides the primary production. There is a huge potential for economic growth in regional areas. What a good job Senator Canavan is doing about putting the developments into northern Australia. There is huge potential up there. We need to grow our exports and grow our industries to feed hundreds of millions of people around the world. People rely on Australia to feed them. It is good to see the growth there. It is good to see the steps going forward to build dams. Mr Acting Deputy President Whish-Wilson, I know you are a big supporter of building dams. I appreciate that very much. With the dams come not only the water to grow more food, for more exports and more jobs, but also the hydro schemes for electricity—a good renewable, clean way of generating electricity.

Badgerys Creek: how long did the opposition, the Labor Party, talk about another airport for Sydney? When we go to Sydney Airport, as I am sure all of us in this place do on a frequent basis, it is congested and often running late. So at last former Nationals leader and transport minister Warren Truss made the announcement and got on with the job to build another airport, because the one we have now is simply not big enough.

Inland rail: I do not know how many of you have driven up the Newell Highway of late. It is a very busy highway. There are many, many trucks and B-doubles. They are simply doing their job, doing their work and I wish them well, being someone who has driven trucks for some period of my life. $893.7 million has been budgeted to finalise reconstruction and acquire the land necessary to construct the project—to buy the land back, because you cannot run the train line through a house or property without buying it back and giving proper compensation. We have started on-the-ground work to deliver the inland rail, as I said, with $893.7 million, with the route through Karara and Leyburn, the regional connection to the Charlton and Wellcamp areas, and the route west of Warwick via Karara and Clifton. That is well and truly under way, thanks to the coalition government.
The NBN is being rolled out. We know that the original plan was going to be hugely expensive. The government's equity contribution of $29.5 billion to NBN Co is expected to be fully utilised in the current financial year. The good news on that today is that it is being rolled out. The good news is that where I live, near Inverell in northern New South Wales, it will be rolled out in the second half of next year, and in the New England area in the first half. It is good to see that proceeding. Sky Muster—the satellites to provide good, fast broadband communication for some 440,000 residents—is being rolled out as well. It is another great initiative by the coalition government.

The rural general practice grants—we all know the importance of health and having those services provided to us. We now have some support going out, just announced by my colleague the Assistant Minister for Rural Health, David Gillespie. Grants of up to $300,000 will be provided to medical practices in rural areas to train and retain health professionals. You need good facilities, you need good buildings. Here we are assisting those regional GP practices to improve their facilities and to retain young doctors in regional areas, which is most important.

We abolished the Road Safety Remuneration Tribunal. Remember that? That ruling by the Road Safety Remuneration Tribunal earlier this year, which was to come in by 4 April, was going to send 35,000 mum-and-dad businesses—owner-driver truckies—broke. Luckily we got in and abolished that crazy idea. The registered organisations bill is now passed to make sure that union leaders are accountable for their actions just the same as directors of companies are. We hope the ABCC bill will go through very soon. The backpacker tax that Labor increased from 29 per cent to 32½ per cent in government—the AAT ruled that it must include backpackers—hopefully very soon we will have that cleaned up as well. I am glad to say that on 1 January liquidators changes come, which I pushed very hard to have.

**Senator HANSON-YOUNG** (South Australia) (16:28): I rise today to contribute to this debate. Firstly I acknowledge that the wording of this motion describes the government as 'mediocre'. I get that—it is kind of funny, because of Senator George Brandis's slip-up in his moment of truth on television only a couple of days ago. I want to say, first up, that I think that is pretty soft. It is not that the government is mediocre: they are cruddy, pathetic and useless. All we have seen from this government for the last 12 months is blaming everybody else and not being able to get on with the job at hand.

The one thing I wanted to talk about in particular here today, in relation to how cruddy this government really is, is the behaviour and actions of the minister for water and Deputy Prime Minister, Barnaby Joyce. This is a man who, only four years ago, in the middle of the debates around the Murray-Darling Basin Plan and giving the authority the powers to manage the basin in a way that was meant to set the river system up for a sustainable future, said to my home state of South Australia, 'Oh well, if you don't think you've got enough water, South Australians, just move to Queensland.' That was his response to the very dire situation down in the lower end of the Murray and in SA.

Now that the Deputy Prime Minister is in charge of this portfolio, we see that he could not wait to get his hands on it. He loved the idea that he could finally get his hands onto managing the Murray-Darling Basin, because he has never supported the Basin Plan. He has never supported the approach of ensuring that there is enough environmental flow to keep that river going into the future. We know that, over many decades, too much water has been taken out
of the river. The water allocations have been overallocated. Upstream states—particularly, big irrigators upstream in Victoria, New South Wales and, of course, Queensland—have sucked too much water out of the system, so much so that the river was starting to choke. In recent years we have seen the mouth of the Murray close because the flows were not coming down the river, particularly at a time when the climate is drier. We had a long, drawn-out public consultation and debate about how we set the rules so that it is fair and so that we can get above and beyond this political bickering between states and between states and the federal government, trying to understand that you needed an environmental voice and stake in a plan that was meant to manage this river system going forward if you are going to give it any kind of fighting chance. If those communities along the river are going to have any chance of economic and social survival, you have to keep the river alive.

Yet right from day one the Deputy Prime Minister never really supported and was never committed to the idea of having proper water buybacks that would ensure environmental flows to keep this river functioning to give it a fighting chance to get back to health and to keep it healthy going forward. Four years on we now see the minister for water, the Deputy Prime Minister, in charge of this, and all he wants to do is blow up this Murray-Darling Basin Plan. He wants to blow open the agreement and reset the rules, and that, of course, is all about letting upstream states take more water back out of the river again. Giving Barnaby Joyce control of water is one of the cruddiest things that this Prime Minister has done. It is like giving the fox the keys to the henhouse. He is obsessed with making South Australians and the lower end of the Murray suffer, because he wants more water to be given to upstream irrigators. He is not interested in fair rules that keep the river alive. He is not interested in acknowledging that, in a drying climate and in a time of climate change, we have to do more to ensure environmental flows. This government is not just mediocre; it is cruddy to the core.

*(Time expired)*

**Senator McALLISTER** (New South Wales—Deputy Opposition Whip in the Senate) (16:33): This government has never seen an evidence based policy that it did not want to unpick. That is one of the many reasons that it is a very, very mediocre government. They are working on trying to unpick Gonski now, an historic agreement to introduce needs based funding reached under the last Labor government. They have done a great job of unpicking the arrangements put in place to tackle dangerous climate change, putting us in the embarrassing position of being one of the few nations internationally that has actually removed an effective emissions trading system designed to deal with climate change.

Now this government is turning its sights on the Murray-Darling Basin Plan. The Murray-Darling Basin Plan is more than just some technical instrument. It is not just some government plan that can be toyed with at the whim of the Deputy Prime Minister. It represents an incredibly powerful consensus, one which was hard fought, one which was hard to achieve, and one which was achieved under the last Labor government. There has been conflict about water use along the Murray-Darling Basin for longer than Australia has existed as a nation, and it was something indeed to come to an agreement about how we would handle that conflict when the Murray-Darling Basin Plan was put in place. Contrary to some of the views that are given in this place, it is not a radical environment plan. In fact, it most explicitly seeks not to return the system to a natural state but rather to deliver a healthy working river system that could not only deliver for agricultural communities but could also
deliver on the ecological needs of all of those amazing systems that exist up and down the Murray-Darling Basin.

So I completely sympathise with the anger and the frustration of my South Australian colleagues here in this chamber, because there are many sensitive sites in South Australia that do need watering, and the Murray-Darling Basin Plan needs the water so that we can keep those sites alive. It is also the case that the South Australians, quite reasonably, would like a healthy channel in the Murray, because that is so important for them as a source of drinking water and so important as a source of agricultural water. So I stand by South Australian colleagues—and I stand by South Australians—when they stand up here and push back hard, quite rightfully, against the Deputy Prime Minister's outrageous plan, because, as has been talked about often in this chamber this afternoon, he is actively walking away from a constructive process that was put in place to try to find the additional 450 gigalitres that the scientists tell us are necessary to deliver a healthy working river—not to return the system to pristine environmental health; simply to deliver a river that can perform all of the functions that we demand of it as the Australian community.

I worry too about the way the Deputy Prime Minister talks about the Murray-Darling Basin system. He quite rightly points out that it is not an interconnected system of hoses, and I agree with that; it is not. But the implication he seems to draw from that is that you can take as much water as you like out of the northern basin and it will not make any difference, because it does not make any difference to South Australia. He seems completely oblivious to the amazing assets that are in the northern basin, and we are starting a consultation at the moment about the northern basin. There have not been any decisions made about how much water the recovery targets are for the northern basin. But we do know that there are some assets there that will come under pressure if the recommendations are implemented. As we work through this consultation process, we need to be scrutinising that. We need to be looking at the implications for the wetlands on the Barwon-Darling. We need to be looking at the implications for the Culgoa. We need to be looking at the bird breeding on the Narran Lakes, an incredibly significant international site. We need to be coming to some conclusions about what it will mean if we change the arrangements and the water recovery targets in the northern basin. I have not drawn a conclusion about that, but I will say this: when the Deputy Prime Minister talks about it, he talks about it as though these things mean nothing, as though ecological sites mean nothing, as though the only value in the basin—and in the northern basin in particular—is its agricultural value. That is simply not so.

I had the very good fortune to visit the Paroo in early 2000. I remember the Indigenous people who were there, the Indigenous people who right now are saying that they are angry about the lack of consultation, the lack of involvement and the lack of opportunities for them to be involved in decision making about water in the northern basin. They were there back in 2000 when we declared the Paroo River a place a special importance. We said that we would not regulate it any further under a Labor government. I say to those people: we will stand by you as you seek to be included in the process for making decisions in the northern basin. People need to be very careful about this—very careful, indeed. (Time expired)

Senator BACK (Western Australia) (16:38): Senator Gallagher is just the gift that keeps on giving. I had to check whether it was Christmas coming early when I saw the subject of today's discussion—'The very, very mediocre performance of the Turnbull Government'.
Well, you have to compare mediocrity with something. So what is the only thing we can compare this statement of Senator Gallagher's with? Of course, it is the last six years of the Labor government. Time does not permit me to say much, as I have only nine minutes, not 90 minutes.

I am going to start with defence, because it was the previous coalition Prime Minister Mr Howard who famously said, 'We will decide who comes to this country and the circumstances under which they arrive.' Let me first start with Labor in government. I will tell the people here in the gallery today what Labor did when they were in government relating to defence. The first major thing they did was to rip $18 billion out of the defence budget. That is not a bad effort! The second thing they did was to create what was called a valley of death. The valley of death related to the fact that when it came to naval shipbuilding they made no plans. They made no plans at all. When we came into government we saw that circumstance that needed reversing. The Labor government of the time managed to get defence expenditure down to levels equivalent to 1938. For those up in the students' gallery, that was just before the Second World War. When it came to submarines, there were two of the six Collins class submarines operational at that time, with no plans to replace them.

Let's have a look at what the Abbott and then Turnbull governments have done on future submarines. There are 12 submarines to be constructed here in Australia. There is the future frigates program. Again, it is principally to be in South Australia, with maintenance probably in WA. Then there are the future offshore patrol vessels and the future Pacific vessels that are already being built at Henderson. There is work being done for the land army. There are the new helicopters and the C17 aircraft for the RAAF. Importantly, there is a commitment of up to two per cent of GDP right out to 30 or 40 years in the future. These vessels will be Australian built and Australian maintained. And the members of the Defence Force themselves, both those in uniform and those supporting them, know that they have long-term employment.

I had the privilege of farewelling the HMAS Arunta from Garden Island from HMAS Stirling the other day and made the point to those 191 personnel that many of them are going to be the leaders of the Navy into the future simply because the coalition showing the leadership we are showing in the defence space will ensure that there is a defence budget well into the future. There is a white paper on defence, accompanied by a defence industry paper so that industry knows where it is in that particular space.

Associated with protection of borders and long-term security, we obviously have the question of detention. The previous speaker spoke of unpicking a policy. She was not around when the incoming Rudd government unpicked what was a very successful policy of the then Howard government when it came to asylum seekers. There were none. There were none coming to our shores at that time. There were none dying at sea. There were none in detention. Therefore, there were no children in detention.

What did we inherit when we came back into government in 2013 because the Rudd-followed-by-Gillard government decided to unpick a policy that worked? Fifty thousand people arrived by sea in 800 successful smuggling events. No wonder the people smugglers at the time thought the Rudd and Gillard governments were the bee's knees. Eight thousand children were in detention. When we came into government, there were almost 2,000. Today how many children are there in detention? None. Zero. We know about 1,200 people who
died at sea. That is one every two days of the last Labor government. We know about 1,200 because, regrettably, they are the ones who were found. When I spoke to the skippers of patrol vessels and asked them, ‘How many were there?’, they said, ‘Senator, we have absolutely no idea.’

This apparently mediocre Turnbull government has now gone through 840 days in which there has not been a successful entry by people by sea. So the people smugglers’ trade has been closed down. The biggest risk to that would be a future Labor government. That is the situation associated with defence and asylum seekers.

I turn then to the apparent mediocrity of the performance of the Turnbull government as it relates to free trade agreements. Those of you who are interested know we are a big exporting country. From our state, Senator Reynolds and I know 95 per cent of our grain is exported. The vast majority of our beef and sheep meats are exported. How many free trade agreements were negotiated during the six years of the Labor government? None. Zero. How many have been negotiated by the Abbott-Turnbull government to date? There has been one with China. China is not a bad little organisation—we only do about $100 billion worth of trade with China!

Even New Zealand was able to strike a free trade agreement during the term of the Labor government. We could not, but we have now. South Korea is a major trader with us—$21 billion dollars of trade. With Japan, it is $50 billion of trade, and we now have a free trade agreement with Japan. Most importantly, because of the excellence of the then minister, Andrew Robb, we enjoy most-favoured-nation status with each of them.

So, when it comes to the apparent mediocrity of the coalition government, all I can say to you is to look at the benefits flowing to Australia now and into the future. I spoke earlier today about the opportunities that exist in Mexico in terms of hard-rock mining, agriculture, oil and gas, services and higher education—and on it goes. Those are the opportunities that are presenting now.

The sorts of jobs that the young people who are up in the gallery now are going to have into the future will be high-paying jobs, because the main benefit of the free trade agreement with China, for example, is in the services sector. As you know, Mr Acting Deputy President Whish-Wilson, from your background in finance, about 70 per cent of the Australian economy relates to services, but only 17 per cent of our exports are services. Imagine if we could double the proportion of our services in higher education, health, education, corporate governance and prudential banking. All of these are services the Chinese want. The young people looking down at us here today, Mr Acting Deputy President, are the people who are going to capitalise on that because of the excellence of the coalition government, led by Mr Turnbull. Just one small example is 3D printing. Through you, Mr Acting Deputy President, I say to you young people up there: whatever you do, get into 3D printing, because the jobs are limitless—and the support from the Turnbull governments in the field of innovation is obviously where that is going to go.

We have these free trade agreements, and of course there are opportunities now with the EU in agricultural exports. Once again, with Britain leaving the EU, opportunities are opening up already, and I am meeting with our trade minister, Mr Ciobo, to make sure that we are aware of all those opportunities.
A space that is of critical importance to us all is employment. Apparently we are mediocre in government; what was the performance of the last Labor government in its six years? In the period from September 2012 to September 2013, a lousy 87,000 jobs in total, or 7,300 jobs per month, were created. What we have been able to achieve is a figure of some 500,000 jobs that have been created in this country since we came to government in 2013. If that is mediocrity, I will wear it any time. If you want to see excellence, have a look at the performance of the last Labor government!

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson): The time for the discussion has expired.

DOCUMENTS
Consideration

The government documents tabled today and general business orders of the day Nos 1 to 7 relating to government documents were called on but no motion was moved.

COMMITTEES
Regulations and Ordinances Committee
Delegated Legislation Monitor


Ordered that the report be printed.

Scrutiny of Bills Committee
Report


Ordered that the report be printed.

Parliamentary Joint Committee on Human Rights
Report


Ordered that the report be printed.

Senator WILLIAMS: I seek leave to have the tabling statement incorporated in Hansard.

Leave granted.

The statement read as follows—

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' Report 9 of 2016.

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CHAMBER
The committee's report examines the compatibility of recent bills and legislative instruments with Australia's human rights obligations. Twelve new bills are assessed as not raising human rights concerns and the committee has also concluded its consideration of a number of matters.

As can be seen in this report, much legislation either does not engage human rights or, if it engages with rights, either promotes rights or does not limit them. Under international human rights law most rights may be permissibly limited providing certain criteria are met. Where legislation does limit human rights, the committee's longstanding analytical framework allows it to focus on three key questions:

1. whether the measures are aimed at achieving a legitimate objective;
2. whether there is a rational connection between the measures and that objective; and
3. whether the measures are proportionate to that objective.

These questions are considered at the first stage of the committee's analysis of rights that can be subject to permissible limitations. If the statement of compatibility does not provide sufficient information and analysis the committee seeks the advice of ministers to enable it to conclude its examination.

The report includes consideration of the Privacy Amendment (Re-identification Offence) Bill 2016 which seeks to amend the Privacy Act 1988 to prohibit conduct related to the re-identification of de-identified personal information. On the one hand the bill engages and promotes the right to privacy. However, the bill raises human rights questions insofar as it creates retrospective criminal offences, which are absolutely prohibited under international human rights law. The committee is therefore seeking advice from the Attorney-General as to whether consideration has been given to introducing prospective, rather than retrospective, offences.

The report also includes consideration of two separate bills that seek to amend the Migration Act 1958.

The explanatory memorandum to the Migration Amendment (Visa Revalidation and Other Measures) Bill 2016 indicates that the measure introduced by the bill is intended to apply to only specific visa holders, but there is nothing on the face of the bill that constrains its application in this way. Consistent with its usual approach, the committee has sought further advice from the minister about the rights engaged by the measures in the bill.

The Migration Legislation Amendment (Regional Processing Cohort) Bill 2016 seeks to introduce a lifetime visa ban for asylum seekers in specified circumstances. The measure engages a number of human rights including the right to equality and non-discrimination, the right to the protection of the family and the rights of the child. The committee is seeking advice from the minister in relation to whether the bill is compatible with these rights (including whether they are subject to permissible limitations).

Finally, I would also like to draw the Senate's attention to an inquiry recently referred to the committee by the Attorney-General, pursuant to the Human Rights (Parliamentary Scrutiny) Act 2011. This is the first such inquiry to be referred to the committee by the Attorney-General.

The inquiry includes examination of sections 18C and 18D of the Racial Discrimination Act 1975, and the complaints handling procedures of the Australian Human Rights Commission. I strongly encourage interested organisations and individuals to submit to the inquiry; the closing date for submissions is 9 December 2016. Details about the inquiry are available on the committee's website.

I encourage my fellow senators and others to examine the committee's report to better inform their understanding of the committee's work.

With these comments, I commend the committee's Report 9 of 2016 to the Senate.

Senator REYNOLDS (Western Australia) (16:50): I move:

That the Senate take note of the report.
In particular, I want to discuss the Migration Legislation Amendment (Regional Processing Cohort) Bill 2016 which the ninth report considered. Reports in the media last night and today that government members of the Parliamentary Joint Committee on Human Rights are not supportive of the bill are completely false, and I think they demonstrate an appalling lack of understanding by those who have reported these stories of the role of scrutiny committees.

But first let us remind ourselves of why we are taking these measures. It is not as those opposite and some in the media like to portray us—that we are cold-hearted right wing ideologues. In fact, it is quite the opposite. We did not open the regional processing centres, but we have taken and we continue to take responsibility for closing them down. Under the Labor government, with the support of the Greens, the people smugglers were put back into business and they were kept in business over the life of the last Labor government. Sadly, however, their business is the trade in and exportation of some of the world’s most vulnerable people.

What was the result when Labor and the Greens put people smugglers back into business? The facts are very clear. Fifty thousand illegal maritime arrivals attempted to come to Australia in over 800 boats. Seventeen onshore detention centres and two offshore regional processing centres were opened by Labor, and still they could not cope with the absolute flood of illegal arrivals.

Under the previous governments and under their policies, over 8000 children were placed in detention, including in an offshore regional processing centre that was set up too quickly and was ill-equipped to handle families and, in particular, children. These were not places for children at that time. Most shockingly of all to me, we know that it least 1200 people died the most heinous deaths at sea as a direct result of the policies of the government of the day. The lives of all 50,000 men women and children were put in harm’s way. Many of them—those who did not die at sea and who were returned—lost their life savings because, unsurprisingly, people smugglers do not give refunds.

There is no simple or straightforward solution to dealing with the cruel and insidious crime of people smuggling. If there were, governments would have taken them many years ago. At the heart of this cruel and insidious trade—and I learnt of this when I was in government as a chief of staff dealing with this in 2001-03—people smugglers do not respect our compassion; they see it as a weakness to exploit and to make money on. What they are exploiting? They are exploiting people. What does compassion look like? Firstly to me there is absolutely nothing compassionate about deliberately allowing people to die and keep dying at sea. There is nothing compassionate to me about providing false hope to those who have paid people smugglers that one day they will have the means of entry into Australia. That is the product the people smugglers keep trying to sell them. As we saw in a recent estimates hearing, there is absolutely nothing compassionate about the vilification by some people in this chamber and in Hansard of our brave Australian men and women—in border protection, law and enforcement and defence—who protect our borders. Those men and women have suffered great emotional distress at having to deal with the dead and dying at sea as a direct consequence of government policy. That to me is not compassion.

How successful were they under the Howard government? Clearly they worked, but how have they worked this time under this government? It is now been more than 830 days since a successful illegal boat arrival in Australia. This government has closed all of Labor’s 17
detention centres, and all children have been removed from detention. Most importantly, there have been no more drownings at sea of men, women or children.

Senator Whish-Wilson: Not in our sea, but in somebody else's sea.

Senator REYNOLDS: But we cannot afford to say that the war against people smuggling is over. Today there are at least 14,000 people still in the people-smuggling pipeline which stretches all the way from the Middle East through to Indonesia. They are waiting for a signal to start getting back on the boats. We cannot save many of these people's lives; we cannot afford to put the people smugglers back in business; and we cannot let them take the chance of arriving here or at least surviving the trip at all.

The government's regional processing cohort bill, and in particular section 46A (2AA) does provide the necessary legislation to mitigate, stop and deter people smugglers from further endangering the lives of these men, and women. The bill is further confirmation of the government's commitment to: ensuring and maintaining border protection; ensuring the integrity of our migration system; and ultimately, by these amendments, ensuring that the people smugglers' trade in human misery cannot happen again.

This legislation, somewhat inconveniently for those opposite, is also entirely consistent with former Prime Minister Rudd's statement on 19 July 2013 that:

Any asylum seeker who arrives in Australia by boat will have no chance of being settled in Australia as refugees.

That is a very unequivocal statement. He did not provide any caveats at the time in case people in the future want to come back as tourists or anything else. It was a very clear statement:

Any asylum seeker who arrives in Australia by boat will have no chance of being settled in Australia as refugees.

Minister Dutton, in his second reading speech in this bill, said this:

These policies and practices were not developed from a basis of fear—how could they be, because more than one in four Australian residents were born overseas and close to half of the population have at least one parent born elsewhere. Immigrants and their descendants are foundational to Australia's human capital and social fabric.

This bill does introduce a statutory bar preventing certain non-citizens who were taken to a regional processing country from making a valid application for a visa to visit or remain in Australia.

Contrary to media reports overnight and again today, the bill's explanatory memorandum also clearly addresses—and I think satisfactorily—the human rights matters. The first of these is this:

The measures proposed in the bill are compatible with human rights. Any limitations the rights of persons in the designated regional processing cohort are reasonable, necessary and proportionate to achieving the legitimate aim of maintaining the integrity of Australia's lawful migration programs and discouraging hazardous boat journeys.

It is also important to note these other points about human rights. Like many of the other sections within the current Migration Act and regulations, the minister has discretion and flexibility to lift the exclusion if it is in the public interest to do so. This consideration could occur in circumstances involving Australia's human rights obligations towards families and
children, allowing a valid application for a visa on a case-by-case basis and in consideration of the individual circumstances of the case, including the best interests of affected children. This ban only applies to those who are at least 18 years of age on the first or only occasion after 19 July 2013 when taken to a regional processing country.

Additionally, this bill does not limit the ability of the minister to grant a visa to a person in detention and, combined with the minister's ability to allow a visa application to be made, will allow a person in the affected cohort to be considered in the same way as other unlawful non-citizens. That is, and it is critically important, the person will be maintained in detention only where there is a risk to the safety of the Australian community.

These amendments send a strong message to people smugglers that they have no product to sell, and those considering paying people smugglers to travel here illegally by boat they will never ever have the false hope of setting foot in Australia. There are no easy policy solutions in dealing with people smugglers; there are only the best of the bad ones. But implementing policies that give false hope and lead to heinous deaths at sea—is never a policy I will support. (Time expired)

The ACTING DEPUTY PRESIDENT (Senator Ketter): Thank you, Senator Reynolds.

Senator REYNOLDS: Mr Acting Deputy President Ketter, may I seek leave to continue my remarks?

The ACTING DEPUTY PRESIDENT: Senator McKim wishes to speak on the same matter.

Senator REYNOLDS: Can I seek leave to continue my remarks on this at a later date?

The ACTING DEPUTY PRESIDENT: I think we will hear from Senator McKim now.

Senator McKIM (Tasmania) (17:00): I rise to speak on the 9th report of 2016 from the Parliamentary Joint Committee on Human Rights, a committee that I have the honour to serve on. I particularly want to make reference to the Migration Legislation Amendment (Regional Processing Cohort) Bill 2016 and the comments and findings that the committee has made on that legislation.

Before I go to the details of the committee's comments on that legislation, I want to make it perfectly clear to the Senate that the Greens do not support this legislation. We believe the government has comprehensively failed to make the case for the legislation. We believe it is discriminatory because it engages and limits a number of human rights and it breaches a number of international conventions that Australia has signed up to over many years, including but not limited to the refugee convention. This legislation seeks to discriminate against a particular cohort who are described as transitory persons who were at least 18 years of age and who were taken to a regional processing country after 19 July 2013. It seeks to prevent those people from making a valid application for an Australian visa.

Before I go to further detail, I will respond to comments made by Senator Reynolds when she talked about the fact that the minister has the capacity to waive the ban on making an application for a visa. That is true. The bill does provide for that. But it is important to place on the record—which Senator Reynolds did not do—that this is a non-compellable function that is granted to the minister in the terms of this legislation. What that means is the minister can effectively refuse to make a decision on an application for the bar to be lifted. If the minister refuses to make a decision that is a non-compellable decision it then becomes non-
appellable. In other words, there is no avenue for judicial or administrative review if the minister refuses to make a decision or refuses to engage with the application, to use the terms contained in this legislation. That is very important. It is very important that people understand that we are dealing at the moment—tragically—with Peter Dutton as the Minister for Immigration and Border Protection. I would say to the Australian people that, if you have confidence that Minister Dutton will, in fact, engage and make a decision on every application to lift the bar on making a valid visa application should this legislation become law, that is misplaced confidence because he has demonstrated time after time that he is not a fit person to be immigration minister in this country. Where it suits him or the government politically, he will behave in ways that make Australia less safe and will discriminate against people that he describes inaccurately as illegal arrivals in this country.

As the report of the human rights committee makes abundantly clear, the proposed lifetime visa ban engages the right to equality and nondiscrimination. I would argue very strongly that it limits those rights in a highly disproportionate way. As the committee found, the visa ban would appear to have a disproportionate negative effect on individuals from particular national origins or nationalities and, as the committee further comments, this human rights issue was not specifically addressed in the statement of compatibility. I want to say in relation to a piece of legislation that has a disproportionate negative effect on individuals from particular origins or nationalities that this is racist legislation. I am going to put it right out there that this is racist legislation in the view of the Australian Greens.

The committee has also noted that the proposed lifetime visa ban engages and limits the right to protection of the family and the rights of the child. One of the issues around the rights of children that are trampled by this particular piece of legislation is that there are children currently in Australia, some of whom were born in this country and some of whom are currently at school in this country, who are children of people in the cohort to which this legislation will apply.

It is not good enough for the government to claim that this legislation will not impact on children because of the definition of the cohort in this legislation, which is that people need to be at least 18 years of age. People who are over 18 years of age in the cohort that will be affected by this legislation and who have children who are currently in Australia will be caught by this lifetime visa ban. This means they will not be able to make a valid visa application and therefore they will not be able to come into this country and they will not be able to lawfully remain in this country. That means that when they go either the family is split up because the child remains here or the child goes with the family. So the effect of this legislation does catch children, even though technically it does not apply to children; there are children in Australia whose parents will be caught by this legislation, and that will inevitably impact on the children. This legislation will tear families apart. That is another reason why this legislation will not be supported by the Australian Greens.

I want to also raise the issue of the way that the minister has responded to requests from the Human Rights Committee. There is a malaise across government at the moment, where ministers are not adequately and acceptably delivering information to the Human Rights Committee in a timely way. This committee is a creature of the parliament. It deserves the respect of every government minister. I urge government ministers to do more to responsibly engage with the Human Rights Committee to provide acceptable qualities and quantities of
information to the committee in a timely way so that the committee can do its job, which is to report to the parliament and provide information for members of both houses of this parliament. It is a really crucial committee, and it deserves to be treated with more respect by government ministers than it currently is.

Having made those remarks on the Migration Legislation Amendment (Regional Processing Cohort) Bill 2016, I think that it is clear, and should be clear, to the Senate that this legislation is discriminatory and that it engages and limits a range of human rights in a way that is clearly disproportionate to the intended effect of the legislation. Ultimately, this committee report lends yet more credibility and yet more weight to the argument that, in fact, this legislation should be rejected by the Senate when eventually the government brings it on for debate in this place. It should be rejected because it is in breach of human rights, because it is in breach of a number of the international obligations to which the Australian government has signed up, because it will result in trauma to families and children, and because ultimately it is racist legislation. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Environment and Communications References Committee Report

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (17:10): I present the report of the Environment and Communications References Committee on large capacity fishing vessels, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator WATERS: I move:

That the Senate take note of the report.

My colleague Senator Whish-Wilson will be speaking to it since he was involved in that one.

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (17:11): I rise to speak on the Environment and Communications References Committee's report Factory freezer trawlers in the Commonwealth Small Pelagic Fishery. First of all, I would like to acknowledge those who made submissions to this inquiry, those who gave vital evidence at the hearings, and the secretariat staff for their assistance throughout the hearings in putting together this report.

Together with Senator Brown, I moved the reference to establish this inquiry last year after the arrival of the supertrawler, Geelong Star, in Australian waters. I thank the Senate for agreeing to resume this inquiry after it lapsed at the dissolution of the last parliament. We sought this inquiry as there was a clear need for further examination of the science and the potential impacts of supertrawlers as well as a clear need to revisit and reassess what the most appropriate regulatory and compliance arrangements are.

In proposing this inquiry, we listened to the ongoing concerns about the operations of supertrawlers from the Tasmanian community and across the country. It was disappointing that the Liberal and National parties opposed the inquiry. Time and again, this Liberal National government shows a disturbing pattern of trying to shut down legitimate inquiries.
and dodging scrutiny. The community deserves to have confidence that the federal parliament is open and transparent, and blocking inquiries is not the way to achieve this.

I welcome the news overnight that the *Geelong Star* has departed Australian waters. However, a certain mystery about its departure remains. Key questions that the Turnbull government—through the Minister for Agriculture and Water Resources, Deputy Prime Minister Joyce—must answer are: has the Geelong Star left for good? What are you going to do if it or another supertrawler returns? First, will Minister Joyce acknowledge the widespread community concern about the operation of supertrawlers in the Small Pelagic Fishery? Second, will Minister Joyce use this period without an operational supertrawler to strengthen regulations and management of large-capacity factory trawlers in the Small Pelagic Fishery or will the minister continue to be lost at sea on the supertrawler and continue to oppose all efforts by Labor and others to improve regulation and management of supertrawlers?

Labor remains committed to preventing the operation of all large-capacity factory trawlers in Australian waters until a thorough assessment against the most up-to-date science can verify that operations will not undermine small pelagic fisheries and recreational fishing spots. In government, Labor ensured appropriate consideration was given to the impact of large-capacity factory trawlers on Australia's fisheries by amending the EPBC Act. Our amendment guaranteed Australia's waters were adequately protected from risks associated with the use of large-capacity factory trawlers.

In September 2012, the then Labor government used these powers to ban the operation of the FV *Margiris* while an assessment of its impact was undertaken. We established an independent expert panel to provide an objective judgement of the environmental impacts of this trawling activity. This ban applied to vessels of similar size and capacity to the original large-capacity factory trawler only, and it included vessels that received or processed fish, not just trawler vessels. The ban was opposed by the Liberal and National coalition when in opposition. A sunset clause in the original amendments enacted in 2012 means that no further bans can be placed on new large-capacity factory trawlers hoping to fish Australian waters. To ensure that further bans are possible, Labor introduced legislation into the Senate in early 2014 to remove the sunset clause. Under our plan, all future large-capacity factory trawlers could be thoroughly assessed using the most up-to-date science, thereby protecting our oceans and our recreational fishing spots.

The Abbott and Turnbull Liberal-National coalition governments have continued to refuse to work with us on this important issue. This is not about locking up an industry to destroy Australian jobs, as those opposite would have people believe. Very few Australian jobs were created by the operations of the *Geelong Star*. In evidence to the committee, the operator stated that the main officers on the vessel, such as the captain, are Europeans who hold subclass 457 visas—remarkable! Today, in my office, I met with members of the Australian Maritime Officers Union who told me there are many qualified, experienced Australian officers who are 'on the beach', as they say. That basically means 'unemployed'. Perhaps the *Geelong Star* operator should have looked to Australia first for its main officers.

Of course, there is also the impact on recreational fishers, and I acknowledge the contributions of many, many recreational fishers in holding the government to account. There are environmental issues associated with bycatch and localised depletion that were obviously
too much for the *Geelong Star* to overcome. So bon voyage, *Geelong Star*, and do not come back.

**Senator WHISH-WILSON** (Tasmania) (17:17): I also rise to speak on the Senate Environment and Communications References Committee inquiry into factory-freezer trawlers, which I attended as a Greens representative. The Greens have campaigned consistently since 2012 against the arrival and operation of large factory-freezer vessels, often known as supertrawlers, in Australian waters. We have always opposed them; we have been consistent in our position. The key reason for that is the threat that they pose to marine life, especially to marine mammals, and we believe that there is uncertainty in the science. We have never questioned the quality of the science that has been done, but we have questioned the quantity of the science that has been done.

The Small Pelagic Fishery that has been targeted by these large freezer vessels has had problems in the past. It went into decline off Tasmania and south-eastern Australia 12 years ago. Some scientists even say it collapsed. Then, suddenly, although the fishery had not been accessed for 10 years and no data had been collected, we had a robust viable fishery able to be accessed by some of the largest factory-freezer vessels in the world. The Greens have always been concerned about the specific acute impacts, called localised depletion, on the species that live off the small pelagic fish, such as seals, dolphins, penguins and a number of finfish—which, of course, is the reason that rec fishers in this country have been so outspoken in their opposition to these large factory-freezer vessels.

I note that the coalition senators have put in a dissenting report to this Senate committee report. I will express my thoughts on this. It is disappointing that they have put in a dissenting report. This is a very well-written report. It is a long report that includes a lot of information, including scientific information. It acknowledges the scientists that have contributed to this debate, it acknowledges the Fisheries Management Authority and, while it clearly points out issues with their management of the Small Pelagic Fishery, it also acknowledges that Australian fisheries are the best managed fisheries in the world. But that does not make them perfect by any means.

This supertrawler, the *Geelong Star*—which is somewhere off Cape Town at the moment—has, I understand, changed from an Australian-flagged to a foreign-flagged vessel. I also understand that it is not coming back and that the reason it left was a commercial decision. They did not see any long-term future for them here, accessing the Small Pelagic Fishery in Australian waters. The key question is: why not? We know from the data that we have been provided that they have not met anywhere near their quota catch—their allowable catch. In other words, they have not been able to find the fish. You may have been able to mount an argument 12 months ago that the dolphin exclusion regulations put on the boat precluded it from operating in certain parts of the ocean—you could argue that. But that regulation was lifted some time ago. The clear fact is that this boat has not caught the fish that it set out to catch, and I question whether it has been able to find the fish. This is a very important issue to me, because I have raised issues around uncertainty in the assessments of the stock and where those stocks are. If this boat has not been able to find the fish, it clearly suggests that maybe we did not get it right.

This boat has gone off to other places to fish on the basis that the regulations in this country were too severe. They have lobbied to have regulations removed—we know that for a
fact. They had the night fishing ban removed, they have lobbied to have the second AFMA observer removed from the boat and they have lobbied to have the exclusion zones for dolphins removed. They clearly see Australian fisheries as being too highly regulated for them. They have not been able to find the fish.

I also question their markets in Africa, where they are selling the fish. For those of us in this chamber who understand economics, the decision this boat operator and the shareholders who own the company made was to come to Australia to access and exploit the Small Pelagic Fishery and to sell these fish to Africa. I question whether their markets in Africa are sustainable. I would like to see the data on what kind of price they were getting for their fish and what kind of volumes they were selling there. I understand that market is not highly profitable and that there have been issues with that. That is another question that is hanging over this.

To those who have come out and said that some kind of populist movement in this country has killed the supertrawler, this is a decision made by the operators of this vessel that they did not feel they were making enough money in Australia and they have gone to fish elsewhere. We need to get to the bottom of that if we are to truly understand why. I think it is really important—whether AFMA do it now, and we can get more stats from the company—that we actually get that information to add to this piece of work that we have here from the Senate, which is a long piece of work and very balanced.

The key recommendation is that the government ban large factory freezer midwater trawlers from operating in the Small Pelagic Fishery. I note that coalition senators, on the first page of their dissenting report, disagree with that recommendation. They spend nearly two pages talking about input controls, which are where things that limit your fishing effort, such as the size of your boat, are not a basis for fishing regulation. Well, here is the point: the coalition banned supertrawlers, boats over 130 metres—a clear input control. We want to take this a step further, and the Senate has agreed that we need to ban all large factory freezer vessels operating in the Small Pelagic Fishery. The government could never explain to stakeholders, when they sat down with them, why and on what basis they were prepared to ban boats over 130 metres and not boats of 100 metres that have smaller factory freezers. It did not make sense.

The government cannot make the point in this dissenting report and publicly that they do not believe the Senate or any future government should ban factory freezer vessels, when they have done exactly the same thing themselves. If they are claiming there is no scientific basis for a ban on factory freezer vessels and if this is all about efficiency and they do not believe in the precautionary principle, they do not believe there is any uncertainty in these fisheries at all and they do not believe that any harm is being done to the marine environment, then why ban boats that are bigger and more efficient? I say to Senator Back that I do not think that even a 100-metre boat was efficient. The boat could not make any money. It has gone. They could not exploit this fishery in the way they expected. I question whether they were able to find fish stocks. I know someone fairly learned who said they needed to spend more time being able to find the fish stocks, but what company is going to tie up their money keeping an asset in another country when there are other fisheries they can go off and plunder? It seems that that is what they have done.
I would support Senator Urquhart's final comments—good riddance; I do not want to see any factory freezer vessels back in this country. This is the biggest environmental campaign I have seen in my time in the Senate. It is not just environmental campaigners; it is also recreational fishing groups who feel their voice has not been heard. They do not feel they have had a say in the management of this fishery. Believe me, while environmental campaigners have stood side by side with the recreational fishing groups on this issue, we do tend to have some very robust discussions on other issues, and we do not believe they are perfect by any means. Sometimes their catch can be unsustainable as well, and we have always had that open conversation with them. But in this instance they were asking for their voice to be heard. They target the finfish. They all spend a lot of money on their boats. It is a big part of their life. It is a great joy to them to go out and catch fish, and this boat posed a risk and a threat to them that they felt was never properly assessed. Over the years there have been a number of attempts by government to negotiate with them, such as on exclusion zones for this trawler; they have also failed. There have been attempts to incorporate stakeholder feedback in this fishery that have not been successful.

If you go on the principle that there is no problem with this kind of thing unless any harm is being done—in other words, no harm done, no problem—and if someone wants to spend the money, let them go fish, let them exploit this fishery, I would argue as a Green and as someone who deeply loves the ocean that killing nine dolphins in your first two weeks of operation is doing harm. Fifty seals of different varieties have been caught by this boat in the last 12 months, as well as numerous albatrosses and all sorts of bycatch, including a whale shark. So you cannot argue that this is not doing any harm. There is uncertainty in the science, as you would expect for a fishery as complex as this. The precautionary principle should be adopted. I wholeheartedly endorse the Senate's recommendations in this report for a ban on these vessels. I would like to see that properly regulated and properly enforced in legislation.

Question agreed to.

Report

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (17:27): I present the report of the Environment and Communications References Committee on the access by children to internet pornography, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator WATERS: I move:

That the Senate take note of the report.

I will not be speaking to this report because, again, the inquiry was a bit before my time. But I understand some other speakers will now address the report.

Senator BACK (Western Australia) (17:27): I thank Senator Waters for presenting the report of the Environment and Communications References Committee in her capacity as chair of the committee. By way of history, this inquiry into the access by children to internet pornography came before the Senate in the 44th Parliament, co-sponsored by then Senator Joe Bullock from Western Australia and me at the request of interested parties, particularly concerned parent groups. With the lapsing of the 44th Parliament, the matter was then raised with the committee in the 45th Parliament.
I thank the committee for its indulgence in allowing this report to proceed. Several significant submissions had been put to the committee by concerned people around Australia. Committee members accepted the view that, although time did not permit the committee to have hearings around Australia, it would be logical that the secretariat be directed to prepare a report based on those submissions. I thank the chair, Senator Waters and, as an original mover of the motion, I particularly thank the secretariat of this committee for the excellent work they undertook in preparing the report that is before us today.

The issue of access to pornography by children, particularly online pornography, is of deep concern and interest to all of us, whether you are simply a community member or whether you are a parent or, indeed—in your case, Acting Deputy President Gallacher, and mine now—a grandparent. Of course, there are state and federal matters to be considered, and the recommendations to which I will refer in a moment pick up the joint responsibility of federal and state entities in protecting children against the vicious and heinous crimes associated with pornography as they affect children—state jurisdictions, federal jurisdictions.

Many of us in this parliament, be it in the other place or in the Senate, have a deep interest and concern, particularly as it relates to the ignorance of parents and of children. To support that I will simply make the comment of my colleague the member for Forrest, Ms Nola Marino, who for some years now has been conducting seminars in schools with the concurrence of teachers, administrators, parents and children. She will go through, usually supported by local police personnel, and I cannot count the number of times Ms Marino has said to me that either on the day after or within days of such seminars parents or the children themselves will say that they did not realise they were being groomed for sex as a result of the activities that have been undertaken by these terrible people.

So, perhaps I can go to the four recommendations that came out of this inquiry. Again, I want to record our appreciation to those who put in submissions, upon which the secretariat and the committee drew heavily in preparing the report and its recommendations. The first is:

The committee recommends that the Australian government commission dedicated research into the exposure of Australian children and young people to online pornography and other pornographic material.

And I will go immediately to the second recommendation before I comment on them, which is:

Following completion of the research referred to in recommendation 1, the committee recommends that the Australian government commission an expert panel to make recommendations to the government regarding possible policy measures. The panel should include experts in a range of relevant fields, including child protection, children's online safety, education, law enforcement and trends in internet usage.

It is not often in this place that the very suggestion that a report might be tabled seems to prompt the government of the day. Only this afternoon we had the announcement through Minister Cash of the government appointing a new eSafety Commissioner, Ms Julie Inman Grant, and the announcement of the fact that the office will be renamed the Office of the eSafety Commissioner, reflecting the fact that the role will be extended to take on responsibility for online safety issues affecting adults as well as children, without in any way diminishing the importance of the role and the focus on children and bringing into that whole
space the issue of cyberbullying material, which we know is targeting and is harmful to the Australian child. That will remain the focus of this commissioner's role.

In supporting that, I will quote from a release of the Law Council of Australia today in which the council is welcoming the announcement by the government of new initiatives to tackle, in their words, 'the 21st century scourge'—in this case of revenge pornography—and it has the support of the legal sector. That release goes on to make further comment about that. So, it is wonderful that we are focusing in several fora to do this.

I will go to the third of the four recommendations. As I mentioned earlier, it relates to drawing the states and territories into the report and its recommendations. Recommendation 3 is:

The committee recommends that state and territory governments consider the adequacy of:

- Their current policies on, and responses to, allegations of sexual abuse perpetrated by children within schools and;
- The training on child protection matters provided to individuals employed in, or preparing for employment in, roles that could involve children.

The committee heard in evidence, through submissions, of the heinous circumstance of a child perpetrating sexual activities upon another child in a location in which children were being protected, only then to learn, upon investigation, that the child had seen the pornography that they were now practising on the victim child in the company of their father whilst the father and the child were watching pornographic material. Where have we got to in this space, in this country, when an adult—a parent—sits their vulnerable child down to watch pornography as part of some social interaction? And then to see the circumstance where that child—with no understanding at all, of course, as we all know, about the actions they are taking—plays out those fantasies on another child. So, those who do not think this issue is real need to reflect very carefully on that instance that was presented to us in a submission.

The final recommendation probably comes from the sort of ignorance that somebody like myself has in this space, because we obviously did not grow up in the internet age, the electronic age. It is one that we join, it is one that we go into and visit, whereas we know that children and young people of today do not visit the internet; it is of them. Recommendation 4 is:

The committee recommends that the Australian government consider the adequacy of the information available to parents, guardians and teachers on how to keep children safe online, including whether existing resources such as the Office of the eSafety Commissioner's iParent website can be promoted more effectively.

The thought behind this recommendation is that if parents, grandparents, carers or those with responsibility for children have a concern, to whom or where do they turn to get the tools to keep safe the child or children under their care?

I commend the report again to the Senate. In conclusion I just wish to reference our very good friend and colleague Ms Jo Lindgren, who, through the 44th Parliament, was Senator Jo Lindgren. She rang me in advance of the decision being made for the committee to progress and said, 'Chris, I've gone back into the classroom since I've returned from the Senate, and you would not believe the level of pornography in playgrounds, in classrooms, and you would not believe the level of language to which children have stooped, very often in total ignorance
of the words they're using.' Jo Lindgren's appeal to me was, 'Please, whatever you can do, get the committee to proceed towards a report.' Again, I thank the chair, Senator Waters, and I commend the report to the Senate.

Question agreed to.

Legal and Constitutional Affairs Legislation Committee

Government Response to Report

Senator FIERRAVANTI-WELLS (New South Wales—Minister for International Development and the Pacific) (17:36): I present the government's response to the report of the Legal and Constitutional Affairs Legislation Committee on its inquiry into the exposure draft of the Medical Services (Dying with Dignity) Bill 2014. I seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—

Australian Government response to recommendations of the Senate Legal and Constitutional Affairs Legislation Committee in its report:
Medical Services (Dying with Dignity)
Exposure Draft Bill 2014
November 2016

AUSTRALIAN GOVERNMENT RESPONSE TO THE RECOMMENDATIONS OF THE SENATE LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE INQUIRY INTO THE MEDICAL SERVICES (DYING WITH DIGNITY) EXPOSURE DRAFT BILL 2014

Introduction
The Australian Government welcomes the consideration by the Senate Legal and Constitutional Affairs Legislation Committee (the Committee) of the Medical Services (Dying with Dignity) Exposure Draft Bill 2014.

The Medical Services (Dying with Dignity) Exposure Draft Bill 2014 (the Bill) is a Private Senator's exposure draft Bill, prepared by Senator Richard Di Natale of the Australian Greens.

On 24 June 2014, the Senate referred the Bill to the Committee for inquiry into the rights of terminally ill people to seek assistance with ending their lives, and an appropriate framework with safeguards.

On 10 November 2014, the Committee released its report, providing two recommendations. The Government has noted the two recommendations.

The following Australian Government departments were consulted in preparing this response:

- Department of Health
- Department of the Prime Minister and Cabinet, and
- Attorney-General’s Department.

Recommendations

Recommendation 1: The committee suggests that the proponent of the Exposure Draft of the Medical Services (Dying with Dignity) Bill 2014 might address the technical and other issues raised in evidence to the committee and seek the advice of relevant experts before the Bill is taken further.

Noted
The Government notes that this recommendation is directed to Senator Di Natale for action.
Recommendation 2: The committee recommends that, if a Bill dealing with this broad policy issue is introduced in the Senate, Party Leaders should allow Senators a conscience vote.

Noted

The Government notes this recommendation. The approach to this issue will be a matter for party leaders to consider should a Bill come before the Parliament.

MINISTERIAL STATEMENTS

National Security

Foreign Investment

Senator FIERRAVANTI-WELLS (New South Wales—Minister for International Development and the Pacific) (17:38): On behalf of the Prime Minister and the Minister for Trade, Tourism and Investment, I table a ministerial statement on counterterrorism and the ministerial statement Investment: working in the national interest.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Gallacher) (17:38): Order! The President has received a letter requesting changes to the membership of committees.

Senator FIERRAVANTI-WELLS (New South Wales—Minister for International Development and the Pacific) (17:38): by leave—I move:

That senators be discharged from and appointed to committees as follows:

Education and Employment Legislation Committee—
Discharged—Senator Bilyk
Appointed—
Senator Farrell
Participating member: Senator Bilyk

Law Enforcement—Joint Statutory Committee—
Discharged—Senator Bilyk
Appointed—Senator Farrell.

Question agreed to.

BILLS

Australian Organ and Tissue Donation and Transplantation Authority Amendment (New Governance Arrangements) Bill 2016

Law Enforcement Legislation Amendment (State Bodies and Other Measures) Bill 2016

First Reading

Bills received from the House of Representatives.

Senator FIERRAVANTI-WELLS (New South Wales—Minister for International Development and the Pacific) (17:39): These bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have the bills listed separately on the Notice Paper. I move:
That these bills may proceed without formalities, may be taken together and be now read a first time. Question agreed to.

Bills read a first time.

**Second Reading**

**Senator FIERRAVANTI-WELLS** (New South Wales—Minister for International Development and the Pacific) (17:40): I table a revised explanatory memorandum relating to the Law Enforcement Legislation Amendment (State Bodies and Other Measures) Bill 2016 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—

**AUSTRALIAN ORGAN AND TISSUE DONATION AND TRANSPLANTATION AUTHORITY ACT (NEW GOVERNANCE ARRANGEMENTS) AMENDMENT BILL**

Australia remains a world leader for successful organ and tissue transplantation.

The Australian Organ and Tissue Donation and Transplantation Authority, known commonly as the Organ and Tissue Authority, manages the implementation of the Australian Government's national reform program on organ and tissue donation for transplantation in partnership with:

- state and territory governments;
- the DonateLife Network;
- the donation and transplantation clinical and community sectors;
- eye and tissue banks; and
- the community.

Earlier this year, the then Minister for Rural Health, Senator the Hon Fiona Nash released the findings of the Ernst and Young Review of the National Reform Program on Organ and Tissue Donation and Transplantation (the EY Review).

The EY Review was prompted by concerns about the slowing of organ donation rates in Australia, and the need to review organ donation practices.

The EY Review examined the respective contributions to the national reform program of the Organ and Tissue Authority, state and territory governments and the DonateLife Network hospitals and clinicians.

The EY Review found that the national reform agenda (which commenced in 2009) has been broadly effective; however there is scope for improvement in the areas of governance, transparency and accountability.

To improve these areas, the Review made 24 recommendations, including:

- endorsing the Australian Government's 2015-16 Budget Measure: accelerating growth in organ and tissue donation for transplantation
- better training for clinicians;
- activities that states and territories should consider to better support the implementation of the reform agenda; as well as
- fundamental changes to the governance arrangements for the Organ and Tissue Authority.
Stakeholders, consulted following the release of the findings of the EY review, broadly agreed to the EY Review's recommendations, including recommendations five (5) to nine (9) which directly relate to the governance of the Organ and Tissue Authority.

The EY Review states that strategic oversight of the DonateLife Network, as well as the performance monitoring, succession planning and mentoring of the CEO, could be improved through the establishment of a board of governance.

Further, the establishment of a board of governance will foster and encourage a culture of debate within the Organ and Tissue Authority.

This Bill seeks to establish the Australian Organ and Tissue Donation and Transplantation Authority Board under the Australian Organ and Tissue Donation and Transplantation Authority Act 2008 (the Act).

The Board will take on the functions currently vested in the CEO under the Australian Organ and Tissue Donation and Transplantation Authority Act 2008, including assuming the role as the accountable authority under the Public Governance, Performance and Accountability Act 2013 (PGPA Act).

Establishing the Board as the decision making body, and accountable authority under the PGPA Act, will ensure that the perspectives of the organ and tissue donation and transplantation sector are taken into account in succession planning, in overseeing the work of the DonateLife Network, and in setting the key policy and strategic direction for the Organ and Tissue Authority.

The CEO, whose primary role will be to oversee the day to day administration of the Organ and Tissue Authority, will be appointed by the Minister in consultation with the Board. The CEO will also be a member of the Board.

This arrangement has been instituted to improve operational efficacy of the Organ and Tissue Authority, and will ensure that the strategic and policy objectives of the Authority are effectively integrated in day to day operations and activities.

To ensure that the Organ and Tissue Authority remains agile and responsive in a highly complex sector, the Board may also delegate some of its functions to the CEO.

This Bill retains the ability for the Commonwealth Minister to give policy principles to the Authority about the performance of its functions.

The Board will have skills-based membership - harnessing expertise, experience and knowledge from a broad range of areas, including:

- public administration, business or management;
- clinical expertise in organ and tissue donation or transplantation;
- health promotion;
- community leadership; and
- health consumer issues.

In line with the EY Review recommendations, the Commonwealth will nominate the Chair of the Board. The jurisdictions will nominate the Deputy Chair, with the remaining five members to be nominated by the COAG Health Council. All Board members will be appointed by the Commonwealth Minister.

This arrangement will support Australia's nationally consistent and coordinated approach to organ and tissue donation and transplantation.

While there are no existing non-corporate Commonwealth Entities currently adopting this model, we are confident that this arrangement is best for the Organ and Tissue Authority, and the organ and tissue sector, going forward.
The Act will be amended to abolish the Advisory Council, but leave intact the provisions relating to organ and tissue donation and transplantation such as formulating and disseminating policies and standards, supporting clinical training and community education, and providing financial assistance.

At this point, I would also like to acknowledge the valuable work that the Advisory Council has done since its establishment.

The establishment of the Organ and Tissue Authority Board will improve accountability and transparency, and will better support the Authority to more effectively achieve its strategic goals - saving lives, and improving the quality of the lives, of more Australians.

**LAW ENFORCEMENT LEGISLATION AMENDMENT (STATE BODIES AND OTHER MEASURES) BILL 2016**

The Law Enforcement Legislation Amendment (State Bodies and Other Measures) Bill 2016 makes amendments to a number of Acts to ensure state integrity and anti-corruption bodies have the necessary powers to discharge their functions and to ensure property acquired unlawfully is not kept by criminals.

The measures in the Bill will:

- support the establishment of the NSW Law Enforcement Conduct Commission and its Inspector;
- ensure Victoria's Independent Broad-based Anti-corruption Commission has investigative powers under Commonwealth law equivalent to other anti-corruption bodies; and
- clarify the meaning of 'lawfully acquired' in the Proceeds of Crime Act to address issues raised in a recent court decision.

**Law Enforcement Conduct Commission**

The Government is committed to supporting State and Territory governments to tackle corruption and misconduct.

It is common for persons participating in corrupt conduct to utilise clandestine communication methods and attempt to avoid detection by law enforcement and integrity bodies.

In response to The Tink Review into Police Oversight, the NSW Government will abolish the state's current police oversight body, the Police Integrity Commission, and replace it with the Law Enforcement Conduct Commission. The new Commission will be responsible for detecting, investigating and preventing police corruption and misconduct, and will have comparable investigative powers to anti-corruption bodies in Australia.

The Bill provides the Law Enforcement Conduct Commission with access to information obtained under the Commonwealth interception regime, similar to other state anti-corruption commissions, which would be vital to that Commission's investigations.

The **Telecommunications (Interception and Access) Act 1979** (Interception Act) strictly regulates how agencies that receive intercepted information are able to use and communicate that information - this is important in ensuring that privacy and oversight considerations are part of the interception regime.

**The Victorian Commission**

Like the Law Enforcement Conduct Commission, the Victorian Independent Broad-based Anti-corruption Commission discharges a critical integrity and oversight role. Commonwealth law already provides a number of investigative powers to that Commission, including powers under the Interception Act.

This Bill would ensure the Commission has powers under Commonwealth law consistent with those available to equivalent state anti-corruption bodies.

**Proceeds of Crime**
The Proceeds of Crime Act is a key part of our response to serious and organised crime. It creates a scheme to trace, restrain and confiscate the proceeds and benefits gained from criminal activity.

The Bill clarifies that property or wealth is not to be considered 'lawfully acquired' where it has been subject to a security or loan that has been discharged using property that is not lawfully acquired.

These amendments address the consequences of the West Australian Supreme Court decision in Commissioner of the Australian Federal Police v Huang and ensure criminals cannot circumvent the Proceeds of Crime Act.

The amendments are necessary to prevent criminals from funnelling unlawfully obtained funds into real property, which is one of the most common assets restrained under proceeds of crime actions – by, for example, obtaining a mortgage using a lawfully obtained sum as a deposit, then using proceeds of crime to pay off the loan.

The Bill clarifies that courts must 'follow the money' and examine the arrangements underpinning the acquisition of property in determining whether the property has been 'lawfully acquired'.

This Bill demonstrates that the Government remains committed to making our streets and communities safer through taking effective steps to combat crime.

Conclusion
This Bill will ensure agencies responsible for combating serious criminal activity are able to access the tools they need to support their functions and that those tools are fully effective.

Debate adjourned.

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

Superannuation (Objective) Bill 2016

First Reading

Bill received from the House of Representatives.

Senator FIERRAVANTI-WELLS (New South Wales—Minister for International Development and the Pacific) (17:41): I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator FIERRAVANTI-WELLS (New South Wales—Minister for International Development and the Pacific) (17:42): I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

SUPERANNUATION (OBJECTIVE) BILL 2016

This Bill enshrines in law that the objective of the superannuation system is to provide income in retirement to substitute or supplement the Age Pension.

This is the first time we have had such definite recourse to what the purpose of the superannuation system is.
The Financial System Inquiry, led by David Murray, recommended that objective. And, after consulting widely, the Government has agreed to the objective.

The objective for superannuation will enhance stability in the superannuation system by creating a clear framework for assessing superannuation policy.

The importance of superannuation

Australia’s retirement income system comprises the Age Pension, compulsory superannuation and other private savings, including voluntary contributions to superannuation and the family home.

Among these, superannuation is Australia’s second-largest savings vehicle.

More than 80 per cent of working-age Australians have superannuation savings, and superannuation makes up around 22 per cent of all assets held by Australian households.1 Since the introduction of compulsory superannuation in 1992, the superannuation system has grown, both in size and importance. Assets in superannuation are now over $2 trillion.

Over time there have been various statements about the role of superannuation.

But given its solid history and remarkable growth, it’s really quite extraordinary to think that, until now, no legislation existed to clearly define the objective for superannuation.

Financial System Inquiry

The Financial System Inquiry (FSI) found that while Australia’s superannuation system has considerable strengths, it lacks efficiency in a number of areas. In particular, the FSI said that the lack of clarity around the ultimate objective of superannuation led to short-term ad-hoc policy making, added complexity, imposed unnecessary cost and undermined long-term confidence in the superannuation system.

The FSI therefore recommended the Government seek broad agreement on the following primary objective for the superannuation system:

'‘To provide income in retirement to substitute or supplement the Age Pension’.

The Government agreed, as part of its response to the FSI, to enshrine the objective of the superannuation system in the law.

As the FSI noted, a legislated objective will serve as a guide to policy-makers, regulators, industry and the community about superannuation’s fundamental purpose.

It will promote confidence in the superannuation system – that it is being used for its core purpose of providing income in retirement and not for tax minimisation or estate planning purposes.

And it will provide a way in which competing superannuation proposals can be measured and a framework for evaluating future changes and the fairness, adequacy and sustainability of the superannuation system overall.

There has been strong support for legislating an objective of superannuation from across the sector, including the Australian Council of Social Service, the Australian Institute of Superannuation Trustees, the Association of Superannuation Funds of Australia (ASFA), Industry Super Australia, the Self-Managed Superannuation Fund Association, National Seniors Australia and the Financial Services Council.

As ASFA noted: "The government's commitment to defining the objectives of superannuation and enshrining this in legislation will provide an enduring reference point to guide future decision making by all policy makers."2

The Government has consulted widely on the proposed objective of superannuation, releasing both a discussion paper and draft legislation.

During consultation, while stakeholders continued to support legislating an objective of superannuation, there were different views on the wording of the objective.
There was a general agreement that the objective of super is to provide for retirement income, rather than unlimited wealth accumulation or bequests. There was also broad agreement that the primary objective should be concise and supported by subsidiary objectives.

However, some stakeholders wanted the objective to go further, to include concepts like 'adequacy' or 'comfort' in retirement. While stakeholders recommended changes to the proposed objective, there was no consensus on what the revised wording should be.

After giving careful consideration to the different views put forward in consultation, the Government is legislating the objective recommended by the FSI. Schedule 5 of this Bill enshrines that the objective of superannuation is to "provide income in retirement to substitute or supplement the Age Pension."

David Murray, the head of the FSI, supports a simple objective, recently stating: "The legislated objective of the $2 trillion superannuation system should not include references to achieving 'comfort' or 'adequacy' because it would open the way to constant political interference."³

Subsidiary objectives
A single primary objective cannot possibly encompass all aspects of the purpose and attributes of the superannuation system. The FSI recommended the Government also seek agreement to a range of subsidiary objectives, which would support the primary objective of the superannuation system.

The Government will prescribe in regulation five subsidiary objectives.

These are:
- facilitate consumption smoothing over the course of an individual's life;
- manage risks in retirement;
- be invested in the interests of superannuation fund members;
- alleviate fiscal pressures on Government from the retirement income system; and
- be simple, efficient and provide safeguards.

The subsidiary objectives, with the primary objective, provide a comprehensive framework for assessing changes to superannuation policy.

Statement of Compatibility
To ensure the objective of superannuation is clearly considered when changes to superannuation are proposed, sections 6 and 7 of this Bill introduce a requirement that a statement of compatibility must be prepared for any Bill or regulation relating to superannuation. The statement must set out how the proposed legislation or regulation is consistent with the primary and subsidiary objectives of superannuation.

This will ensure that all proposed changes to superannuation are evaluated and measured against the objective of superannuation and inform public debate on any proposed changes.

As the purpose of the objective is to guide the policy-making process and public debate, the objective of superannuation will not affect the interpretation or application of superannuation legislation.

Budget 2016-17 Superannuation Package
The objective has been an anchor for development of the superannuation package announced in the 2016-17 Budget.

The package will better target superannuation tax concessions to those who need them most. It also enhances flexibility and choice in terms of saving for retirement and the retirement income products on offer, as well as improving the integrity of the superannuation system more broadly.

Accordingly, the Government's superannuation package is entirely consistent with the objective of superannuation to provide income in retirement to substitute or supplement the Age Pension, by
affording many Australians more opportunities to save for a self-sufficient retirement while alleviating fiscal pressures on Government from the retirement income system.

As a sign of the Government's commitment to the objective of superannuation, while not technically required, a Statement of Compatibility has been provided for the Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016.

Final remarks

I would like to reiterate that the Government has taken the initiative to ensure that the Australian superannuation system continues to benefit all Australians through the delivery of this legislation.

The objective will help provide greater long-term confidence, policy stability and a means of measuring competing superannuation proposals. It already has been important for the development of the superannuation package that was announced in the 2016-17 Budget.

As such, I encourage passage of the legislation so that it can be used to assess future amendments to superannuation by governments of any colour.

Full details about this Bill are contained in the explanatory memorandum.

1 5232.0 Australian National Accounts: Finance and Wealth June 2016, Table 34.
3 AFR 'Super change invites political interference' 13 October 2016.

The ACTING DEPUTY PRESIDENT (Senator Gallacher): In accordance with standing order 115(3), further consideration of this bill is now adjourned to 14 February 2017.

Counter-Terrorism Legislation Amendment Bill (No. 1) 2016

Returned from the House of Representatives

Message received from the House of Representatives returning the Counter-Terrorism Legislation Amendment Bill (No. 1) 2016 without amendment.

REGULATIONS AND DETERMINATIONS

Legal Services Amendment (Solicitor-General Opinions) Direction 2016

Disallowance

Consideration resumed of the motion:

That the Legal Services Amendment (Solicitor-General Opinions) Direction 2016, made under the Judiciary Act 1903, be disallowed.

Senator McKIM (Tasmania) (17:43): We have a situation where the Attorney-General has sought to establish himself as a gatekeeper to the Solicitor-General, and, extraordinarily, this would extend to such circumstances as the Governor-General seeking legal advice from the Solicitor-General. The Governor-General could seek legal advice from the Solicitor-General in a range of areas and for a range of reasons, but it is not difficult for us to apply our minds and think about some of the circumstances in which the Governor-General would seek advice from the Solicitor-General. Those could include, but not be limited to, such circumstances as the Australian people electing a balance of power House of Representatives, for example. A situation where the Governor-General needs to go through an Attorney-General to seek advice from the Solicitor-General is quite extraordinary when you think about the implications that may exist if in fact there is no party elected to a majority in the House of Assembly—sorry, the House of Representatives. I was back in Tasmania there briefly! Seeking to establish himself as a gatekeeper to the Solicitor-General is no doubt part of the
reasons that the Attorney tabled this Legal Services Direction into the Senate, and it is part of the reason that the Greens support this disallowance motion that we are currently debating.

It is worth pointing out that this Legal Services Direction was tabled on 4 May this year, which was the last sitting day before the election was ultimately called. This was a last-minute attempt by the Attorney-General, presumably in the full knowledge that an election was about to be called, to establish himself as a gatekeeper to the Solicitor-General. And of course that matter—that is, the intent to establish himself as a gatekeeper—was the subject of a number of submissions and a number of pieces of evidence to the committee that inquired into this matter and that I was a member of. It is worth quoting Associate Professor Gabrielle Appleby from the University of New South Wales, who is the author of *The Role of the Solicitor-General: Negotiating Law, Politics and the Public Interest*. Associate Professor Appleby stated that ‘there could be a chilling effect on ministers wanting the Solicitor-General's advice' if they have to get the Attorney's approval and signature to do so. She also said it:

… is an assertion of control by the Attorney-General over the Solicitor-General for no immediately perceptible reason.

Other expert opinions have been offered to the committee, including one from former Queensland Solicitor-General Mr Walter Sofronoff QC, who went so far as to say that what the Attorney-General has done is invalid. He said, 'His reliance on the Judiciary Act 1903 is misconceived and wrong in law.'

We also heard from Professor Appleby in the evidence that she provided to the committee:
The issue of the direction, in my view, demonstrates a serious incursion by the Attorney-General into the Solicitor-General's role, and the process that preceded the issue of the direction demonstrates a lack of trust and a lack of respect by the Attorney-General for the office of the Solicitor-General, particularly in respect of the function, the status and the independence of that office. This raises, in my mind, serious concerns for the rule of law.

So we have Associate Professor Appleby, who is widely acknowledged as one of the foremost experts, if not the foremost expert, in the country on the role of solicitors-general, saying that in her mind the Legal Services Direction raises serious concerns for the rule of law.

We have heard from former Solicitor-General Dr Gavan Griffith QC, who was very critical of the Legal Services Direction and stated that he regards it as 'effecting the practical destruction of the independent office of the second law officer'. I will reflect there personally that by referring to the second law officer he is referring to the Solicitor-General or the office of the Solicitor-General. Dr Griffith also stated that the Legal Services Direction led to:

… perceptions as to the integrity of the continuing office. The uncomfortable image of a dog on a lead comes to mind.

So we have here a former Solicitor-General calling to mind what he describes as the uncomfortable image of a dog on a lead. I think that is useful imagery for the Senate in regard to this direction, because it very graphically outlines the effect of this direction and the fact that undoubtedly it seeks to position the Attorney-General as a gatekeeper to the services of the Solicitor-General. Dr Griffith also commented on the legality of the direction and said, 'The direction is void and of no legal effect.' His argument was that the legislation providing the basis for the direction was not intended to apply to work undertaken by the Solicitor-General. According to Dr Griffith, it is untenable to argue that the reach of section 55ZF of the Judiciary Act 1903 extends to the Solicitor-General.
We come to the evidence of the Solicitor-General himself as presented at the inquiry, and he said:

... it is critically important that persons such as the Governor-General, Prime Minister and officers of Parliament are able to approach the Solicitor-General for advice in an uninhibited fashion and in respect to questions framed by them and not by others. They should be able to do so not just where litigation is before a court or anticipated but whenever it is necessary to ensure the law, including the Constitution, is complied with.'

And I can place on the record that the Australian Greens agree entirely with that comment from the former Solicitor-General, Mr Justin Gleeson.

The direction clearly, in the view of the Greens, undermines the role of Solicitor-General insofar as it permits an Attorney-General to deny access to a Solicitor-General and has the potential to discourage people and bodies from seeking the Solicitor-General's advice. That is one of our core concerns with this legal services direction. It is certainly not apparent that the direction is supported by section 55ZF of the Judiciary Act, because the legislative history and the context of 55ZF indicate that it was not intended to empower the Attorney-General to make directions with respect to the Solicitor-General.

While the legality of this instrument is certainly in question, what is not in question is the Attorney's claim that he consulted the Solicitor-General on the matter. The explanatory memorandum to this direction clearly stated:

As the Direction relates to the process for referring a question of law to the Solicitor-General, the Attorney-General has consulted the Solicitor-General.

As we heard in evidence to the committee, the Attorney relied on a fanciful definition of 'consultation'. At the end of the day, the dispute over whether or not the Attorney had actually consulted pivoted on what a reasonable interpretation is of what the word 'consulted' or 'consultation' actually means. That has led us to the Humpty Dumpty quote that has been well aired in this chamber and was included in the committee's report.

In this place we are entitled to interpret words reasonably. In fact, we ought to interpret words reasonably. Even on the most favourable interpretation of the interaction between the Attorney and the Solicitor-General on this matter—the most favourable interpretation for the Attorney, that is, which is that it was raised, as supported by the note from his adviser that contained the initials 'LSD'—even on the most favourable interpretation, that, on no reasonable definition of the word 'consultation', actually satisfies what I think an average Australian would take to be a genuine consultation.

So even if you provide the Attorney-General with the benefit of the doubt—that the initials LSD actually did mean 'legal services direction', and I think we can all agree that that benefit should be given to the Attorney—that does not constitute a genuine consultation. The view of the Greens is to support Mr Gleeson's contention that he was not consulted on this matter. So we reject the Attorney's frankly pathetic argument that he did engage in a consultation, and the Australian Greens accept the view of Mr Gleeson that in fact he was not consulted.

It is worth noting that, when asked if any officers in the Attorney-General's Department had consulted him on the direction, the Solicitor-General replied:

... I said to them, 'In the period leading up to 4 May, you must have known about this direction. You were helping draft it. The Parliamentary Counsel knew about it. The Attorney knew about it. His staff knew about it. How on earth could it have been that the one person who needed to know was not told?'
I will repeat that. This is the former Solicitor-General, Mr Gleeson: 'How on earth could it have been that the one person who needed to know was not told?' That is a question that the Attorney has not adequately responded to and that the government has not adequately responded to.

From the Australian Greens' point of view, that is a question that demands an answer. How on earth could it have been that the Attorney-General knew what was going on; the Attorney-General's staff knew what was going on; the Attorney-General's Department knew what was going on—as Mr Gleeson points out, they were helping to draft it—Parliamentary Counsel knew what was going on, as they were drafting it; but nobody told the Solicitor-General? This is extraordinary stuff. It is further evidence that the Attorney was not treating the Solicitor-General with the respect that he deserved.

I say 'further' evidence because the letter that was provided to the Legal and Constitutional Affairs References Committee by both Mr Gleeson and the Attorney, which is a letter dated 12 November 2015 to the Attorney-General from Mr Gleeson, the then Solicitor-General, copied to Mr Moraitis, the Secretary of the Attorney-General's Department—we know from that letter that in fact there were issues with the way the Attorney was relating to the office of the Solicitor-General well before this matter arose. To substantiate that statement I rely on parts of that letter which make it clear that, in regard to a proposal from government to suspend or revoke a person's Australians citizenship, advice was initially sought and provided from the Solicitor-General's office; but then, as the Solicitor-General notes in that letter:

In March 2015, as I learned much later, the proposal was significantly revised within the Department of Immigration and Border Protection. For the next three months, the proponents of the Bill obtained various advices from the Australian Government Solicitor on the revised proposals. Almost by accident, the matter came to my attention again in June 2015. At that point, on request, I advised (SG No 10 of 2015)—

And there is a redaction that covers what the advice actually was. Then, subsequent to another iteration of advice from the Solicitor-General, which is SG No. 14 of 2015, the bill which was introduced into the parliament, as the Solicitor-General says in the letter:

... some 24 hours later reflected new changes that were made without seeking my further advice.

What this letter exposes, not only in regard to proposals to strip citizenship from certain people, but also in regard to a proposal relating to marriage equality, is that the Attorney-General, Senator Brandis, has been caught out shopping around for politically convenient legal advice. He has gone to the Australian Government Solicitor for constitutional advice. We know he has recently even gone to the private bar for constitutional advice on the Migration Act bill which is currently before this parliament. What is stopping the Attorney-General from going to the office which was established in part to provide constitutional advice for the government? It is open to us in this place to assume that Senator Brandis was shopping around for politically convenient legal advice because he did not believe he was going to get the advice he wanted from Mr Gleeson or Mr Gleeson's office, and therefore he went to the Australian Government Solicitor and—on more than one occasion, we believe—to the private bar. That is one of the problems we have that has been exposed by this entire sorry saga.

I only have a few moments left, and I want to say—to my great regret and the great regret of many—this saga has led to the resignation of Mr Gleeson. I believe Mr Gleeson did the
right thing in resigning, because, as he said in his resignation letter, the relationship between him and the Attorney had become untenable. I believe that that is true and accurate. It had become untenable, but I want to place on the record that it became untenable because of the actions of the Attorney-General, not the actions of Mr Gleeson, the former Solicitor-General. The legal services direction disallowance motion that we are currently debating has the strong support of the Greens. This sorry saga has exposed the Attorney as not having the capacities to adequately fulfil that role. (Time expired)

Senator WATT (Queensland) (18:02): I also rise to speak on this disallowance motion. Some may wonder why this is proceeding, since Senator Brandis, in a humiliating backdown about an hour before the original disallowance motion was to be debated, withdrew the legal services direction that has caused this entire dispute, because it became very clear to him that he was not going to be able to get it through. Nevertheless, Labor believe that it is important to put our views about this whole affair on the record, mostly because, in withdrawing his legal services direction, the Attorney-General said that he was in the process of appointing a new Solicitor-General—the Attorney's actions had, of course, resulted in the incumbent Solicitor-General resigning—and wanted to discuss this direction with the new Solicitor-General. Given it is still possible that we might see some kind of restriction on a Solicitor-General's independence in the future, we think it is important to get our views on the record.

I have spoken a number of times in this chamber about this very sorry affair between the Attorney-General and the Solicitor-General, and soon I will remind the Senate of the background to it and why it is that Labor had such concerns about this legal services direction. But before I do that, I think it is worth us reflecting for a little bit of time on the person who is central to this whole saga, the Attorney-General, Senator Brandis. This week, I think it is fair to say, has not been a good week even by the atrocious standards of this hapless Attorney-General. Earlier this week, in speaking about matters concerning the Attorney-General, I described him as one of the worst Attorneys-General Australia has ever seen. Within a matter of hours of my saying that, he had given us a whole series of more examples as to why he is Australia's worst Attorney-General. Not only is he Australia's worst Attorney-General, but he would appear to be Australia's worst political commentator on Sky News, given his behaviour this week, and he is certainly Australia's worst go-between with his own LNP colleagues back in Queensland.

This is the kind of week that the Attorney-General has had. A couple of days ago he was caught on film describing his own LNP state colleagues as 'very, very mediocre.' I can tell you, having served in the Queensland state parliament with a number of those people, that is one thing that the Attorney-General has said that I do agree with. In fact, I think he was probably being a little generous in calling them 'very, very mediocre,' which, I suppose, is exactly why they returned to the opposition benches in Queensland after only one hopeless and terrible term. Not only did Senator Brandis have this to say about the LNP in Queensland but also, within about an hour or so, one of his own federal colleagues the member for Ryan, Jane Prentice, was interviewed about this on Brisbane ABC Radio, and she invited the journalists to speak to the state LNP members of parliament and ask them what they thought of Senator Brandis' own performance. That is how well known it is, even within his own ranks, that he has become a massive liability for this government.
Senator Brandis, in those infamous comments, also talked about the likelihood that we would see some kind of demerger of the LNP in Queensland. Those of you who are not as familiar with Queensland political history as I am will know that the formation of the LNP in Queensland was the result of many years of internal bickering, and this was the way they were going to finally overcome things. Senator Brandis was an opponent of the formation of the LNP from day one, and it would appear that he is still an opponent of the LNP having been formed as a merged entity. But then Senator Canavan, the most senior Queensland National in this chamber, the next day contradicted Senator Brandis and actually supports the LNP, so we have division within the LNP in Queensland even on the fact of whether they should actually remain one party.

The Attorney-General's accident-prone nature is not reflected only in his administration of his own portfolio. He is, of course, the Leader of the Government in the Senate, and this week we saw the complete lack of authority that he has as the Leader of the Government in the Senate when we saw that he was unable to get National Party senators, including three cabinet ministers, to support the Prime Minister's own gun laws. I cannot remember the last time I have heard of ministers in a serving government refusing to support government legislation. Once upon a time that would have seen ministers resign from cabinet, but this Prime Minister has so little authority over his cabinet—

Senator Nash interjecting—

Senator WATT: Oh, one of them is speaking up. Unfortunately, she was not able to be with us when we were debating gun laws, but once upon a time she, along with her other colleagues, would have resigned from the cabinet, but the Prime Minister knows that he cannot make them do that, because he has no authority whatsoever.

Putting all this together, I think you have to agree that we do unfortunately have a hapless, accident prone, self-serving QC in charge of the administration of justice in this country. He has shown that he is a serial stuffer-upper and among the biggest stuffer-uppers in government that Australia has ever seen. It is no wonder that the Attorney-General's colleagues want to see him gone. Almost since I arrived in Canberra as a senator, Canberra has been rife with rumours that the Attorney-General was going to be moved on, that he was going to be reshuffled out of his portfolio, because he has become such a liability. Back in Queensland there is open discussion about who is going to take his Senate seat and where that Senate office will be moved to. It is absolutely no wonder.

Even this week some of his own colleagues in Canberra were very happy to talk to the media about what they thought about the Attorney-General. Here is what one of them said on the condition of anonymity:

Of course George has been such a shining example of good government.

Then he said:

London can't come soon enough.

That is of course a reference to the well-known speculation that Senator Brandis may well replace that other towering intellect from the Liberal Party Alexander Downer as Australia's High Commissioner to Britain. I never thought that you would see someone less qualified and less deserving of being Australia's representative in London than Alexander Downer, but it would appear that we are likely to be facing that soon. So my advice to the Australian cricket
team is: 'Get over there and win the Ashes as quickly as you can, because you don't want Senator Brandis appearing there and condemning you with very bad luck.' That is the kind of man we are talking about.

I know we are getting ready for Christmas. Everyone is thinking about Christmas being not too far away. My own children have certainly started preparing their own lists of Christmas presents that they want to see from centre and even a few from Mum and Dad. It would appear, though, that Senator Brandis really is the gift that keeps on giving for the Labor Party. He gives us an early Christmas present every single time he stands on his feet. He cannot open his mouth or pick up a pen without stuffing something up. He has really just got to that point. But, sadly for the Australian people, while ever he remains the Attorney-General he is doing severe damage to our rule of law and to Australia’s system of justice.

I have spoken on a number of occasions about the legal services direction and the Attorney-General's actions in that regard. I am not going to go through that in detail—I will refer those at home who are paying attention to my earlier speeches—other than to say that the inquiry that was conducted by the legal and constitutional affairs committee on this dispute came up with three conclusions. The first was that the Attorney-General's action in issuing a direction that constrained the independence of Australia's Solicitor-General was a massive interference with the independence of the Solicitor-General and a massive threat to the rule of law. A former Solicitor General, Dr Gavan Griffith, a very well-respected man, pointed out that he had never been required to obtain the Attorney-General's permission to provide legal advice when he was Solicitor-General. He described this legal services direction as bringing to mind 'a dog on a lead'. That is the last thing that you want to hear a Solicitor-General described as or see treated as, but unfortunately that was the consequence of this Attorney-General's direction. All the witnesses that we had appear in front of the inquiry pointed out that the direction was a massive threat to the rule of law in Australia.

The second point that came out of this inquiry was that the Attorney-General had clearly failed to consult the Solicitor-General as he was required to do by law. We had time after time the Attorney-General claiming to the contrary. He tended to rely on one particular meeting that he had on 30 November last year where he claimed to have consulted the Solicitor-General about this direction. Unfortunately for the Attorney-General, the meeting notes of that meeting were circulated to all of the other attendees and not one of them who attended that meeting said that this issue about a new legal services direction or restriction on the Solicitor-General was discussed at that meeting. So we are left with Senator Brandis and his political advisers being the only people who say that the issue was discussed, when every other independent witness, including Senator Brandis's own departmental secretary, effectively said that it was not discussed. It is a gross interference with the independence of the Solicitor-General. The Attorney-General did not consult the Solicitor-General as he was required to do.

But, even worse than that, the Attorney-General has repeatedly misled the Senate as to his behaviour. He has repeatedly told the Senate that he did consult the Solicitor-General. As I said, that has been proven very clearly not to be true. We know that this Attorney-General has form in misleading the Senate. He has done it before. He has been subject to a censure motion. He has no credibility whatsoever. Even the Prime Minister said that a minister who misleads the parliament has no choice but to resign. The clock is ticking. It might be that
Attorney-General gets reshuffled out of that portfolio before he has the opportunity to resign, but he probably does still have another week or two to do the decent thing, hand in his resignation and let us get on with having an Attorney-General who can actually bring credit to the profession and to their department.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (18:12): I rise to close the debate on this disallowance motion. I just want to make a number of comments, although I suspect mine will not be as amusing as Senator Watts'. Let's just recap what we are dealing with here. I moved this disallowance motion on Thursday, 10 November 2016. I did that in the context of the registration of the Legal Services Amendment (Repeal of Solicitor-General Opinions) Direction 2016 the very same day. That was Senator Brandis, the Attorney-General, putting in place an instrument which had the effect of repealing the amendment to the legal services direction that he previously had made and that I was moving to disallow. I observed then that, after all of the blustering, posturing and, frankly, mendacity of the Attorney-General, it had come to this: the Attorney-General reversing his own direction. He had been defending it for months. This is the direction he had been defending for months, the direction limiting the role of the Solicitor-General, a direction that I think on any fair reading has forced an honourable man, Mr Justin Gleeson, to resign from the position of Solicitor-General. Senator Brandis defended the direction for months but hours before it was set to be disallowed by the Senate he backed down and removed it himself to avoid embarrassment. It is really quite an extraordinary set of events. It has shown us a number of things, but it has certainly shown us one thing very clearly—that this direction was only ever about getting rid of Mr Justin Gleeson.

However, notwithstanding the repeal instrument registered by the Senator Brandis, I proceeded to move this disallowance motion—and I did so, as I have previously explained, in order to ensure that the Senate could protect its right to prevent the previous instrument being remade without its consent. So I am putting the motion to the Senate this evening in order to protect the rights of the Senate and to prevent an identical regulation being made by this Attorney-General within the next six months.

I just want to make a few comments about the substance. First, it is fundamental to our system of government that, when ministers exercise powers delegated to them by the parliament, they do so with integrity. Parliament empowers the executive to make regulations and other legislative instruments, but those powers should be exercised both in accordance with the law and not for improper purposes. I put it to the Senate that this Attorney-General's conduct in making this direction failed to meet those requirements and standards. It is a direction that undermined the independence of the office of the Solicitor-General, the second law officer of the Commonwealth. It curtailed the ability of ministers, departments, agencies, and office holders to seek legal advice from the Solicitor-General. It risked jeopardising the Commonwealth's ability to defend its interests in domestic courts, to protect the interests of taxpayers and to pursue Australia's national interests in international tribunals.

There are compelling policy reasons for the disallowance of this direction. But the problems with the direction lie not only in policy; there are legal flaws in the direction. Prior to its repeal, experts told the Senate Legal and Constitutional Affairs References Committee, the committee that considered this matter, that the direction was legally void and invalid.
There were also profound flaws in the process the Attorney-General had followed in making the direction. The failure to consult is one that has had a significant amount of attention. It ought be condemned not only because of the poor outcome it produced but also because it is demonstrably a breach of the law and a breach of the requirements under the Legislation Act for ministers to consult when making legislative instruments. Not only did we see the Attorney-General fail to consult before he made this direction; he then misled the Senate, because he told the Senate that he had consulted, when it is clear that he did nothing of the sort. In fact, he sought to hide, from the Solicitor-General, his plans for the direction.

In summary, the direction should be disallowed, even though it has effectively been repealed by the Attorney's backdown, to ensure it is not remade, because it is bad public policy; it undermined the independence of the office of Solicitor-General; it has adverse impacts on policy, legislation and litigation involving the Commonwealth; fundamental doubts have been raised before a Senate committee about its legal validity; it has been marred by the Attorney-General's failure to consult; and, frankly, the Attorney-General has misled the Senate over the direction. There are just a few of the substantive issues—

**The ACTING DEPUTY PRESIDENT (Senator Gallacher):** Senator Fawcett, on a point of order?

**Senator Fawcett:** I appreciate that the Leader of the Opposition in the Senate is making some political points. But the statement she has made as a statement of fact, that the Attorney did not consult—he directly refuted that during the committee inquiry and has done so on numerous occasions in this place. I would ask you, Mr Acting Deputy President Gallacher, to ask her to withdraw that.

**Senator WONG:** Absolutely not. That is a debating point.

**The ACTING DEPUTY PRESIDENT:** I would rule that that is a debating point, Senator Fawcett. There is no point of order.

**Senator WONG:** What I am being asked to withdraw is what a Senate committee has found—that he did not consult. Frankly, those on that side should be holding this gentleman, this Attorney-General, to a higher standard. I am happy to come to the point about what evidence was given, but let me say this: the Attorney's assertion cannot stand. It is simply unable to stand on the basis of the facts found by the committee. I will come to the consultation point. I want to start first with the independence point.

The former Solicitor-General pointed out that the direction was a significant change to longstanding arrangements. In his submission to the Senate committee, he said:

... it is critically important that persons such as the Governor-General, Prime Minister, and officers of Parliament are able to approach the Solicitor-General for advice in an uninhibited fashion, and in respect to questions framed by them and not by others.

He went on to say:

The Direction undermines that role insofar as it permits an Attorney-General to deny access to the Solicitor-General and has the potential to discourage persons and bodies from seeking the Solicitor-General's advice.

The best way to understand this direction is as a power grab by Senator Brandis. The best way to understand this direction is as a bid to undermine the independence of the Solicitor-General and to control the flow of legal advice.
I refer, as did Senator Watt, to the evidence of a former Solicitor-General, the long-serving former Solicitor-General Dr Gavan Griffith QC, who in his submission really brought home the seriousness of Senator Brandis's attack on the independence of the office. He said that, if the direction were implemented, it would convert the office into one of 'closet counsel' within the Attorney-General's political office. Dr Griffith said the direction would have a chilling effect on perceptions of the integrity of the office of Solicitor-General. He said:

The uncomfortable image of a dog on a lead comes to mind.

He concluded his submission by saying:

I regard the content and intent of the Directions as effecting the practical destruction of independent office of Second Law Officer within the Australian constitutional context.

Some of those opposite pride themselves on being conservatives. Well, conservatives preserve institutions. Conservatives preserve institutions and conventions. What you have is a government whose leader in this place is seeking to undermine an institution that has served Australia well. Those on that side who call themselves conservatives should have done something and should do something about it.

I turn now to the issue of legal validity. I will not spend too long on this, but I would make three points. First, legal experts have advised that the relevant provision of the Judiciary Act does not allow the Attorney-General to issue directions affecting the functions of the Solicitor-General. If that opinion is correct, it would mean that the direction that is before the chamber is beyond power—ultra vires—and legally invalid. That was a view put to the committee by both the then Solicitor-General, Mr Gleeson, and by Dr Griffith QC. Second, I would make the point that the committee also received advice that the direction's attempt to curtail the circumstances in which the Solicitor-General could provide legal advice was in conflict with the Law Officers Act—in particular, section 12, which provides that the Solicitor-General's functions include acting as counsel for, amongst others, ministers and officers of the Commonwealth.

Finally we get to the consultation point, because, of course, this has occupied some debate in this chamber. The direction was argued to be legally invalid because the Attorney-General issued it without having the appropriate consultations which are mandated—that is, required—by section 17 of the Legislation Act. I do not think that any reasonable person could look at the evidence that was presented to the Senate committee and back Senator Brandis's version of the event. No reasonable person could look at doing so because it is quite clear that the evidence established that there was no such consultation, and the evidence of Mr Gleeson was clear on that. I will turn to that point. Mr Gleeson said:

I had no advanced knowledge that the direction would be made, no notice of what would be in the direction and no opportunity to put a submission to the Attorney-General or the department as to my views on the legality or merits of the direction.

He went on to say:

I was not given an opportunity to comment on the content of direction and finally there was no consultation with me at any time.

'There was no consultation with me at any time!' I ask this Senate: who would you believe? Would you believe Senator Brandis or would you believe in this context Mr Justin Gleeson?
The reality is that the conduct of this matter raises serious questions about Senator Brandis's fitness to hold office as Australia's first law officer. He sought to gag the Solicitor-General; he sought to curtail independent legal advice to the Commonwealth; he embarked on a power grab through, frankly, underhanded and deceptive conduct; he went behind the back of the second law officer. All of this led to an unprecedented breakdown in the relationship between the first and second law officers of the country; a breakdown in trust which has prompted an honourable and decent man to resign. Frankly, it should be of concern to all in the Senate that this Attorney-General, despite all of this evidence, continued to mislead the Senate in the explanatory statement, which he tabled with the direction in which he continued to assert that he had consulted with the Solicitor-General. I think that is demonstrably misleading of the parliament.

Really, there is no more serious matter when it comes to the integrity of this parliament in carrying out its legislative functions. A senior member of the executive government, exercising delegated legislative power, misled the parliament in the formal explanatory statement he tabled with the proposed legislative instrument. It is not conduct that can be allowed to stand, because it undermines the role of the Parliament and particularly undermines the rights of the Senate. We have, as a parliament, a right to scrutinise the executive government's exercise of its powers to make delegated legislation.

In conclusion, this direction should be disallowed because it represents an attack on the independence of the Solicitor-General and, indeed, on the rule of law. It should be disallowed because the minister whose job it is to uphold the law has been exposed as flouting the law. The direction should be disallowed because, in misleading the Senate, the Attorney-General has breached a fundamental requirement of our democracy, the principle of ministerial accountability to the parliament. Finally, it should be disallowed so that this Attorney-General receives the message loud and clear: that it is unacceptable to the Senate. I commend the motion to the Senate.

**The ACTING DEPUTY PRESIDENT (Senator Marshall):** I have just taken the chair and I understand Senator Wong has now closed the debate. Minister?

**Senator NASH** (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (18:26): I seek leave to make a short statement.

Leave not granted.

**The ACTING DEPUTY PRESIDENT:** The question is that the motion moved by Senator Wong be agreed to.

Question agreed to.
BILLS

Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016
Treasury Laws Amendment (Working Holiday Maker Reform) Bill 2016
Superannuation (Departing Australia Superannuation Payments Tax) Amendment Bill 2016
Passenger Movement Charge Amendment Bill 2016

Second Reading

Consideration resumed of the motion:
That these bills be now read a second time.

Senator LAMBIE (Tasmania) (18:27): I rise to speak on the government package known as the 'backpacker tax' legislation, which includes the Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016, the Treasury Laws Amendment (Working Holiday Maker Reform) Bill 2016, the Superannuation (Departing Australia Superannuation Payments Tax) Amendment Bill 2016 and the Passenger Movement Charge Amendment Bill 2016.

The main change in this package is the government's plan to increase the income tax rate for all backpackers from zero to 19 per cent from the first dollar earned up to $37,000. When the government presents 19 per cent, I will not oppose it; I will merely amend it, should the Senate allow it to go into the committee stage. So at the very least farmers can be assured they will have 19 per cent from this week. But the problem is, and the reason I propose to amend the 19 per cent—and while it is better than the 32.5 per cent, which the government threatened the agricultural industry with for 18 months—it is not internationally competitive and not a fix for the current crisis.

If we are going to pass the legislation, let's do it once and, for goodness sake, let's finally get something right. It is a simple procedural matter that will take no time at all; legislation is amended all the time. The critical question here is: what is going to attract backpackers to Australia? We know that 10.5 per cent is guaranteed to be competitive, because New Zealand's backpacker tax is 11.95 per cent and their nominal base rate is 10.5 per cent. At the moment, that is where the backpackers are going.

The industry needs guarantees and certainty, so that the only uncertainties they need to deal with are those that mother nature throws at them—not the uncertainties that a dysfunctional government throws at them. A rate of 10.5 per cent is guaranteed to undo the harm caused by 18 months of uncertainty and the threats of a destructive tax rate of 32.5 per cent. The damage will not be healed immediately, but over time the agricultural industry will recover, as the backpackers begin returning to Australia in future seasons.

The Liberal government has pretended to be the voice of the farmers throughout this debate, hiding behind their coalition with the Nationals. But it is the Liberal government that controls the agenda in parliament and the question of the backpacker tax could have been resolved two weeks ago after the committee tabled its report. Every day the tax issue drags on, more international damage is caused to brand Tasmania. The solution to all this madness and hurt is so simple. I met with the National Farmers' Federation this week, and they admitted that 10.5 per cent would be a much better outcome and would be more than
welcomed with open arms by the agricultural industry. But the Liberal government continues to peddle fear and lies, telling the public that backpackers are stealing Australian jobs. Tasmanian farmers have told me, though, that, even if every person on unemployment benefits and of working age filled the seasonal positions, the farmers would still need backpackers.

We know that hundreds of Australian jobs depend on backpackers. I hope all crossbench, Labor and Greens senators will agree with my proposal and will also agree that we should remain competitive with New Zealand, should the Senate choose to support my amendment. I hope the government respects the Senate's decision and votes for the amended legislation in the other House. The ball is ultimately in Deputy Prime Minister Barnaby Joyce's court. He has the power, but does he have the ticker to stand up against the Liberals for our farmers?

This could have been done a very, very long time ago. We could have had certainty for this season's picking of our fruit. We could have ensured that our rural and regional areas, which are doing it really tough right now, had extra income from backpackers who would have spent locally. I am putting through two amendments: one at zero per cent, and the best thing we could do is save everyone out there and vote for that. I do not think I will get the numbers for that so I will also be putting through the 10.5 per cent amendment; although, what I am hearing—which is quite disgusting—is that it does not really matter. It is going to go down to the Lower House and, because the Nationals do not have the spine and they have gone from being the blue heelers of the bush to being toxic bush rats, you know what? They are going to leave it at 32.5 per cent for 1 January. That is what they are going to do. These are the games they are going to play with their farmers out there. It is not like our farmers do not already have enough strain because you neglected them for years. They are finally waking up to that, and I say thank God for that.

What is even more disturbing is that you would rather speak about an Adler weapon that will kill than deal with a backpackers' tax that should have been done when you had the opportunity quite a few days ago. When you come back and try to put the blame on us, we are already about 10 steps ahead of you. I need you to know that. If you want to play these games and if this ends up at 32.5 per cent on 1 January then I reckon you are going to be in trouble. It is not just the farmers who will feel the effects. It is every small business in rural and regional areas. It is the tourism industry. You are hitting a lot of people at once here. You have done nothing but muck them around for 18 months because of pure incompetence. I do not know what has happened to your leadership and I do not know what has happened with the Nationals, because they have been missing in action for a very, very long time, but enough is enough. Let's get it at least to 10.5 per cent, get it down to the Lower House tomorrow and get it voted on for the weekend so that everybody can get on with their lives and, more importantly, so that just maybe we can attract a few more backpackers before the Christmas period starts.

The modelling that you neglected to do—actually, that's right, you did not do any modelling—did not model the negative impact that this is going to have on the agricultural industry, rural and regional small business and tourism. You were too lazy. What's new! It is either your way or the highway. Nothing has changed since the last parliament. The attitude still has not changed. I would imagine that the new crossbenchers and One Nation are starting to wake up to this and to become wary of you. And if they have not then give them another
three or four months and they will be right there. If you want to do us all a favour, let's get this done tomorrow and let's get this vote finished off. I do not care if we have to stay here tonight. If it was important enough to get registered organisations through on Monday night then keep us all back here tonight. Let's have it out and get it down to the Lower House in the morning. Let's see how much guts the National Party actually has to fix this issue.

Senator RICE (Victoria) (18:34): I rise today to speak to the Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016, the Treasury Laws Amendment (Working Holiday Maker Reform) Bill 2016, the Superannuation (Departing Australia Superannuation Payments Tax) Amendment Bill 2016 and the Passenger Movement Charge Amendment Bill 2016, or, as these bills are more commonly known, the backpacker tax.

The history of this particular reform could be used as a test case for the dysfunction of the current government. It was first raised in the 2015 Abbott-Hockey budget—that pitiful follow-up to the notorious 2014 budget that had tried to rip up the social contract only to find little appetite in either the Senate or the wider community for its wide-eyed assault on health care, education and welfare services. Instead, the government pivoted to a much more timid method of budget repair and tried to strip funding or gain review from little pockets and communities that they thought would not have the political capital to fight back. The ability of such a process to actually improve the budget is limited. The government has bullishly refused to acknowledge that, in fact, there is much more potential revenue available to pay for a world-class health, education and social services system and that there is more than enough economic rationale for productive non-recurrent debt spending on energy and transport infrastructure.

One of the groups that the government thought they could get away with clamping down on in the 2015 budget was working holiday-makers. Historically, working holiday-makers, or backpackers, have paid little to no tax with many backpackers choosing to self-identify as residents on their tax returns and tax agents coaching backpackers to do so if they stayed in Australia for more than six months. The Administrative Appeals Tribunal recently issued a rule clarifying that the six-month or 183-day criteria was not sufficient to be classed as a resident for tax purposes, but that has not filtered out into the community as yet. So the reality on the ground is that few backpackers are paying tax as nonresidents. Then, of course, in wanders the Abbott-Turnbull government.

Blessed are the holiday-makers, went their thinking, for nobody can inherit their vote. Here is a constituency that cannot vote. Here is a constituency that will not cost the coalition marginal electorates and may be a good place to find revenue. The original budget figure that they thought they would be able to get out of backpackers was $540 million over the forward estimates. That figure pales in comparison to some of the huge revenue opportunities that are out there, such as phasing out superannuation concessions, negative gearing, capital gains concessions or fossil fuel subsidies. Of course, these revenue measures, if the government acted on them, would bring in tens of billions of dollars. But the government are focusing on the backpackers, because they thought that the backpackers were not going to complain.

The government forgot that there is another constituency that deeply relies on backpackers and the working holiday-makers, one that has deep connections with the government. That constituency is the agricultural community. It is absolutely flabbergasting that the government failed to consult properly with the agricultural community before they put this into the budget.
Back in 2015, the chair of the New South Wales Farmers' Association was adamant when he said:
This seems to have been done without any industry consultation.
Emma Germano from the Victorian Farmers Federation simply called the whole process a shemozzle.

After the justifiable backlash from the agricultural community and after months of lobbying and of the government kicking the can down the road, surprise, surprise, there was a dramatic shortfall in backpacker numbers during the 2015-16 summer harvest season. AUSVEG CEO Richard Mulcahy earlier this year said:
The Australian vegetable industry faces critical local labour shortages during peak seasonal periods, and our growers rely on backpackers to harvest their crops and prevent crippling losses.

... ... ...
If the ongoing decline in the number of backpackers coming to Australia isn't arrested, or if these workers aren't replaced with labour from another source like the Seasonal Worker Program, we are facing a very real threat to the future of our industry.

The National Farmers' Federation, the peak body for the Australian farming community, made a pre-budget submission for this year's budget, saying:
... 32.5c in every dollar is too high. It means many backpackers will choose to go elsewhere, or stay in Australia for shorter periods. It means fewer workers on Australian farms, and more workers attracted to the cash economy.

So the government quickly shifted into face-saving mode, Minister Joyce went into hiding and the whole thing was put off for a review before the election. As always, the government retreated from making the tough decisions.

After six months of further deliberation and of the agricultural community telling the government just how rubbish their 32.5 per cent marginal tax rate was, the government emerged with the bill before the chamber today, which would tax backpackers at 19 per cent from their first dollar earned and would tax their super at 95 per cent. As many in this chamber and in the ongoing estimates and committee hearings have previously noted, Canada taxes working holiday-makers at 15 per cent, and New Zealand taxes them at 10.5 per cent.

How then do the government think that 19 per cent is a sufficient decrease in their proposed tax rate in order to arrest the reductions in working holiday-maker numbers, particularly when you factor in the 95 per cent superannuation tax rate? That superannuation tax rate brings the tax rate overall to approximately 28 per cent. Have they done modelling to know exactly how the different tax rates would impact the number of working holiday-maker visas? No. It has been confirmed that the government failed to do any modelling on the impact of the new marginal tax rate on working holiday-maker numbers. Have they done modelling on the revenue difference of the different marginal tax rates? Well, Assistant Minister to the Deputy Prime Minister, Minister Hartsuyker, on ABC PM just days ago, did not know what the revenue difference would be between using marginal tax rates of 10.5 and 19 per cent. So it appears the government still do not know what they are doing or what the implications of this bill will be.

Despite 18 months of controversy and millions of dollars lost through the impacts of the uncertainty that the government has created, the government has still not made the case as to
exactly why this bill in this shape is the best one for backpackers, for regional communities and for the budget. We already saw last summer what happens if the government lets this process go on: stories of hardship with fears that entire crops will be left to wither on the vine, due to growers being unable to access sufficient labour for their harvests—like persimmon grower Brett Guthrey, who came to Parliament this week to share his story. He said:
Sourcing backpacker labour is getting harder and harder - our fruit is going to rot on the trees.

He also said:
Attracting backpackers back to our sector will be difficult for many seasons to come.

Whatever the outcome in this place, the government's incompetence has already badly damaged the industry.

Growers from Orange were in this place too, talking to the government about how this tax would not only lead to a decline of backpacker numbers but that this decline might coincide with the tiny two-to-three-day window for picking ripened apples and that unpicked crops could lead to losses of millions of dollars. Is anyone surprised that the horrendous result for the Nationals in the Orange by-election has coincided with their inability to stop the Treasurer in his tracks on the backpacker tax? I think not.

The Greens, on the other hand, have listened to the community. We have listened to the peak bodies and the industry representatives, and we have listened to the local growers who are concerned about the future. They do not understand why there needs to be a backpacker tax, why the government cannot simply fix the problems that resulted from the Administrative Appeals Tribunal ruling, without slapping an exorbitant tax on backpackers and driving them away from our shores. They also want certainty, which is why some groups have resigned themselves to a 19 per cent marginal tax rate. But the government has the opportunity in this chamber today to support the Greens in making giving growers that certainty without compromising backpacker numbers or trying to gouge a pitiful amount of revenue from low-income earners. The Greens propose a very simple solution: for backpackers to be taxed the same as Australian residents—that is, for backpackers to enjoy a tax-free threshold, zero tax, up to when they earn $18,200 and then 19 per cent on up to $37,000 after that. That is the progressive tax system that we are all used to. It is very straightforward, very easy to administer and very fair.

Finally, I would like to tackle what some have said—particularly our state-based tabloids, but including some senators in this place—in regard to the concept that somehow our farming communities could cope with the shortfall in backpackers if only the lazy unemployed young people from our major cities and towns would get off their bottoms and come out to harvest instead of collecting Newstart or youth allowance. This is to fundamentally misunderstand the youth unemployment problem. Young people from Melbourne, Sydney, Adelaide, Ballarat, Launceston, Gladstone, Wollongong, Townsville, Cairns, Canberra, Newcastle and Brisbane—all across the country in big cities and regional towns—who are currently out of employment are not in a position to pick up their lives and go to the country for two months as an employment solution. Many of them have rent and tenancy agreements that they cannot break. Many of them have families that they are caring for. Many of them have specific career paths that they are on, even if they cannot currently find a position. Many of them know it is much smarter to keep searching for ongoing part- or full-time work than to spend a couple of
months treading water, only to find themselves unemployed come winter. So we should dismiss this argument out of hand.

Working holiday-makers are a perfect solution to the needs of the agricultural sector, as they are, by and large, not tied down by tertiary studies, family commitments, career paths or the need for full-time employment. They are here to earn money, mostly to spend it all over the remaining months of their travels. I would note that this means that most of the tax revenue that the government was hoping to collect actually returns to the Australian community anyway. It is also well established that these working holiday-makers do not take jobs from Australians but in fact contribute a huge benefit to the economy, creating thousands of knock-on jobs in the tourism, transport and hospitality sectors across the country for Australian workers.

So, as Senator Whish-Wilson has so clearly laid out, today the Greens will move to align working holiday-maker tax rates with Australian resident tax rates. This would be a more competitive tax rate compared to our major rivals for working holiday-makers. It would be good for our regional economies both in terms of maintaining or improving on the number of backpackers working in the harvest season and in terms of building strong tourism economies in many of our transitioning rural communities. It would have very little impact on the budget bottom line compared to the 19 per cent marginal rate proposed by the government—especially compared with some of the big revenue opportunities that the government currently refuses to consider. Finally, it would put an end to the uncertainty, allow growers to have confidence in their ability to plan for harvest and put an end to this whole sorry saga.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (18:48): I will just make a few minutes of contributions to the debate on the Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016 and related bills. When the Labor Party were in government, they raised foreign workers tax from 29 per cent to 32½ per cent. It did not include backpackers; however, the Administrative Appeals Tribunal ruled that it must include backpackers—hence the 32½ per cent came along. There are some serious problems here, and I am well aware of that. We in the National Party have been informed by plenty about the problems out there, and that is why we need to fix the situation up.

Senator Rice said, 'We can't have young ones unemployed in the cities travel out to the country to pick fruit.' Why not? When I was a young fella and took up a handpiece shearing sheep, I had to travel out to the Flinders Ranges and to many areas of South Australia to get a job. We had to travel. I find it amazing, and this is the heart of the problem. There are roughly 735,000 unemployed Australians. I am sure many of them are young and in very good physical health and condition. Why can't they travel to get to work? I know that in many country towns where abattoirs exist they rely heavily on backpackers. Why aren't the locals working in those abattoirs? I will tell you why: they lack work ethic. They roll up for work and fail a grog test or a drug test, or they simply do not show up to work. It is an unacceptable attitude to me.

As I said in my maiden speech in this place on 15 September 2008, some of these people need a touch on the backside with a cattle prod to get them off their butts and to get them to work. I did not mean literally—even though The Jakarta Post quoted 'literally', that was not the case. But we need to change the attitude a bit here in Australia, where there is important work to be done, and see those people get out there and get a job, even if they have to travel.
There are many people unemployed in country towns close to where a lot of this rural work we are talking about—fruit picking and abattoir work—is being carried out. It is essential work. Those people should be out there working, in my opinion, instead of staying home unemployed and not worrying about bothering to go to work or, if they go to work, not doing the job properly and eventually getting the sack, or getting the sack very quickly, or, as I said, in some businesses, failing the alcohol test or the drug test.

I think it is very unfair that, if I am shearing out there somewhere in a shed and I hit the $18,200, the foreign worker shearing alongside me would pay less tax than me. I do not think that is fair, and some are proposing a 10.5 per cent tax. I think it is very unfair that I would be on one downtube shearing sheep and that the bloke from South Africa alongside me who has been there for six weeks and has made the $18,200 bracket—which you would do in about six weeks if you are a good shearer—would pay less tax than me. Why should that shearer from South Africa pay less tax than me? Why should I do the same work, work just as hard, shearing the same sheep in the same conditions, and pay more tax to the Australian government than that foreign worker? That is simply not fair. Life is about fairness.

So we need to sort this out. It has certainly caused some problems in the industry. I know many of my colleagues in the National Party have pushed hard for these changes and this review. Hopefully we will get it settled in the very near future. If we do not get it settled in this place, come 1 January they will all be paying 32.5 per cent tax, and the last thing we want to see is people deferring to other countries. Sure, 19 per cent is higher than Canada, New Zealand and the UK, but the fact is that wages are also higher. People are not mentioning that. The tax is a bit higher but the wages are also higher. It is good to see the NFF and many of those industry bodies now saying: 'Yes, 19 per cent. Go for it. Get rid of the uncertainty, and let's get on with the job.'

Senator BACK (Western Australia) (18:52): I rise to support the Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016, the legislation associated with the proposal for the backpacker tax, and urge my colleagues to do the same thing. Let me follow on from the comments of Senator Williams a few moments ago and put to bed some of the myths we are hearing about the 19 per cent income tax rate.

The take-home figure for overseas backpackers working in Australia in agriculture, horticulture, hospitality and tourism is higher compared to the figure for backpackers going to Canada or New Zealand. Let me repeat that to Senator Whish-Wilson: the take-home figure is higher than it is for a backpacker working in Canada or New Zealand. It is so structured for two reasons: (1) the hourly rate of pay is higher than it is in those two countries; and (2) the Australian dollar is stronger than it is in those two countries. So let us put to bed the nonsense and the myth that backpackers coming to Australia will be disadvantaged by the 19 per cent tax rate.

The best point to make about this is that backpackers with whom I have communicated are happy with the 19 per cent. Most people in agriculture, horticulture, fisheries, tourism and hospitality that I have spoken to and dealt with are happy. I for one reject the nonsense that has been put to me that we have only listened to farmers groups et cetera. Do not insult me with that. I spend a good deal of my life in rural and regional Australia and I have a very, very close link with those people.
Let me also put to bed the myth about the 95 per cent of superannuation money that is apparently being taken back from these backpackers. To those who might be interested in this discussion, the fact is that neither New Zealand nor Canada offer an employer based superannuation fund. Therefore, where is the logic in a person coming from overseas expecting to take home superannuation money, firstly, to which they are not entitled and, secondly, when they would not receive a dollar if they were working in Canada or New Zealand or South Africa? We did not bring in the superannuation scheme for young people going home to Switzerland, to Scandinavia, to the UK, the US or France. It was introduced for Australian retirees.

Let me make the point if I may, equally, with regard to the tax-free threshold. We all know that, until relatively recently, the tax-free threshold was $3,500 or $4,000. It was increased to $18,500, as Senator Whish-Wilson said in his contribution earlier in the day, to provide a fillip for low-socioeconomic Australians, and it is a good scheme. But it was never designed for overseas workers coming into Australia. They would not and do not expect—and have not asked—the Australian population to provide them with the sorts of protections that we expect as Australians: policing and all the other activities that go on.

Senator Whish-Wilson interjecting—

Senator BACK: Many of us have worked overseas, as indeed Senator Whish-Wilson has. Name me one young Australian going overseas to work who expects to get a tax-free holiday in Europe or America or New Zealand. They do not. So what is this nonsense that we are hearing about the opportunity for young people from overseas, who do not want a tax-free environment, who actually want to come here to work—

Senator Whish-Wilson interjecting—

Senator BACK: You can interrupt as much as you like, Senator Whish-Wilson. The unusual circumstance is that I do not interrupt the Greens. Yet I cannot have a view different to yours, Senator Whish-Wilson. I am not entitled to a view separate to yours. Offer me the courtesy, if you would, of listening in silence, learning and taking notes, and you yourself might be the better person for it. Let me summarise. Nineteen per cent is totally appropriate; it is a better deal than somebody who is going to New Zealand, to Canada or to South Africa will get. Superannuation is irrelevant, because those other countries do not offer it.

Let me come to the tourism and hospitality industry. It is a bit of a dig for that industry to be complaining about the slight increase in the levy, because which is one of the biggest industries to gain from a good backpacker program in this country? The tourism and hospitality industry. Those of us who move through the bush, which many in this place do, know that you do not hear an Australian accent in the hospitality and tourism sector in rural and regional Western Australia. Therefore, the tourism industry needs the backpackers. For them to complain about a slight increase in the levy for people leaving our country or returning to our country is a little bit beyond the pale.

Many Australians go and work overseas. I do not recall having a tax-free threshold when I worked in the United States. My son did not get a tax-free window when he was working in the UK, working in Scotland. Neither did my son working in the United States, nor my daughter working in Singapore, the United States or Panama. They all pay their tax. What are we considering the question of providing a tax-free threshold for? As the point was made
earlier today, the 32½ per cent was not introduced by the coalition government at all; it was introduced by the last Labor government. We are trying to move it to 19 per cent. Nineteen per cent makes it competitive. Nineteen per cent gives Australia a reasonable return.

In response to Senator Rice's point about people not being able to move away to work seasonally, I will make these observations. At the end of seeding, I was in the eastern wheatbelt town of Kellerberrin. The crop had just gone in—the biggest crop in history. I was having a yarn with the shire president, having a yarn with local farmers, asking them who was on track to put in the biggest crop for the season. Backpackers. I said to them, 'Surely there are a few locals in Kellerberrin and Merredin and Cunderdin and Kununoppin?' They said, 'Yes, there are, Senator, but we couldn't get one of them.' They are not coming from the city, Senator Rice; they are not giving up rent.

Senator Whish-Wilson: Senator Rice is not here.

Senator BACK: They live in Kellerberrin. But Senator Rice is listening avidly, and just in case she is not, I know that Senators McKim and Whish-Wilson are going to rush back so that Senator Rice is fully informed in her mistaken view that people cannot leave cities and cannot leave regional towns to work.

My second example comes from the Australian Hotels Association. I know that you, Madam Acting Deputy President Reynolds, as well as the minister sitting there, Senator Nash, and Senator Fawcett move through rural Australia and do not hear Australian accents. We recall, in a formal meeting, where Senator Smith I think was present, that the CEO of the Australian Hotels Association in WA, responding to the question of why there were so many non-Australian accents in hotels and hospitality around WA, said, 'We cannot get young Australians to work in our hotels.' Was this at Kununoppin? Was this at Wubin? No, no, no: this was Steve's hotel, it was the Nedlands hotel, it was the students' watering hole on the Swan River, it was the Ocean Beach hotel, one that I believe Senator Whish-Wilson—legally or illegally—may have frequented as a young man. These are the hotels that we cannot get young Australians to go and work in. Is it because they cannot pay their rent? Is it because they are in such enormous need? Of course not. The simple fact of the matter is that they do not want the work.

So yes, we have engaged actively with agriculturalists, with horticulturalists. The member for Forrest, Ms Marino, and the member for O'Connor, Mr Wilson, and I were in Manjimup in the winter for a forum with 80 or 90 agriculturalists, horticulturalists and small businessmen. Just so that people understand the scale of this operation, somebody said, 'I'm going to ask who has had more than 100 backpackers on their farm tonight', and there were five—in May, in Manjimup in the winter; five had more than 100 backpackers on their farm that night.

We know the scale of the problem. The shire president of Manjimup—himself hopefully to become a wonderful contributor through the upper house of the state parliament after March—said that $20 million worth of avocados were harvested last summer in the Manjimup area and not one was picked by an Australian; they were all backpackers. We all know the size and scale of this issue. But we also know that 19 per cent is fair; 19 per cent is slightly better in terms of take-home pay for a backpacker coming to Australia than for one going to New Zealand or Canada. And superannuation is irrelevant, because it is not offered to backpackers from other countries. The final point I want to make is that, when they have
been canvassed, farmers, horticulturalists, fishermen and backpackers all believe that 19 per cent is appropriate.

In concluding, I want to catch up with Senator Watt, because I listened to Senator Watt this afternoon telling us how he had been to Rockhampton, bucketing the local member, the wonderful member for Capricornia. One would not have thought that only recently in the federal election she subjected herself to the will of the people of Capricornia and got an increased margin. You would not have thought that from listening to Senator Watt's commentary this afternoon. I just want to tell you about when I visited the seat of Murray with Dr Sharman Stone. It was in relation to abattoirs. Senator Watt was talking about abattoirs today, and how Australians could not get jobs in the abattoirs. Dr Stone took me to an abattoir just outside Shepparton. The manager of that abattoir was telling us he had an urgent need to increase the number of shifts in the meatworks. Because of the live export ban, cattle were coming south and they needed to process more. He had no fewer than 50 permanent jobs available for young people in what is the highest youth unemployment area of Victoria—permanent jobs, no skills required. They would be trained according to Australian certificates of competence and have permanent employment. But he got no Australians successfully applying. Do you know why? Because they needed to be drug free, and not one of the Australians could meet that criterion.

That is where I leave my contribution. Please support the legislation as presented by Senator Cormann.

Senator XENOPHON (South Australia) (19:05): I indicate that I and my colleagues Senators Griff and Kakoschke-Moore will be supporting the second reading stages of the Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016. We believe that this bill has merit. It is by no means perfect. The backpacker situation is a mess at the moment. We need to fix it, because the fear is that literally thousands and thousands of tonnes of fruit will be left rotting on the ground. I respectfully suggest to the opposition, to some of my crossbench colleagues, that what they are proposing is really not going to be productive. What they are proposing could lead to an impasse that will leave us with the worst of both worlds. We will have a situation where, for backpackers, there will be a 32 per cent rate left. There will be a real disincentive for those backpackers to come here.

And there is an opportunity here, with the good-faith negotiations I have been having with the government, to make a very real difference to young and older unemployed Australians, for them to have a chance, really for the first time, to participate in seasonal work without the massive penalties in our current welfare system. I am grateful for the discussions I have had about this on a number of occasions with the Treasurer, and I want to acknowledge the tremendous work that the member for Mayo, my colleague Rebekha Sharkie MP, has done in relation to this. She has worked in the past in the youth unemployment space as the CEO of a major organisation helping disadvantaged youth, and she understands the challenges facing young Australians in terms of unemployment.

This bill is by no means perfect. But, as they say, I do not want the perfect to be the enemy of the good. This is a case where others want to move various amendments to this bill, but I think that what the government is proposing—subject to commitments from the government and subject to implementing some of the changes for young and older unemployed Australians—could really work. The imperative here is that we need to have enough workers
to work in this coming season and in the next two to three years in terms of our fruit picking, in terms of the seasonal work, in terms of working in the pubs, particularly in regional areas, at peak tourism hospitality times.

On 20 September of this year at Ceravolo’s Ashton Valley Fresh premises I, along with Rebekha Sharkie, the member for Mayo, met with Susie Green from the Apple and Pear Growers Association of South Australia and the Cherry Growers Association of South Australia; Adelaide Hills fruit producer Joyce Ceravolo of Ceravolo orchards; Andrew Flavell of Flavell orchards; Ashley Green of Lenswood orchards; and Tony Hannaford of Torrens Valley Orchards. We spoke to them and we spoke to the media. We want to see an urgent change to the inflexible and punitive welfare rules that are currently discouraging many Australians, particularly young unemployed Australians, from doing seasonal work on farms.

Farmers across the country are concerned that fruit will be left rotting on the ground because there just simply is not enough seasonal labour to pick it—and the backpacker tax amendments may have discouraged some backpackers from coming here in the first place. We think this is a sensible supplement to the issue of seasonal shortages. We want there to be greater flexibility to current welfare rules. Presently, under Newstart, recipients can only earn $104 a fortnight before being hit with a reduction of 50c in the dollar for extra dollars earned and before benefits cut out at $1,023 a fortnight for a single person. A credit system for seasonal work under current Newstart rules only allows recipients to accrue 1,000 credits or 3½ thousand Newstart credits.

What we have put to the Deputy Prime Minister and Minister for Agriculture and Water Resources, Barnaby Joyce, the Minister for Social Services, Christian Porter, and Treasurer Morrison is that jobseekers be able to work on seasonal work for up to $5,000 without any penalty; that Job Services providers have a small incentive to place jobseekers; and that jobseekers having to travel more than 100 kilometres and having to relocate temporarily receive a small relocation allowance in the order of $300.

There are those that say Australians do not want work. I find that offensive. The current welfare rules have massive disincentives in the system. The government has, for the first time, been prepared to talk to us in good faith and negotiate in good faith to give young and older unemployed Australians an opportunity to do the seasonal work—in addition to backpackers. This is what we need to do. Obviously, it will involve a change in the rules. It needs to be implemented appropriately and without any hitches.

We are prepared to support this legislation on the basis that we give unemployed Australians a fair go instead of the punitive welfare rules that currently exist. That is the nub of our support for this bill. We are still negotiating with the government. We will support the second reading stage of this bill. We believe it has a lot of merit, so the sooner we can get on with this and resolve this one way or the other, the better. Our agricultural sectors desperately need certainty, so we need to get on with it. I am sure, if this bill gets through—

Senator Whish-Wilson interjecting—

Senator XENOPHON: Senator Whish-Wilson, who I have enormous regard for, says: 'We are not going down the right road.' What is wrong with giving Australians who are unemployed a chance to work instead of being hit with punitive welfare rules?

Senator Whish-Wilson interjecting—
Senator XENOPHON: Well, they are—50c in the dollar for everything you earn after $52 a week, and it cuts out at $1,023 a fortnight for a single person. Our current welfare rules basically allow people to fail. The government is prepared to deal with that in a constructive way. We support the second reading stage of this bill. I know the Minister for Finance, Senator Cormann, is itching to say something. I will sit down and shut up, but I hope we can pass the second reading stage of this bill.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (19:12): I would like to thank those senators who have contributed to this debate. This is an important package of bills that delivers on the government's commitment to get the policy right for working holiday-makers, a critical source of labour for the agriculture sector. (Quorum formed)

As I was saying, this important package of bills delivers on the government's commitment to get the policy right for working holiday-makers, a critical source of labour for the agricultural, tourism and hospitality sectors. It is important that Australia remain a competitive jurisdiction for working holiday-maker visitors, and this package achieves this by simplifying the income tax schedules that apply to working holiday-makers and reducing visa fees. Importantly, this package achieves this without adversely affecting the budget bottom line, consistent with the government's commitment to arresting debt and deficit. I commend these bills to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Reynolds): Senator Gallagher has requested that the Passenger Movement Charge Amendment Bill 2016 be dealt with separately.

The PRESIDENT: The question is that the Passenger Movement Charge Amendment Bill 2016 be read a second time.

The Senate divided. [19:19]

(The President—Senator Parry)

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AYES

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Canavan, MJ
Cormann, M
Duniam, J
Fierravanti-Wells, C
Griff, S
Hume, J
Macdonald, ID
McKenzie, B
Parry, S
Reynolds, L
Ryan, SM
Sinodinos, A
Williams, JR

Back, CJ
Bushby, DC
Cash, MC
Culleton, RN
Fawcett, DJ
Fifield, MP
Hinch, D
Kakoschke-Moore, S
McGrath, J
Nash, F
Paterson, J
Roberts, M
Scullion, NG
Smith, D (teller)
Xenophon, N
The question now is that the Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016, the Treasury Laws Amendment (Working Holiday Maker Reform) Bill 2016 and the Superannuation (Departing Australia Superannuation Payments Tax) Amendment Bill 2016 be read a second time.

Question agreed to.

Bills read a second time.

The PRESIDENT (19:23): It being past 7.20 pm, I propose:

That the Senate do now adjourn.

The PRESIDENT (19:23): I rise tonight to speak on the scourge of poker machines and the drive by my colleague, Nick Xenophon, to even up the playing field and curtail the significant social harm that poker machines inflict on our communities. In the mid-1990s Nick was well aware of the adverse effects that pokies were having on individuals, their families and, in turn, their communities. He was determined to do something about the issue and subsequently stood for the South Australian Legislative Council on a 'no pokies' ticket. Nick won a seat, and from that point on has been South Australia's strongest advocate against predatory gambling. As more and more families contacted Nick for gambling support, he became more determined to effect legislative change. However, at every corner he was
thwarted, with both major parties in SA playing down the impact of poker machines and the need for significant reform. Why? Because governments of all persuasions were growing more and more addicted themselves to the billions of dollars that they were reaping from gambling taxes.

In the lead-up to the 2007 federal election, politically it felt that something was about to change. It was as though we had reached a tipping point and perhaps, for the first time, there was a sense that the impacts of poker machines were finally being recognised by our national politicians. The then leader of the Labor Party, Kevin Rudd, intimated as much when he stated that he hated poker machines and knew something of their severe impacts on families. Not wanting to lose momentum, Nick resigned from state parliament and put his hat in the ring for a Senate seat, running again on a no pokies platform. Since being elected to the Senate, Nick has worked hard to make sure that problem gambling and poker machine reforms are at the top of the national agenda. Australians care about this issue and they want to see change.

Making up over $12 billion of Australia's gambling turnover in clubs and pubs alone, poker machines have, quite rightly, been called the crystal meth of gambling. It is an industry that preys on the vulnerable and is a major driver of household debt and family and personal dysfunction. According to the Productivity Commission, around 600,000 Australian adults play poker machines on a weekly basis or even more frequently. Just under 100,000 Australians are considered to be problem gamblers and up to 350,000 Australians experience risks that may make them vulnerable to problem gambling. That is 450,000 Australians and their families that government are potentially failing.

According to the 2014-2015 Australian Gambling Statistics figures, Australians are now pumping around $135 billion annually into poker machines and directly losing a whopping $12 billion. In New South Wales it is over $5.7 billion in losses; in Victoria, $2.5 billion; in Queensland, $2.1 billion; in South Australia, $725 million and around $250 million in the ACT and Northern Territory combined. That is $12 billion not going towards mortgages, food on tables or family welfare.

So who are the winners? The pokie barons and clubs and particularly government. State and territory governments have the highest addiction of them all. Government revenue from poker machines is now sitting at a whopping $5 billion, which, perhaps coincidentally, happens to be the social cost of gambling according to the Productivity Commission. This is an extraordinary figure and one that we must no longer ignore. But the reality is that the longer our governments continue to rely on the billions of dollars that flow into their coffers each year, the longer the poker machine industry will thrive, at great cost to our communities.

Fortunately, the momentum for effective change is starting to gather pace. Just last month, law firm Maurice Blackburn confirmed it was representing Ms Shonica Guy—a fellow South Australian—in her legal action against Crown Casino and Aristocrat Technologies Australia, who manufacture the Dolphin Treasure poker machine. Dolphin Treasure was Ms Guy's machine of choice during her 14-year addiction, which sadly started at the age of 17. Maurice Blackburn principal Jacob Varghese said the case was the first of its kind to focus on poker machine design, which they believe is contributing to players being deliberately deceived on their prospects of winning.
Their case centres on allegations that the Dolphin Treasure machine misrepresents the true chances of winning due to deliberate design features in the machine's reels and symbols. The first issue is the size of the reels within the machine. As explained by Mr Varghese, each machine contains five reels covered in symbols. In a fair machine, symbols should be evenly distributed across the reels so each symbol occurs the same number of times on each of the reels. In the Dolphin Treasure machine, four of the reels are of equal size with 30 symbols on each reel, but the fifth reel is larger with 44 symbols. That means that it is much harder to win the big prize symbols on the last reel than on the others. No matter how many jackpot symbols you get on the first four reels, the big fifth reel keeps the odds stacked in favour of the house.

The second issue is that the Dolphin Treasure machine symbols are not evenly distributed across the five reels, so the symbols do not occur the same number of times on each of the five reels. The effect on players is that they see these symbols coming up constantly, but they do not know that their real odds are determined by the reel with the lowest number of the given symbol. Maurice Blackburn also claim to have found the machine was designed to deceive players by having multiple winning symbols on most wheels and only one winning symbol on one of them.

The third issue with the machine relates to the information provided to players on the display screens and industry claims about the amount of money it returns to players. Across Australian jurisdictions, return-to-player rates are prescribed at between 85 per cent and 90 per cent. According to Mr Varghese, the official information on the Dolphin Treasure machine in Victoria states that the total theoretical return to the player is 87.8 per cent, giving the impression that the player will retain 87.8 per cent of the amount they bet while risking the loss of 12.2 per cent of the amount they bet. This, again, is misleading because the return to player is just an average on any given spin. If you play multiple games, as the machines encourage players to do, the return to the player often ends up approaching zero.

It is also important to note that Ms Guy is not claiming compensation for the tens of thousands of dollars that she gambled over her 14-year addiction to poker machines. Instead, what she is seeking is restraints against these sorts of deceitful practices. She wants to make sure that other people are not subjected to the same deceitful practices. I doubt there is a single one of us in this chamber who does not know someone who has been impacted either directly or indirectly by poker machines. While on a personal level many of us are happy to share our views on poker machines, far fewer of us have been willing to rise to the challenge and tackle this issue head on through necessary legislative reforms.

I strongly believe it is only a matter of time before we no longer accept our state and territory governments feeding their gambling addiction at very much the expense of the very people they represent. I strongly believe it is only a matter of time before our communities demand more accountability and transparency from companies and other groups that have vested interests in poker machines. I believe it is only a matter of time before we come before this place to implement changes in line with the Productivity Commission's recommendations of $1 maximum bets and, perhaps, only a matter of time before we even see outright bans on poker machines. For as long as I am elected a member to represent the people of my home state of South Australia, I, together with my colleagues, will continue to push for these important changes.
Peroni, Mr Alex

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (19:33): Mr President, I am pretty sure that you are aware that I am a bit of a motoring enthusiast, and I have a particular interest in motorsport. In that arena, I would like to rise tonight to acknowledge the incredible achievements of a phenomenal young Tasmanian who has already at the tender age of 16 years achieved incredible success in motorsport in Europe. That young Tasmanian is a Hobartian called Alex Peroni. For somebody who is only 16 years old, he is well on his way to being Australia's next Formula One driver. I actually had the pleasure of meeting Alex in Hobart a few months ago. He was at a motoring event that I was at, and I had a chat with him there, and he is an absolutely outstanding young fellow. It is great to see what he is doing. His hard work, sacrifice and determination in pursuing his passion has led him to leading the current round of motor racing that he is involved with in Europe, the Formula Renault, at the age of only 16. He is not even old enough to have a driver's licence, and he is currently the leader in the Formula Renault, which is about the equivalent of Formula 4, in Europe at the moment. It is open wheeler, like Formula One.

Alex's dream of one day becoming a professional racing driver was sparked by his dad, Piero, who fed Alex's enthusiasm by taking him to car races at Baskerville—which is a racetrack just outside of Hobart that I myself have driven on—from the age of four, and further enthralled him with racing DVDs. His passion for motorsport only grew from there, and at the age of seven he started racing karts, very quickly showing an immense talent for it. Always encouraging of their son's dreams, the Peroni family invested in a van and equipment so that Alex and his father could travel to Victoria, sometimes twice a month, to race in the most competitive karting environment in Australia.

At the age of just nine, during a family holiday in Italy, Alex entered in a high level karting event. With a small team to back him, driving an unfamiliar kart on an unfamiliar track, Alex made the top three out of 50 other drivers, many of whom had been competing in the category for years. Remember, this is when he was just nine. This event instilled in Alex a passion to compete against the world's best in Europe, and for the next several years he spent countless hours in preparation to have that dream realised. When Alex was 13, his father was at a go-kart track in Italy when he was given a business card by a stranger and told that his son should start to race single-seater racing cars. At first Piero laughed, but the following year Alex had to make the decision to either give up racing completely or pursue car racing, as his family had had enough of the karting world.

So Piero called the stranger that had given him his business card, and soon Alex was given the opportunity to do a day's testing with a Formula 4 car. Never having driven a car before, Alex made a time on the fourth lap that no-one thought could be achieved even after several days of testing, let alone on lap 4. Alex subsequently moved to Italy to live with his grandparents to race—a challenging move, as he barely spoke any Italian. At the age of 15 Alex made his debut of racing single-seater race cars, competing in the 2015 Eurocup Formula Renault. With a small team, in the world's most competitive Formula 4 championships, Alex finished 14th, with two second-place podium finishes.

A year later—in fact, just earlier this month—Alex won his first European championship, clean sweeping the final round of the V de V Challenge Monoplace in Estoril, Portugal, and becoming the youngest ever Australian to win a single seater championship in Europe. Alex's
goal is to reach Formula One by the time he is 20, claiming that just to get to that level and be a professional driver would be the realisation of his dream.

Ironically, Alex only recently acquired his L plates and cannot drive on public roads without the presence of his parents. Yet put him behind the wheels of his Formula Renault single-seater and he might just be the quickest 16-year-old in the world. Not surprisingly, Alex comments that it can be quite boring on the public roads compared to what he normally does!

Alex's next move will be to prepare for the Eurocup Formula Renault in 2017. This series is aimed at identifying and developing young drivers with major prizes, including financial support for the next year of driving and inclusion in the Renault Academy. A good performance here would see Alex a step closer to realizing his dream of competing in Formula One by 2020.

Car racing is generally known as a 'rich man's sport' and, while Alex's family have given him unwavering support, it is not their wealth that has permitted Alex to get where he is today. A generous Tasmanian community and local Tasmanian businesses have rallied behind Alex and raised over $35,000 to help him pursue his dream, making this an extraordinary tale of the hard work and determination of not just Alex but his family and generous supporters in Tasmania and also around the world now as well.

I commend Alex for his hard work and his family for their many sacrifices to help Alex pursue his passion. I am sure we will see much more of this fine young Tasmanian sportsman in coming years, and I wish him all the very best of luck.

Sri Lanka

Senator RHIANNON (New South Wales) (19:39): Last week Sri Lanka was under the microscope at the UN Committee Against Torture's 59th session in Geneva. Sri Lanka's delegation included Sisira Mendis, the country's chief of national intelligence. To quote Journalists for Democracy in Sri Lanka:

Scotland Yard trained Deputy Inspector General of police Sisira Mendis, oversaw the Criminal Investigation Department (CID) and the Terrorism Investigation Division (TID), during the final phase of the Sri Lankan civil war. Both bodies are accused by the UN among other organisations for systematic, routine, and widespread use of torture against suspects in police custody throughout the country.

A press release by the International Truth and Justice Project gives further details about Mr Mendis:

He ran what's widely referred to as "the fourth floor"—a term which Sri Lankans use as a shorthand for describing torture. A UN report last year named Mr Mendis and described interrogation rooms used for torture in CID headquarters as being equipped with "metal bars and poles used for beatings, barrels of water used for waterboarding, pulleys and apparatus" all used as torture instruments.

The panel's vice-chair Felice Gaer in her opening statement on day 2 said that it was very unusual for the committee to have the chance to question a person who has had the experiences Mr Mendis had. She and the other rapporteurs asked him a series of questions. He did not answer any of them. He did not speak during the whole two-day session. Ms Gaer also told the Sri Lanka delegation:
The issue of impunity seems to be hanging like a sword over the entire situation in your country, and frankly over our review.

In the next few months the European Union will be making a decision on whether to restore the generalised scheme of preferences plus trade tax concession to Sri Lanka. Known as GSP+, this arrangement only provides concessions if a country implements core international conventions on human and labour rights, sustainable development and good governance. The leader of the recent EU delegation to Sri Lanka, member of the European parliament Jean Lambert, has urged Sri Lanka to improve its human rights conditions, including the replacement of a tough antiterrorism law, if it wants to regain the GSP+. Ms Lambert said Sri Lanka needs to replace its Prevention of Terrorism Act and amend its Code of Criminal Procedure to ensure the rights of detainees in keeping with international standards.

On 18 October, the draft legislation of the Counter Terrorism Act which is intended to replace the Prevention of Terrorism Act was leaked. Human rights defenders were quick to respond. In a letter to President Sirisena dated 11 November, the signatories—107 individuals and 13 organisations—rejected the leaked legislation as a viable alternative to replace the Prevention of Terrorism Act. The letter said:

In the way it is written, the proposed law will have a chilling effect on all forms of dissent, including legitimate democratic political activity. We have long seen how the Prevention of Terrorism Act and Emergency Regulations have disproportionately targeted the Tamil ethnic community. The administrative and executive culture, particularly the police and security forces, continue to be predisposed to such disproportionate treatment.

UK based human rights NGO Together Against Genocide has said:

The draft legislation places little emphasis on the protection of people under arrest. It places few limitations on police obligations to protect people from harm in custody. Additionally, it does not contain adequate safeguards against rape and sexual abuse during interrogation. The obligation on state security authorities to prevent these kinds of abuses—all too familiar in the post-war context—is expressed only through the ambiguous standard of "practicable measures". This is especially troubling in light of the scope of police powers and an extraordinarily broad definition of terrorism. Under the CTA advocating for change in a government policy decision may amount to terrorism.

Journalist Easwaran Rutnam, writing for The Sunday Leader, has said the draft gives a broad list of offences which fall under the 'terrorism' category. Mr Rutnam said:

Under the proposed law, a terrorism related offence includes threatening, attacking, changing or adversely affecting the unity, territorial integrity, security or sovereignty of Sri Lanka, or that of any other sovereign nation, or illegally or unlawfully compelling the government of Sri Lanka or the government of any other sovereign nation, to reverse, vary or change a policy decision or to do or abstain from doing any act relating to the defence, national security, territorial integrity, sovereignty of Sri Lanka or any other sovereign nation.

Terrorism is also defined as illegally causing a change of the government of Sri Lanka or of any other sovereign nation (as the case may be) and committing any act of violent extremism towards achieving ideological domination.

That was from Mr Rutnam.

Sri Lanka lost GSP+ status in 2010 after the end of the civil war which saw more than 70,000 Tamils slaughtered in five months, thousands tortured by government officials in the aftermath, and an unknown number ‘disappeared’ in the Sri Lankan army’s custody. The EU is
Sri Lanka's largest export destination, absorbing 36 per cent of its exports. The GSP allows countries in the Global South to pay less duty or no duties on their exports to the EU; GSP+ is a full removal of tariffs offered to those countries that ratify and implement core international conventions. In announcing its decision to withdraw GSP+, the EU 2010 press release stated:

This decision follows an exhaustive investigation by the European Commission, which identified significant shortcomings in respect of Sri Lanka’s implementation of three UN human rights conventions relevant for benefits under the scheme.

Since 2010, there have been changes in the country. In 2015, President Sirisena replaced former President Mahinda Rajapaksa, who oversaw the 2009 genocide of the Tamil people. President Sirisena was praised internationally when Sri Lanka co-sponsored Human Rights Council Resolution 30/1, which put in place a framework for transitional justice. Point 12 of the resolution commits to reviewing and repealing the Prevention of Terrorism Act, and to replace it with antiterrorism legislation in accordance with contemporary international best practices.

There was much hope that the new President would achieve this and release all the political prisoners languishing in jails under the Prevention of Terrorism Act. However, the political prisoners have not been released. The exact number of political prisoners is not known, but it is estimated to be around 160 or more. Jaffna-based think tank Adayalam Centre for Policy Research, in their recent brief, have highlighted how the Sri Lankan police continue to use the PTA to arrest young Tamil political activists and others suspected of petty crimes. This creates a climate of fear in the Tamil-majority north.

In regards to the military occupation of Tamil lands, US-based advocacy group PEARL, in a recent report entitled Erasing the past: repression of memorialization of North-East Sri Lanka, said:

While most acknowledged a reduction in the visibility of the soldiers under the new government, they emphasized a continued militarization of daily life. The number of camps in the former conflict zone remains remarkably high and military and police surveillance ‘remains active and often intimidating’. And although focus is often on the North, where the final phase of the armed conflict occurred, the East is also still heavily militarized. Respondents in both the North and East emphasized that in many cases, the effect of the continued military presence is that victims live side-by-side with their abusers. Soldiers implicated in mass atrocities remain deployed throughout the North-East. And even where the personnel have changed, the institutions remain.

The Sri Lankan Human Rights Commission has confirmed long-held suspicions of the use of secret detention cells run by Sri Lankan police. The Human Rights Commission also recognised the routine use of torture, especially in police detention. It received 420 formal complaints in 2015, and has received 208 so far this year. Common methods of torture include undressing the person and assaulting them using the hand, foot, poles, wires, belts and iron bars; beating soles of the feet with poles; denial of water following beating; forcing the person to do degrading acts; trampling and kicking; applying chilli juice to eyes, face and genitals; hanging the person by the hands; rotating and/or beating on the soles of the feet; crushing the person's nails; and handcuffing the person for hours. The report also said that the prevailing culture of impunity where those accused of torture is concerned is also a contributing factor to the routine use of torture as a means of interrogation and investigation.

As in 2010, the EU again has the opportunity to hold the Sri Lankan government to account and end entrenched impunity. This opportunity must not be lost. (Time expired)
Senate adjourned at 19:49

DOCUMENTS

Tabling

The following documents were tabled by the Clerk pursuant to statute:

Commonwealth participating in the formation of CSIRO General Partner Pty Ltd—15 September 2016.

The following documents were tabled pursuant to standing order 61(1) (b):
Auditor-General—Audit report no. 26 of 2016-17—Performance audit—Prudential regulation of superannuation entities: Australian Prudential Regulation Authority.
Migration Act 1958—Section 486O—Assessment of detention arrangements—


