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

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

(2) 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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<td>Prime Minister</td>
<td>Hon Malcolm Turnbull MP</td>
</tr>
<tr>
<td>Minister for Indigenous Affairs</td>
<td>Senator the Hon Nigel Scullion</td>
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<tr>
<td>Minister for Women</td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td>Cabinet Secretary</td>
<td>Senator the Hon Arthur Sinodinos AO</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for the Public Service</td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td>Minister Assisting the Cabinet Secretary</td>
<td>Senator the Hon Scott Ryan</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for Cyber Security</td>
<td>Hon Dan Tehan MP</td>
</tr>
<tr>
<td>Assistant Minister to the Prime Minister</td>
<td>Senator the Hon James McGrath</td>
</tr>
<tr>
<td>Assistant Minister for Cities and Digital Transformation</td>
<td>Hon Angus Taylor MP</td>
</tr>
<tr>
<td>Deputy Prime Minister and Minister for Agriculture and Water Resources</td>
<td>Hon Barnaby Joyce MP</td>
</tr>
<tr>
<td>Assistant Minister for Agriculture and Water Resources</td>
<td>Senator the Hon Anne Ruston</td>
</tr>
<tr>
<td>Assistant Minister to the Deputy Prime Minister</td>
<td>Hon Luke Hartsuyker MP</td>
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<tr>
<td>Minister for Foreign Affairs</td>
<td>Hon Julie Bishop MP</td>
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<tr>
<td>Minister for Trade, Tourism and Investment</td>
<td>Hon Steve Ciobo MP</td>
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<tr>
<td>Minister for International Development and the Pacific</td>
<td>Senator the Hon Concetta Fierravanti-Wells</td>
</tr>
<tr>
<td>Assistant Minister for Trade, Tourism and Investment</td>
<td>Hon Keith Pitt MP</td>
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<tr>
<td>Attorney-General</td>
<td>Senator the Hon George Brandis QC</td>
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<tr>
<td>(Vice-President of the Executive Council)</td>
<td>Senator the Hon Mathias Cormann</td>
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<tr>
<td>(Leader of the Government in the Senate)</td>
<td>Senator the Hon Michael Keenan MP</td>
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<tr>
<td>Minister for Justice</td>
<td>Senator the Hon George Brandis QC</td>
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<tr>
<td>Treasurer</td>
<td>Senator the Hon Mathias Cormann</td>
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<tr>
<td>Minister for Revenue and Financial Services</td>
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<td>Minister for Small Business</td>
<td>Senator the Hon Michael McCormack MP</td>
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<tr>
<td>Minister for Finance</td>
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<tr>
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<tr>
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<tr>
<td>Minister for Regional Development</td>
<td>Senator the Hon Fiona Nash</td>
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<td>Minister for Local Government and Territories</td>
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<tr>
<td>Minister for Infrastructure and Transport</td>
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<td>Hon Paul Fletcher MP</td>
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<td>Minister Assisting the Prime Minister for the Centenary of ANZAC</td>
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<tr>
<td><strong>Minister for Health and Aged Care</strong></td>
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<td><strong>Minister for Sport</strong></td>
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<td><strong>Assistant Minister for Rural Health</strong></td>
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<td><strong>Minister for Communications</strong></td>
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<td>Senator the Hon Mitch Fifield</td>
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<tr>
<td>(Manager of Government Business in the Senate)</td>
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Thursday, 10 November 2016

The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 09:30, read prayers and made an acknowledgement of country.

COMMITTEES

Environment and Communications References Committee

Law Enforcement Committee

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 today, from 1.10 pm.

Parliamentary Joint Committee on Law Enforcement—public meeting during the sitting of the Senate on Wednesday, 23 November 2016, from 5 pm, to take evidence for the committee's inquiry into illicit tobacco.

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

BILLS

Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2016

Second Reading

Consideration resumed of the motion:

That this bill be now read a second time.

Senator KAKOSCHKE-MOORE (South Australia) (09:31): It is with a deep sense of honour, sorrow and continuing frustration that I rise to speak on the Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2016 today. This is a bill to deal with what I, my colleagues, many parents and the wider community believe is an issue of great importance to the safety of our children. My colleague Senator Xenophon has introduced prior versions of this bill into other parliaments. This version of the bill mirrors the bill introduced in the 44th Parliament, aside from stylistic changes to reflect current drafting methods.

The reason the bill exists is because of Carly Ryan. Next year marks 10 years since her brutal murder at the hands of a paedophile. When Carly was 14 she started chatting online to someone who she was made to believe was a 20-year-old man named Brandon Kane. Brandon was Carly's ideal boyfriend, who portrayed himself as a young guitarist. She fell in love with him as their relationship online grew ever closer. But what Carly did not know, and what was purposefully and dishonestly concealed from her, was that 'Brandon' was a fictitious person, an internet construct. In truth, Brandon was actually a 47-year-old predator, Gary Francis Newman. Newman masqueraded as Brandon, Carly's teenage dream, in a perverted plan to secure the trust of Carly and her mother, who were completely innocent to his sinister and sickening motivations. This cyberspace alter ego was cunningly used by Newman to make and maintain a connection between himself and Carly. Dialogue between Carly and Brandon was conducted over the internet, the telephone and through emails. Over the course
of the period between the start of that dialogue and until her death, Carly fell in love with Brandon and believed that this person was genuine and that he loved her. Carly innocently trusted this person.

Appallingly, the fictitious Brandon was one of up to 200 fake online identities Newman had created in a bid to communicate and have sex with young girls. When Carly turned 15 she invited Brandon to her birthday party. He told her he would be overseas and that he could not make it, but that his adoptive father Shane would go in his place. Shane was another fake persona created and used by Newman in his continued manipulation of Carly. Carly had already been chatting to Shane online, and she convinced her mother that it would be okay for him to come along to her party. Newman, in his role of Shane, turned up. Carly's mother, Sonya, was horrified that her daughter had become so close to a stranger so much older than she was, and warned him to stay away from her daughter. But Newman was relentless in his pursuit of his victim. Undeterred, he continued to communicate and deceive Carly with mobile telephone calls, text messages, emails and other internet traffic, convincing her that she would get to meet her beloved Brandon in person. He eventually lured her to a meeting on 19 February 2007, at Horseshoe Bay in South Australia. There, he brutally assaulted Carly and left her to die.

It took police 11 days to track Newman down. When they found him on the day of his arrest, he was logged onto his computer as Brandon Kane, chatting to another 14-year-old girl in Western Australia. Police also found a stash of child pornography on his computer and discovered he had already pursued many other young girls overseas. Newman was found guilty of Carly's murder and is now serving a life sentence with 29 years non-parole. It is hard to believe but, up until this fateful meeting with Carly, none of Newman's conduct online was illegal under our current laws. Newman was able to manipulate, lie and deceive Carly online and there was nothing the law could do to protect Carly or to give law enforcement agencies, had they known, the ability to intervene. This is because under our current laws you need to show a 'sexual purpose' or intent. In none of Brandon's communications with Carly did he express a sexual purpose with her.

The aim of this bill is to make it an offence for a person over 18 years of age to lie about their age online to a child under 16 years for the purposes of facilitating a physical meeting. This bill also makes it an offence for an adult to misrepresent their age in online communications with a minor with an intent of committing another offence. These two items close an important loophole in the law. There is no reason for an adult to knowingly misrepresent their age to someone they believe is under 16, particularly if they believe doing so will make it easier to meet or to commit another offence. This bill also contains specific provisions to clarify how this offence can be prosecuted and defended.

My colleague, Senator Xenophon, attempted to address this serious issue with earlier versions of the bill. This version of the bill will ensure that there are no unintended consequences of enforcing the law. Instead this bill creates offences specifically aimed at the circumstances—a person lying to a minor about their age to facilitate a meeting or to make themselves seem more approachable—that need to be addressed. This bill uses the age of 16 to define a minor, as it is consistent with the age of sexual consent in the majority of Australian jurisdictions.
The internet is impossible to pin down. It is constantly evolving and growing. The pace of technological growth means children are almost always much more comfortable with their online communication than their parents are. What we still see as new and different is as essential to them as breathing. We know there is an ever-increasing online presence of Australian youth and therefore a concomitant threat from online predators. New forms of communication mean we need new laws to protect our children. As a parliament we cannot stand idly by while Australia's criminal law is lagging behind technological advances. If we do so, innocent children will pay the price for our inaction. Research conducted by the Office of the Children's eSafety Commissioner showed that teenagers spend 33 hours per week online outside of school, which makes it clear that young people live in a world of constant connection enabled by the ease of access, widespread adoption of social media and mobility of online content. The rapid expansion of digital technology and increased access to the internet has transformed the lives of children globally. With opportunities for learning, communicating and socialising, very real and ever increasing risks for children online have similarly expanded.

In 2014 the Australian Federal Police received approximately 4,500 referrals of child exploitation material and in 2015 that figure rose to a staggering 11,000 referrals. These increases are deeply concerning to all Australians.

While the exploitation of children is not a new phenomenon, the online environment and the pace of the digital age has intensified the problem to record levels and created more dangers and vulnerability for children. In cyberspace, we cannot stand by their side as they explore the world. We cannot always set rules and curfews, because our kids can be sitting safe in their rooms even while they are in danger.

This bill is an attempt to address some of the techniques used by online predators, so that we can put an additional safeguard in place for our children. Current laws are too narrow, and we do not have anything to directly address the situation where an adult lies about their age to a child online for the purpose of encouraging the child to meet them in person. Existing laws require prosecutors to prove that adults had groomed children online—that these adults had a 'sexual purpose'.

During the 2015 inquiry into the previous version of the bill Susan McLean, a cybersafety expert with over 20 years experience working for Victoria Police, acknowledged that in her experience there had been situations in which police were unable to act because the behaviour of suspects fell short of proving the element of sexual intent in the existing offences, and that this inability to act represented a deficiency in the law. The bill aims to cure that deficiency and provide law enforcement agencies with the ability to investigate and prosecute alleged offenders in the preparatory stages of their grooming activities. This will prevent children from being placed in a position of danger. I have no doubt that giving police the power to intervene at an earlier stage will save children from abuse. Indeed, the Attorney-General's Department, in its submission to an earlier inquiry into the bill, conceded that:

It is possible that by requiring an intention to encourage a physical meeting only, this offence may be easier to investigate and prosecute than existing grooming and procuring offences which require evidence of sexual intent, allowing law enforcement agencies to intervene during the preparatory stage of an offence before proof of sexual or other illicit intention is apparent.
We also know that through the internet online predators can gain access to children faster and in higher volumes, using an arsenal of easily accessible online methods at the click of a mouse or the touch of a button, including chat rooms, email, online games, social networking sites and private messaging apps, to find, groom and lure victims. Ruben Rodriguez, former director of the US National Centre for Missing and Exploited Children, has said predators will go after children who tend to express agreement in chat rooms but do not say a lot—because they know these children are vulnerable. They are children who perhaps really value attention, understanding and friendship. When a predator finds such a child they invite them into a private area of the chat room to get to know them better. Next in the grooming sequence comes private chat via instant messaging services and then email and phone conversations, often on mobile phones, and finally a face-to-face meeting. According to Victoria Police Chief Commissioner Graham Ashton—in his former role as AFP Deputy Commissioner—the length of time it takes for an experienced predator to groom a child online is becoming shorter, with as little as two weeks between the first contact and a physical meeting.

We must act now to protect our children online. The public momentum for change sought to be implemented by this bill has gathered pace, with over 90,000 signatures received on the change.org petition in support of the bill. The comments received by change.org include: 'I, like Carly, was the victim of online grooming while I was a minor by a man who misrepresented his age by three decades. He then harassed me tirelessly and for several years haunted my every move. I feel very strongly for this to be passed as law. Don't let another victim fall to online predators.' Another post stated: 'At age 13 my friends of the same age often met up with people they had talked to in public chat rooms. They were just middle-class girls from nice families and had very protective parents. It is more common than people think. People always think they know where their children are and what they are doing. But they don't. This could happen to anyone and it will happen many more times.' And finally: 'Carly's mum visited my school. I have been a victim of grooming in the past and Sonya said that I was now safe. When she visited I was the same age as Carly. Sonya is an inspiration to me and I wish for the government to make this law happen.' A police officer with over 26 years experience posted that they believe this law may act as a deterrent to the monsters who are out there.

Education and increasing public awareness are an essential part of any preventive approach to protecting children in the online space. It is reassuring that parents are increasingly crossing the generational divide and taking a vested interest in the technology being used by children, teaching them strategies for staying safe online with the information and education provided by the Carly Ryan Foundation. As a community, we need to stay one step ahead of online perpetrators intent on causing harm to our children. The Carly Ryan Foundation is at the forefront of technological ways to counter online harm to children. The foundation has partnered with digital engagement specialists KOJO and, with the support of the government of South Australia and Google, they have developed Thread—an app to help users deal with unsafe situations online, away from home and everywhere in between. The Thread app combines the benefits of contemporary technology with clever design and personal devices.

In stressful situations, Thread provides an immediate connection between a user's location, trusted contacts and emergency services. At its core, Thread is PIN-protected, and allows
users to check in with their location to show they are okay, start discussions with trusted contacts about online or offline dangers and, in the event of an emergency, send their location while dialling triple 0. I also applaud government efforts in raising awareness through the Office of the Children's eSafety Commissioner. However, education and awareness alone are not enough to protect our children online.

This bill, the Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2016, provides an additional and crucial line of defence in combating online predatory behaviour. We have consulted constructively with the government, the opposition and others regarding this bill, and we have listened to their concerns. We thank them for hearing us out. We welcome the opportunity to continue these discussions to achieve in law the intent of the bill, which many parties agree is laudable.

Sonya Ryan, Carly's mother, who is here today, has been pushing for these changes in the law since her daughter's death almost a decade ago. Sonya, who was nominated as South Australia's Australian of the Year in 2013, has dedicated her life to raising awareness of online dangers among young people, through the Carly Ryan Foundation. The foundation is a leader in online safety education. I acknowledge Sonya today as an outstanding and highly respected South Australian. Sonya has channelled her grief into a positive crusade to protect our children and prevent crime. Anyone who has listened to Sonya recount Carly's story at one of the thousands of education seminars she has personally provided to schools and communities across Australia is under no doubt that the law must change. If her actions stop just one young person from becoming a victim, then it is worth it. That is something we should all keep at the forefront of our minds when we are debating this bill.

**Senator FARRELL** (South Australia—Deputy Leader of the Opposition in the Senate) (09:46): I rise to speak on the Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2016 on behalf of the opposition. It is nearly 10 years since 15-year-old Carly Ryan was tragically murdered by a 47-year-old man who lied about his identity, including his age, in order to groom underage girls. Carly met her murderer online. Like millions of young Australians, Carly was an avid internet user, and in 2006 at the age of 14 started chatting with someone she thought was a 20-year-old musician named Brandon Kane. Tragically, Brandon Kane was not a real person but one of many alternative identities of Gary Newman, an online sexual predator who had a complex web of online alter egos that he used to groom underage girls. Carly was the first Australian girl to be murdered by an online predator. I will not go into the details of Carly's tragic murder, beyond saying that Newman lied about his age to Carly to gain her trust, and then abused her trust and outgoing nature in the most sickening way. As a parent, there would be nothing worse than losing your beautiful child, let alone in this horrific way.

Since Carly's tragic murder, her mother, Sonya Ryan, has advocated for the act of an adult lying about their age to a person under the age of 16 to be criminalised. I acknowledge the tireless effort of Sonya Ryan and of her Carly Ryan Foundation to pursue improved legal protections for children in our community. I have not for a second doubted that the work and the intentions of the Carly Ryan Foundation are sincere and aimed solely at protecting girls and boys like Carly. The Carly Ryan Foundation, run by Sonya, has become an effective advocacy organisation for cyber safety, and has online fact sheets and counselling services to reduce the harm of online bullying and predatory behaviour. Sonya Ryan is a great Australian,
fighting for the protection of Australian children. That is to be commended. I know she is in
the chamber today and I welcome her to this place.

Labor understands that keeping children safe online is a real concern for countless
Australian families. The advent of online technology platforms has changed the world of
policing and, tragically, has changed the way that predators target vulnerable children. Many
parents do not understand how to access or monitor the internet usage of their children,
making it much harder for parents to protect their children from the attention of creeps and
criminals.

Labor understands the online world is the preferred place of paedophiles to groom children.
The internet, while not a lawless realm, is one that often operates outside traditional social
structures and provides opportunities for those who would choose to misrepresent their life
and identity to impressionable children in a way that the pre-internet age did not.
Subsequently, laws relating to this kind of misrepresentation need to evolve to meet the
challenges of the internet age. The protection of children should be the top priority of any
government. As a parliament we must consider how to best protect the millions of Australian
children who use the internet every day. It is clear that there are people out there who choose
to misrepresent their identity, including their age, to manipulate young Australians. We must
do everything that we can to protect our children from these people.

There are many laws that seek to protect young people online, but we know that these laws
sometimes do not do what they need to do to protect children like Carly Ryan. The law failed
Carly, and that is a tragedy. It is worth our examination on how we can do better. I would like
to acknowledge the work that Senator Xenophon and Senator Kakoschke-Moore have done to
achieve this goal. Like all of us here, they are working to ensure that Australia is a better,
safer place, particularly for Australian children and future generations.

I can assure Sonya Ryan that Labor has the same interests at heart. There is nothing more
important than protecting our children. It is the most basic and primal instinct to do whatever
must be done to protect your family. Labor will consult with Senator Xenophon, Senator
Kakoschke-Moore and others and work with the law enforcement agencies to determine what
laws are required to meet the challenge of online predatory behaviour.

This bill, Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2016,
seeks to amend the Criminal Code Act 1995 to make it an offence for a person who is over 18
years of age to misrepresent their age to a person they reasonably believe to be under 16 years
of age for the purpose of encouraging a physical meeting or with intent of committing an
offence. The current version of the bill—introduced by Senator Kakoschke-Moore on
Wednesday, 12 October 2016—is the fourth iteration of this bill. The three previous iterations
of the bill were introduced by Senator Xenophon. It is clear by the long history of this bill that
Senator Xenophon and his team are firmly dedicated to achieving justice for Carly Ryan and
are committed to ensuring that such tragic circumstances be prevented in the future.

The Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2010 was
introduced in February 2010. It was the subject of a report by the Legal and Constitutional
Affairs Legislation Committee tabled in June 2010, which recommended that the Senate
should not pass the bill. The bill then lapsed at the end of the 42nd Parliament in September
2010. The Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2013 was
then introduced in February 2013 and was the subject of an inquiry by the Legal and
Constitutional Affairs Legislation Committee, with a report tabled in June 2013. The inquiry recommended that the Senate not pass the bill. This bill then lapsed at the end of the 43rd Parliament in November 2013. The bill was then reintroduced in December 2013 in a substantially similar form to the first version of the 2013 bill. The main difference between that bill and this bill deals with intentional misrepresentation of age to persons less than 16 years of age, rather than 18 years of age in the first version of the bill. This change was made because 16 years is consistent with the age of sexual consent in the majority of Australian states and territories.

This bill was the subject of an inquiry by the Senate Legal and Constitutional Affairs Legislation Committee, with the report tabled in August 2015. The inquiry recommended:

… that further consultation is conducted on the Bill prior to its consideration by the Senate.

This current bill, which is identical to the third version of the bill, is currently the subject of the debate. The second reading speech introducing the bill, as Senator Kakoschke-Moore stated, said that new forms of communications mean we need new laws to protect our children. Research conducted by the eSafety commissioner showed that teenagers spent 33 hours per week online outside of school. In cyberspace, we cannot stand beside them as they explore the world. We cannot always set rules and curfews, because our kids can be sitting safe in their rooms even when they are in danger.

This bill is an attempt to address some of the techniques used by online predators, so that we can put additional safeguards in place for our children. Labor supports the intention of the bill, namely to protect minors from online predators. We believe that this bill is a worthy attempt, and that is why Labor is engaging in consultation with Senator Kakoschke-Moore and Senator Xenophon. The safety of young people online is an issue of utmost importance, and requires a careful and considered policy response.

The object of the bill is to protect minors from predatory online behaviour by adults. The bill proposes amendments to the Criminal Code which create offences relating to the use of a carriage service with the intention of misrepresenting age. Proposed new section 474.40 would create two offences for a person over the age of 18—the sender—to intentionally misrepresent their age, using a carriage service, to a person who is or who the sender believes to be under 16 years of age—the recipient—for the purposes of encouraging the recipient to physically meet with the sender or another person, or with the intention of committing an offence other than the offences proposed under the new section. Both offences would be punishable by a term of imprisonment: five years where the intent was to encourage a physical meeting; eight years where the intent was to commit an offence.

In its most recent report on this bill, the Senate Legal and Constitutional Affairs Legislation Committee acknowledged:

… that some stakeholders to the inquiry raised concerns in relation to the Bill, particularly that it may not be necessary in view of existing offences in the Criminal Code Act 1995 and that the offence provisions in the Bill may be too broad. In light of these concerns, the committee considers that further consultation should be undertaken in relation to the Bill to determine whether it is the best available means of meeting the policy intent underpinning the Bill.

The majority of submitters and witnesses to the committee's inquiry into the bill were supportive of the intention behind it, but were not supportive of the approach taken and raised concerns about the formulation of the bill. In particular, many were of the view that the bill is
unnecessary in light of existing offences in the Criminal Code that address the targeting of minors by sexual predators online—namely, the offences of procurement, grooming, and using a telecommunications network to commit a serious offence. However, the current offences relating to grooming and procurement both require an element of sexual intent on the part of the adult in order for the offences to be made out.

Sonya Ryan, the director of the Carly Ryan Foundation, has argued that removing the requirement to prove sexual intent is necessary to counter more sophisticated strategies that are now being used by online predators. Further, Susan McLean, a cybersafety expert with more than 20 years' experience working for Victoria Police, agreed that in her experience 'there have been situations in which police were unable to act because the behaviour of the suspects fell short of improving the element of sexual intent in the existing offences'. However, the Australian Federal Police did not share this concern, and said that there is already potential for law enforcement to initiate operations to disrupt potential offenders, even before sexual intent has been shown.

There were also concerns raised about the breadth of the bill's scope and the danger that it could unintentionally catch behaviour that should not be deemed criminal. The Attorney-General's Department, for instance, raised concerns that an 18½-year-old could misrepresent their age to a 16-year-old in an attempt to gain an invite to a birthday party. I think we can all agree that we would not want to see this kind of behaviour criminalised. It is a challenge, in broadening the Criminal Code in this way to remove the need for police to prove sexual intent before intervening in a potential online predator case, to ensure that unintended consequences like this are not created. We encourage further consideration as to how this might be achieved.

We need to ensure that our laws are best suited to protecting minors from online predators and that the police have the powers to investigate and respond without creating unintended consequences. We are confident that a position can be reached on this bill which ensures that minors are protected from online predators while also ensuring that our response to this issue is the most appropriate response.

We have a number of concerns with the bill as it stands, but we are confident that they can be worked through. As recommended by the most recent committee report on this bill, we are engaging in consultation on the bill in the hope that we can find an appropriate means of achieving the objective of the bill. We have been in discussion with the Nick Xenophon Team, and we are looking for ways to work cooperatively to see how its aims can best be achieved. This consultation process needs to focus on whether there are actually any gaps within the current procurement and grooming offences that already exist to protect minors from online predators and on how these gaps might best be addressed. It is important that we leave no stone unturned in the never-ending battle to keep our children safe. Carly's death has exposed a loophole in the law, and we should look at how we can close it. Labor looks forward to continuing to work productively with the Nick Xenophon Team on this bill.

**Senator IAN MACDONALD** (Queensland) (10:01): Like all in this chamber and, I am sure, all Australians, I was deeply saddened by the case of Carly Ryan. The safety of young people online is vital, and the government shares the community's concern about their safety. I appreciate the efforts in the Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2016 and previous iterations of the bill to address some of the issues. As Senator
Farrell mentioned, this is the third version of this bill, which seeks to prohibit an adult misrepresenting their age to a minor to arrange a meeting. Previous versions of the bill have been subject to two Senate inquiries, the latter of which was an inquiry by a committee which I chair, and I will refer to the results of that inquiry a little more fully later on. The current bill addresses some of the concerns raised by my committee in its hearings and also raised by the government in its submission to that inquiry.

So I welcome the changes that Senator Xenophon has introduced in this bill, and I appreciate his willingness to overcome some of the concerns which have been raised with the bill. However, having said that, I say that the version of the bill before us today still needs further work. The proposed offences may have unintended consequences and risk criminalising conduct not warranting such sanction. The government is in discussions with Senator Xenophon on how the bill might be amended to address these matters, and I understand that Senator Brandis is meeting with Senator Xenophon later today to see if these issues can be addressed.

Currently there are strong existing Commonwealth laws to protect children from adults seeking sexual relationships or seeking to cause them harm online. Child sex related offences carry penalties of between 12 and 15 years imprisonment. Some say that perhaps that is not even long enough. These are horrendous crimes. The grooming offence is in section 474.27 and that captures any communications that make it easier to procure a child to engage in sexual activity with the sender. This enables prosecution prior to any physical contact. Section 474.14 makes it an offence to communicate online with the intention of committing any other kind of serious offence. This offence is punishable by a penalty applicable to serious offences—for example, life imprisonment for an intention to commit murder.

Since Carly's tragic death some years ago, there have been amendments introduced to try to address that and other issues. In 2010, the child sex related offences in the Criminal Code were reviewed and amended to ensure that they are comprehensive and deal with all contemporary forms of offending. For example, the grooming offences were amended to remove the requirement on online communication containing material that is indecent in recognition of the fact that grooming exchanges often involve platonic and so-called innocent exchanges. The government has introduced a number of significant initiatives to empower parents and children to explore the online world safely. In 2009, the Australian Federal Police established the ThinkUKnow program that provides cyber safety education to parents, carers and teachers. ThinkUKnow presentations are delivered to parents, carers and teachers by trained law enforcement and industry volunteers in schools and organisations across Australia. In 2015-16, the program delivered more than one presentation each day of the year—a total of 386—to more than 10,000 parents, carers and teachers. This is work by the Federal Police to try to make everyone aware of the dangers involved with some online exploitation. Presentations by the AFP cover online grooming, sexting, privacy, inappropriate online behaviours, identity theft and fraud, and general online safety.

In 2015, the Australian government passed the Enhancing Online Safety for Children Act, which led to the establishment of the Office of the Children's eSafety Commissioner. Over a period of time, many senators have had briefings from the commissioner. This office provides online safety education and advice for Australian children and young people and operates a complaints service for young people who experience serious cyberbullying. The Australian
government consulted a wide range of online safety experts in the development of this legislation and it continues to host meetings of the Online Safety Consultative Working Group, which is chaired by the Children's eSafety Commissioner. The Australian government has provided some $10 million in funding to implement its enhancing online safety for children policy, including $7½ million to allow schools to access accredited online safety programs, $2.4 million to establish and operate the Office of the Children's eSafety Commissioner and $100,000 to support Australian based research and information campaigns on online safety.

I am pleased to report that in its first year of operation the eSafety Commissioner resolved 186 serious cyberbullying complaints. The commissioner educated more than 130,000 people via the virtual classrooms and face-to-face presentations. The commissioner conducted over 11,000 investigations into illegal and offensive online content and worked with international partners to remove more than 7,400 URLs of child sexual abuse material. The commissioner also certified 22 online safety program providers, with 108 presenters delivering programs in schools. The commission also handled over 2,900 email and telephone inquiries for help, and established the iParent site to provide online safety advice to parents and carers, and the eSafetyWomen site to help women manage technology risks, as part of the Australian government's Women's Safety Package to Stop the Violence.

I will mention shortly some highlights from the statistics in the last quarterly report of the new Children's eSafety Commissioner. In doing so, I am hopeful that anyone who might be listening to this debate, any parents or carers, might be aware—perhaps this debate might emphasise it to them—of the existence of the eSafety commissioner, who should be contacted whenever parents or carers have any concern about the online safety of children.

In the last quarterly report, for the period July-September 2016, the eSafety office noted that it had dealt with 70 serious cyberbullying complaints, a 75 per cent increase compared with the same period last year. I am hopeful that that statistic means that more people know about the eSafety office and so they have reported more. I hope it does not mean that there has been a 75 per cent increase in cyberbullying across the board. One would hope that it is the former explanation and that, as the work of the eSafety office and the commissioner become better known, people are prepared to make complaints or to make contact with the eSafety office to get assistance.

For the last quarter the commission also conducted research which showed that close to one in five teens experienced some form of cyberbullying in the 12 months to June 2016. It found that teenagers spend on average 33 hours per week online outside of school. That is a rather amazing, and perhaps even concerning, statistic. The eSafety commissioner's office also trained more than 600 frontline professionals across every state and territory to help women who were experiencing tech-facilitated abuse.

I want to get to the bill before us, but in the form of the previous bill that came before this parliament and which was considered by the committee. Several submitters and witnesses to our last inquiry expressed the view that the proposed offences in the bill are unnecessary in the light of existing offences in the Criminal Code that address the targeting of minors by sexual predators online, namely, as I mentioned before: section 474.26, which is the offence of procurement; section 474.27, which is the offence of grooming; and section 474.14, which is the offence of using a telecommunications network with the intention to commit a serious
offence. The Attorney-General's Department made a submission to that inquiry stating that the Criminal Code already criminalises online communications with children where there is evidence of an intention to engage in sexual activity with a child or otherwise cause harm to the child. In its submission to that inquiry, the ACT government highlighted that, for example, the existing grooming offence does not require proof that the communication be indecent, and so would appear to capture a communication in which the adult misrepresents their age.

Furthermore, Sonya Ryan, who Senator Farrell mentioned in his contribution just before me and who is the director of the Carly Ryan Foundation, argued that there were issues to be involved. She said in her evidence, 'The problem is that a predator will take quite a bit of time to groom a child without showing any sexual intent. That is what we have found through the work which we are doing. By the time the child agrees to meet the predator face to face, he or she no longer thinks that that person is a stranger.' What they were seeking, they said in their submission, 'was to add to this law to address the common denominator in the way the online predators behave. They all set up false online profiles, and most reduce their age online to present as a peer to the child with the intention to meet that child.' The idea of this law is to prevent the sexual act happening to a child, therefore preventing a potential trauma to a child which obviously can cause lifelong problems to a young person.

Another cybersafety expert giving evidence to the committee had 20 years experience with Victoria Police and said that there have been situations in which the police were unable to act, because the behaviour of suspects fell short of proving the element of sexual intent in the existing offence. Several submitters to that inquiry argued that the proposed offenders in that bill—particularly the proposed section 474.40, in relation to encouraging a physical meeting, are drafted too broadly. The overriding concern expressed was that the proposed offence in the bill would wrongly criminalise behaviour that is not inherently criminal. The New South Wales Council for Civil Liberties made certain submissions in relation to that.

The Attorney-General's Department in its submission to the inquiry restated its position that the breadth of the activity covered by the proposed offences goes beyond the accepted limits of criminal responsibility and represents a departure from the existing Commonwealth criminal law.

The recommendation of our committee—and there were other elements, and anyone interested in this debate who has not already done so might usefully have a look at the committee's report into the previous legislation—was that 'the safety of young people online is an issue of the utmost importance and one that requires careful and considered policy responses.' The committee supported the intent of the bill in aiming to protect minors from online predators. The committee did note, however, that some minor amendments had been made to the bill compared with the previous version of the bill, which the committee examined and reported on in June 2013. The committee did acknowledge, however, that some stakeholders to the inquiry raised concerns in relation to the bill, particularly that it may not be necessary in view of existing offences under the Criminal Code and that the offences provision in the bill may be too broad. In light of those concerns, the committee considered that further consultation should be undertaken in relation to the bill to determine whether it is the best available means of meeting the policy intent underlying the bill. The committee accordingly recommended to the Senate that further consultation be conducted on the bill prior to its consideration by the Senate.
All credit to Senator Xenophon. There were further considerations. Senator Xenophon in this bill before us today actually addressed some of the issues that were raised in the committee's report and in the evidence to the committee. However, there is still a concern in the government. As I said right at the beginning, everybody agrees that everything should be done to prevent the tragic circumstances that befell Carly Ryan, but it has to be done properly. To that end, as I think I mentioned before and as perhaps Senator Xenophon also mentioned, there are further consultations happening this afternoon to try to get the right balance on this bill so that it does everything possible to protect minors from online predators but at the same time takes note of the normal civil liberties and the presumption of innocence that are the hallmarks of the legal system in a democracy like Australia's. I am hopeful that this bill, whilst perhaps not being passed in its present form, will be negotiated to a state where it can receive support from all the chamber. I note that the Labor Party, who spoke just before me, have a similar position in that they want to do everything possible to protect minors from online predators and look after the safety of children. But it does need some refinement and I am hopeful that that will happen.

At the moment I would caution that the bill perhaps should not be passed in this sitting of the parliament. But we should keep talking about it, to get the right balance so that some further laws can be implemented to protect young people, in particular online.

Senator HINCH (Victoria) (10:21): I stand to support the Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2016. Sadly, the grooming of minors for child sexual abuse purposes is nothing new. A June 2000 report on Project Axis by the Queensland Crime Commission and the Queensland Police Service contained detailed accounts of the offline grooming of minors for sexual contact. Of course, we have now had the explosion of the internet. We have WhatsApp, Snapchat, Skype and chat rooms. As Senator Macdonald said, teenagers spend more than 30 hours online every week. The basic technique adopted by online predators, who disguise their ages and identities, is to just hang around in those public internet chat rooms and look out for children who seem to be vulnerable, easily exploited and often ignorant. In the case of Carly Ryan, her online boyfriend was not actually a 20-year-old American musician; he was a 47-year-old scumbag from Victoria. It is easy for these online groomers to mask their real identities to hide who they are, hide their gender and hide their age. They can get in there and do and say whatever they like. They can become any persona they would like to be.

I want to quote Rachel O'Connor from the Cyberspace Research Unit at the University of Central Lancashire. She says that basically the picture now emerging is one where the online predator forms a relationship with the minor, a process that typically involves deception. She says the level of duplicity engaged in by the adult means it is very difficult for a child to detect that, firstly, they—the child—are not actually talking to another child, having a conversation with another child. The online predator will throw in questions to assess the likelihood of his activities being detected by the child's parents or older siblings. That, of course, is hard. When the use of computers started to blossom and the internet started to get so prevalent, one of my pieces of advice to talkback callers on radio was always to leave their kids' bedroom door unlocked or, better still, put their computer out in the lounge room—put it out where the parents could see what their children were watching online, see who they were dialling up, see who they were talking to. But it is not that easy any more, because with all the
phone apps that kids have access to—that everybody has access to—you cannot always tell what your child is doing. And you do not always know, mentally and physically and electronically, where your child is.

Years ago in the United States, there used to be a public television station which, every night, showed somebody with a very authoritative voice who would come on and would say: 'It is 10 o'clock. Do you know where your children are?' Now, with the peripatetic world that we live in and kids having the freedoms that they have, a lot of times you do not know where your children are at 10 o'clock. And even if they are in your home: if they are in their bedroom and they are supposedly asleep—they are not. They are in there, behind closed doors, they have their phone or their computer, and they are online. And they are talking to people around the world.

They are talking to people who include adult males—perverts—who browse like sharks through the chat rooms. These men enter private chat rooms, and they look for kids who may be genuinely talking to other children. But then they pose as a child and they lure those children in. And suddenly, you see them convince a child that, 'look, I am 17, you are 14, send me a picture'. And then they send their picture—like in the case of Newman and the pictures he sent: he was not a 20-year-old musician, he was a 47-year-old sleazebag. So they send a picture, they take another picture from somewhere on Google and they say: 'This is me, send me a picture of you.' And the vulnerable, innocent children—they do. They send those pictures off. And the sleazebag starts to build a platform; they start to build a relationship. And they can do it easily, because they become very clever. Like any paedophile, stealth and secrecy are their secret weapons: 'Don't tell your parents, this is just between you and me.' And then they get the identity—they go into other areas, they look at the child's Facebook page, they look at who the child is friends with, they see the comments the child is making to other people on public pages—and kids do not realise that what you put out there now is out there forever. And so they find out that, 'oh, you are vulnerable, you like kittens'. So they invent a kitten. 'Oh, I have got a cat too; I have got a kitten as well.' And they talk about that. And usually—and in this case here, that is what made it even harder for criminal action to be taken—they do not reveal the sexual content. They do not reveal what is really on their mind—until they get the meeting. That is the bingo shot. You talk the kids along, you push them along, until you finally say: 'Hey let's meet for a coffee or a soft drink; let's go to McDonald's.' And that is them in.

That is why this bill, the Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2016, is important. It is so you do not have that physical contact. I mean, a 47-year-old man who is chatting online to a 15-year-old girl, who then says, 'Let's catch up for a coffee'—he is not there for a hamburger. And in this case, it ends tragically, with a little girl dying: half beaten to death, her mouth choking on sand, and then drowned. Because a 47-year-old pretended he was a 20-year-old musician, and she fell in love—she did. There is no protection against that. And that is why we need it. What makes it even worse is the speed of the internet. Senator Kakoschke-Moore mentioned Graham Ashton, who was the AFP Assistant Commissioner and is now the Chief Commissioner of Victoria Police. Graham Ashton says about online grooming that you would think—not being in that world—that they would be methodical, and that it would take weeks and weeks and months and months to do it. Commissioner Ashton says it can be two weeks. From the first line being thrown into the
internet waters, the fish is caught—it can be as soon as two weeks later—and they have a physical meeting.

One of the problems we have is that the courts, the magistrates, the judges and the politicians have not caught up with the real world. They have not caught up with what is really happening out there in the real world of the internet; in the world of online activities and online crime. And I can give you proof of it. I bet that today, somewhere in Australia, there is a magistrate who has before him a male with child pornography found on his computer—they have probably found 30,000 or 40,000 images, plus videos; some of them from kids who have been lured from chat rooms, some of them stuff he has bought—and the magistrate has sat there and listened to a barrister who has said: 'Your Honour, it was only for his personal edification; he did not sell it to anybody.' And he walks—on a suspended sentence or a good behaviour bond. That is because magistrates and judges refuse to come into the real world and understand that, if somebody has foul images of child sexuality on his computer, some child was exploited to get there; for him to get that image some child was mistreated, abused and in some cases even killed. My running mate for the Senate was a Victorian policeman named Stuart Grimley. He was on the sexual offences squad. These police officers end up running the risk of getting post traumatic stress disorder because they have to look at all these images again and again. The bill today is about people like Newman. He was found to have all these foul images in his possession. These are the sorts of people they are trying to stop.

Senator Xenophon and Senator Kakoschke-Moore, you have both worked so hard for so long in the Xenophon office and in your own time to try and get this bill up. There was in the past the disappointment of having a bill that had holes in it. That bill went to a committee. You went away and looked at what was wrong with it and you have come back with a better version, a different version, a version that should be passed here.

Online porn and these crimes are something we have to grasp. We are not across it all. We have to read what the experts have to say. Look at some of the examples that have come up. Listen to kids. Listen to people who have experienced it. Here is one. Rochelle Cooper, from South Australia, says: 'I was groomed by an internet predator. I'm just lucky I didn't end up in the same position. Although I was physically, sexually and mentally abused, I managed to escape. As Carly was, I was 13 years old when I was groomed.' Here is another one, from Madeline Atkinson. She says: 'As a victim of losing one of my sisters this way, I need to see much harsher punishments to get some form of justice and understanding as to how someone could do something to a young, vulnerable child. You can never heal from this.' And Tina Lombardo, from New South Wales, said: 'My daughter was groomed by an online predator for three years. After that, he convinced her to live with him, just after she turned 16. When she realised how he had manipulated her, she attempted suicide. He had done this with two other girls before my daughter—possibly more. The grooming laws need to change.'

In the case of Newman, with his son in tow he lured Carly to that bench, sexually abused her, bashed her to death, drowned her to make sure she was dead and then just left her there. He then returned to his home. When police tracked him down—because they suddenly realised who Brandon and Shane really were—he was on his computer chatting up a 14-year-old girl, who I think was in Perth. So he had murdered one girl and he was now back at the computer doing the same thing. And before Carly there were others—who escaped.
As you know, I am trying to push for a national public register of convicted sex offenders. Sadly, Carly would probably not have been protected by that because, as I understand it, Newman did not have a criminal record. I may be corrected on that; it obviously was not his first crime. For other cases where men have been convicted at least with a public register of convicted sex offenders if parents spot somebody they will be able to go online, look up his photograph and check him out—check his name to see if he has previous convictions. In Western Australia, with their softer version of 'Sarah's law', parents can do that. But I go back to what I said originally. In this day and age, in this incredible world of internet speeds and chat rooms, parents cannot know, and often are ignorant of, what is there. I support you fully, Senator Kakoschke-Moore, and I support this bill. It is always corny to say that somebody did not die in vain, but the Carly Ryan Foundation has worked so hard to get us to this point, to get us so far down the track, that I appeal to the Senate to pass this law not only in the name of Carly Ryan but in the names of other victims of sexual offences against children—offences which are some of the most epidemic, even pandemic, things in existence.

Senator McKIM (Tasmania) (10:35): I thank Senator Kakoschke-Moore for bringing on the Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2016 for debate, giving the Senate the opportunity to debate this incredibly important issue. I want to say at the outset that the Australia Greens are very sympathetic to the intent of this legislation, which is to protect children from people who would prey on them, including to protect them from sexual predators. I also thank Senator Kakoschke-Moore and Senator Xenophon for engaging with the Australian Greens in providing me with a very detailed personal briefing on the legislation. We really do appreciate that and acknowledge the intent of that briefing, which was to constructively engage with all senators and all parties on this legislation. It demonstrates the very sincere intent which lies behind this bill.

I also want to acknowledge the tragic case in South Australia of Carly Ryan. Senator Kakoschke-Moore and others have referred to it in detail in their contributions, but I want to express on behalf of the Greens our deepest sympathies to Carly's family and friends and our admiration for Carly's mum and others, who have not simply lain down and accepted what happened to Carly but used it to spur themselves to fight to minimise the possibility of what happened to Carly happening to other children in our country. That is an entirely admirable role that they are playing in our public conversation and, at the moment, in our parliamentary conversation.

There is no doubt that those of us in this place—and I am one of them—who have friends who are parents or carers of children are aware of the amount of time that kids spend online these days and, frankly, the impossibility of parents or carers being able to adequately monitor the entirety of any child's online conversations and online interactions. As Senator Hinch said in his contribution, the rise in the popularity of mobile devices and various apps, which exist and will no doubt continue to be created into the future, means that our children's online communications are impossible to monitor. It makes it difficult as parents or carers to fulfil the responsibility that we all have to the children in our care to do everything that we can do to protect them from harm.

We understand that this bill seeks to amend the Criminal Code Act 1995 to create a criminal offence for a person over 18 years of age to intentionally misrepresent their age to a person they reasonably believe to be under 16 years of age in online communications for the
purposes of encouraging a physical meeting or with the intention of committing an offence. We are also aware of the history of this legislation—the various iterations that it has gone through. We believe this is the fourth version of this bill, tabled previously by Senator Xenophon and now by Senator Kakoschke-Moore. The fact that it has been amended four times is, again, a reflection of the sincere intent behind this bill from Senator Xenophon and Senator Kakoschke-Moore. It reflects their genuine desire to learn from the various responses to this legislation, including in committees of this House, to try to address these concerns in a way that preserves the intent and the integrity of this legislation, and to also respond to concerns raised around potential unintended consequences that this legislation may have.

We have been diligent in assessing various committee reports and acknowledge that the previous committee report in 2013 has, again, resulted in this legislation being changed and updated. We have also had a look at the provisions currently in the Criminal Code, including the prohibitions on using a carriage service to procure persons under 16 years of age, using a carriage service to groom persons under 16 years of age, and using a carriage service to transmit indecent communication to person under 16 years of age. As I said, this bill proposes that a person who misrepresents their age, which currently of itself is not illegal, as a preliminary to having a meeting with someone, which is also currently not illegal, should be guilty of an offence. We have gone through the various submissions to previous inquiries. We have noted a range of submissions, including from the Law Society of South Australia which submitted:

Part of the problem with the offence provision is that it seeks to criminalise behaviour which is not inherently criminal.

The Law Society of South Australia goes on to say:
The intent is to criminalise a preparatory step in the process of committing a crime. However, in attempting to do so, it will capture many situations it does not intend to.

Senator Xenophon has stated:

... the proposed legislation would close an important legal 'loophole', as there is no reason for an adult to knowingly misrepresent their age to someone they believe to be under 18 years of age.

The Greens want to be very clear that, of course, there are situations, including the situation that this bill intends to address, where an adult would misrepresent their age to a young person online for extremely nefarious purposes, including to groom that young person for the purposes of committing harm, including potentially sexual harm, on the child, but we still retain concerns that this bill may have unintended consequences. I will not go into all of the unintended consequences that we have concerns about, but what I do want to say is that we stand absolutely ready to continue to engage with Senator Kakoschke-Moore and the Nick Xenophon Team on this proposed legislation in the hope that our concerns can be addressed in a further iteration of this bill.

The prevention of online grooming of children is a massive challenge for our community and our society and therefore must be seen as a massive challenge for this parliament. We need to make sure we work rigorously and, I believe, collaboratively on this issue, because I have no doubt that every member of this place and the other place would regard the online grooming of children as abhorrent, disgusting and something that we need to work on together to make sure we can prevent to the very greatest extent possible.

The Australian Federal Police have stated:
Online grooming is when an adult makes online contact with someone under the age of 16 with the intention of engaging in sexual abuse. The offence is committed in the communication phase so no physical contact need ever occur for police to step in, investigate and arrest offenders. It is a very serious offence, but is not the most common challenge faced by children and young people online.

The AFP recommends that all children and young people know how to manage any approach online by someone who may seek to groom them:

At times, young people may feel as though they are in control of a situation and are just “playing around” without realising how quickly the balance of power shifts and they are being controlled by the offender. It is never too late to report suspicions of online grooming, but the sooner it is identified, the less harm may occur.

I think the lesson for us all here is that while there may well be an appropriate legislative response to this problem, that should never be the entirety of our response as a community to this challenge. It is incumbent on all of us as parents, carers, or concerned members of this parliament and of our community to make sure that children are aware of the dangers of people misrepresenting their circumstances online with the intent to groom or to cause harm—to make sure that children know they can come to the adults in their life if they have concerns that someone is misrepresenting themselves online to them, and that there are opportunities and remedies available to them. We all have a responsibility to play as community leaders and, in the circumstance of many of us, as parents or carers of children.

Having said that, we stand ready to continue to engage with the Nick Xenophon Team on the provisions of this bill, because we believe it certainly is possible that concerns which have been expressed around unintended consequences can be addressed through further iterations of this legislation. As I said, we stand ready to work constructively to identify whether there are gaps in protections offered in statute for children from online predators and, if so, how those gaps can be filled.

Again, I thank Senator Kakoschke-Moore for giving us the opportunity to debate this really important issue in the Senate today. The Australian Greens and I, as portfolio-holder in this area for the Greens, look forward to continuing to work with her and the senators on the Nick Xenophon Team on this really important issue.

Senator GRUFF (South Australia) (10:48): I rise to echo the comments made by my colleague Senator Kakoschke-Moore and to do my part in convincing all of you here today to support this most important bill, the Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2016.

This bill is tinged with a great deal of sadness, not only because it relates to the death of a beautiful young girl who was tragically taken from this world well before her time but also because, some nine years after Carly's death, our laws around online predators continue to fail our young. Today, more than ever before, young people are completely immersed in an online world fraught with danger. Never has it been easier for those who want to sexually exploit children to make contact with potential victims around the world, share images of their abuse and, frighteningly, encourage others to commit similar crimes. According to the United Nations there are a staggering 750,000 child sex predators online searching for prey at any one time.

Just think about that for a moment: 750,000 sex predators looking for prey since the time I rose to speak. This should frighten every one of us in this room—it frightens me—and it
should drive all of us into action to stamp out these vile people. UNICEF estimates there are more than four million websites featuring minors, including many of the target children aged under two years, and more than 200 new pornographic images circulated every single day. In 2014, the Australian Federal Police reported a 54 per cent rise in reports of online child exploitation, with some 5,617 cases involving Australians. This number is likely to be just the tip of the iceberg.

As highlighted by my colleague Senator Kakoschke-Moore, the length of time it takes for a predator to groom a child on the internet is becoming shorter and shorter. One of the most worrying trends is the speed with which predators can groom young people online and that grooming turns into contact offending.

Carly’s case is but one example. Garry Francis Newman sat behind his keyboard and set out to convince a young and impressionable 14-year-old girl that he was not in fact a 47-year-old predator but a young talented musician who had her best interest at heart. A man who was in love with her and wanted to be with her. We cannot blame Carly for believing this lie. We cannot blame Carly for falling in love. She had absolutely no way of knowing that the person she thought was 18-year-old Brandon Kane was, in fact, a harmful paedophile who set out to abuse, assault and ultimately murder her. Carly did what millions of kids around the world do for hours on end every single day, she used social media to meet new people and make new friends.

Children and teenagers are accessing the internet at increasing rates. This is both a blessing and a curse. The internet has opened the door to the world and provided young people with infinite information and opportunities to learn. It really is an exciting time to be growing up with amazing potential to create, connect and communicate. But at the same time online predators are becoming more sophisticated in the way they groom our children. More and more are prowling social media and web chat rooms to communicate with children solely for sexual purposes. With over 82 per cent of teenagers and 95 per cent of eight- to 11-year-olds going online each month, we all must do everything we can to prevent them from being exposed to keyboard predators—their and our future relies on it.

There is a lot of great work already going on in schools and at home to educate children about how to use the internet safely and identify predators, but much more is needed. We have also seen the likes of Google and Microsoft introduce new technologies to help protect our children from illicit and harmful content. As a result of these tech changes, Google has seen an eightfold reduction in people searching for material of this kind on the web. Google and Microsoft can now, through shared technologies like PhotoDNA and video hashing, find and remove more images and videos of child abuse wherever they appear on the internet. Children and their parents are also actively encouraged to flag any incident they feel puts their child at risk.

The internet has no bounds and its reach extends far beyond the Australian borders. Protecting children from online sexual predators is very much a worldwide issue and one that has been taken seriously by many countries around the globe. WebProtect is just one example of an international alliance committed to ending online child sexual exploitation. World leaders from over 70 countries have come together to establish and develop coordinated national responses to eradicate the problem. They say this is a global priority and one which
must be addressed immediately if we are to protect our children from abuse. Former UK Prime Minister David Cameron rightly said:

… this is another major international crime of our age … There are networks spanning the world, children abused to order.

… … …

This is a global crime, so it needs global action.

The Web Protect work is vital in helping to eradicate online child abuse, but there is also a lot of work to be done on our own doorstep. That is why this legislation is so important. We have to make sure that loopholes are closed and, most importantly, our law enforcement agencies have the powers to intervene much earlier when they suspect a child is being groomed online. That is also why the work of the Carly Ryan Foundation is critical. Since Carly's death, her mother, Sonya, has campaigned tirelessly for changes to our legislation and she dedicated herself to the promotion of online safety in order to prevent the same thing that happened to her daughter from happening to other vulnerable children. In 2010 she established the Carly Ryan Foundation. The foundation aims to raise awareness, particularly amongst young people, about the dangers of online communications as well as addressing the physical, emotional, sexual and psychological impacts of online crime, and of course, fostering a positive online experience for children.

Since its inception, the foundation, which I might add is run entirely by volunteers, has visited and supported over 5,000 schools, colleges and regional areas across Australia. In addition to educating students, teachers and parents alike, the foundation has also managed to instigate investigations into real cases referred to it by parents across Australia—real cases where parents fear their child is at risk of online predators. By way of an example, just recently the foundation was contacted by the parents of a 13-year-old girl who, like Carly, thought she was engaging in online chats with a teenage boy. It appears, however, that the situation was much more sinister than this young girl could have ever imagined. With the help of Sonya and the foundation, the matter was referred to the Sexual Crimes Investigation Branch for investigation. This example demonstrates what many families are experiencing. Parents and caregivers are struggling to keep up with modern technology, social media and mobile smartphone applications. Our young have no such difficulty, and therein lies the danger. Fortunately, a key role of the foundation is to educate minors and adults alike about the dangers of seemingly innocent online applications and forums, and I assure you that there are dozens to choose from.

The online space is always inventing new and innovative ways to socialise, with a plethora of new apps and sites that also make it easier for online predators to find and groom children. You have probably never heard of many of the social apps that are available, but I will now highlight some that are commonly used by predators so you are aware of the insidious nature of the predator network. Kik Messenger is a seemingly child-friendly anonymous app that lets children text for free, allowing communication with strangers who share their Kik usernames. Because it is an app, the text will not show up on your child's phone messaging service and parents had not charged for them. Kik gives predators direct access to children. The app has recently been investigated for links to the murder of a US teenager. Burn Note is a messaging app that erases messages after a set period of time. It allows children to communicate covertly. You do not have to have the app to receive a Burn Note. Whisper is an anonymous
social confessional app that allows users to post whatever is on their minds, paired with an image. Whispers are often sexual in nature. People do not normally confess sunshine and rainbows. Yik Yak is a free social networking app that lets users post brief Twitter-like comments to the 500 geographically nearest Yik Yak users. Alarmingly, Yik Yak reveals your location every time you open the app and your GPS continues to update your location. This app has it all: cyberbullying, explicit sexual content and unintended location sharing.

Omegle is a chat site that puts two strangers together in their choice of a text chat or a video chat room. Your child can get paired up with a stranger on Omegle—that is the whole premise of the app—and there is no registration required. Omegle is filled with people searching for sexual chats.

The Carly Ryan Foundation plays a crucial role in teaching mums and dads about the dangers these sorts of apps present. It has also partnered with digital engagement specialist KOJO and, with the support of the South Australian government and Google, developed Thread, a free personal safety app to help users with unsafe situations. Thread provides an immediate connection between a user's location, trusted contacts and emergency services. The app enables users to check-in their location to show that they are okay, to start discussions with trusted contacts about online or offline dangers and, in the event of an emergency, send their location while contacting triple 0.

Through the work of the foundation, Sonya has been appointed a member of the Online Safety Consultative Working Group with the Children's eSafety Commissioner, Andree Wright. The working group was established to provide advice to government on cybersafety issues, including measures aimed at protecting Australian children from cybersafety risks such as bullying, exposure to illegal content and privacy breaches. Sonya is also a member of the expert advisory committee that provides advice to the minister for education in South Australia on sexting, which is very much a rapidly growing issue for governments and law enforcement bodies alike.

It is important to place on the public record the concerted effort that Sonya and the Carly Ryan Foundation have made in combating this social evil. The fact that close to 100,000 people have signed the change.org online petition calling on the government to implement these changes is testament to the importance of this work. Given that the foundation relies heavily on donations, I implore all in this chamber to support the foundation's good work by way of a donation. I know this would certainly go a long way towards helping Sonya continue to do what she does to keep all of our children safe.

Personally, and as a father of four—and, particularly, a father of two daughters—I cannot begin to comprehend what Sonya Ryan has had to endure. It is without question every parent's worst nightmare. I implore all of you in this place to put yourself in Sonya's shoes just for a moment. Imagine what it would be like if an online predator was contacting your child, or a child that you know. Imagine the moment when you realise that predator has managed to infiltrate your home, your living room, your child's bedroom to take away their innocence. Worse still, imagine what it would be like to receive the news that your son or daughter, or a child that you love dearly, has died at the hands of a monster like Garry Newman.

This bill is not just about honouring Carly's death; it is about ensuring that no other child suffers at the hands of a child predator the way that Carly did. Sonya Ryan has learned in the most difficult and tragic way the dangers that our children are exposed to each and every time
they go online. Instead of retreating from the real world, which I am certain many of us would have done if we were put in her shoes, she has made it her life's work to ensure as far as possible that her horror story is not repeated and that children are protected from the dangers of the online world.

It is now our turn to help Sonya in her fight and to do what we can to further strengthen our laws and to deter and punish these individuals who knowingly, wilfully and deviously pursue our children. If this bill prevents even one more child from being exploited at the hands of a predator then it is well and truly worth your support. In the words of Sonya Ryan, 'I do not want Carly's legacy to be one of fear.'

Senator WATT (Queensland) (11:05): It has been extremely worthwhile listening to the various contributions to the debate on the Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2016 this morning. It is very clear from those contributions that every single speaker and no doubt every single member of this chamber is 100 per cent committed to child protection and doing everything that they possibly can to keep children safe, whether it be from predators online or in a physical sense or in any form whatsoever. I want to make very clear at the beginning of my contribution that I and Labor certainly believe that the intent of this bill is laudable. There are probably few things that as elected representatives we can do which are as significant as ensuring that we have laws in place that do protect every child no matter their circumstances and that prevent them from having truly horrible things occur, which either destroy their lives or take their lives, as was the case with Carly. Her life was taken from her, which is about the worst thing you can possibly imagine happening to her and her family.

I am aware that this is the fourth time that this bill has been put forward by Senator Xenophon and his team, and it is clear that it is a cause that he and the rest of his team are very dedicated to. I want to recognise their extremely sincere intentions in bringing this bill forward to this chamber again. I also want to recognise that they have done so on the back of some really commendable lobbying efforts from people who were directly affected by this terrible incident and from many others who have a deep interest in child protection. So, again, I want to recognise the very sincere objectives that lie behind this piece of legislation. I will say a little bit more about some of the people who were affected by these events later in my contribution.

This bill seeks to amend the Criminal Code 1995 to make it an offence for a person over 18 years of age to misrepresent their age to someone under 16 years of age for the purpose of procuring a meeting. Obviously, we know enough about the actions of sexual predators on children to know that often their predatory actions do not just occur in one stage, that often there is a very long lead-up time in which they seek to groom a child. They make contact with them, lull them into a false sense of security and try to befriend them. It is only after that long lead-up time that the really truly criminal actions ultimately take place.

This law does go further than existing laws that are designed to protect our children from online predators by removing the need for police forces to prove sexual intent before intervening to stop a predator from making contact with a child. The intention behind these amendments is to enable police to intervene at an earlier stage in that grooming process than they are currently able to do to stop an online predator. At first, when I saw that those were the objectives behind this legislation, I, like probably many other senators, thought that this
sounds like the right thing to do. If we can intervene earlier to catch sexual predators and prevent them from making contact with minors then obviously that is going to stop events like those that occurred to Carly from occurring to other people. But, as with most legislation, it does take more than a cursory look to see how it is going to operate in practice, which I will deal with in my contribution. Labor does have some concern about how this law would operate in practice. We are keen to keep talking with other parties about how some of those concerns might be overcome. These amendments are a significant broadening of the existing law and they carry with them a maximum jail sentence of five years. This bill has become known as Carly's Law in honour of Carly Ryan, a 15-year-old girl who was tragically lured to her death in 2007 by an online predator. A number of other speakers in this debate have provided significant detail on the events surrounding Carly's tragic death. I will not repeat that myself—I recognise that a number of people have done so already—other than to say that Carly's case is undoubtedly a tragic one. Over a course of nearly two years she was courted by a man online whom she believed to be an 18-year-old musician from Melbourne named Brandon Kane. He was in fact a much older man—nearing 50, I believe—Gary Francis Newman, who eventually, over a period of time and over repeated use of online contact, managed to lure Carly to a secluded beach where he sexually assaulted her and murdered her.

There is no doubt that the law failed Carly. I again want to recognise that her mother, Sonya, has dedicated her life since Carly's death to law reform in this area. I am not sure if Sonya is currently in the gallery, but I understand that she was present earlier today. I think she might be with us know. I do want to recognise very sincerely, Sonya, the efforts that you and your many supporters have put into trying to stop this kind of thing happening to other children in the future.

Like many other people in this chamber, I am a parent. I have two young children: a nine-year-old and a six-year-old. They are really only beginning to enter the online world and already I am having concerns about what they are watching, what they are going to experience and people making contact with them who we do not know and who they do not know. In preparing to give this speech, I was very much reflecting on my personal circumstances. Sonya, I cannot imagine the grief that your family has had to go through since Carly's tragic death. Again, I do very sincerely want to commend you for the work that you and your supporters have put in to prevent those kinds of things from happening to my children and others like mine.

The Carly Ryan Foundation, which is run by Sonya, has become a highly effective advocacy organisation for cybersafety and has only fact sheets and counselling services to reduce the harm of online bullying and predatory behaviour. As I said, I am a parent myself and I am sure there are many others in this situation as well. We do worry about the safety of our children online. Every Saturday morning my nine-year-old son is allowed to get up early and hop on the iPad. He watches YouTube videos and all sorts of other things. You are never quite sure what it is they are coming into contact with. I know many other parents share that concern about what their children are being exposed to and who might be contacting them. We know that all parents want to do everything they can to stop their children being put in danger by people with bad intentions online.
I have brought to this speech my experiences and feelings as a parent, but in my brief time as a state member of parliament in Queensland I organised cybersafety workshops for parents in my electorate. I remember being surprised by how well attended they were. They were on a weekday evening, which is probably not the most convenient time for many working parents, but every time that I or other members of parliament put those workshops on we were guaranteed a very strong attendance rate from local parents. Again, that reflected both the level of concern that I think a lot of parents have about this issue and the lack of knowledge that many parents have about how to combat bad things happening online to their children. I know that many of the parents who attended those workshops that I staged certainly came away with a lot more information. I have no doubt that the work of the Carly Ryan Foundation, led by her mother, has also really increased the level of education and knowledge that many parents have about what they can do to keep their children safe online.

As a Labor representative, I also want to say that we care very deeply about protecting our children from online predators. The advent of online technologies and platforms has fundamentally changed the world of policing. Tragically and quite creepily, this has also changed the way that predators target vulnerable children. As I have already said, increasingly sexual predators are not necessarily using a one-off, random attack in which to find victims. That of course does happen as well and needs to be dealt with as well. But, more and more, we are seeing these kinds of people undertaking very prolonged steps involving multiple contacts with children, particularly online, before they have the opportunity to exploit children in this most evil way.

Many parents, as I have already said, see the task of keeping their children safe online as extremely difficult—understandably so. The online world is endless and it is unknowable, with threats that are seemingly invisible. As I have said, I freely admit that I am not the world's most technologically advanced person. I do not think I as a middle-aged man am alone there. Many of us do not fully comprehend how online systems work and how we can best take steps to keep our own children safe when they are operating in the online world. The online world is sometimes a realm that seems beyond the reach of the law, but fortunately it is not. There are things we can do in a legal sense to help keep our children safe online.

Labor have been concerned about child safety online for a long time now, both in opposition, as we currently are, and in government. When we were in government, Labor expanded child protection operations in the Australian Federal Police to assist in protecting children and in investigating online child sexual exploitation. We implemented a range of cybersafety education activities, and we formed the Youth Advisory Group on Cybersafety. I think all of them were excellent initiatives. I am not trying to be partisan about that. I am sure that this government has done many very worthwhile things in this space as well. But those were a number of excellent initiatives that were undertaken by the last federal Labor government to try to strengthen some of the protections that exist for children, particularly online.

Again reflecting on my personal background, having worked in the Queensland state government for a number of years, I know that similarly a number of initiatives were undertaken by that government to enhance protection of children online along with dramatically increasing the funding that was provided to child protection agencies to keep children safe from those who would seek to abuse them.
Labor have been in discussion for some time with the Nick Xenophon Team about this bill. We are certainly looking for ways to work cooperatively to see how the aims of that party and the people who sponsored this bill can best be achieved. We recognise that we need to be ever vigilant about online threats and ensure that our laws keep up as those threats evolve. As I said, technology does evolve. Different platforms are being created every day. I heard Senator Griff referring to a number of different social media platforms, many of which I had not heard of, so I can only imagine how many others there are out there that, when they fall into the wrong hands, can be extremely badly exploited such that ultimately children are the victims.

Having said that, Labor have a number of concerns with the bill as it currently stands. However, we are confident that those issues can be worked through in further negotiations. I understand that Senate committees have reviewed this bill previously, and the reports of those Senate committees have raised concerns about the breadth of the scope of this bill and the danger that it could unintentionally catch behaviour that should not be deemed as criminal. I have no doubt whatsoever that the motivation behind this bill is completely sincere and is directed at ensuring children are kept safe from sexual predators. But I think we need to make sure that the law really does achieve those aims and does not necessarily catch other people that it was never designed to catch in the first place. When you legislate there is always the risk of unintended consequences, and we want to be really sure that this bill does not go further than it needs to go in order to achieve what are extremely worthwhile aims. The most recent Senate report on this bill, which I think was handed down in August last year by the Senate Legal and Constitutional Affairs Legislation Committee, urged that further consultation be undertaken.

One aspect that Labor does have concerns about, building on concerns that were raised in the inquiry into this bill, concerns the amendment which, in broad terms, removes the need to prove sexual intent in contact that is made with a child in the circumstances we are looking at. I know that in the inquiry the Attorney-General's Department raised concerns that, for instance, an 18½-year-old could misrepresent their age to a 16-year-old in an attempt to gain an invite to a birthday party. We know that kind of thing happens all the time. It is probably not the intention of this bill to catch and criminalise that kind of activity, but we do have concerns that in the bill's current form that would be a risk. We are very keen to talk further about those kinds of risks, to see whether we can focus this bill a little bit more and prevent those things being caught up. I think we can all agree that that is not necessarily the kind of behaviour that we want to see criminalised. There might be very good reasons for keeping 18½-year-olds away from parties involving 16-year-olds, but I do not think that is the intention of this bill, which is undoubtedly to prevent older sexual predators—older in the sense of people who are 18 and above—from making contact with minors. That is the kind of thing that we want to work through a little more as this bill is being considered.

Senators on the committee also raised the concern that there is the potential that someone with an intellectual impairment, who may not fully understand the consequences of their action and who may not have evil intent, might unwittingly finding themselves foul of the law. I think also that that kind of thing is the intention behind this bill, but we need to make sure that the drafting is such that people in that situation are not also caught up.

More consultation is needed with the Australian Federal Police and the Attorney-General's Department in order to determine where they believe more powers would be helpful and in
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what ways those powers can be given without creating any undesirable outcomes. I was not
involved in the inquiry into that bill—it was before my time—but I understand that the
Federal Police had some concerns and doubts about whether this legislation was necessarily
the right way to address the problem that we are trying to solve.

It is a challenge to ensure that, in broadening the Criminal Code in this way to remove the
need for police to prove sexual intent before intervening in a potential online predator case,
unintended consequences like this are not created. The other thing we need always to do when
we bring in new legislation is have a really hard look at existing legislation to see whether
existing offences and existing legislation, while they might not be defined specifically as new
legislation, effectively achieve what we are trying to achieve. I would be very interested in
having a good look at whether existing legislation, particularly in the area of grooming
children, might achieve this. It might require a little bit of tweaking, but I think we need also
to have a good look at that as part of our consideration of this legislation.

Having said that we have those concerns, we think that many of them can be overcome
with consultation. I know that that consultation is ongoing between different political parties
and between different government agencies at the moment. I am very hopeful that, once that
consultation occurs, we can come to the right outcome.

In conclusion, it is absolutely important that we leave no stone unturned in the never
ending battle to keep our children safe. If Carly's death has exposed a loophole in the law then
we absolutely should look at how we can close it and make sure that that kind of thing does
not happen to other children in the future. As I said earlier in my speech, we can have no
greater duty as adults, or indeed as parliamentarians, than the duty to keep our children safe.
We acknowledge that the online world has made that duty harder to uphold. We on the Labor
side will do all we can to help address that. Labor looks forward to working productively with
the Nick Xenophon Team and other interested parties to make sure that we can have the very
best legislation that we can.

Senator PRATT (Western Australia) (11:24): I want to acknowledge the highly deserving
and important intent of this legislation before us today. This bill, the Criminal Code
Amendment (Misrepresentation of Age to a Minor) Bill 2016, seeks to make it an offence for
people over 18 to misrepresent their age to someone under 16 for the purposes of procuring a
meeting with them. It removes the need for police to prove sexual intent before intervening to
stop a predator making contact with a child. I think this is a very important principle, and I
know so from my own personal experience.

It is hoped that police will be able to intervene at an earlier stage to stop an online predator
earlier than they are currently able to do. I note that in the case of Carly's circumstances, the
predator who targeted her had multiple identities reaching out to children. In that sense, you
can already see what an abhorrent set of activities there is there, but you would not
necessarily be able to prove any sexual intent behind it. I do not know if perhaps there may
have been, but it strikes me that there is plenty of other evidence to demonstrate the intent of
the predator in this case without needing to prove that it is sexual. And while I do not know
the details of the case, I can see that kind of example is useful for the purposes of considering
the law. It is significant in that it broadens the existing law to enable police to intervene in
that way, and that it carries a jail sentence of five years.
This bill, also known as 'Carly's law', is a very important tribute to Carly Ryan, who, as a 15-year-old, was lured to her death by a predator. And it reminds me that Carly's murder, at the time when it was first reported, brought back what was a significant memory for me as a child—that was, potentially becoming a victim of a paedophile. I was 12 years old, on holiday in Adelaide, when a man came up to me and asked me for my name and address to enter a competition. I thought it was a bit odd that he wrote it on a piece of paper and not on a printed form. Nearly 12 months later, I received a phone call at home in Perth. It was the same man's voice on the phone—it was creepy, and at the time I could remember thinking, 'This doesn't seem quite right'—telling me that I had won the competition and he needed to come and give me my prize. I said, quite politely, no; I was too far away. I was at home in Perth and I was relieved that I was far away. But it really reinforces to me this idea that prolonged multiple contact is the kind of thing that a predator in this circumstance would be seeking, and that he had hung onto those details for some 12 months before making that phone call to me.

I knew it was not right, but I was embarrassed at having naively given my details away and I told no-one—not even my parents. So it is shocking to me how many women, and some men, in my own circles have been victims of sexual assaults in their adolescence—many from predators within their own family or social circles, and some from outside predators. Given that quite innocent experience I had as a child, where that possibility of intent was directed towards me, it does not surprise me that it can and does happen. That was more than 30 years ago, and it is terrifying to me to consider how the internet in today's day and age can be used by people to create false identities or circumstances to lure adolescent children to them. That is the kind of example that was apparent in the incident that happened to me as a child, that a false identity in some circumstances can be used to lure a child into a net with very harmful intent, so I understand why parents worry constantly about the safety of their children online.

I as a parent want to be able to do all that I can to stop children being put in danger by people with bad intentions online. We know that we need to encourage parents to know what their children are doing online and elsewhere, and I really do endorse all of the education and strategies that parents, children and communities need to put in place. The government has done a lot of work on that, as I know Carly's mother, Sonya, has. As my own childhood shows and, indeed, as Senator Kakoschke-Moore said in her own speech, parents simply cannot know all of the time what their children are doing.

Carly's case is indeed a tragic one, and I find it is completely abhorrent the way the man who murdered her misrepresented his identity for that evil intention. I really would like to acknowledge Carly's mother, Sonya, for her dedication to law reform in this area. I know she is in the chamber and I would like to welcome her to this place. Your foundation has become a very effective advocacy organisation for cybersafety. Indeed, without that advocacy we would not be debating this bill here today.

As a parent, I can certainly understand how difficult the task is for parents in keeping their children safe online. I know, as someone who is engaged in social media on a daily basis, that I am not keeping up with the way young people use that technology in all cases today. So I want to thank you in particular for the work you do, Sonya, in providing online fact sheets and counselling to reduce the harm of online bullying and predatory behaviour. I really want to encourage the community to use those resources. I and we in Labor and, I am sure, all
parliamentarians here care very deeply about protecting our children from abuse, exploitation and, indeed, even more horrific circumstances.

Our concern for child safety online has been apparent for some time in both government and opposition. We did some important things in government that included expanding operations within the AFP to assist in detecting and investigating online child exploitation, and I want to pay tribute to those in the AFP who do that difficult work. I know it includes things like needing to watch many hours of graphic imagery to work out if it is portraying children participating in exploitative acts, and that is difficult work for people to be engaged in. So I really want to pay tribute to officers of the AFP and in our state police forces that work to protect our children.

We have worked on a range of cybersafety education activities and indeed have formed the Youth Advisory Group on Cybersafety, because actually we cannot keep young people safe without asking young people themselves about how to do that. It is not possible to keep up with the current culture of how young people use technology without really engaging with young people themselves. I would like to commend the Nick Xenophon Team for their work on this bill. We are looking for ways to work with you to see how its aims can best be achieved, and it is a privilege to be able to do that.

I think it is really important that we are vigilant in this place about online threats and wider threats in our community to ensure that our laws keep up as those threats to our children evolve. I do acknowledge there are some concerns with this bill, as Senator Watt and Senator Farrell expressed, but I express my confidence that these can be worked out. Those concerns included how we do not want to unintentionally catch innocent behaviour that should not be deemed as criminal in the scope of this bill, and that is why the Senate report from last year argued for more consultation. We know that the Attorney-General's Department raised examples about how someone could innocently misrepresent their age in an attempt to get an invite to a birthday party, and we would not want to see that kind of activity criminalised, as misguided as it might be.

Senators on the committee also raised concerns about people with cognitive impairments unwittingly finding themselves falling foul of the law through their naivety. We also need to be careful to protect people with cognitive impairments who are older than 18. In this case, this law only applies to misrepresenting your age to children, to those under 16, but indeed there can be vulnerable citizens older than 18 who can be exposed to sexual exploitation because they have cognitive impairments or a naïve attitude. It is quite gobsmacking to see the amount of online predatory behaviour that takes place when it comes to financial and a whole range of other exploitation.

So I look forward to more consultation with the AFP and the Attorney-General's Department to look at what powers should be helpful and how those powers can be created without creating any undesirable outcomes. It is a challenge, in broadening the Criminal Code in this way to remove the need for police to prove sexual intent before intervening in a potential online predator case, to ensure that unintended consequences are not created, but I think it is an important principle. I believe that we need to look at removing that need to prove sexual intent. If I think back to the circumstances of my own childhood, where I was clearly being targeted by someone with some kind of intent, clearly that contact was highly inappropriate. But, as to whether it would have been possible to prove some kind of sexual
intent, I would not necessarily think you would be able to prove such intent in those cases. So the capacity for legal intervention despite not proving sexual intent is critically important.

I note that this bill has been put forward a number of times by Nick Xenophon, and I commend the Nick Xenophon Team for having dedication to this important cause. I am really pleased with the fact that we are working through the issues and making progress to seeing the bill's principles implemented. We on this side of the chamber believe that the challenges in this bill can be overcome so that it can be implemented with some further consultation. So it is terrific that we can see that consultation between political parties and agencies is now occurring.

For me as the assistant shadow minister for families and communities—which includes responsibility for child protection—it really is an honour to be participating in this debate, and I look forward to engaging with other senators who have an interest in this area, such as Senator Hinch, about our duty as parliamentarians to keep our nation's children safe. We acknowledge that the online world has made that harder to uphold, and I want us to look at what we can do to help.

I think about this as a mother. I was innocently watching Peppa Pig with my two-year-old toddler, only to find that some people like to turn Peppa Pig into inappropriately sexually explicit material which is somehow interspersed with the kind of content that children might be accessing. I do not really care what people's fetishes are—if they want to dress up as Peppa Pig or whatever—but we do need to be able to protect our children from exposure to this kind of content. I was shocked and appalled to find that my toddler was exposed to this; they are amazing in how quickly and easily they can flick through apps and find the content that they want to look for. So I will be vigilant in supervising his use of YouTube as a result of that.

So the online world really does expose our children to an array of content and, indeed, interaction with individuals that really does give parents cause for concern. We know that the answer to that is engaging with parents, as Sonya highlights, and educating ourselves, but it also lays a great onus on us as lawmakers and as governments: for administrators of agencies like the AFP, Child Protection and our courts to do their part of that job, and for us to provide them with the right laws to do so. Parents cannot be everywhere at all times. We do need to empower them and to encourage them to work with their children to keep them safe online. But as my own experience as a child shows, I did not tell my parents when I had been put into a risky situation—I did not disclose that to them.

In closing, I want to say that I very much look forward to working productively with other members of this place to see this bill progress.

Senator DUNIAM (Tasmania) (11:40): I would like to start where the previous speaker finished, and that is that I would like to commend the Nick Xenophon Team for the work they have done in this incredibly important space. This is a very important issue and something that I, and I know many others in this chamber, feel very strongly about.

As a relatively new member of the Australian Senate and not being familiar with the work of previous parliaments with regard to this particular legislation—the Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2016—I have had to go away to do a bit of research. Apart from the media reporting that I observed on this particular case, I did have to review the details a little more to make sure I understood exactly what we are dealing
with here. I have to say that it is one of the most distressing things I have read. I can see very clearly why we have the motivation by the Nick Xenophon Team to do what they are doing here, prosecuting this case as they have for so long now. Again, I commend Senator Kakoschke-Moore, Senator Griff had also Senator Xenophon on their work.

As a father myself, with three young boys who are quite young in years—one, five and eight—and as my wife runs a child-care centre which looks after about 130 kids and is also a former child protection worker, we cannot deny the importance of the issues we are dealing with here. It is about the care and protection of our vulnerable young—those who in many cases cannot stand up for themselves and those who are lured into situations where they are not fully aware of what is going to happen. I fear for the future. As I said, my children are quite young. Senator Pratt was talking before about her child watching Peppa Pig. I presume on some sort of online platform like YouTube. I too, have encountered this situation where my children are happily watching some form of program appropriate for children and then suddenly something comes up on the screen which is highly inappropriate. I think that demonstrates the changing nature of the world we live in with regard to the technology that our children have access to.

I remember when I was a child and learning how to write that I started with a pencil and then got a biro licence. But as soon as kids can read and write these days they are on iPads and iPhones and things like that. There is no protection. That goes to the point that Senator Pratt and others have made, that you cannot observe all of their conduct. You cannot observe the contacts they are making in the world and who they are communicating with. That is why this is such a scary thing. As I said, from the experience of my wife as a former child protection worker and from some of the stories that I read in the media I cannot emphasise enough how important this is.

I do not think that anyone in this chamber—anyone with a beating heart—could deny the importance of this issue. I know we may all differ from time to time in our views on certain issues, but I detect very much support on all sides for the principle of what we are trying to achieve here, and that is to protect our young. As legislators we need to make sure that we do it properly, that the laws we make are the best laws possible for the people we are seeking to protect. In that, we need to proceed with caution; we need to ensure, as has been described by previous speakers, that we do not have unintended consequences. I will come to those a little later on, with reference to the committee reports that have been tabled previously on the previous versions of this legislation.

What I do take heart from is the fact that the government is in continuing discussions with the Nick Xenophon Team. I understand that there is a great deal of good will there, and I am very supportive of that work to make sure that whatever unintended consequences may well come in as a result of this legislation are ironed out and that we do have the strongest protections available for our young from predators in the online environment.

Just turning briefly, though, to the current legislative environment and the protections available under Australian law at present, brief research has shown me that the Criminal Code does contain a number of offences which have some coverage in this area and are aimed at protecting children online. It is important to point out, though, that currently the Commonwealth legislation does not directly criminalise misrepresenting one's age to a child online, although there are a number of existing offences in the Criminal Code which
criminalise online communications with children where there is evidence of an intention to cause harm to a child. I think it is important for us to know where we are coming from in considering where we seek to go with the legislation we are debating today.

I have some specific examples. Under sections 474.26 and 474.27 of the Criminal Code, it is an offence for a person over the age of 18, the offender in this situation, to use a carriage service to communicate with a person they believe to be under the age of 16, the recipient, with the intention of procuring the recipient to engage in sexual activity or making it easier to procure the recipient to engage in sexual activity, which is known as 'grooming', with the sender or another person. These offences are punishable by a maximum penalty of 15 years imprisonment and 12 years imprisonment respectively.

Online communications with a child with the intention of committing any other kind of serious offence against them would be captured by existing offences to do with using a telecommunications network with the intention of committing serious Commonwealth, state or territory offences or offences against a foreign law. So there is a base in law for protection, to some degree, but I acknowledge that the applicability of this law in certain circumstances is not comprehensive enough—hence us having this debate today and, indeed, the discussions outside this place in good faith to ensure that we get good laws at the end of the day.

As has been noted by previous speakers, there were concerns with previous versions of the bill. I will just touch on a couple of unintended consequences. The one that stuck out to me most was the need to deal with people with a mental or cognitive impairment or incapacity. I am a member of the Senate community affairs committees. We have been doing extensive work in this area, ensuring that laws relating to the detention of people with a cognitive impairment are appropriate and that such people are not unfairly dealt with and incarcerated for periods of time—in some cases, indefinitely—because of the inflexibility of laws and their circumstances not been taken into account. Just noting that, I think it is important that we ensure that, moving forward from this debate, any work or negotiations that occur between government and the Nick Xenophon Team takes that into account. I refer to one paragraph in the committee report which refers to an individual who has a physical age of 25 but may be working on the capacity of an eight-year-old. That is something that needs to be taken into account. I just want to make sure that those laws that we seek to put in place are, at the end of the day, ones that do not have unintended consequences.

The platforms through which communications is undertaken these days never cease to amaze me. I missed the list Senator Griff mentioned before. Senator Watt made reference to it too. Only a few years ago the number of platforms by which you as a kid could communicate with your friends—which is generally what happened in chatrooms and things like that—were far more limited than they are today. As I say, my eight-year-old son has started communicating with me—thankfully, through his mother's Facebook account—on Facebook messenger. But it has made me think. He is only eight years old. When I was eight, I was not engaging in communications of such a nature with anyone. Reading the details of the case that was the catalyst for what we are doing here today just fills me with fear about how easy it is for these predators to get a foothold in someone's life and create destruction. So, with the dynamic and changing environment of the online world, which is different from year to year, we need to make sure we have the legislative tools that are appropriate to deal with them.
I do want to acknowledge, as Senator Pratt did, the good work of the AFP and other online agencies. We read from time to time of the excellent work of AFP officers in foiling attempts of people to interact with young people in ways they should not. It disgusts me that people do that, but sadly in this world there are people who do it. So I do want to acknowledge the work of our law enforcement agencies. As Senator Pratt said, we need to make sure that these laws give those agencies the tools they need to effectively deal with the situations they are faced with.

I think that is, again, why it is so incredibly important that these discussions that are taking place proceed in good faith and that we make sure that agencies like the AFP and the Attorney-General’s Department have their say about what they think they need to work with. Indeed, we should be looking at other jurisdictions too. We do not need to reinvent the wheel. If there are other jurisdictions that do it well—they have laws that have prevented these sorts of things from happening—then we need to make sure that we are taking into account the experience of other jurisdictions.

The work to educate our younger people and our children to prevent these sorts of things from happening has also been mentioned. Early intervention is incredibly important. Senator Macdonald, a little earlier on, went through some of the programs that the Australian government supports. That is in addition to many of the programs that state and territory governments also run. If we can educate our young that they need to be vigilant and they need to be careful, that does go some way, but that does not detract from the need to ensure that our laws are stronger.

The DEPUTY PRESIDENT: Thank you, Senator Duniam. The time for the debate has expired, and you will be in continuance.
Regulation 2016, standing in the name of Senator Leyonhjelm for that day, be called on no later than 6.10 pm; and

(c) if consideration of the motion listed in paragraph (b) is not concluded at 6.25 pm, the questions on the unresolved motion shall then be put.

COMMITTEES

Selection of Bills Committee

Report

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (11:53): I present the eighth report of 2016 of the Selection of Bills Committee and I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE

REPORT NO. 8 OF 2016

1. The committee met in private session on Wednesday, 9 November 2016 at 7.20 pm.

2. The committee resolved to recommend—that—

(a) the provisions of the Civil Nuclear Transfers to India Bill 2016 be referred immediately to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 24 November 2016 (see appendix 1 for a statement of reasons for referral);

(b) the provisions of the Fairer Paid Parental Leave Bill 2016 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 15 February 2017 (see appendices 2 and 3 for a statement of reasons for referral);

(c) contingent upon its introduction in the House of Representatives, the provisions of the Interactive Gambling Amendment Bill 2016 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 30 November 2016 (see appendix 4 for a statement of reasons for referral);

(d) the provisions of the Migration Amendment (Visa Revalidation and Other Measures) Bill 2016 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 28 November 2016 (see appendix 5 for a statement of reasons for referral);

(e) the provisions of the Migration Legislation Amendment (Regional Processing Cohort) Bill 2016 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 22 November 2016 (see appendices 6 and 7 for a statement of reasons for referral);

(f) the Privacy Amendment (Re-identification Offence) Bill 2016 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 7 February 2017 (see appendix 8 for a statement of reasons for referral);

(g) the provisions of the Seafarers and Other Legislation Amendment Bill 2016, the Seafarers Safety and Compensation Levies Bill 2016 and the Seafarers Safety and Compensation Levies Collection Bill 2016 be referred immediately to the Education and Employment Legislation Committee for inquiry and report by 7 February 2017 (see appendices 9 and 10 for a statement of reasons for referral);

(h) the provisions of the Social Security Legislation Amendment (Youth Jobs Path: Prepare, Trial, Hire) Bill 2016 be referred immediately to the Education and Employment Legislation Committee for
inquiry and report by 21 November 2016 (see appendices 11 and 12 for a statement of reasons for referral);

(i) the provisions of the Superannuation (Objective) Bill 2016 be referred immediately to the Economics Legislation Committee for inquiry and report by 14 February 2017 (see appendices 13 and 14 for a statement of reasons for referral); and

(j) the provisions of the Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016 and the Superannuation (Excess Transfer Balance Tax) Imposition Bill 2016 be referred immediately to the Economics Legislation Committee for inquiry and report by 23 November 2016 (see appendix 15 for a statement of reasons for referral).

3. The committee resolved to recommend—That the following bills not be referred to committees:

- Biological Control Amendment Bill 2016
- Passenger Movement Charge Amendment (Norfolk Island) Bill 2016
- Tax Laws Amendment (Norfolk Island CGT Exemption) Bill 2016
- Territories Legislation Amendment Bill 2016.

The committee recommends accordingly.

4. The committee deferred consideration of the following bills to its next meeting:

- Automotive Transformation Scheme Amendment (Securing the Automotive Component Industry) Bill 2015
- Corporations Amendment (Publish What You Pay) Bill 2014
- Law and Justice Amendment (Northern Territory Local Court) Bill 2016
- Primary Industries Levies and Charges Collection Amendment Bill 2016
- Registration of Deaths Abroad Amendment Bill 2016
- Regulatory Powers (Standardisation Reform) Bill 2016
- Restoring Territory Rights (Dying with Dignity) Bill 2016
- Social Security and Other Legislation Amendment (Caring for Single Parents) Bill 2014.

(David Bushby)
Chair
10 November 2016

APPENDIX 1
Proposal to refer a bill to a committee:

Name of bill:
Civil Nuclear Transfers to India Bill 2016

Reasons for referral/principal issues for consideration:
To ensure the bill achieves the object of codifying, for the special case of India, and for the purposes of the relevant laws, the content of Australia's relevant international obligations in relation to nuclear safeguards to be applied by the IAEA in India.

Possible submissions or evidence from:
Department of Foreign Affairs and Trade
Department for Industry, Innovation and Science Individuals and organisations with relevant expertise Export businesses
Committee to which bill is to be referred:
Senate Foreign Affairs, Defence and Trade Legislation Committee.

Possible hearing date(s):
To be determined by the Committee.

Possible reporting date:
24 November 2016.
Senator Anne Urquhart

APPENDIX 2
Proposal to refer a bill to a committee:
Name of bill:
Fairer Paid Parental Leave 2016

Reasons for referral/principal issues for consideration:
Impact of bill on working mothers and their children, particularly women who are already pregnant
Overall economic productivity

Possible submissions or evidence from:
Fair Agenda ACOSS ACTU

Committee to which bill is to be referred:
Education and Employment

Possible hearing date(s):
7/2/2017
Senator Rachel Siewert

APPENDIX 3
Proposal to refer a bill to a committee:
Name of bill:
Fairer Paid Parental Leave Bill 2016

Reasons for referral/principal issues for consideration:
- Proper scrutiny of the Bill.
- Examine implications of the proposed changes on women and newborn babies.
- Examine implications of the proposed changes on employer provided paid parental leave.
- Examine implications of the proposed changes on family living standards.
- Examine implications of the proposed changes on women's workforce participation.

Possible submissions or evidence from:
- Department of Social Services
- The Parenthood
- Women & Work Research Group, University of Sydney
National Foundation for Australian Women
ACOSS
Fair Agenda

Committee to which bill is to be referred:
Senate Community Affairs Legislation Committee

Possible hearing date(s):
To be determined by the committee

Possible reporting date:
15th February 2017
Senator Anne Urquhart

APPENDIX 4
Proposal to refer a bill to a committee:

Name of bill:
Interactive Gambling Amendment Bill 2016

Reasons for referral/principal issues for consideration:
• Concerns about enforcement of penalties on offshore gambling providers in problematic jurisdictions.
• Concern whether legislation will prevent offshore wagering in a meaningful way.

Possible submissions or evidence from:
Mission Australia
Financial Counselling Australia
Sportsbet

Committee to which bill is to be referred:
Environment and Communications Legislation

Possible hearing date(s):
25/11/2016

Possible reporting date:
30/11/2016
Senator Kakoschke-Moore

APPENDIX 5
Proposal to refer a bill to a committee:

Name of bill:
Migration Amendment (Visa Revalidation and Other Measures) Bill 2016

Reasons for referral/principal issues for consideration:
To further investigate the potential impacts of the bill and seek views from affected stakeholders.

Possible submissions or evidence from:
Tourism sector
Community and Public Union
Unions

Committee to which bill is to be referred:
Senate Legal and Constitutional Affairs Legislation Committee

Possible hearing date(s):
To be determined by the Committee

Possible reporting date:
Thursday 28 November 2016
Senator Anne Urquhart

APPENDIX 6
Proposal to refer a bill to a committee:

Name of bill:
Migration Legislation Amendment (Regional Cohort Processing Bill) 2016

Reasons for referral/principal issues for consideration:
Impact on families and children, compliance with Australia's International Human Rights obligations.

Possible submissions or evidence from:
Aus. Human Rights Commission, Refugee Council of Australia, Law Council of Australia, Kaldor Centre for International Refugee Law

Committee to which bill is to be referred:
Legal & Constitutional Affairs Legislation

Possible hearing date(s):
Friday 18th November 2016

Possible reporting date:
24th November 2016
Senator Rachel Siewert

APPENDIX 7
Proposal to refer a bill to a committee:

Name of bill:
Migration Legislation Amendment (Regional Processing Cohort) Bill 2016

Reasons for referral/principal issues for consideration:
To further investigate the potential impacts of the bill and seek views from affected stakeholders.

Possible submissions or evidence from:
Refugee advocates
Resettlement services
Legal services
Migration agents
Committee to which bill is to be referred:
Senate Legal and Constitutional Affairs Legislation Committee

Possible hearing date(s):
To be determined by the Committee

Possible reporting date:
Thursday 24 November 2016
Senator Anne Urquhart

APPENDIX 8
Proposal to refer a bill to a committee:

Name of bill:
Privacy Amendment (Re-identification Offence) Bill 2016

Reasons for referral/principal issues for consideration:
This is legislation which proposes changes to the Privacy Act. Privacy law has a significant impact on the Australian people's rights to privacy.

It is appropriate and responsible for the Senate to properly examine the impact of proposed privacy laws.

There has also been a significant change in the composition of the Senate and it would be appropriate to allow the new Senators the opportunity to engage with this legislation.

Possible submissions or evidence from:
Attorney-General's Department
Office of the Australian Information Commissioner
Law Council of Australia
Australian Privacy Foundation
Liberty Victoria
Civil Liberties Australia
Electronic Frontiers Australia
Digital Rights Watch
Universities Australia

Committee to which bill is to be referred:
Senate Legal and Constitutional Affairs Legislation Committee

Possible hearing date(s):
To be determined by the Committee

Possible reporting date:
7 November 2016
APPENDIX 9
Proposal to refer a bill to a committee:
Name of bill:
- Seafarers and Other Legislation Amendment Bill 2016
- Seafarers Safety and Compensation Levies Bill 2016
- Seafarers Safety and Compensation Levies Collection Bill 2016
Reasons for referral/principal issues for consideration:
- Impact of bill on conditions of workers in maritime industry
Possible submissions or evidence from:
- MUA
- AIMPE
- AMOU
- State governments
Committee to which bill is to be referred:
- Education and Employment
Possible hearing date(s):

Possible reporting date:
7/2/2017
Senator Rachel Siewert

APPENDIX 10
Proposal to refer a bill to a committee:
Name of bill:
- Seafarers and Other Legislation Amendment Bill 2016
- Seafarers Safety and Compensation Levies Bill 2016
- Seafarers Safety and Compensation Levies Collection Bill 2016
Reasons for referral/principal issues for consideration:
- To ensure a thorough and complete assessment of its potential impact on workers, the maritime industry and governance of the Seacare scheme. There must also be an examination to ensure there are no unforeseen consequences arising from the Bill.
Possible submissions or evidence from:
- Unions (MUA, AIMPE, AMOU), employers, employer associations (Maritime Industry Association) and academics.
Committee to which bill is to be referred:
- Senate Education and Employment Legislation Committee
Possible hearing date(s):
- To be determined by the committee
Possible reporting date:
    7 February 2016
Senator Anne Urquhart

APPENDIX 11
Proposal to refer a bill to a committee:
Name of bill:
    Social Security Legislation Amendment (Youth Jobs Path: Prepare, Trial, Hire) Bill 2016
Reasons for referral/principal issues for consideration:
    Concern of the impact of the bill on young people
Possible submissions or evidence from:
    National Welfare Rights Network, ACOSS, Catholic Social Services, Brotherhood of St Laurence
Committee to which bill is to be referred:
    Education and Employment Legislation Committee
Possible hearing date(s):
    March 2017
Senator Rachel Siewert

APPENDIX 12
Proposal to refer a bill to a committee:
Name of bill:
    Social Security Legislation Amendment (Youth Jobs Path: Prepare, Trial, Hire) Bill 2016
Reasons for referral/principal issues for consideration:
    To apply proper scrutiny to the Bill and the wider program. To give an opportunity for affected stakeholders to provide evidence and give input to the program. To ascertain the possible consequences of the program. To examine thoroughly the Bill to ensure there are no unforeseen or unintended consequences.
Possible submissions or evidence from:
    Department of Employment
    Interns Australia
    Jobs Australia
    Australian Council of Trade Unions
    National Employment Services Association
    Anglicare
    Brotherhood of St Laurence
    Employers
    Employer Associations (ACCT, BCA, AlGroup)
Committee to which bill is to be referred:
    Senate Education and Employment Legislation Committee

Possible hearing date(s):

Possible reporting date:
    November 29, 2016
    Senator Anne Urquhart

APPENDIX 13
Proposal to refer a bill to a committee:
Name of bill:
    Superannuation (Objective) Bill 201

Reasons for referral/principal issues for consideration:
    • Requires broader stakeholder consultation
    • $7.6 billion package (revenue positive/negative)
    • Stakeholder concerns/pushing technical amendments
    • Political parties have already flagged amendments
    • Assessing whether the package can be made fairer and more fiscally sustainable

Possible submissions or evidence from:
    • Super sector stakeholders — ISA, AIST, ESC, SPAA
    • Grattan Institute, ACOSS, Council of the Ageing
    • Unions and employers groups

Committee to which bill is to be referred:
    Senate Economics Legislative Committee

Possible hearing date(s):
    To be determined by the committee

Possible reporting date:
    14 February 2017
    Senator Anne Urquhart

APPENDIX 14
Proposal to refer a bill to a committee:
Name of bill:
    Superannuation (Objective) Bill 2016 Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016 Superannuation (Excess Transfer Balance Tax) Imposition Bill 2016 (to be originated in the House of Representatives on Wednesday 9 November 2016)

Reasons for referral/principal issues for consideration:
    • Examining for unintended consequences and loopholes
Concerns that the government's proposed carry-forward contributions and tax deductibility for personal contributions open up even more possibility for exploitation by financial planners.

Possible submissions or evidence from:
- ATO
- Treasury
- Grattan Institute
- Australia Institute

Committee to which bill is to be referred:
Economics

Possible hearing date(s):

Possible reporting date:
2nd February 2017
Senator Siewert

APPENDIX 15
Proposal to refer a bill to a committee:
Name of bill:
Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016 Superannuation (Excess Transfer Balance Tax) Imposition Bill 2016

Reasons for referral/principal issues for consideration:
- $7.6 billion package (revenue positive/negative)
- Stakeholder concerns/pushing technical amendments
- Political parties have already flagged amendments
- Assessing whether the package can be made fairer and more fiscally sustainable

Possible submissions or evidence from:
- Super sector stakeholders — ISA, AIST, FSC, SPAA
- Grattan Institute, ACOSS, Council of the Ageing
- Unions and employers groups

Committee to which bill is to be referred:
Senate Economics Legislative Committee

Possible hearing date(s):
To be determined by the committee

Possible reporting date:
Wednesday, 23 November 2016
Senator Anne Urquhart
Ordered that the report be adopted.
BUSINESS

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (11:53): I move:

That—

(a) the following government business orders of the day be considered from 12.45 pm today:

No. 2 Narcotic Drugs Legislation Amendment Bill 2016
Narcotic Drugs ( Licence Charges) Bill 2016

No. 3 Higher Education Support Legislation Amendment (2016 Measures No. 1) Bill 2016
No. 4 Customs Tariff Amendment (2017 Harmonized System Changes) Bill 2016
Customs Amendment (2017 Harmonized System Changes) Bill 2016; and

(b) government business be called on after consideration of the bills listed in paragraph (a) and considered till not later than 2 pm today.

I also move:

That the question be now put.

The DEPUTY PRESIDENT: The question is that the question be now put.

The Senate divided. [11:58]

(The Deputy President—Senator Lines

Ayes .................... 28
Noes .................... 35
Majority ............... 7

AYES

Abetz, E
Birmingham, SJ
Canavan, MJ
Duniam, J
Fifield, MP
Hinch, D
Kakoschke-Moore, S
McGrath, J
Nash, F
Paterson, J
Reynolds, L
Scullion, NG
Sinodinos, A
Williams, JR

Back, CJ
Bushby, DC (teller)
Cormann, M
Fierravanti-Wells, C
Griff, S
Hume, J
Macdonald, ID
McKenzie, B
O’Sullivan, B
Payne, MA
Ryan, SM
Seselja, Z
Smith, D
Xenophon, N

NOES

Bilyk, CL
Burston, B
Carr, KJ
Culleton, RN
Di Natale, R
Farrell, D
Gallagher, KR

Brown, CL
Cameron, DN
Chisholm, A
Dastyari, S
Dodson, P
Gallacher, AM
Hanson, P
Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (12:01): I move the following amendment to the motion moved by Senator Fifield:

Omit paragraph (b), substitute:

(b) government business order of the day no. 7 (Income Tax Rates (Working Holiday Maker Reform) Bill 2016 and related bills) be called on after the consideration of the bills listed in paragraph (a) and considered till not later than 2 pm today.

The reason we have taken this step to move this amendment is that the government has been talking for some time now about the need to end the uncertainty for farmers and our tourism sector. And they are certainly right about the uncertainty. It has been going on for almost 18 months. It has been causing great harm and anguish to this country's farmers, the growers and tourism operators—

Government senators interjecting—

The DEPUTY PRESIDENT: Order on my right, please! Order! Senator Gallagher has the right to be heard in silence.

Senator GALLAGHER: After almost 18 months, and through this amendment, we say to the government: let's end the uncertainty today. It has gone on for too long. I know there is a lot of support on the government benches for an approach like this. Let's not forget that two weeks ago this legislation was so urgent that the government gagged debate on it in the House of Representatives. It is quite a significant move to gag debate, but the government obviously believed that this bill was so pressing and so crucial to deal with that we could not even have the full debate in the other place.

It is worth noting what some government members in the other place said about this bill when they were dealing with the legislation. Mr Broad, the member for Mallee, asked the shadow minister for agriculture:
… if you could, please ask your senators not to hold this up any longer than it needs to be because it is important that not only is it done and dusted by Christmas but that it is well communicated so that those backpackers continue to come.

We agree with those comments, which is why we are urging that these bills be brought on in the Senate today. Mr Christensen, the member for Dawson, said:

… there is no justification for any further delay.

Ms Marino, the member for Forrest, demanded that we:

… step up to the plate and get this through the parliament and into practice. Our regional economies are relying on it.

Mr Wilson, the member for O'Connor, said:

Deferring this legislation simply creates more uncertainty for both potential working holiday makers and our regional economies.

Mr Drum, the member for Murray, said:

What we need to do is put the message out there very clearly to the Senate that this is time critical—

I repeat: the member for Murray said that 'the Senate needs to get the message that this is time critical'—

and there are going to be an awful lot of mum-and-dad—

Government senators interjecting—

The DEPUTY PRESIDENT:  May I remind senators once again that senators have the right to be heard in silence. Further, I remind senators it is particularly disorderly to be calling out when they are not in their correct seats.

Senator GALLAGHER:  Thank you, Madam Deputy President. Mr Drum said:

… there are going to be an awful lot of mum-and-dad Australian businesses that are going to be impacted if these games continue any longer than another week.

Well, we are now at the end of that next week, and we say that these games need to end today. We agree with all of the members of the government in the other place that we need to provide certainty for our farmers and our tourism sector. The government has spent almost 18 months causing uncertainty. We can end this now. Let's get it done so our farmers, our growers and our tourism operators can move on.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (12:05):  I think the evidence for the fact that this is a stunt is being demonstrated by the fact that the motion, or the proposed amendment, that Senator Gallagher circulated is being circulated, essentially, as I was getting to my feet to move the order of business. This is a standard motion that is moved every Thursday to bring on non-controversial legislation so the Senate can transact those bills where there is no dispute. Also, part of this motion is to provide for government business to be brought on after the conclusion of the non-controversial legislation.

The convention in this place is that the government of the day determines what government business is. The government of the day determines the order in which government business is called. There is a lot of government business that is before the Senate, and it is the responsibility of the government to order that legislation in an orderly way—in a way that can
see important legislation transacted—and that is what we have done through the course of this week. This has actually been, up to this point, a good week in the Senate. We have dealt with the appropriation bills, we managed to have the plebiscite bill come to a vote in good time and we also managed to legislate a 25 per cent reduction in licence fees for radio and TV. So this has been a productive week for the Senate, and the Senate works best when the government of the day is allowed to order the business in government business time, hence the name 'government business time'.

That is what I was seeking to do by moving the motion that I have. It is a routine motion. What Labor is seeking to do is not to demonstrate any genuine interest in the matter that they are seeking to bring on. They know, I think as all colleagues in this place know, that in relation to the backpacker tax the government said before the election that it would look at the issue. We have looked at the issue and we have put forward a proposition. Obviously, there are discussions that are continuing in this place with a range of colleagues, and that is appropriate. So we will not be part of this stunt and we are of the view that the motion that I have moved should proceed without amendment.

Senator LAMBIE (Tasmania) (12:09): I rise to support Labor's amendment to government business which will ensure that the government's legislation relating to backpacker legislation is dealt with as a matter of urgency by this Senate. On behalf of Tasmanian farmers and workers whose full-time jobs depend on that surge of seasonal backpacker workers I thank Labor, the Greens, One Nation and other crossbench senators who are going to support this important amendment, which will force the government's legislation to be brought into the Senate.

I would like this chamber to reflect on the reality of what we are trying to do here. The opposition and the crossbench senators have been forced to move an amendment that makes the government introduce their own legislation. What an embarrassment for this government that they will now try to prevent a debate on their own legislation. It is not just any old government legislation that is not time sensitive. This government legislation is extremely urgent. It is legislation that is highly time sensitive. It is legislation which affects the livelihoods and life savings of hundreds of Tasmanian farmers and thousands of full-time Tasmanian workers.

The Liberal-National government, by delaying the introduction of their own backpacker legislation this week, have shown not only that they have a care factor of zero for rural and regional areas and our tourism industry but also that they have betrayed the people who are supposed to be their loyal supporters. If you look at the National Party office doors in this Senate, you will see signs which say 'Nationals for regional Australia'. What a distortion of the truth. What a nasty, grubby, little porky being peddled by a group of backstabbing, gutless cowards. The leader of this useless herd of has-beens and geldings is our Deputy Prime Minister, Mr Joyce, who took ordinary Australians, especially those in Tasmania and other regional areas, for fools when he said that backpackers fruit-picking were taking Australian jobs. What a load of bloody rubbish. He knows that the livelihoods of Australian farmers and their full-time Australian workers depend on the surge in seasonal backpacker workers, and that if we do not have backpacker seasonal workers coming to Australia then millions of tonnes of ripe fruit, berries and vegetables will rot—they will absolutely rot—and farm
businesses will go bankrupt and thousands of full-time Australian workers in the farming and food processing industries will have to be sacked.

If the Liberal and National parties really wanted to protect local Australian jobs they would stop blaming backpackers. The overseas visitors who are really taking Australian jobs are the people here on overseas student visas. They and their employers are robbing the system and taking away jobs from our children. They are only supposed to work 20 hours a week and they are often working three times that for employers who are robbing the system and exploiting vulnerable workers. If you want to have more jobs for our kids and for their future stop those on student visas from working here in Australia—full stop.

I want this government backpacker debate brought before this house as soon as possible, because the government's promise of lowering the tax rate to 19 per cent is not working. It has completely failed. Tasmanian farmers have told us that the government's proposed 19 per cent backpacker tax rate is not internationally competitive. Backpackers are avoiding Australia in droves because of this government's insistence on 19 per cent. Everyone agrees that a 10.5 per cent backpacker tax will make us internationally competitive again—not for this season, though. Those people over there have finished it for this season. This season is finished; it is absolutely over. They did no modelling. They have not estimated what it is going to cost this summer for our industry. You have not done any modelling—too bloody lazy—and for that our farmers are going down.

Senator Ian Macdonald: Madam President, I raise a very serious point of order. We can all say 'bloody this' or 'bloody that' in this chamber, and that is perhaps how we talk outside the chamber. But I seek your ruling on whether this senator's continual reference or use of the adjective 'bloody' is appropriate for this chamber. If the ruling is that it is appropriate for this senator then I am sure we can all indulge ourselves in that as well. But I do think the Senate has some standards that should be observed by all senators, and I ask your ruling on that.

The DEPUTY PRESIDENT: Senator Lambie, I do remind you to conduct yourself with decorum. Whilst this is an emotional debate and we appreciate the emotion in the room, we just need to be more nuanced with our language. Thank you, Senator Lambie.

Senator LAMBIE: I think after yesterday's win in the US, the way the political establishment operates is over. Everyone agrees that a 10.5 per cent backpacker tax will make us internationally competitive again. And it will help fix the damage caused by an incompetent, gutless, deceitful Liberal-National government in the future, who have single-handedly almost stuffed our fruit picking and horticultural industry—for this summer, certainly.

Senator XENOPHON (South Australia) (12:15): I and my colleagues Senators Griff and Kakoschke-Moore will not be supporting this motion for a number of reasons. The leader of government business says that this is a stunt—and I know a thing or two about stunts! There are good stunts and there are counterproductive stunts. I think this motion is counterproductive for a number of reasons. We cannot support this motion because currently we are openly in good-faith negotiations with the government on a parallel amendment in respect of the backpacker tax. That relates to an opportunity for unemployed Australians, Australians who are on welfare, to have an opportunity to do this seasonal work without being penalised. Under the current system, if you earn more than $104 a fortnight you lose 50c in the dollar thereafter and it tapers off—if it is more than $1,000 a fortnight you get nothing.
This system is built with massive disincentives for those on welfare to have a go and do this seasonal work.

The government, to their credit, have been open to this idea. I met with Deputy Prime Minister Barnaby Joyce not so long ago, and Treasurer Morrison and Minister Porter have been open to this suggestion. There is no question that the 32 per cent backpacker tax was an ill-conceived policy notion and is counterproductive. We are facing a crisis, this season, that we need to resolve sooner rather than later. Senator Lambie is right. There will be many thousands of tonnes of produce left rotting on the ground in the Riverland of South Australia, in the Adelaide Hills, where my colleague Rebekha Sharkie, the member for Mayo, has been championing this proposal in relation to raising the threshold to 19 per cent. Some would say that is too high. But our wage rates are higher than New Zealand's and those of other countries. That is a countervailing factor, and I accept that.

We cannot support this motion because we are negotiating in good faith with the government. I urge my crossbench colleagues to see that there is a way through this. Forcing a vote on this today is counterproductive. There is scope to get the best of both worlds—to use the backpackers that we need to pick the fruit but to also, for the first time ever, unleash the potential of many thousands of young and older Australians who right now, with the huge disincentives built into our welfare system, are penalised for having a go. We want to remove that disincentive.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (12:18): The government claims that this bill is of utmost importance. However, despite the report being tabled yesterday, the government has not brought this bill on for debate. Senator Xenophon, we could have been debating it today but the government has chosen not to. So despite this bill being 'urgent'—like a number of other bills and the urgent election we have had—the government has failed to fix this issue. But they have to fix it because what a disaster this has been for this government. I agree with Senator Lambie about the impact it has on the season in Tasmania. I was at the Tasmanian inquiry. I will talk about couple of issues there—I am only going to talk quickly about this today. We know that farmers and tourism operators around Tasmania, and in the rest of Australia, are hurting because of this situation.

Working holiday-makers, backpackers, help harvest production and we are looking at a situation where, nationwide, that is being put at risk. The government sought to make changes that significantly affect the agriculture sector without even bothering to consult with the sector. Once again, there was no consultation. The way the government has approached this issue is disgraceful. As I said, farmers and tourism operators across Tassie and Australia are absolutely livid at the arrogance, incompetence and ignorance that the Liberal-National government has brought this issue. The farmers and tourism operators face uncertainty and loss and fear for the future of their operations.

I just want to quote evidence given by Mr Tim Reid at the Launceston hearing of the inquiry into this bill. Mr Reid, from Reid Fruits, is one of Tasmania's largest agricultural employers, with a particularly large export market for high quality cherries. Mr Reid told the committee:

We have over 600 people on our own farm during harvest. Again, around 65 per cent of them are backpackers. The locals are really good; they provide a regular return each year to fill key positions in management during harvest et cetera. But without the backpackers we do not have a hope.
… you would have gained by now that this whole exercise has been a shambolic process to introduce a new tax—a simple grab for money, in our opinion, without any thought or consideration and with a complete lack of consultation with people like ourselves.

I cannot believe that they did not go and talk to the agriculture industry. Once again, Senator Lambie, I agree with what you say: the Nationals should hang their heads in shame for how they are treating the people of Australia. It is absolutely abysmal.

In the case of Reid Fruits we have seen a decline by 50 per cent this year—
I am quoting Mr Reid again—
in the number of backpackers who have applied for positions with us. We will scrape through this season; we have enough people to fill our positions so far. But I must say that a lot of those backpackers were already in Australia when this tax was announced, some of them on second-year visas. It is the next wave of applicants that we are worried about.

That is from one of Tasmania’s leading exporters. They are not a piddly little farming organisation that might need a few people; they are huge. They do great things for Tasmania, and I think Tasmanian senators on the other side should be thinking very carefully about what this means for Tasmania before they just wander off into the wide blue yonder and put their hands up for their side.

Tasmania has done a wonderful job building up its export industry in recent years, and it would be an absolute disaster to see them continually impacted by this government’s incompetence. It is pretty clear we need to get this issue resolved, but it is also important that we solve this in the right way. The government previously sought to rush this legislation through. They appear to have been of the opinion that any solution was good enough. Well, it is not. If the government do not get this policy right, they could destroy farms and farmers, destroy our export markets, and destroy towns and families across Tasmania and Australia. We can and must do better. As I said, the government have stumbled into this issue without taking any due care. We heard at the inquiries how they did no modelling. We heard at the inquiries how they did not consult with anybody.

At the Launceston inquiry, I spoke to Mr Glynn Williams, president of Primary Employers Tasmania. I asked him, 'Were you consulted prior to the 2015-16 budget announcement?' Mr Williams replied, 'No'. Ms McKinnon, from the National Farmers Federation, told the hearing in Canberra:

… I think we would have preferred to have been consulted before the 2015 budget announcement. Clearly, when announcements are made without consultation, there will be people who find parts of the announcements surprising, and that can lead to some consternation. So we would have preferred to have been consulted then.

This government has a history of not consulting people.

And what I do not understand is: if it is such an important issue—of the utmost importance—why don't they want to bring on the debate? We know they have acted arrogantly, we know they have not listened to the industries affected, we know they have acted recklessly without any modelling or considering any of the impacts—especially in regional and rural areas, which of course is where most of this work takes place—and we know they have acted thoughtlessly without considering the impacts on Australian farmers, tourism operators and small communities. Let us not forget those backpackers spend most of
their money in the communities they are actually working in, and so those other small businesses in those small communities will also suffer.

Those opposite need to have the courage to face this chamber and absolutely fix the destruction that they have wrought. I would ask that Senator Xenophon reconsider his position about not supporting this. You are right, Senator Xenophon; it is important. We know it is important and we need to resolve it. I believe that bringing the debate on today is one way to help resolve this issue more quickly.

Senator WHISH-WILSON (Tasmania) (12:24): First, I would like to raise a process issue. The Greens were not consulted about this today. We had no idea this was coming on. Obviously, we have been out there campaigning on this issue—before every other political party was, by the way. Nevertheless, we do agree that it is important to get some certainty for agricultural producers. We do agree that a potential deal is on the table here for agricultural producers and for backpackers, and we believe it will be accepted by the agricultural community. Senator Lambie has raised publicly a 10½ per cent tax rate that would allow us to be competitive with New Zealand. We would also like to see the superannuation clawbacks removed. However, if they were not that would still get local agricultural producers to around an effective rate of 19 per cent.

Our view has been very simple from the start. The very first thing I did during the double-dissolution election was to go out to the Tamar Valley to call a press conference and stand with agricultural producers—fruitgrowers, in this case. I said to them, ‘You need to stand up on this issue now, during the election. This is when you're going to have the most leverage to actually get an outcome on this issue.’ Their point is simply, ‘If it ain't broke, don't fix it.’ Their situation is that they have a competitive advantage over other countries to attract a pool of labour that is desperately needed.

Senator Xenophon, I do not agree with you on this issue. It is important to try to get those social security recipients into meaningful work if that is what they choose to do. However, let me tell you: you obviously have not been out to talk to agricultural producers. Nearly all of them have a policy to employ locally first, but they simply cannot get the pool of labour they need—the seasonal labour they need—at the right times. It is absolutely essential that that pool is filled by backpackers when they are here in this country. With my small vineyard in Tasmania I have used backpacker labour. I know how essential it is. Whilst the policy you are proposing may take some time to implement, if it works it is a positive. But it will not solve the situation now, I guarantee it. You are out of touch with what agricultural producers want. They want some certainty on this.

The easiest way to solve this problem would be for the Senate and the lower house to amend the Income Tax Act 1982 and make it certain that backpackers, while they are here in Australia, are residents for tax purposes. That means they pay the same tax as Australians. That means they pay no tax on their first $18,200. This is the most important point in this debate. At the moment a backpacker can elect whether they are a resident for tax purposes. The test for that residency is available for every backpacker to have a look at. The government, including Senator Duniam, is going around and saying that all backpackers will pay 32 per cent tax if this legislation does not pass. That is false. The ATO are on record saying at the Senate inquiry that that is false. Many backpackers—unfortunately, we do not know how many because no-one has ever looked at this—are residents for tax purposes when
they are in Australia. I gave an example at the Senate inquiry of two Patagonian workers who rent the cottage on my family farm. They base themselves in Tasmania for six months and they work at the Hillwood Berry Farm. They are passionate rock climbers and they spend the whole year in Tasmania climbing mountains, but they work out of a single place. To all intents and purposes, they are residents and they pay no tax. They are just one example. The government is going out there and scaring people. The government has gone from telling bulldust one day to playing the xenophobia card the next day. They went straight to fearmongering. That is the last refuge of the scoundrel.

This tax is a stupid idea. It is not trying to fix a broken system; it is simply penny-pinching revenue raising when there is so much more we could do in this country to raise revenue. This is not wanted at 19 per cent or at 32 per cent by the agricultural sector. We can find the money elsewhere. I urge the Senate to reject the government’s tax and actually get a result today that will fix the problem. Then we can move on to more important matters, like how we are actually going to raise some serious revenue to pay for the services we need in this country and help balance the budget.

The DEPUTY PRESIDENT: The motion we are looking at is the amendment moved by Senator Gallagher. Is the amendment agreed to?

The Senate divided. [12:34]

(The Deputy President—Senator Lines)

Ayes .................33
Noes .................26
Majority ..........7

AYES
Bilyk, CL
Burston, B
Chisholm, A
Dastyari, S
Dodson, P
Gallacher, AM
Hanson, P
Ketter, CR
Leyonhjelm, DE
McCarthry, M
Moore, CM
Polley, H
Rhiannon, L
Roberts, M
Sterle, G
Waters, LJ
Whish-Wilson, PS
Brown, CL
Cameron, DN
Culleton, RN
Di Natale, R
Farrell, D
Gallagher, KR
Hanson-Young, SC
Lambie, J
Marshall, GM
McKim, NJ
O’Neill, DM
Pratt, LC
Rice, J
Siewert, R
Urquhart, AE (teller)
Watt, M

NOES
Abetz, E
Birmingham, SJ
Bushby, DC
Cormann, M
Fierravanti-Wells, C
Back, CJ
Brandis, GH (teller)
Canavan, MJ
Duniam, J
Fifield, MP
Thursday, 10 November 2016

Senators: Griff, S; Hinch, D; Hume, J; Kakoschke-Moore, S; Macdonald, ID; McGrath, J; McKenzie, B; O'Sullivan, B; Paterson, J; Payne, MA; Reynolds, L; Ryan, SM; Scullion, NG; Sinodinos, A; Williams, JR; Xenophon, N

PAIRS

Carr, KJ; Seselja, Z; Collins, JMA; Smith, D; Kitching, K; Nash, F; Ludlam, S; Cash, MC; McAllister, J; Ruston, A; Singh, LM; Fawcett, DJ; Wong, P; Bernardi, C

Question agreed to.

The DEPUTY PRESIDENT (12:36): Is the motion moved by Senator Fifield, as amended, agreed to?

Original question, as amended, agreed to.

Consideration of Legislation

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (12:36): I move:

That the order of general business for consideration today be as follows:
(a) general business order of the day no. 31 (National Integrity Commission Bill 2013); and
(b) orders of the day relating to documents.

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. 3 standing in the names of Senators Griff and Xenophon for today, proposing a reference to the Community Affairs References Committee, postponed till 21 November 2016.

COMMITTEES

Reporting Date

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

Community Affairs References Committee—Medical complaints process, extended to 30 November 2016.

Education and Employment Legislation Committee—Fair Work Amendment (Gender Pay Gap) Bill 2015, extended to 30 November 2016.
In the Senate on Thursday, 10 November 2016, the Rural and Regional Affairs and Transport References Committee—Airport and aviation security at Australian airports, extended to 7 February 2017.

The DEPUTY PRESIDENT (12:39): I remind senators that the question may be put on any proposal at the request of any senator. There being none, I shall now proceed to the discovery of formal business.

**MOTIONS**

**Environment**

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (12:39): I move:

That the Senate—

(a) notes that:
   (i) the Queensland Labor Government has invoked special powers to declare the Adani mega-coal mine, railway and associated water infrastructure to be 'critical infrastructure', and
   (ii) the Great Barrier Reef suffered the worst ever mass bleaching event in March 2016, driven by coal-fuelled global warming; and

(b) declares that the real critical infrastructure is our schools, hospitals, public transport, clean energy and the Great Barrier Reef.

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (12:39): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted.

Senator McGrath: The government opposes this motion because the coalition supports investment and jobs for regional Queensland. The Carmichael project is a $16.5 billion investment that will create direct employment of around 4,200 jobs during construction and over 3½ thousand jobs when it is fully operational. The government welcomes the Queensland government's recent decision to declare the combined mine, rail and associated water infrastructure of the project as critical infrastructure.

The Queensland government says this special prescribed project status is necessary to unblock delays to obtaining a multitude of secondary local government approvals. We also call on the Queensland government to remove any remaining roadblocks to the approval of this project. Without this sort of investment, without jobs, infrastructure like schools, hospitals and transport cannot be paid for and delivered.


The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator Gallagher: Labor was not consulted in advance on this motion. We will not be supporting it. The motion should note that the Queensland government introduced legislation to reduce land clearing and protect the Great Barrier Reef, but the legislation was defeated. It is surprising that the Greens clearly do not consider the following to be critical infrastructure: the NBN and all communications infrastructure; all social infrastructure, and not just schools and hospitals; universities; research facilities; roads; rail; airports; ports; cycleways and walkways; water storage and treatment; energy distribution and transmission; and any other major infrastructure that supports our nation's development and prosperity. It is
also surprising to see the Greens call the Great Barrier Reef, and apparently no other reefs, infrastructure. Infrastructure is created by humans to serve human activity. Reefs are living entities in their own right that must be protected as natural assets.


The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator WATERS: Adani's mega coalmine belongs in the bin, but the Queensland government has bent over backwards to put it on the fast track. Queensland Labor was elected to save the reef, but instead it is fast-tracking dangerous coal by declaring it to be critical infrastructure. In an age of global warming, a new coalmine is not critical infrastructure, and, according to recent polls, three-quarters of Queenslanders agree. True critical infrastructure are the schools, hospitals, good farmland, clean energy and the world-class national parks across our state. True critical infrastructure is the Great Barrier Reef and the 70,000 jobs that it provides. Labor's decision to fast-track this mine is unprecedented and completely improper for a private development. That declaration could fast-track water assessments and potentially strip community review and appeal rights. It is time that Queensland Labor stopped bending over backwards to support multinational mining companies and started protecting the reef, planning for the transition away from coal and genuinely creating jobs in regional Queensland in a clean manner. (Time expired)

Question negatived.

Perinatal Depression and Anxiety Awareness Week

Senator KAKOSCHKE-MOORE (South Australia) (12:42): I move:

That the Senate—

(a) notes that:

(i) Perinatal Depression and Anxiety Awareness Week runs from Sunday, 13 November to Saturday, 19 November 2016,

(ii) the awareness week was established in 2005 by Perinatal Anxiety and Depression Australia (PANDA), which operates the only specialist perinatal mental health telephone counselling service in the country,

(iii) perinatal depression and anxiety is a serious illness that will affect around 100,000 Australian families this year,

(iv) more than one in seven new mums, and up to one in ten new dads, are diagnosed with postnatal depression each year; even more are thought to suffer with anxiety,

(v) the effects of the illness ripple throughout the community and it's important for expecting new parents, as well as those around them, to be aware of perinatal depression and anxiety to know the signs to look out for and where to go for help, and

(vi) perinatal depression and anxiety can present differently in each person who experiences it, but signs and symptoms include mood swings, lack of energy and motivation, crying for no apparent reason and wanting to sleep more than usual; and

(b) recognises the importance of Perinatal Depression and Anxiety Awareness Week and the work of PANDA in promoting the week and raising awareness in the community about perinatal depression and anxiety.

Question agreed to.
Live Animal Exports

Senator RHIANNON (New South Wales) (12:43): I move:

That the Senate—

(a) notes that:

(i) the Department of Agriculture and Water Resources report, Live-stock mortalities during exports by sea—Report for the period 1 January to 30 June 2016, tabled on 7 November 2016, recorded that another 839 cattle and 4,301 sheep died on live export ships in the first six months of this year,

(ii) from 2009 to 2015, a total of 147,969 animals, that is 7,791 cattle and 140,178 sheep, died on live export voyages from Australia, representing an average of 406 animals per week suffering lingering deaths in that period,

(iii) mortality is no indicator of morbidity or the number of animals who suffer on lengthy live export voyages,

(iv) deaths at sea are so accepted by the industry and government that on every consignment, 1 per cent of cattle and 2 per cent of sheep can die without triggering a government investigation, and

(v) not one exporter has ever had its licence revoked, despite continuing and horrific breaches of the Exporter Supply Chain Assurance System (ESCAS); and

(b) calls on the Government to end the live export trade and work to expand the trade in boxed chilled meat.

Senator BACK (Western Australia) (12:43): I seek leave to make a statement for one minute.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator BACK: I draw the attention of the chamber to the numbers that Senator Rhiannon has spoken about, those being 839 cattle lost in this time. What she did not say is that that is 0.14 per cent of the 600,000 cattle—in fact, cattle are far safer on ships than they are on the rangelands—and that 400 sheep out of 830,000 sheep represents 0.5 per cent. Senators might be interested to learn that human beings in this place die at the rate of 0.6 per cent, a higher rate than either cattle or sheep. Senator Rhiannon is quite right in terms of morbidity, because livestock actually put on weight during the journey. But what is interesting is that Senator Rhiannon in her motion speaks about the fact that 406 animals have been dying on the ships per week. It might be of some interest to learn that 406 humans in Australia die per day. (Time expired)

The DEPUTY PRESIDENT: Is the motion as put by Senator Rhiannon agreed to?

The Senate divided. [12:49]

(The Deputy President—Senator Lines)

Ayes ......................9
Noes .....................43
Majority.................34

AYES

Di Natale, R
Hinch, D
Rhiannon, L
Siewert, R (teller)
Whish-Wilson, PS

Hanson-Young, SC
McKim, NJ
Rice, J
Waters, LJ
Question negatived.

**BUSINESS**

**Leave of Absence**

**Senator URQUHART** (Tasmania—Opposition Whip in the Senate) (12:52): by leave—I move:

That leave of absence be granted to the following senators for personal reasons:

(a) Senator Collins for today; and 
(b) Senator McAllister for 9 and 10 November 2016.

Question agreed to.

**Senator BUSHBY** (Tasmania—Chief Government Whip in the Senate) (12:53): by leave—I move:

That leave of absence be granted to Senator Fawcett for today, for personal reasons.

Question agreed to.

**BILLS**

**Narcotic Drugs Legislation Amendment Bill 2016**

**Narcotic Drugs (Licence Charges) Bill 2016**

**Second Reading**

Consideration resumed of the motion:

That these bills be now read a second time.
Labor will not be opposing these bills, but the bills are only necessary because of problems and issues with the government's handling of the legislation surrounding the national scheme.

In February this year, parliament passed the Narcotic Drugs Amendment Bill 2016, which allowed for the establishment of a national scheme for access to medicinal cannabis. Labor did support that legislation at the time. We had been very much at the forefront of a push for a national scheme so that we could ensure that access to medicinal cannabis was equal regardless of where you lived across this vast country. But here we are now, some six months later, and we learn through this legislation of existing loopholes and errors that these bills have been drafted to fix. When you look at what those errors or loopholes are, it is very clear that these issues should have been looked at earlier, and should have been identified through the earlier phases of the work that was done on the bill passed back in February this year. These are things such as the need to protect sensitive law enforcement information that is available to determine whether an applicant for a cannabis licence is a fit and proper person—that should have been foreseen; the need to guard against cannabis licences transferring from one person to another, for example, when a business changes hands—again, this could have been foreseen in earlier phases of the work; and the fact that enabling laws were required to recover the cost of regulating the new medicinal cannabis industry. All of these things should have been part of earlier phases of policy work prior to the original legislation coming into force.

We know that these issues—as identified and as covered off in this amending bill—could have real consequences. The Minister for Health herself has said:

It is important that the government is able to communicate on the full regulatory costs of this scheme as soon as possible in order to allow potential applicants to plan their businesses and complete their applications.

But here we are, some time after—in fact, 12 days after—the start of the national scheme on 30 October.

We will support these bills because they address some of those problems that have been identified, and because Labor supports the need for a national scheme. That is why we supported the original legislation in February. For some, that decision could have been controversial, but Labor was driven by the science and the compassion, particularly of those individuals have been lobbying hard for these laws to be put in place. We firmly believe the time has come for a national scheme.

This proposed legislation addresses some problems with that national scheme. It is now over to the government to get everything in order to make sure that the national scheme works, and that it is subjected to no further delays. We support these bills. We wish that these problems had been dealt with earlier, in the February legislation, but we accept that the problems were identified later and that these bills address those problems. As such, we will be supporting the bills today.

Senator IAN MACDONALD (Queensland) (12:57): I rise to speak on this bill, the Narcotic Drugs Legislation Amendment Bill 2016 and the related bill. These two bills are very important and, as the previous speaker has said, they complete the legislation necessary in relation to medicinal cannabis.
The senators in this chamber might recall that the Senate Legal and Constitutional Affairs Legislation Committee was referred this bill in the last parliament. It was a private member's bill submitted, as I recall, by Senator Di Natale and it was a rather complex bill. The committee took some time, and I think we held inquiries in three or four different places throughout the country, investigating medicinal cannabis. The committee was persuaded—relatively easily, I might say—by the evidence that came before us that, with the proper safeguards, medicinal cannabis would be a useful addition to the suite of drugs, tools and procedures available to Australian health practitioners to deal with some illnesses. The committee was persuaded by a number of very telling pieces of evidence from people who spoke about their family's involvement. People were telling us that they were breaking the law—illegally sourcing cannabis—and they did not care. In fact, I do recall that as a committee we warned a couple of people. We said, 'Perhaps you'd rather give your evidence in camera; perhaps you'd rather not give the evidence at all,' because they were effectively conceding that they were breaking the law by using medicinal cannabis that had been imported from overseas or obtained locally in some cases. To a person, people said to us: 'Thanks for the warning, but this has been so beneficial to a member of our family that we don't care. If the police want to arrest us as we leave here, let them do it.' That was because medicinal cannabis is the only drug that has given their loved ones relief. There was quite a bit of that evidence and, as I said, the committee was persuaded that the idea was a good one.

There were some reservations about the complex nature of the bill—and I mentioned that it was a complex private member's bill. I mean no disrespect to Senator Di Natale. As an opposition member in this chamber he does not have access to the resources that governments have when preparing bills. The committee looked into the various provisions of the bill very, very carefully and, as I recall, our suggestion was that the bill perhaps not be passed because of some difficulties with the technical aspects of it. But the committee recommended to the government that it take it over, and I have to say all credit to Senator Di Natale, who did not object to the committee's proposition that the government take over the bill or introduce its own bill for the long-term purposes of allowing the use of medicinal cannabis under very strictly controlled conditions that were safe for the users. Madam Acting Deputy President Reynolds—I think you were a member of that committee, from memory—we were pleased to support Senator Di Natale's bill in its concept but not in its exact detail.

As a result of that, all credit then goes to the Minister for Health and Aged Care, Sussan Ley, who understood and accepted the broad recommendations of the committee that the time had come for medicinal cannabis to be available in Australia. She and her department then embarked upon the process of drawing up the legislation, getting it before parliament and having it pass through parliament. I heard what the previous speaker said, rather disingenuously, when she criticised the government for not getting the first bill right and having to come back with the two bills before us: the Narcotic Drugs Legislation Amendment Bill and the Narcotic Drugs (Licence Charges) Bill. With due respect to the previous speaker, I think she was just having a bit of a slash. Labor, even though they agree with the bills, cannot allow them to go through without having something nasty to say about the government, so I guess we can excuse her for that rather partisan comment. These bills actually are the completion of the suite.
I have to say I have been surprised at the number of Australians who are interested in this whole subject. I knew from the committee hearings that people benefited from medicinal cannabis. They gave very substantial and very persuasive evidence. But since then, in particular up my way—and I understand this happens everywhere around Australia—I have heard that there are a lot of enterprising farmers who want to be part of a new growth industry of medicinal cannabis.

You can never raise this subject without smiling. I remember I inappropriately said—it was only a joke but you should not joke about this—at one stage during the course of this: 'Come up to North Queensland. You don't need to cultivate. There is plenty up there growing wild that you could use.' But the growth of medicinal cannabis requires a very special process. The evidence given to us told us that medicinal cannabis, as many of you know who may have smoked it in the past—I have to say I am probably the one person in Australia that for no particular reason has never, ever smoked marijuana.

Senator Williams interjecting—

Senator IAN MACDONALD: You too, Senator Williams. I probably would have if I had been around somewhere it might have been, but I never did.

Senator Watt: You didn't inhale?

Senator IAN MACDONALD: No, I did not even inhale. I never did it. It was never in an area where I could have done it. And, of course, I was a solicitor in a small country town and upholding the law. I remember I used to defend young people when, in those early days, the possession of just one seed would send them to jail, and if they worked for the government it was an automatic loss of their job. As a young solicitor I used to defend a lot of young people who, unfortunately, had obviously given something by someone. They did not know what it was. The seed had dropped out of their pocket and the police had found them and arrested them. We used to have quite some fun. I defended so many of these people—some successfully and some not successfully, I have to confess—that the police thought at one stage that I was in the business. I am sure this is very interesting to anyone who might be listening to this, but I remember my flat in those days before I was married used to be sort of party central in my small country town. I remember that one day the police cordoned off the flat. They were going to raid this party we were having. It went astray when someone went out to relieve themselves and came across these police hiding in the grass sort of thing. That was a bit of a joke, and I used to joke with the policemen when I saw them in court next time. I can assure them all these days after that there was no distribution, or even evidence as I was aware, of the use of marijuana. That gets me off the track of these bills.

The purpose of the Narcotic Drugs Legislation Amendment Bill 2016 is to put in place protection for information provided by law enforcement agencies used in decision-making under the Narcotic Drugs Act. These protections prevent disclosure of sensitive law enforcement information provided by law enforcement agencies, the improper release of which could have the effect of disrupting criminal investigations revealing law enforcement intelligence gathering and investigative techniques or of the endangering lives of the informants and witnesses.

Madam Acting Deputy President, I know you understand and I think most senators understand that we are dealing with a narcotic drug in the wrong hands—clearly in Australia.
there are too many illegal narcotic drugs in the wrong hands. This bill is setting out to make
sure that we do not make it easier for criminal elements to do things or get information that
will help their vile trade. We want to make sure that those who are using the cannabis for
medicinal purposes are able to properly grow it. I started to say that there are many people I
know, including a very good organisation up in Mareeba-Atherton area of Queensland, who
are seriously looking into and in fact have prepared for the growing of medicinal cannabis
under very strict conditions. They have put a lot of science and effort into this work. I think,
last time I spoke to them, they were working closely with the government to make sure that
all the i's were dotted and the t's were crossed, and that is the way it has to be.

I also started to say that, for those of you who have smoked the drug, you know that it has
two elements. One of the elements is the good part, speaking in simple language that I
understand—I do not understand the technicalities, but there is a good part of cannabis that
provides the medicinal relief that we had evidence of—and then there is the bad part of the
cannabis plant. They have technical names, which I knew at the drop of a hat during the
inquiry but I have forgotten now. The bad part of the plant is the bit that gives you the lift or
sends you away on a trip when you stand in one place. I was told that, over the years, the bad
guys, the criminals, used to cultivate and manipulate the growth of these drugs so that the bad
part—the part that gives you the lift—increased in percentage in the plant. It was good for
their trade and for those who wanted to be spaced out by smoking cannabis. They told us that
the plant in its natural form was about 45 per cent good staff and 55 per cent bad stuff. So it is
important that, when you grow cannabis for medicinal purposes, it is genetically modified to
have the correct elements in the plant.

Without the bill before us, law enforcement agencies would be reluctant to engage with the
Commonwealth in providing the necessary information to manage the risks. The agencies
understand and support the need for this cultivation scheme, but they only participate fully if
doing so will not compromise their own law enforcement activities. The amendments
complement the amendments to the Narcotic Drugs Act that this parliament supported in
February this year, in the last parliament. The recent amendments implement a medicinal
cannabis framework in order to allow Australian patients to access medicinal cannabis
products in a way that will allow compliance with our international obligations under the
Single Convention on Narcotic Drugs. That is something that came up during the inquiry.
Madame Acting Deputy President Reynolds, as you will recall, we understood that
particularly the then Liberal government in New South Wales was well in advance on work
on medicinal cannabis, but some of the scientists and researchers who gave evidence
indicated that they were a bit reluctant because they were dealing with a prohibited plant—
namely, cannabis sativa—and, although they were using it for research purposes and
continued to do it, they did not understand that they might have been at some risk. Other
researchers indicated that they would have been doing more except that they were not
prepared to take the risk of being arrested and ruining their careers.

The New South Wales government, as I recall, had given certain exemptions or assurances,
but it became essential for the Commonwealth to get involved because of the Single
Convention on Narcotic Drugs. There was another international convention that only the
Commonwealth could deal with. That is why it became essential for the Commonwealth to
have overall control, overall involvement or supervision of what the states were already
doing. Victoria had already started as well, and, since then, my own state of Queensland has allowed, through state legislation, the growing of properly attributed medicinal cannabis, cannabis sativa.

These amendments are necessary so that licences are only issued to persons who will work to meet the objectives of compliance with our international obligations and are not available to the bad guys. The risk of criminal elements diverting precious medicines to illicit uses is too great. This would be detrimental to patients who would benefit from the availability of medicinal cannabis and would mean that a government sanctioned system could be creating another public health risk. We do not want that to happen; nobody wants that to happen. So the bill is to address those issues.

It also includes provisions to allow the secretary to refuse to grant a licence where the applicant has provided false or misleading information. So, if there is a connection to the criminal gangs and people mislead the authorities with information, the secretary will be able to refuse the licence. It also allows the secretary to refuse to grant a licence, provides for the making of standards and guidelines, allows for the revocation of licences and permits where applicable standards are not met, and allows for cannabis seeds grown in the course of medicinal cannabis research to be supplied to other cultivator licence holders for propagation purposes. So this bill does address the sorts of things that I have been talking about. Minor technical amendments are also included in this bill to address the amendments we made in the last parliament.

The cultivation licensing scheme commenced on 30 October this year, and that is why it is important this bill is dealt with today. I am pleased to hear about the support from the Labor Party and, I am sure, the Greens—and I imagine Senator Leyonhjelm, who had an interest in this committee as well, will indicate his view on the bill shortly. It is intended that these amendments commence at the same time as those in the Narcotic Drugs (Licence Charges) Bill 2016 to ensure the scheme endorsed by parliament in February can operate efficiently.

The Narcotic Drugs (Licence Charges) Bill is the other of these two bills. I will briefly refer to it. It simply seeks to recover the direct costs that government incurs in regulating the medicinal cannabis industry through both direct fee recovery and imposition of levies. Charges or levies under this bill include those where costs cannot otherwise be reasonably assigned directly to a particular licence holder or applicant.

In conclusion, I urge support for the bill. I think those who advocated long and hard for the use of medicinal cannabis will be encouraged by this bill. The fact that we will grow it and produce it in Australia is another plus for us, and this bill will help to bring that to fruition as soon as possible.

Senator LEYONHJELM (New South Wales) (13:17): Earlier this year I supported the Narcotic Drugs Amendment Bill 2016 to legalise cannabis production and research for medicinal purposes. I did so reluctantly, because legalisation of medicinal marijuana came with the most absurd bureaucracy. It established an elaborate licensing scheme, with one form of licence authorising the cultivation of cannabis for manufacture into medicinal cannabis products, and a second authorising research into the cannabis plant that is to be used for medicinal purposes. The licensing scheme includes a strict fit and proper person test which involves consideration of the business and criminal history and financial status of applicants and their connections, associates and family.
My support for the legalisation of medicinal marijuana was also tinged with disappointment that we did not go further by removing Commonwealth impediments to recreational use of marijuana. Removing these impediments would admittedly involve an act of brinkmanship. We are a signatory to international drug conventions that list cannabis as a prohibited drug. So, if we removed Commonwealth impediments to recreational marijuana use, we would invite a lot of bleating and chest beating from UN bodies responsible for these conventions. The UN bodies could even threaten to withdraw their support for our opium poppy industry. But in the end I suspect our opium poppy industry would be unaffected. After all, the UN bodies have complained about cannabis legalisation in parts of the United States but have gone no further. Just this week—in fact, just two days ago—a further eight states—I think I have that number right—have approved recreational use of marijuana. We should not be held to ransom by UN bodies responsible for horrendous drug conventions that merely represent the bastard children of the prohibition era and the doomed war on drugs.

I oppose the Narcotic Drugs Legalisation Amendment Bill before us today because the task of legalising medicinal marijuana has already been done. All this bill does is tighten the regulatory noose. The bill allows the government to withhold information used against someone who is seeking a licence to produce a research medicinal marijuana even when that information is not sensitive to law enforcement information. This seems to go beyond what is necessary to protect the safety of witnesses and the ongoing efforts of law enforcement agencies. The government knows that its withholding of information that is used against people is a violation of natural justice. So the bill suspends a natural justice hearing rule that requires decision-makers to inform people about matters adverse to them. The Senate's Scrutiny of Bills Committee questions the necessity of this suspension.

The bill allows the government to regulate to expand the definition of a law enforcement agency. This will broaden the range of information that is withheld from people. Again, the Senate Scrutiny of Bills Committee questions the need for this provision. That committee has already raised concerns about instances in the bill where the onus of proof is reversed and where international pharmaceutical quality and safety standards are incorporated into law but where the standards will be available to the public only if a fee is paid. You should not have to pay to know the law.

Personally, I am also concerned about the bill allowing the government to regulate to expand the definition of the word 'drug' and to prevent medical practitioners from prescribing unapproved therapeutic goods for their patients. It is as if the government just gave birth to an industry and then immediately smothered it in red tape. All of this red tape would be unnecessary if both recreational and medicinal marijuana were legalised. Of the $1.5 billion spent annually on drug law enforcement in Australia, 70 per cent is attributable to cannabis. If marijuana were legal for recreational use, we could save this cost and $300 million of extra GST revenue would be generated. Most important of all is that people would be free to do what they want.

Senator Ryan (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (13:22): On more than one occasion I have followed Senator Leyonhjelm in this particular section of the legislative program, which deals with generally non-controversial legislation. I must say that we have this habit of coming to issues upon which Senator Leyonhjelm and I disagree, but there are usually only a few of those. I have made the
observation before that, except when it comes to illicit substances, firearms and one or two other issues, I often find myself in sympathy with Senator Leyonhjelm. On the Narcotic Drugs Legislation Amendment Bill 2016, however, we have struck one where not only does the government position disagree with him but also so do I.

The legalisation of cannabis for medicinal purposes has been an interesting public debate to follow. Having had a small period of time in my professional career working in the pharmaceutical industry, I started off as a little bit of a sceptic, if only because I was becoming more familiar with the way that more commercial or more substantial research went into developing modern medicines. But I should say also that my mind was open when I started to hear some of the stories and saw some of the research that had been undertaken. This issue has been an example of a strong public campaign led by people who have acted very responsibly but occasionally, from what I have gathered in the media, have had to act technically illegally to bring this matter to public attention while doing their absolute utmost to care for a loved one, in particular, who might be suffering an illness which this product can be used to treat.

Underpinning the change that has happened in a number of our states, and reflected in Commonwealth legislation earlier this year and again today, is the fact that there has been this increasing awareness of the use of these products in treating conditions for which insufficient treatments are available, or treating conditions in a better way—particularly in dealing with end-of-life issues. I understand that from what I have read; I have not made myself aware of the technical and scientific analysis.

I will also reflect on what Senator Macdonald said earlier, that on more than one occasion in this section of the parliamentary schedule the members opposite, while they will support the legislation put forward by government, they will, as reflected in the contribution by Senator Gallagher, somehow contrive to come up with some sort of partisan political critique. As someone who has handled this particular part of the schedule from the other side of the chamber in opposition as well, I must say that it gets a little wearying, because this is the section where legislation has primarily been agreed to by both sides and we try to facilitate its passage. It does get a little wearing when you hear contrived and confected outrage, or accusations of political malfeasance or incompetence, merely because, in this case, there is a piece of legislation coming forward that follows the legislation earlier this year—that progresses from that and actually puts into practice the stated policy of the government and, I believe in this case, of the opposition. At this point, I will turn my mind and contribution to outlining that.

There are two bills here today: the Narcotic Drugs Legislation Amendment Bill 2016 and the Narcotic Drugs (Licence Charges) Bill 2016. The Narcotic Drugs Legislation Amendment Bill outlines amendments to protect the integrity of the medicinal cannabis scheme. As I outlined before in response to Senator Leyonhjelm's address, while I respect his contribution and viewpoint this process was put in place not to legalise cannabis for recreational purposes but to legalise it for the purposes of medical research and medical treatment. Senator Leyonhjelm quite rightly outlined that cannabis is a crop of significant interest to criminal elements. In my view, there is not the public support to make a radical change to the legalisation of this illicit product. At the same time, some people have said that it could be
legalised and taxed. It is not a view I disagree with, but I doubt that Senator Leyonhjelm might agree with the second part of that statement, which was the taxation part of it!

But this is an important step, and this legislation reflects that it is being legalised for a specific purpose. Organised crime in Australia has had a significant role in illicit drugs. I do not believe, because of the nature of the substances involved, that crime would disappear if those substances were legalised. The nature of the substance can lead people to be dependent on it and to make irrational choices. At the same time, even if a product does become legal it does not necessarily mean that there would not be illicit manufacture and sale of it outside a regulated system.

As senators will recall from the last parliament, earlier this year the Narcotic Drugs Act was amended to create a regime to allow for the first time the cultivation of cannabis in Australia for the purposes of providing access to medicinal cannabis. As the minister outlined at the time, it was important to implement a national licensing system to enable a sustainable supply of safe medicinal cannabis product to Australian patients for the future. An important element of such a system, as Senator Leyonhjelm did outline—albeit disagreeing with it—in his contribution, is ensuring that only those who are fit and proper persons can be granted a licence.

The Narcotic Drugs Legislation Amendment Bill contains additional amendments to the Narcotic Drugs Act to protect sensitive law-enforcement information used in making licensing decisions so that infiltration by criminal elements into this industry and scheme can be prevented. I think that is an objective that most would agree with. Protecting sensitive law enforcement information provided by law enforcement agencies ensures against its improper release, which could have the effect of disrupting criminal investigations, revealing law-enforcement intelligence gathering and, indeed, revealing investigative techniques. The worst-case scenario, of course, is endangering the lives or health of possible informants or other sources of information.

It is critical to ensure that participants in the medicinal cannabis scheme are of good character and repute. This is an important part of the antidiversion controls for the scheme, and allows the Commonwealth to comply with its obligations under the United Nations Single Convention on Narcotic Drugs 1961.

Senator Leyonhjelm quite rightly mentioned the poppy industry. I have some familiarity with that, having worked for GlaxoSmithKline when they had a substantial part of the Tasmanian poppy plantation and having visited their facility at La Trobe, which then of course ships over to Port Fairy in the old Glaxo powdered milk factory for production of products that are sent right around the world. I might add that it is an outstanding example of Australian innovation, investment and R&D. There were some genuinely innovative new products conceived and invented out of research that was done in Australia and overseas but led by the very high grade production of poppies that came out of Tasmania led by two firms. I think it is a good thing that that potential production is now expanding—or at least, last I heard, was under consideration to be expanded—to the mainland.

It would be a significant risk if Australia's reputation and ability to market those products based on our secure growing environment was put at risk. I note Senator Leyonhjelm's contribution that he did not think that would happen, but I think there would be a lot of Tasmanian farmers and workers at Port Fairy and other parts of Australia involved in the
industry who would be very concerned if there was a regulatory risk. It is a very important sector. It is very important to our medical and bioscience sector as well because it represents an important element of investment and part of the critical mass in that sector in Australia.

The antidiversion regime around the poppies is very effective and is not just about police or formal monitoring; it is also about community attitudes. I know of stories in Tasmania where, if someone has pulled over—someone who is visiting might have wandered into a poppy field to try to grab a poppy, because they are not securely fenced and are grown in fields—that person will be reported. A local might drive by and will let the local police know. That person will actually be visited or followed up to make sure they were not running in and trying to grab a quantity of illegal product. That sort of community attitude that protects the integrity of the poppy-growing industry is very important. I think it is fair to say that there might not be the same community attitude around cannabis partly because cannabis is also substantially easier to grow and to harvest or put to use for the illicit purposes that are outside the agreed purpose that the parliament has relayed and are instead, as Senator Leyonhjelm has described, recreational. That is not the purpose of this law, and I think that is an important point to make.

The Commonwealth is working with law enforcement agencies from all jurisdictions to put in place arrangements for the sharing of information around the suitability of licensed applicants. The Commonwealth accepts that there are limitations to what types of information can be shared through such arrangements but remains committed to protecting the integrity of the scheme.

The primary purpose of the Narcotic Drugs Legislation Amendment Bill is to put in place protection for information provided by law enforcement agencies used in decision-making under the act. These protections prevent the disclosure of sensitive law enforcement information, the improper release of which could have the effect of disrupting investigations; revealing intelligence gathering techniques, investigative techniques or other sources; or potentially even, as I mentioned, exposing the lives or health of people involved in criminal investigations to risk. Leaks of this type of information can have serious implications for the effectiveness of our law enforcement agencies, and so it is in the public interest to prevent this from occurring.

The provisions in the bill prevent the release of sensitive law enforcement information to the applicant, to their lawyers and to the public at large when decisions are being made on whether to grant or revoke licences. The bill also carries protections against release of this information during related tribunal and court proceedings. The bill creates offences with harsh penalties for revealing sensitive law enforcement information except within some very narrow confines, including, for example, where it is necessary to allow its use for the proper administration of the Narcotic Drugs Act licensing provisions.

The bill also includes provisions to allow the secretary to refuse to grant a licence where the applicant has provided false or misleading information, to provide for the making of standards and guidelines to support detailed elements of the scheme, to allow for the revocation of licences and permits where applicable standards are not met and to allow for the supply of cannabis seeds grown in the course of medicinal cannabis research to be supplied to other cultivator licence holders for further propagation purposes.

In February this year, the previous parliament supported the introduction of legislation to enable the legal cultivation of cannabis for medicinal purposes in order to supply Australian
patients and comply with our international obligations under the single convention on narcotic drugs. These amendments are necessary so that licences are only issued to persons who will work to meet these objectives. The risk of criminal elements diverting precious medicines to illicit uses is too significant. This would be detrimental to the patients who would benefit from the availability of medicinal cannabis and would mean that the government sanctioned system would be creating another—or greater—public health risk.

Without this bill, law enforcement agencies around the country will be reluctant to engage with the Commonwealth in providing the necessary information to manage those risks. These agencies understand and support the need for this cultivation scheme but they rightly can only participate fully if doing so would not compromise their own activities—and I think that would be a matter in which they would have strong public support.

The cannabis cultivation and production licensing scheme commenced on 30 October this year. It was intended that these amendments commence at the same time to ensure that the scheme endorsed by parliament earlier this year can operate effectively. A slight delay in the commencement of these amendments should not adversely affect the operation of the framework. However, any prolonged delay could adversely affect the protection of the sensitive information held by the Secretary of the Department of Health and, therefore, law enforcement agencies may not be willing to provide such information.

Senator Leyonhjelm was correct when he said this was a regulatory regime around medicinal cannabis being put to use for a very limited purpose. This necessary amendment legislation follows from the scheme set up earlier in the year. Unlike what Senator Gallagher outlined, it is merely—as we do with tax law and other laws—a reflection of constantly fine-tuning the operation of regulatory regimes where they need to be amended, where they need to reflect the needs of other agencies. In this case, we are of course dependent upon agencies at other levels of government over which the Commonwealth has no constitutional authority. Therefore, this particular regime will ensure that there is the ability for those agencies to cooperate with the Commonwealth.

I commend the bills to the Senate.

Question agreed to.

Bills read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson) (13:37): As no amendments to the bills have been circulated, I shall call the minister to move the third reading unless any senator requires that the bills be considered in Committee of the Whole.

Senator RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (13:37): I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.
Consideration resumed of the motion:
That this bill be now read a second time.

Senator DODSON (Western Australia) (13:38): The opposition supports the Higher Education Support Legislation Amendment (2016 Measures No. 1) Bill 2016. The bill contains proposals for two changes to the Higher Education Act and related acts. The first schedule relates to grants available for universities to support their Indigenous students. Previously, there were three separate funding pools available for support services, grants and other programs and bursaries for Indigenous students. The proposal in schedule 1 is for the three existing funds to be pooled into one, which allows the universities to better respond to the needs of their individual Indigenous cohorts. It is a change that we believe will be welcomed by the sector because a more streamlined and flexible approach will better allow universities to meet their students’ needs.

The second schedule amends various pieces of legislation to allow the Department of Education and Training to access tax file numbers for VET FEE-HELP debtors in order to streamline data exchanges between the department and the Australian Taxation Office. This proposed change would make data exchange on individuals utilising VET FEE-HELP consistent with other aspects of the HELP program.

The content of the bill that relates to Indigenous students deals with an issue that has long been a hallmark of Labor’s work in this space. For many decades we have been the party that have sought to promote access to and participation in higher education, including for Aboriginal and Torres Strait Islander people. You only need to go back to the Second World War to see that it was Labor that was involved in ensuring there were scholarships for returning servicemen. In the 1970s Gough Whitlam made it possible for many to go to university who might not have otherwise had the opportunity. Today we still have many students who are the first in their family to go to university and who have been able to do so because of Labor’s legacy in reforming higher education.

There are few main structural reasons that can prevent people from obtaining a higher education. One of them is the absence of aspirations, because universities do not seem to be an option for some people. For the creation of aspiration in the minds of students who are outside of cities and outside the types of families where it has been common over many generations to go to university, these types of students need to see role models and need to see opportunities to go to university. This is why equity programs are really important. They build the aspiration. They make universities seem normal and make it seem normal to go to university after high school.

This is why Labor is so concerned about the $152 million to the Higher Education Participation and Partnerships Program. It has already been booked into the budget, even though the review into that scheme is still underway. The Higher Education Participation and Partnerships Program is not just a scheme that grows aspirations; it also supports students from more disadvantaged backgrounds once they get to university to help with participation and to help with graduation.
Labor has been working to build equity and participation for a long time. Gough Whitlam's reforms are a prime example. There was also Bob Hawke's 1990 landmark paper *A fair chance for all*, which explicitly talked about building involvement in higher education and graduation from higher education among students who have not had those opportunities in the past. That was a salient and landmark paper, and we saw an increase in those equity groups' representation in higher education.

The last Labor government in 2011 was in a situation where a lot had been done but still more needed to be done. This sparked the Bradley review, which found that Indigenous students continue to be vastly unrepresented in higher education. It is a challenge we still have to contend with today. Another review, the Behrendt review, which was specifically in relation to education access and outcomes for Aboriginal and Torres Strait Islander people in 2011 and 2012, recommended pooling together, amongst many other things, some of the programs—as we are seeing here in this bill today.

There has been a lot of work done over many decades to seek to improve representation by Indigenous students in higher education. Due to the previous Labor government's reforms, we saw a 26 per cent increase in Indigenous student numbers. But there is still more that needs to be done. At the moment the access rate for Indigenous students is around 1.88 per cent compared with a population of about 2.9 per cent. The 2014 figures on retention are 0.9 per cent for Indigenous students. We must maintain our focus on equity programs, particularly those that are aimed at increasing Indigenous student representation. The opposition is pleased to support this bill.

**Senator LEYONHJELM** (New South Wales) (13:44): The disadvantage suffered by Aboriginal Australians and the dysfunction in some of their communities continues to be Australia's greatest policy failure, and yet, according to the latest figures from the Productivity Commission, this failure is not caused by a lack of funding. Total expenditure in 2012-13 on services for Aboriginal and Torres Strait Islanders was more than $30 billion, or $43,449 per person. This is roughly equivalent to the average wage in Japan, Italy and South Korea. This spending is on top of the general government spending that is supposed to benefit all Australians, and yet the annual *Closing the gap* report tells us every year that the gap is barely closing.

Nearly everyone agrees that education is the key, so this bill authorising higher education grants to Aboriginal people should be an issue of the utmost importance. And here I am, the only person who wants to talk about why our education policies are failing to address Aboriginal disadvantage. Everyone else in this place considers the *Higher Education Support Legislation Amendment (2016 Measures No. 1) Bill* to be non-controversial and that throwing even more money at the problem is somehow a solution, despite past experience. If I can borrow an Americanism: go figure!

To understand Aboriginal disadvantage it helps to understand Aboriginal communities. According to the 2011 census, 550,000 Indigenous Australians, or 65 per cent, were employed and living lives much like other Australians; 22 per cent were welfare dependent and living in urban and regional areas; and 13 per cent, or 70,000, were welfare dependent and living on Aboriginal land where education and work opportunities are often limited. Many of these people in the third category are amongst the most disadvantaged in Australia and live in Third World conditions.
This third group needs a policy response that differs from that provided to the first and second groups of Aborigines, and yet our Indigenous education policy treats them as all the same. Someone from a comfortable, middle class family on the North Shore of Sydney who identifies as Aboriginal will scoop up the grants and the scholarships and fill in the quotas when it is time to get a job. They will continue to be middle class and their lives will not change significantly, except perhaps for an ever expanding sense of entitlement. However, the people living in remote areas who cannot read will not apply for university places or leave their dysfunctional communities, particularly given our policies to keep them there, and that is why the gap is not closing.

Ironically, this demonstrates why schemes to help people should be based on need and not race. If all university grants were based on need, they would better serve Aboriginal people who really need the grants. What is more, it would help prevent a disgraceful situation where a refugee from Africa who comes from the most impoverished background and suffers from racism can be beaten to a university place by someone from a middle class background who identifies as Aboriginal and suffers nothing but sunburn. I lived in South Africa for a time during the apartheid era and I know what racism looks like. I abhor it in all its forms. I am proud to represent the Liberal Democrats, who believe that all poor people should have access to a good education, but race should have nothing to do with it. I am proud to take a stand against racism today.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (13:48): I rise to speak on the Higher Education Support Legislation Amendment (2016 Measures No. 1) Bill, and this is a great opportunity for me to correct a couple of assumptions made, particularly by Senator Leyonhjelm. But, first of all, I would like to thank the opposition for their support. In fact, I know that in the former Labor government Larissa Behrendt actually recommended to your government that the supplementary Indigenous support programs be amalgamated, made flexible and more practical. As I have said before, it is important that we do not see that as being some opposition position and have us take a different position. We need to take the good work that you started and we need to continue through that, so thank you for the support.

To Senator Leyonhjelm, I am not sure where you got your data, but, just to help you understand, the important element of this is: today there is $253 million being invested over the forward estimates. At the end of the forward estimates, after we pass this bill, there will still be $253 million being invested. There is no more money. This is to provide efficiency dividends, because we do not embark on a journey, find something out, stumble a bit and then do nothing about it. This legislation is all about ensuring what we are motivated by.

What are we motivated by? When we assist anyone going through university, there is a cost. We want to make sure that is an investment. Quite clearly the outcome we want is people graduating from university. So, instead of measuring how many people we got into university, we will be measuring how many people graduate from university to ensure that the cost of the investment we make is an appropriate investment. So this particular legislative amendment is there to ensure that we give the right level of support at the right time.

Aboriginal students, from what we know, are enrolling in universities in greater numbers than ever before. Enrolment rates are increasing. As I indicated, there was a recommendation to the previous government that the supplementary Indigenous support programs be
amalgamated. We worked with universities through 2015-16 to develop the Indigenous student success in higher education measure that was announced last budget.

What this measure does is shift the focus from getting Indigenous students in the door—which I have to say, Senator Leyonhjelm, is very, very important, I know, to both myself and yourself—but more importantly helping the students to succeed and graduate. The new flexible arrangements mean that university staff working with Indigenous students will actually have a greater say in the assistance they provide, and we worked with universities to see how that will actually be effected.

It is racist, in an absolute sense, to say Aboriginal students, or any other students, who go to university are going to have exactly the same challenges at exactly the same time. Of course they are not. Some students might excel in one element of going through university but not so much in others. Instead we will allow the university to have the flexibility to understand that the level of support they need to provide is timely and appropriate to that particular student. Quite clearly these amendments that we are introducing are going to lay the foundations for reforms. We think they are going to be good for the students and they are going to be good for universities—in fact, good for all sides of the chamber.

Our guidelines are going to require that universities that provide scholarships and tutorial assistance this year will be required to provide them in the future. The other element that is really important is that we are moving to no longer just paying on when you start. As we will be staggering the payments there will be an incentive for the university in considering this flexibility to ensure that the individual who is going through stays there, because that is the nature of the payments. Instead of getting everything as a lump sum at the beginning, we are considering graduating that so that there are other payments and so that there is an incentive to provide for the students in that regard.

I thank the senators for their contribution to this bill that will improve support for Aboriginal and Torres Strait Islander university students, and improve the administration of the VET FEE-HELP scheme and the VET Student Loans program. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson) (13:53): As no amendments to the bill have been circulated, I shall call the minister to move the third reading unless any senator requires that the bill be considered in Committee of the Whole.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (13:53): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.
Customs Tariff Amendment (2017 Harmonized System Changes) Bill 2016

Consideration resumed of the motion:
That this bill be now read a second time.

Senator DODSON (Western Australia) (13:54): Labor supports the Customs Tariff Amendment (2017 Harmonized System Changes) Bill 2016 and Customs Amendment (2017 Harmonized System Changes) Bill 2016, which amend the Customs Act to implement changes arising from the fifth review of the International Convention on the Harmonized Commodity Description and Coding System. The Customs Amendment (2017 Harmonized System Changes) Bill 2016, the non-tariff bill, also makes minor amendments to provide for collections of the correct import duties for biofuels under the China-Australia Free Trade Agreement. We note that the government is cutting it entirely fine with the timing of these bills. The changes authorised by the fifth review have to be in place by 1 January 2017. So Labor is willing to facilitate the passage of these bills.

Australia is a member of the World Customs Organization and is part of its harmonising system, and it is important that we remain compliant. This country made a significant contribution to the fifth review, and government agencies and industry groups were consulted during the review process. The tariff bill makes approximately 950 amendments to create change and clarification in tariff codes. Australia uses codes based on a six-digit international classification supplemented by two additional digits used by the Bureau of Statistics for its own purposes. Under the changes, tariff codes for items no longer widely used, such as typewriters, are removed and items for new technologies are included. There are new subheadings requested by the International Narcotics Control Board to improve the monitoring and control of narcotics and psychotropic drugs. The amendment will also allow for better monitoring of the trade in some fish species and tropical woods by the UN’s Food and Agriculture Organization. Labor is pleased to support the bills.

Senator RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (13:56): The Customs Tariff Amendment (2017 Harmonized System Changes) Bill 2016 contains 950 amendments to create, change and clarify tariff classifications in the Customs Tariff Act 1995. These amendments give effect to changes resulting from the World Customs Organization's fifth review of the International Convention on the Harmonized Commodity Description and Coding System, commonly referred to as the harmonised system. Australia provided significant input to the fifth review. Relevant Australian government agencies and industry groups were consulted during this review process. I might say that this harmonised system is of significant benefit to Australia as an open trading nation. Of course, as an open trading nation, our interest is not only in exports but also in the harmonised system supporting our imports.

On a day like today, I would like to highlight the fact that I am a particularly strong supporter of free trade. One of the prouder moments of the liberal political movement was, of course, the campaigns against the Corn Laws in the 1840s and William Gladstone's campaigns in the 1860s. We have come to this point now, and at the same time there has been unprecedented prosperity right across the world, with the findings and conclusions of
everyone from Adam Smith to David Ricardo ensuring that the arguments for free trade were not based simply on the old mercantilist principle of how much I can sell but also on those basic, important theories of the laws of comparative advantage, because it also goes to what I can buy.

Australia's interest in trade is not simply in what we can sell, although that is sometimes the public debate. It is also very much in what our consumers can afford to buy and what our businesses can afford to buy as business inputs on a more affordable basis. I commend this bill to the Senate to ensure that this strong record in trade continues.

Question agreed to.

Bill read a second time.

Third Reading

Senator RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (13:59): I assume, Mr President, I am at liberty to move that the bills be read a third time.

The PRESIDENT: You may do that, Senator Ryan, as no amendments or requests for amendments to the bills were circulated and no senator required that they be considered in committee.

Senator RYAN: I will make a few observational comments and continue what I said. I was making some points on David Ricardo, William Gladstone and Adam Smith. I think it is important that we constantly restate that the benefits of trade are not one way. The benefits of trade are supported by the liberal movement, are supported by people on this side of politics and once, many, many years ago, were supported by members of the Labor Party when they contributed, with the support of the coalition, to opening up Australia. I commend the bill to the Senate and move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

QUESTIONS WITHOUT NOTICE

Day, Mr Bob, AO

Senator CAMERON (New South Wales) (14:00): My question is to the Minister for Education and Training, Senator Birmingham. I refer to the government's grant of $1.84 million to the North East Vocational College for former Senator Day's pet project the student builders pilot. Why did the government grant almost half a million dollars more than the $1.4 million requested by Senator Day?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:00): I thank Senator Cameron for his question and his continued interest in the alternative apprenticeship pilot programs. I can advise the Senate and Senator Cameron that that is because the project as funded and agreed under the terms and guidelines of the program that was approved by the department differs from what was originally proposed. It differs in a number of ways. One of those, for example, is that there was a proposal originally that students would pay their fees via the VET FEE-HELP scheme. That is not part of the program
that has been approved and part of the project's scope. So it is those types of differences that resulted in different costings occurring at the end.

The PRESIDENT: Senator Cameron, a supplementary question?

Senator CAMERON (New South Wales) (14:01): Given the $1.84 million student builder pilot will benefit only 20 participants at a cost of $92,000 each and an equivalent grant received by the National Electrical and Communications Association will benefit approximately 300 apprentices at a cost of $7,000 each, how can the minister justify using taxpayers' money— (Time expired)

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:02): The question is: how can I justify why it is that we are investing in alternative delivery models for apprenticeship pilots.

The PRESIDENT: Order! Senator Birmingham, just a moment. Can I check with the clerk: was the clock set correctly? Yes, it was set correctly. Minister, you have the call.

Senator BIRMINGHAM: As I said, the question is: how can I justify why it is the government is investing in alternative pilot programs for apprenticeships? As I have told the Senate on a few occasions, it is because we saw between 2012 and 2013 a 38 per cent decline in commencements of Australian Apprenticeships. We saw a decline, as a result of the enacted policies of the then Gillard government, in apprenticeship commencements, which has flowed right through to apprenticeship numbers. Hence we are trialling different alternative delivery models to see whether there are new ways of stimulating growth in apprenticeship opportunities. They are different models; therefore, to actually deal with what Senator Cameron's question might have been had he got to it, because they are different models they involve different numbers of students, they involve different approaches. Each of them with properly assessed in accordance with the program guidelines to then ensure future policy is well informed. (Time expired)

The PRESIDENT: Senator Cameron, a final supplementary question.

Senator CAMERON (New South Wales) (14:03): How can the minister justify using taxpayers' money for former Senator Day's pet project at a cost per participant 13 times more than that of other programs funded by the government?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:03): As I just said, each of the five different pilot programs are different programs. They have different approaches are applied to them. They are piloting different models of alternative delivery. They undertake different approaches. Some of them are trialling alternative variations on the way apprentices are trained. Others are trialling, as this does, a completely alternative approach, in a way, to the training of apprentices.

I told Senator Cameron at the end of question time yesterday that appropriate qualifications are delivered, appropriate trade licences are met. In the end—

Senator Cameron: What about a trade certificate?

Senator BIRMINGHAM: Senator Cameron, I refer you to my answer at the end of question time yesterday that, of course, all licensing requirements are met for those graduates who meet the qualifications under this program. They will receive two certificates. They will receive a couple of qualifications that will then be recognised in terms of their licensing
requirements within the South Australian government, all of which has been detailed quite clearly in the program guidelines. *(Time expired)*

**National Security**

**Senator BUSHBY** (Tasmania—Chief Government Whip in the Senate) (14:05): My question is to the minister representing the Minister for Immigration and Border Protection, Senator Cash. Can the minister outline the challenges Australia faces in maintaining a strong but fair border protection regime?

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:05): I thank Senator Bushby for his question. I am pleased to advise the Senate that earlier today our legislation to strengthen the Migration Act passed the House of Representatives. It is critical that we send a clear and unambiguous message to the people smugglers that there is no backdoor entry into Australia. We, on this side of the chamber, always have been and always will be committed to stamping out the vile people-smuggling trade. We are committed to ensuring that people do not risk their lives getting on leaky boats to make that perilous journey to Australia.

If there is one thing that we can all be very proud of, it is that Australia is built on the foundation of mutual respect. Australians understand that it is their government that determines who comes to this country and the circumstances in which they come, not the people smugglers. This responsibility should never be abrogated to anybody, let alone the criminal people-smuggling syndicate. It is a fact that those on the other side seem to forget: these criminal people smugglers run a multimillion dollar business. They are not sending people to Australia out of the goodness of their hearts. They are sending people to Australia at a very, very high cost. And that is not just a cost in terms of the cost which they charge for the boat ticket to Australia but it is also, as we know, a very high cost in terms of those people who die at sea. We can never forget that under the former government, because of their failure to take responsibility in relation to border security, 1,200 people lost their lives at sea. We will never allow that to happen again.

**The PRESIDENT**: Senator Bushby, your supplementary question.

**Senator BUSHBY** (Tasmania—Chief Government Whip in the Senate) (14:07): I do have a supplementary question. Can the minister advise the Senate of the dangers that come from complacency in respect of border protection policies?

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:07): I can. As we know, it is in excess of 50,000 boat arrivals; a cost blowout to the Australian taxpayer of an excess of $11 billion; in excess of 8,000 children put behind bars—this government got them out; and, of course, again, the very, very sad reflection that in excess of 1,200 people died at sea. But we do face challenges.

What did Senator Watt say during the election campaign? At the last Labor national conference he said very clearly, 'I do not think that pursuing turnbacks and offshore processing is in line with our long-term Labor values.' Well, I say, through you Mr President, to those on the other side: if that is not in line with long-term Labor values, the only conclusion that can be got to is that you do support people smugglers making the decision to bring people to Australia. You do support people risking their lives to get on leaky boats to
make the perilous journey here. You do support policies that put thousands of children behind bars. We will never do that. *(Time expired)*

**The PRESIDENT:** Senator Bushby, your final supplementary question.

**Senator BUSHBY** (Tasmania—Chief Government Whip in the Senate) (14:08): Can the minister advise the Senate of the consequences of Labor's opposition to the laws to strengthen our borders?

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:08): Yes I can. In terms of the opposition, Senator Watt is not the only Labor senator who is completely opposed to the former Howard government's and this government's strong border security policy. Again, whilst on the campaign trail, Senator Sue Lines made it clear that we need 'a rethink on offshore processing'—offshore processing which I thought the Labor Party was on a unity ticket with us. But we now know this week that the Leader of the Opposition, Bill Shorten, gave a very clear message to Australians: there is a fundamental divide when it comes to border protection in this country.

**Senator Cormann:** He's been rolled!

**Senator CASH:** You are right, Senator Cormann: Mr Shorten has been rolled. He has been rolled by in excess of 50 Labor candidates—some of whom now sit across from us in this chamber—who throughout the election proclaimed, 'If we ever get to this side of the chamber it is game on again for the people smugglers.' *(Time expired)*

**Culleton, Senator Rodney**

**Senator GALLACHER** (South Australia) (14:10): My question is to the Attorney-General, Senator Brandis. I refer to the Attorney-General's statement in the Senate on Monday that:

On 7 September this year Mr Ian Bruce Bell commenced proceedings in the High Court of Australia against Senator Culleton. These proceedings had nothing to do with the Australian government and the government's only knowledge of them was from reports in the media.

How does the Attorney-General reconcile his statement this Monday with the fact that the Senate received formal notice of the proceedings on 12 September? Was he not aware of that notice of proceedings tabled in the Senate on 12 September?

**Senator BRANDIS** (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:10): If that is the case, Senator, no, I was not.

**The PRESIDENT:** Senator Gallacher, a supplementary question?

**Senator GALLACHER** (South Australia) (14:10): How did the government fail to have knowledge of the proceedings in the High Court against Senator Culleton when 30 coalition senators, three assistant ministers, 12 ministers and 10 members of cabinet sit in the chamber in which the notice of proceedings was tabled on 12 September?

**Senator BRANDIS** (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:11): Senator, if what you say is correct, it does not change the fact that these proceedings have absolutely nothing to do with the Australian government.
The PRESIDENT: Senator Gallacher, a final supplementary question?

Senator GALLACHER (South Australia) (14:11): As the first law officer of the nation, why does the Attorney continue to make statements in this place that are designed to mislead the Senate and misinform the public?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:11): I have never done that. Unlike you, Senator Gallacher, I must confess that I do not read the Journals of the Senate every morning. If what you say is correct, that is not a matter that was drawn to my attention, nor would I expect it to be.

United States Election

Senator DI NATALE (Victoria—Leader of the Australian Greens) (14:12): My question is to the Minister for Defence, Senator Payne. Yesterday the United States elected Donald Trump, a man who ran a disgusting campaign based on racism, anti-Semitism, misogyny, xenophobia and nationalism. The US is now set to become an unpredictable and dangerous player in world affairs. It prompted Minister Frydenberg to call him a 'drop kick'. It prompted Minister Pyne to call him 'terrifying'. Minister, will you now explain how the Turnbull government will respond to a Trump presidency, with particular reference to Australia's defence alliance and whether it is now time to re-evaluate our security relationship?

Senator PAYNE (New South Wales—Minister for Defence) (14:13): I thank the Leader of the Australian Greens for his question. I want to acknowledge the election of President-elect Donald Trump and congratulate him on that outcome.

The Australia-US alliance has seen changes of government on both sides of the Pacific multiple times over the last 65 years, and the outcome has continued to be that the alliance continues to grow, to deepen and indeed to strengthen. In fact, over the last year alone I have forged a very strong relationship with their current Secretary of Defence, Ashton Carter. I look forward to that continuing through the transition period until the commencement of the inauguration process, and then of course to forming a similar strong relationship with the new Secretary of Defence as Australian defence ministers have done decade in and decade out.

As we outlined in the 2016 Defence white paper, the US continues to be our most important strategic partner through this longstanding alliance. The presence of the United States in this region has underpinned its stability for decades as well. We have fought side-by-side in every major conflict since World War I. We will continue to work side-by-side as we now do today—literally today—in the Middle East. We will counter shared threats and support global stability.

Indeed, I think we need to have a positive approach to engaging with the new Republican administration. I think we need to acknowledge the strength and depth of our relationship. We need to take the opportunity to build new personal relationships, to continue to engage and to interact in the ways that I have described. I have absolute confidence that our engagement with the United States will remain strong. (Time expired)

The PRESIDENT: Senator Di Natale, a supplementary question.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (14:15): As the minister noted, we are the only country to have fought alongside the US in every major
conflict since World War I. Will the minister continue this policy and deploy Australian troops, and risk Australian lives, simply on the judgement of President Trump?

Senator PAYNE (New South Wales—Minister for Defence) (14:15): Let me begin by very clearly saying that I absolutely reject the premise of Senator Di Natale's question. Australia makes its own decisions in relation to its international engagements. It makes its own decisions, based on an assessment of our own security position, based on an assessment of the strategic relationships which we have and the challenges which we face from time to time internationally. All of those decisions are made, taking into account Australia's national security first and foremost.

The PRESIDENT: Senator Di Natale, a further supplementary question.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (14:16): Given the minister's response, I seek leave to move a motion relating to the Australia-US alliance.

Leave not granted.

MOTIONS
Suspension of Standing and Sessional Orders

Senator DI NATALE (Victoria—Leader of the Australian Greens) (14:16): I move:

That so much of the standing orders be suspended as would prevent me moving a motion to provide for the consideration of a matter, namely a motion to give precedence to a motion relating to the Australia-US alliance.

During this election campaign, President-elect Trump pledged to ban all Muslims—the 1.6 billion Muslims living across the globe. He said to them, 'There is no place for you in modern America.' He attacked the family of a Muslim soldier who died giving service during the Iraq war. He has decried Mexicans as 'criminals and rapists'. He has said that a federal judge could not hear a case fairly simply because he was a Mexican. He thinks that blacks are lazy; he thinks it is a genetic trait.

He has refused to condemn the white supremacist David Duke from the Ku Klux Klan campaigning for him. He has traded in vile, anti-Semitic rhetoric. He was one of the proponents of the birther movement. He believes that climate change is a hoax from the Chinese. He is a misogynist. He accused a woman of menstruating during an interview. He incites violence; at one of his rallies he encouraged an attacker and said he would pay for his legal fees.

Now, on foreign policy: he believes that Japan and South Korea should develop nuclear weapons—two countries with a history of tension between each other. And, as former Premier Bob Carr said, 'There has never been a person elected to the presidency who has had such a cavalier approach to nuclear weapons.' He has praised authoritarian regimes—Vladimir Putin and Kim Jong-un—and he has suggested that he does not care if there is a trade war with China. He has questioned the NATO alliance—he has questioned that.

Many Australians are now very, very deeply worried. They are worried because the US has elected a man who is sexist, he is racist, he is anti-Semitic, he is nationalist, he denies climate change and he promotes nuclear proliferation. And it is not just many ordinary Australians. Bill Shorten called him 'barking mad'—barking mad! We had John Howard saying that he trembled at the prospect of President Trump. We have had Christopher Pyne saying he was
terrified. And, of course, Minister Frydenberg called him 'a drop kick'. The only people who are wholeheartedly supportive of his presidency are members of the extreme Right, like some of those people within One Nation and, of course, the extremes within the coalition.

And yet here we are, within hours of an election, and we have the government kowtowing to a man who has vowed to block any Muslims from migrating to America. We had the Prime Minister of this country on TV backing in the US alliance. We have just heard the Minister for Defence say, 'We are right behind President Trump. We are right behind him. We have fought together in every conflict since World War II. If Donald Trump picks up the phone and says, "We need your help," we'll be right behind him.' The Australian alliance with the US is now one of our greatest security risks.

Let's look at the response from other international leaders. Angela Merkel, somebody who has demonstrated in recent years that she is prepared to show global leadership, said, 'We will continue our relationship with the US only if it is built on common values.' Rather than standing up and saying, 'We don't accept your racism, your misogyny, your warmongering and your fear mongering,' we have had both the coalition and the opposition saying, 'All the way with the US.'

If there was ever a time to question our allegiance to the US that time is now. Like all important relationships, this was a relationship that was founded on common values. The time has come to assess whether it is now in our interests. We are like two people in a relationship whose values have now drifted so far apart that we can no longer continue on the same path. Given the questions about Mr Trump's temperament and policies from almost all sides of politics, now is the time that this chamber should be debating the fundamentals of Australia's alliance with the US. If not now then when? The time to follow the US blindly into another conflict is over. Let us have this debate. Let us have it now.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:21): May I take this opportunity on behalf of the Australian government to congratulate Mr Donald Trump on his election as the 45th President of the United States. I entirely disassociate the government from the foolish remarks that have come from Senator Di Natale. Senator Di Natale, you lead a party which has a substantial voice in Australian politics. With your status as a party leader and your power in this chamber comes responsibilities. One of those responsibilities is always to serve the Australian national interest. I must say to you, Senator Di Natale, that the foolish, abusive, intemperate, insulting remarks that you have just directed at the President-elect the United States of America, regardless of your personal feelings, are inimical to the national interest of this country. You, Senator Di Natale, as the leader of a substantial party in this parliament, should have the judgement and the wisdom, if you have a criticism to make of the President-elect of the United States, to do so in a temperate, reasoned and respectful manner.

As the Minister for Defence has said, the alliance between Australia and the United States has lasted for 65 years, since the ANZUS treaty in 1951—one of the crowning diplomatic achievements of the Menzies government. It is correct that Australia and the United States have fought shoulder to shoulder in every major conflict of the 20th century and into the 21st century. In that military cooperation we have been guided by common values: the values of liberty and democracy. Regardless of who is the President of the United States of America, regardless of whether it is a Democrat or Republican administration, the fundamental values
of the United States of America as enshrined in their constitution and bill of rights and a long democratic tradition endure. And they are values that we share. There will be political differences from time to time, although I am pleased to say there are very few. Any Australian government, whether a coalition government or a Labor government, will work together with any American administration, whether a Democrat administration or a Republican administration, whomsoever the Prime Minister might be and whomsoever the President might be. The functionality and the strength of that relationship is one of the things that undergird our nation's security—as a military ally, which has guaranteed under the ANZUS agreement to defend Australia, and as a partner in so many ways in international law enforcement; in counterterrorism; and through the Five Eyes community in the sharing of intelligence. I can tell you, Senator Di Natale, there have been terrorist events in Australia in the last two years interdicted because of our access to intelligence through the Five Eyes community that has been shared with us by the Americans. Nothing is more critical to our national security and our strategic security in the world than the ANZUS alliance. You are entitled to have your differences, Senator Di Natale, but what you are not entitled to do as a party leader is to sacrifice or prejudice the Australian national interest for the sake of your own self-indulgence, as you have done in this chamber today.

The Australian government has already reached out to the incoming Trump administration and their transition team, and we look forward to working with President Trump and members of his administration, as every Australian government of either political flavour would do with any American administration.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:26): I rise to briefly make a few points. The first point is that Senator Di Natale moved this motion in question time without notice, I think, to any other party or any other individual. I think that demonstrates, frankly, in the context of question time, a lack of courtesy to other parties in this chamber and I think it is disappointing.

The second point I would make is this: it is true that any election of a new President is a cause of great focus and substantial discussion in the Australian community. It is particularly true, in the context of the election of Mr Trump, that there will be a focus on issues that have arisen in the course of the election campaign and a focus on policies. They are serious questions for leaders to discuss calmly in the context of the alliance. They are not matters for a stunt in question time.

My third point is this: Mr Shorten in the other place has, in a brief address, now offered on behalf of the Labor Party, first, congratulations to President-elect Donald Trump and, second, commiserations to Hillary Clinton, who we acknowledge and regard as a women who has been an advocate of equality and who has served her country with distinction.

Finally, I make this point: the Australian Labor Party remains committed, as have all parties of government, to the ANZUS alliance. It is an alliance that has served Australia well. We are committed to that alliance, but we have been willing, as history books will show, to disagree with American policy when we judge that it does not reflect Australian interests. We did so in relation to Vietnam and we did so in relation to the 2003 invasion of Iraq. From this side of the chamber, we will always pursue our interests through an independent foreign policy and defence self-reliance within an alliance framework.
Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (14:28): I rise to speak to the motion, but also to talk directly to women and girls around Australia who are watching on with sheer revulsion at the election of Donald Trump to the White House and who are wondering how on earth a man caught on tape bragging about sexual assault can ascend to the highest office in the world. I want to say to them that I share what they are feeling. I, too, worry about what sort of future awaits my daughter and all of our children. I feel deep dismay that a man who treats women like objects for his own satisfaction will soon assume the mantle of the presidency of the United States. I feel the fear about what this will mean for women who are already facing structural discrimination, controls on their right to choose and the everyday risks of being subjected to sexual harassment and assault. I feel the uncertainty about what this means for our common future on a planet that is already racked by dangerous global warming and environmental injustice that we know hits women, especially women in the poorest nations, the hardest.

People are saying Donald Trump's rise will embolden the sexists, the racists, the bigots and the homophobes. It is so incredibly important to stand up to those elements in our society and call them out, and that is what we Greens intend to do. Trump's rise will also energise everyone who stands for justice, compassion, equality and love. To defeat this particular brand of hate and intolerance, we need a powerful movement that unites calls for gender equality, racial justice, environmental justice and a fair society for every Australian. Our movement must reject the failures of free market chaos that has left ordinary people behind while making corporations and big polluters even richer, just as it must reject sexism, racism and homophobia. The conservative elements in the One Nation Party and those like Mr George Christensen and Senator Cory Bernardi, who have Malcolm Turnbull under the thumb, think this is their moment. They are wrong and this is our moment to prove to them that they are wrong.

The US and Australian are different places. We have different values, a different history and different conditions. For all of that, women in Australia still face similar rubbish, and the experience of our first female Prime Minister and the everyday lives of many women around the country are a sad testimony to that. But I also say this: yesterday, while millions of Americans voted for Donald Trump, others lined up to place stickers that read 'I voted' on a gravestone in Rochester, New York.

A government senator interjecting—

Senator WATERS: That grave belongs to the suffragette Susan B Anthony, who less than a 150 years ago was arrested simply for daring to vote. To the women of Australia, I commiserate with you, but I also have hope.

Senator Back interjecting—

The PRESIDENT: On my right. Senator Back.

Senator WATERS: Yes, there is more work to be done, but we can stand together and we can take heart in how far we have come. We can persist when old white men interject in the Senate and we can claim our equality.

Senator ROBERTS (Queensland) (14:32): I get it, Mr President: the Greens do not like the American election result. When there was a poll of Australians and 34 per cent of Greens supported the ban to Islamic immigration, Senator Di Natale's response was, 'We need to
 educate them.' It was not listen to them but educate them. We get it; it is a control response. The battle here is about freedom versus control and we see where the control is. Trump's victory is a victory for freedom. It is a victory for Americans and it is a victory for people worldwide. I know little of Donald Trump. I admire and respect the choice of 300 million Americans, and I honour their choice. I happened to live in the United States when President Ronald Reagan came into power. I watched him transform that demoralised country while the media slagged him repeatedly. I returned to this country having watched Ronald Reagan transform that country to see the media in this country completely lead the people in ignorance. Senator Di Natale seems to have followed the same media rubbish.

I have learnt that the Queensland trade minister, a Labor minister, say that she will not enter into any pacts with the Trump administration. I am aware that the New South Wales parliament in recent weeks passed a motion saying that Donald Trump is a slug. The Minister for Foreign Affairs reportedly supported Hillary Clinton's campaign. I cannot understand why we would interfere in another party's politics. The Leader of the Opposition has again today condemned Donald Trump. I oppose publicly the foreign minister's comments last week, and I have reached out to the Trump administration. There is only one party fit for governance in Queensland and to trade with Queensland and that is Pauline Hanson's One Nation Party.

I do honour one point that Senator Di Natale made: as a young man I supported Australia, blindly supported Australia, following America into war. As a more mature person, I now question some of that following of America. However, it was not American administrations that caused us to enter those wars; it was Australian administrations. It is up to us to take responsibility as to whether or not we follow any other country. It is not to blame Trump.

The next point I make about the remarkable outcome in America is that the people of America are at last waking up to the establishment—the elite establishment—that is pushing fraudulent policies like the myth that humans are affecting the global climate. The Greens support the United Nations and the destruction of Australian sovereignty. The Greens support the major banks pushing their benefit from the global warming scam. The Greens support the same initiatives that the major global corporations are presenting. And the Greens present anti-Australian policies, anti-human policies, anti-education policies, anti-science policies, anti-development policies, anti-environment policies. I speak against Senator Di Natale's motion, and I applaud Donald Trump's gracious acceptance speech last night.

Senator PAYNE (New South Wales—Minister for Defence) (14:36): I wish to speak further to the motion moved by Senator Di Natale before we continue on with question time. I do want to advert to a number of Senator Roberts's observations in relation to the foreign minister. It is important to emphasise that the Prime Minister, the foreign minister and I, in any engagement in relation to the United States election, have been consistently very clear that the outcome that the people of the United States chose would be the outcome with which Australia worked. I emphasise that again today. I emphasise that by reiterating my words and my first response to Senator Di Natale, that the depth of the US-Australia alliance is our most important strategic defence relationship. It is central to our strategic and our security arrangements.

This is an alliance that is underpinned by the deepest levels of cooperation between our two nations, across an extraordinarily broad spectrum—perhaps unappreciated by many who do not have an opportunity to study it regularly. But in the very practical sense of our training,
our exercises, our operations, our intelligence and our capability development, which enables both alliance partners to meet contemporary and emerging challenges, it is fundamental to how we go about business in our security environment.

The Attorney-General referred in his remarks to the importance of the ANZUS Treaty, signed in 1951, which is the formal basis for our relationship. It has historically recognised that an armed attack in the Pacific area on Australia or the United States would be dangerous to both countries, and it obliges each country to act to meet the common danger. That is the strongest possible commitment. We are committed, and will continue to be so, to meeting our obligations under the ANZUS Treaty. We have invoked it in the relatively recent past, in response to the 9/11 terrorist attacks. A number of its indications and its history are adverted to in the 2016 defence white paper, which sets out in some detail the importance of the depth of our relationship with the United States.

What do we say, for example, in the Defence white paper—our forward-looking white paper for the next two decades—about the presence of the US military, our engagement with them in ensuring security across the Indo-Pacific?

The global strategic and economic weight of the United States will be essential to the continued stability of the rules-based global order …

I quoted there briefly from the Defence white paper.

The great breadth of what we do in our capability development, in some of the key acquisitions which we are now pursuing as a nation—whether it is our future submarine development and its combat system or other strategic capabilities—is inextricably linked with the extraordinary work that we are able to use from the United States and the partnership that we are able to enjoy. That gives us an opportunity to maintain interoperability, which is essential to strengthening the ADF and maintaining its strength in what it does. These are vital aspects of the relationship and it is, I think, more than unfortunate for the Australian Greens to have chosen to traduce them in the way that they have today. We could not develop these high-end capabilities without the alliance. We could not engage at the levels that we do in terms of interoperability, we could not integrate when we work together on operations, we could not protect our own forces with the strength that we need without that valuable relationship which has been formed with the United States.

Our information security, our intelligence cooperation—as the Attorney-General said—make a real difference every single day to how effective we can be on our operations. I, for one, express my enormous respect for the men and women of the United States military, who work every day with the men and women of the Australian ADF to ensure that we are playing the international roles we need to play. We are participating together in the international coalition in the Middle East right now: in the counter-Daesh coalition and in operations moving to retake Mosul and Raqqa. They are critical to our fight against Daesh in the Middle East. Our relationship with the United States as part of that international coalition is critical to that process. I reinforce what I said in relation to these matters when Senator Di Natale first asked me this question and indicate, as the Attorney-General did, that the strength and depth of this alliance is at the core of our security, the core of our defence. (Time expired)

Senator McKIM (Tasmania) (14:41): Fifty years ago Harold Holt said the infamous words ‘all the way with LBJ’. Clearly, what we are hearing from the government is, ‘We’ve gotta be with Donald T.’ It is time for us in this place to have a serious debate about the nature
of our relationship with the US. It is clear to many Australians that we can no longer commit
to automatically being best friends with the United States of America under a Trump
presidency. We cannot today, here in this place, anywhere in this country and in fact
anywhere in the world, say that it is business as usual, because it is not business as usual
anymore. It was a seismic geopolitical event that we witnessed yesterday afternoon Australian
time.

_Senator Abetz interjecting—_

_Senator McKIM:_ I will not take interjections from Senator Abetz, who was gloating on
ABC Radio in Tasmania this morning about the election of Trump. Remember: this is a man
who was endorsed by the Ku Klux Klan. Mr Trump was endorsed by the KKK and here he is
the President-elect of the United States of America.

We can no longer simply lock-in behind the United States like a sycophantic little brother
or sister. In the past, the cost of not questioning our alliance with the United States has been
disastrous for this country. There was the Vietnam War, where thousands of young
Australians perished; and the Iraq war, where not only many young Australians perished and
many young Americans perished but the foundations were set for the rise of extremist cults
like Daesh. These interventions, led by the US and blindly followed by Australia, have been
disastrous not only for this country but for this world.

Have a look at the foreign policy of the man who the coalition and the Labor Party are
lining up behind today. He promised to end Muslim immigration to the US. He wants to build
a wall between the US and Mexico and then charge the Mexicans to build it. He reached out
to the Putin regime, for goodness sake!

He has threatened a trade war with China. He has promised to commit war crimes, including
torture and extra-judicial killings in the Middle East. He wants to undo the deal that froze
Iran's nuclear program. He believes that climate change is a conspiracy created by China.

_Senator O'Sullivan interjecting—_

_Senator McKIM:_ So do you? Well, good luck to you. You can stack up over there with
Senator Roberts all you like, but it says more about you than it does about the overwhelming
majority of scientists in this world. How can we possibly pretend that giving support—blind,
sycophantic, unquestioning support—to the US under a Trump presidency is in Australia's
best interest?

This motion should be supported because the government needs to act in Australia's best
interest. That is the whole point of this debate that we are having today. The government has
shown that it is prepared to lurch to the right to try and reabsorb One Nation voters. It has
done that on immigration policy—shamefully, in many cases it has had bipartisan support
from Labor—that would make Donald Trump proud in its cruelty and with its underpinnings
of xenophobia. It wants to undo protections against racial hatred in a fundamental attack on
multiculturalism in our country. It wants to make it easier for people to be racists in our
country, exactly as Mr Trump does in the United States. Unlike the coalition and unlike the
Labor Party, the Greens will not stand silently by while endorsement is given to this
dangerous, sexist, misogynistic, anti-Semitic sociopath. (Time expired)

_Senator SCULLION_ (Northern Territory—Minister for Indigenous Affairs and Leader of
The Nationals in the Senate) (14:46): I rise to speak against the motion moved by Senator Di
Natale. I will cut straight to the nub of this issue: it is absolutely appalling for Senator Di Natale, the leader of the Greens, to condemn 60 million Americans simply for exercising their democratic right to pick and choose their President. If the Greens do not believe in democracy, perhaps they should have stated that at the outset.

The PRESIDENT: The time for the debate has expired. The question is that the motion moved by Senator Di Natale to suspend standing orders be agreed to.

Question negatived.

QUESTIONS WITHOUT NOTICE

Solicitor-General

Senator WATT (Queensland) (14:47): My question is to the Attorney-General, Senator Brandis. I refer to today's Legal Services Amendment (Repeal of Solicitor-General Opinions) Direction 2016, through which the Attorney-General has made a humiliating backdown and withdrawn his earlier attempt to constrain the Solicitor-General. Who did the Attorney-General consult in making this new direction?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:48): Mr Tom Howe, the Acting Solicitor-General. Thank you, Senator Watt, for raising the issue. When the former Solicitor-General, Mr Gleeson, resigned on 24 October it was very clear to me that a new Solicitor-General would need to be appointed. I decided then that when the new Solicitor-General was appointed, obviously and as a matter of courtesy to whoever that person may be, I would have a talk to them about the way in which they wished to be briefed. It seemed to me at the time that one of the things that we would discuss is the legal services direction, which, no doubt, the incoming Solicitor-General may have views on.

I sought the views of the Acting Solicitor-General, Mr Howe, last week, on 3 November. He agreed with me that it was appropriate that when the new Solicitor-General came into office, which will be very soon, he should begin, as it were, with a clean slate. I had another talk to Mr Howe yesterday afternoon, and that confirmed in my mind the course of action which I had been inclined to take since 24 October. Accordingly, this morning I rescinded the legal services direction.

I have said all along that I regard this as a matter of administrative housekeeping. I think it has been the greatest confected storm in a teacup that I have ever seen. It does not change the law, it does not change paragraph (b) of section 12 of the Law Officers Act and it does not change the guidance note under which the Australian Public Service and its agencies determine the method for briefing the Solicitor-General, but it seemed a matter of common sense, with a new Solicitor-General, to solicit his views. (Time expired)

The PRESIDENT: Senator Watt, a supplementary question?

Senator WATT (Queensland) (14:50): I refer to comments made by the Attorney-General's Queensland colleague the member for Bowman, Mr Laming: I said it's no longer needed now because he's gone, and if it gets thrown out it doesn't matter — Justin Gleeson's gone.

Doesn't the repeal of the direction today prove that Mr Laming was right and this was all about targeting the former Solicitor-General?
Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:50): Senator Watt, I know that you and the Labor Party are very fond of conspiracy theories—particularly those of you in the Left faction of the Labor Party seem to live in a world of constant conspiracy theories. But I am afraid the prosaic truth is that when on 24 October 2016 I learnt of Mr Gleeson's resignation I immediately considered whether, when a new Solicitor-General is appointed, it was appropriate to have a discussion with him about the Legal Services Directions in order to solicit his views, just as I had solicited the views of the previous Solicitor-General.

I have been reflecting on that course of action since 24 October. I discussed it with Mr Howe, not once but twice. He thought it was a good idea and he has authorised me to say that the course of action has his approval. And I should say that expressions of interest for the new Solicitor-General close at 5 pm tomorrow. (Time expired)

The PRESIDENT: Senator Watt, a final supplementary question?

Senator WATT (Queensland) (14:51): Given the Attorney-General has changed the law of this country to get rid of a senior statutory officer holder who he disliked, been sanctioned by this Senate for previous attacks on senior statutory office holders and misled the Senate about the Man Monis legislation, why should the Senate have any confidence in his ability as the nation's first law officer?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:52): Each of those statements are untrue. Each of those statements are absolutely untrue, and you should not mislead the Senate. Senator Watt, you are a new senator and you have already developed an unattractive propensity to mislead the Senate.

Those who dragged Mr Justin Gleeson before a Senate committee were not the government—they were the opposition. Those who created an occasion where Mr Gleeson made some admissions which destroyed the government's capacity to trust him were not the government but the opposition. If Mr Gleeson was put in an untenable position—if, as he himself acknowledged, he was forced to resign because trust had disappeared—then that was not the doing of the government, it was the doing of Mr Mark Dreyfus and the opposition. (Time expired)

High Court of Australia

Senator CULLETON (Western Australia) (14:53): My question is to the Attorney-General, Senator Brandis. I refer the Attorney-General to my question without notice on 12 September 2016 regarding section 33 of the High Court Act and the High Court Rules 2004 and my concerns about the High Court of Australia generally. In light of the Attorney-General's response to my question, which he tabled in the Senate yesterday, can the attorney please explain to the Senate how the High Court intends to deal with the issues I have raised?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:54): It is not for me to speak on behalf of the High Court, but I can tell you that after your question I did raise the matter with the Principal Registrar and CE of the High Court, Mr Phelan. Mr Phelan has responded to me in a form which I have his authority to read to you. He said: 'An exposure draft of the High Court Rules 2004 was circulated in April 2004. The exposure draft was the subject of detailed
comments by the Law Council of Australia, the Australian Bar Association and the Special Committee of Solicitors-General. After considering those comments, the justices made the High Court Rules 2004 on 5 October 2004. They were tabled in the parliament on 16 November 2004 and came into effect on 1 January 2005. No issue was raised in the process of drafting or consulting concerning the consistency of the rules with section 33 of the High Court of Australia Act 1979.

'The rules committee of the High Court considered that issue on 12 October 2016. The committee proposes a number of amendments to the rules to address the issue. The proposed amendments will be drafted by the Office of Parliamentary Counsel and will be the subject of consultation with professional bodies before being finalised by the court.'

Senator Culleton, it was you who spotted this discrepancy in the High Court Rules which the High Court Rules Committee has now acted upon. I might say that, since those rules were promulgated in 2004, there have been 16 distinguished Australian jurists who have sat on the High Court, including two chief justices, and I must congratulate you, Senator Culleton, on being the first person to spot the problem.

The PRESIDENT: Senator Culleton, a supplementary question.

Senator CULLETON (Western Australia) (14:56): Given what the Constitution provides in chapter 3(72) regarding the removal of judges, how is it possible to address the now proven misbehaviour by simple amendment without first addressing the original breach of the Constitution by the High Court of Australia in failing to take the changes effected by the High Court of Australia Act to referendum?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:56): I have to correct you, with respect. There is certainly no breach of the Constitution. There is no requirement. What we are talking about here is a discrepancy that you have identified between the High Court Rules 2004 and the forms to the High Court Rules. That is not a constitutional issue; it is an issue that is entirely able to be corrected by the amendments to the rules that are now in contemplation following your question. There is no issue of constitutional invalidity or indeed no constitutional issue raised here whatsoever.

The PRESIDENT: Senator Culleton, a final supplementary question.

Senator CULLETON (Western Australia) (14:57): Given my question concerns the issue of the past and present deliberations of the same High Court of Australia while this misbehaviour remains unaddressed, can the Attorney-General advise whether the High Court must stand down until such times as the matters under investigation are clarified and resolved?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:57): You really should not accuse the judges of the High Court of misbehaviour. There is absolutely no suggestion of that, and it is not a proper thing to do. It appears that a mistake was made in 2004 in the drafting of the High Court Rules—a mistake of a very technical nature—so that there was a small discrepancy between a form and a rule. That is not legally consequential. In fact, no member of the current High Court was a member of the High Court of Australia in 2004, so no member of the current High Court was involved in the decisions made in 2004. No member of
the High Court has been guilty of misbehaviour. No member of the High Court has been guilty of any unconstitutional conduct. This is not a constitutional issue. It is not an issue of behaviour. It is a question of a minor discrepancy which you, Senator Culleton, have noticed. (Time expired)

Indigenous Suicide

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (14:58): My question is to the Minister for Indigenous Affairs, Senator Scullion. How is the minister working to address the tragic rate of suicide in Indigenous communities, noting that it is twice that of non-Indigenous Australians and rates in the Kimberley in the far north of Western Australia are three times the national rate?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:59): I would like to first of all thank Senator Smith for the question and acknowledge the work that he is doing in this area. I would also like to take the opportunity to acknowledge all those in this chamber who have participated in assisting both me and government to come to the position we have.

Today, with the Prime Minister, Minister Ley and Minister Watt, I met with Lena Andrews from Fitzroy Crossing, Norma Ashwin from Leonora and her children Sharnice, Rowan and Caeden, who shared the story of their loss. Every single death and tragedy in this area breaks all our hearts. The Indigenous rate of self-harm is twice the national rate and, very tragically, it is five times the rate for young people. It is a problem about which, in the past, with great intent, we—all of us—have tried different things. I can remember, for those who were around in 2010, that I called for and we tried—a number of us on all sides—to agitate for what needed to work. Obviously, the first thing I did when I came here was to commission a review about what worked in the Australian context, to do a comparative analysis of what worked. Again, I thank others in the chamber for their contribution to that report. Today, with Lena, Norma and the kids, we launched that report: the Aboriginal and Torres Strait Islander suicide prevention evaluation project report. It is a bit of a mouthful, so ATSISPEP it remains.

There are a number of other issues that we dealt with. We had a critical response initiative that we did about halfway through the report that indicated we needed a flying squad to come in and help the families in communities at a particular time. It is a relatively small investment. We believe all the evidence at the moment is that it is working very, very well. But this sets us on a path of an evidence based response into the future. (Time expired)

The PRESIDENT: Senator Smith, a supplementary question.

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (15:01): Why is the government trialling this new approach to Indigenous suicide prevention services?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (15:01): As I mentioned, I do not think there was any clarity in the Australian context about what was working. The ATSISPEP report makes a number of recommendations. The most significant part in the recommendations is that they have to be culturally competent organisations and programs for delivery. For the interpretation, that means: Aboriginal and Torres Strait Islander community organisations irrigated by Aboriginal and Torres Strait Islander people delivering those services. This is not a report that is going to
be on a shelf gaining dust, I assure you. We went to the Kimberley last month. We sat down with members of the community in the Kimberley, and we have asked the Kimberley community to work with us in the rollout of all the evidence that we have from this report. They are away at the moment. They have asked us to come back in December to sit down again, as a parliament, with Indigenous leaders and with Kimberley leaders to ensure that we are embarking on a new way of dealing with this. (Time expired)

The PRESIDENT: Senator Smith, a final supplementary question.

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (15:02): What other measures has the government introduced to address the rates of Indigenous suicide?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (15:02): One of the fundamentals—and this is something I would commend to every member of this House—is that, if you have front-line staff, you need them to do a mental health first aid course. If you have not done one, go and do one. They are fascinating. There is an Indigenous mental health first aid course that we are rolling out across the country. We have had an immediate rollout in Groote Eylandt. We know some of the tensions that exist there. That is 225 people. There are another 1,500 of my front-line workers in remote school attendance and community night patrols. The final rollout will be to the 37,000 CDEP participants, because it is about lifting capacity within the community. Like any community, the stigmatisation of mental health is part of the great challenge of talking to people about how they are feeling and how they need to respond and get help. Men—we are the worst. With a mental health first aid course you will understand that this does not need to be stigmatised. That lift in the capacity in the communities will make a vast difference in this area. (Time expired)

The PRESIDENT: I just advise senators that question time will conclude at 3.30 and 45 seconds. I call Senator Kakoschke-Moore.

Paid Parental Leave

Senator KAKOSCHKE-MOORE (South Australia) (15:03): My question is to Senator Ryan, the Minister representing the Minister for Social Services. Can the minister provide the underlying assumptions for the current Paid Parental Leave scheme compared to the proposed government scheme?

Senator RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (15:04): The government supports all working parents and believes they should be entitled to paid leave to spend important bonding time with their newborn or newly adopted child in the early months. Under the revised PPL policy announced in the 2015-16 MYEFO, mothers with employer-paid parental leave would receive a partial payment of government funded paid parental leave up to a combined total of 18 weeks. There are currently around 170,000 recipients of government funded paid parental leave. All costings are based on the fact that any government funded paid parental leave is provided at the national minimum wage, currently set at $672.60 per week.

The PRESIDENT: Senator Kakoschke-Moore, a supplementary question.

Senator KAKOSCHKE-MOORE (South Australia) (15:05): The media has reported that the government's proposed changes to the paid parental leave scheme could affect up to
80,000 new mothers a year. Can the minister advise how the department calculated the number of persons who are likely to miss out on payments under the government's proposed changes to the PPL scheme?

Senator RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (15:05): Four per cent of families will no longer be eligible for government funded paid parental leave under the proposal. These families will already be in receipt of parental leave of 18 weeks or more from their employer. They are also more likely to be higher income earners, with the average income of the recipient being $69,000 per year. This is $26,000 more than the families who will be completely unaffected by the proposal of the government. It also does not reflect that this is the only income of the recipient as, obviously, family or household incomes can be higher.

The government does not consider it fair that a woman currently employed earning $140,000 annually, and with an entitlement of 12 weeks maternity leave paid by her employer at 100 per cent of her salary, would receive approximately $2,692 per week, which is $32,308 in total for the 12-week period, and still be entitled to the 18 weeks paid parental leave at around the national minimum wage.

The PRESIDENT: Senator Kakoschke-Moore, a final supplementary question.

Senator KAKOSCHKE-MOORE (South Australia) (15:06): Noting that one would expect the government to have considered the impact of the paid parental leave reforms on other sectors, how were child-care places and the government's proposed child-care reforms factored into the overall paid parental leave scheme, if at all?

Senator RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (15:06): I should say at some point that these are issues that I have had to deal with myself in the last couple of months. Currently, families receiving child-care benefit receive 24 hours of child care without an activity test. Therefore, they would be able to receive both paid parental leave and child-care benefits at the same time. Under the government's proposed child-care package, which is yet to be progressed through the Senate, an activity test would apply, but if you are working or on leave this would qualify as meeting the activity test.

Day, Mr Bob, AO

Senator POLLEY (Tasmania) (15:07): My question is to the Minister for Finance, Senator Cormann. I refer to the minister's answer in question time yesterday in which he said he had not discussed matters relating to former Senator Day's electorate office with the Prime Minister, or his office, because it was 'very much a routine matter'. How can the minister consider the possible breach of section 44 of the Constitution to be 'very much a routine matter'?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (15:07): I thank Senator Polley for that question. Senator Polley was not approached with a proposal to breach section 44 of the Constitution. He approached me with an inquiry in relation to his electorate office, in the same way that Labor members and senators approach me, Liberal members and senators approach me and Greens members and senators approach me. In relation to all of the matters that are pertinent to the question that
Senator Polley has just asked me, I covered them in my very comprehensive statement, my very detailed statement, to the Senate on Monday and I refer Senator Polley to that statement.

The PRESIDENT: Senator Polley, a supplementary question.

Senator POLLEY (Tasmania) (15:08): Given that the Special Minister of State, Senator Ryan, was able to recognise within 15 days of his elevation to that role what the minister failed to recognise in six months as Special Minister of State and three years as a senior minister for the Finance portfolio, has the minister sought advice from his junior minister on how to tell the difference between a routine matter and a potential breach of the Australian Constitution?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (15:09): That is very droll. Let me say up-front that clearly Senator Polley has not studied my very comprehensive statement to the Senate with as much attention as she should have, because if she had studied the statement I made to the Senate she would have been able to ascertain the fact that I denied the payment of any rent. What happened after the election, given that Senator Day was re-elected after the election, given that he chose to re-enliven his claim for payment of rent, given that there was a deadline looming of 14 August, was that the whole issue had to be reconsidered at that point. From my point of view, when I dealt with it, it was dealt with. Of course, all of these matters are explained in some great detail and in some great depth in my very comprehensive statement to the Senate on Monday.

The PRESIDENT: Senator Polley, a final supplementary question.

Senator POLLEY (Tasmania) (15:10): Will the minister admit that when it comes to the Bob Day affair he either took his eye off the ball or turned a blind eye to keep the coalition’s most reliable crossbencher happy?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (15:10): No and no.

Registered Organisations

Senator HUME (Victoria) (15:10): My question is to the Minister for Employment, Senator Cash. Is the minister aware of support for strengthening accountability and improving governance of registered organisations?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (15:10): I thank Senator Hume for her question—and yes, I am. The need to further strengthen accountability and improved governance in registered organisations is acknowledged by many respected former union leaders. For example, Bill Shorten’s successor as National Secretary of the Australian Workers Union, Paul Howes, said three years ago:

I can't see any reason why anyone in the—

Mr Howes also stated that he had no issue with coalition policy. Former ACTU President Martin Ferguson stated:

There is an absolute obligation on the union movement to clean up its house.
Former Labor Attorney-General Robert McClelland said there was 'unquestionably a case for further legislative reform'. And former ACTU Secretary Bill Kelty has publicly stated:

I was always on that side of the debate which said that unions are public bodies so they are accountable to members for their management …

I never cared that people knew how much I got paid. We had very strict rules about how much money you could earn outside the ACTU too.

Sensible figures—and I think these people are seen as sensible figures—within the Australian union movement recognise that the integrity and credibility of organisations depend on them being transparent and accountable. It is very clear that the existing laws in relation to registered organisations do not demand this accountability and transparency. Because there is a flaw in the existing policy, it is incumbent upon this parliament and this Senate to rectify that flaw.

The PRESIDENT: Senator Hume, a supplementary question.

Senator HUME (Victoria) (15:12): Can the minister inform the Senate of the importance of greater accountability for unions and employer groups?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (15:12): Yes, I can. If we do not pass this greater accountability and transparency, the rorts and the rip-offs will continue. Again, just this week, we have read reports of Health Services Union Secretary Diana Asmar cashing out $25,975 in maternity leave. This arrangement was criticised in many quarters. For example, former ACTU President Jennie George said:

No employer, including a union, should condone the cashing out of maternity leave.

… … …

… [It] reflects a total lack of understanding of the purpose of the entitlement ...

Last financial year, Ms Asmar reportedly received $50,000 in leave payouts on top of her six-figure salary. This is unacceptable and should be disclosed to the members. (Time expired)

The PRESIDENT: Senator Hume, a final supplementary question.

Senator HUME (Victoria) (15:14): Can the minister inform the Senate of the consequences of inaction?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (15:14): As I said, just this week yet again, we have been made aware of further rorts and rip-offs. In Australia, there are 47 unions and 63 employer groups representing two million members—that is, two million hardworking Australians. It is incumbent upon this parliament to ensure that the interests of these hardworking Australians are protected.

None of these hardworking Australians who hand over considerable amounts of money to their organisations deserve the leaders of those organisations to then treat their money and their organisations as their personal piggy banks. These organisations have annual revenue in excess of $1.5 billion. They have ownership or control of assets of around $2.5 billion. They have tax-exempt status, and we deserve only the very best from them. (Time expired)
United States Election

Senator O'NEILL (New South Wales) (15:15): My question is to the Minister representing the Prime Minister, Senator Brandis. I refer to the public commentary of numerous coalition backbenchers on the US election. This morning the member for Hughes said about President-elect Trump's plea to cancel the Paris agreement on climate change:

Paris is cactus.

Is the comment consistent with the Prime Minister's announcement today that Australia has ratified its Paris climate targets?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:15): I have not seen the comments of the member for Hughes, but the policy of the Australian government is obviously as stated by the Prime Minister and relevant ministers.

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

Senator O'NEILL (New South Wales) (15:15): I refer to commentary by Senator Bernardi, currently funded by taxpayers to be in New York as this parliament's observer at the United Nations, who has lauded the election of Donald Trump as a 'movement against the establishment political parties'. Is the Prime Minister concerned—

Government senators interjecting—

The PRESIDENT: A point of order, Senator Wong?

Senator Wong: There are an enormous number of interjections happening which are disrupting the question. I would ask that the clock be reset and the question be re-asked.

The PRESIDENT: On the point of order, Senator Seselja?

Senator Seselja: The interjections were simply about the fact that Senator O'Neill was neglecting to mention that Senator Singh was also in New York on taxpayer—

The PRESIDENT: There is no point of order. That is a debating point. I would ask senators to observe silence when senators are asking questions and giving answers. You may commence your question again, Senator O'Neill. We will reset the clock.

Senator O'NEILL: Thank you very much, Mr President; I did have trouble hearing myself. I refer to commentary by Senator Bernardi, currently funded by taxpayers to be in New York as this parliament's observer at the United Nations, who has lauded the election of Donald Trump as a 'movement against the establishment political parties'.

The PRESIDENT: A point of order, Senator Macdonald?

Senator Ian Macdonald: The way the question was asked suggesting Senator Bernardi was doing something wrong is pejorative and is not within the standing orders. The senator should also state that Labor senator Lisa Singh is also in New York.

The PRESIDENT: Order, Senator Macdonald! You are debating the point. There is an opportunity at the end of question time for these matters to be rectified. The minister the question is directed to could also make reference to that.

Senator O'NEILL: Is the Prime Minister concerned by the movement against establishment political parties, particularly by conservative groups based in South Australia? What implications does this have for government policy?
Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:18): I will come to your question in a moment, Senator O'Neill, but I wonder why it is that you would preface your question with the words 'Senator Bernardi, who is currently on a taxpayer funded trip to the United Nations' while omitting to mention that your colleague Senator Lisa Singh is on the same taxpayer funded visit to the United Nations which has been a convention of this parliament for many, many years. The innuendo against Senator Bernardi seems to be both unfair and borderline dishonest.

There is no doubt that there will be an enormous amount of commentary on what everybody acknowledges to have been a very, very historic election, an election that was unexpected by most. Senator Bernardi is perfectly entitled to make comments. The comment that has been attributed to him has been made by many others.

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

Senator O'NEILL (New South Wales) (15:19): I refer to Senator Macdonald, who this morning said about Queenslanders, 'They also thought in Tony Abbott they had someone they could relate to, and I think all of those things did impact upon the result and did lead to a bigger-than-expected vote for Pauline Hanson.' Does the Prime Minister agree that Pauline Hanson is now a senator because he replaced the member for Warringah as Prime Minister?

The PRESIDENT: Senator O'Neill, I will allow the question, but it strictly was not a supplementary question to the primary question.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:19): I know that this is the last question time of the week, and perhaps the Labor Party is running out of steam, but I do question the utility of asking questions about comments on contemporary political events that may have fallen from backbench members of the government. As a fellow Queensland senator and as friend of Senator Ian Macdonald—

Opposition senators interjecting—

Senator BRANDIS: Senator Pauline Hanson indeed was elected at the federal election and Senator Malcolm Roberts was elected too. The One Nation party got a very good result in Queensland; there is no doubt about that. Senator Macdonald's remark—which I have not seen, but I take at face value what you have attributed to him—was a commentary on the fact that the One Nation party did do particularly well in the Senate in Queensland as it did in other states.

United States Election

Senator BACK (Western Australia) (15:20): I too was on the taxpayer funded program in New York with the then Labor senator Mark Bishop. My question is to the Minister for Defence, Senator Payne. Can the minister advise the Senate of the strategic implications of the US election result for Australia's defence and security?

Senator PAYNE (New South Wales—Minister for Defence) (15:21): I thank Senator Back for a very sensible question on the US election outcome. Let me restate that, in the first instance, Australia's highest priority in security and strategic terms is and will continue to be our alliance with the United States in terms of protecting our own national security and our own position. Indeed, as the Prime Minister himself discussed with President Trump this
morning, this very strong and deep alliance remains at the core of Australia's security and defence planning.

It has been adverted to in question time earlier, and in the debate on the motion by the Greens, that, since the signing of the ANZUS Treaty in 1951, it is our common and enduring interests and shared goals which have underpinned this longstanding relationship and will continue to do so well into the future. Our support to that alliance is unwavering. For the past 70 years, as the defence white paper states and as I alluded to earlier, the strong presence of the United States has underpinned the stability of this region and around the world.

I look forward to continuing the relationships that we have built up over the time of this government through this transition period and then with the new Trump administration after the inauguration. My recent visit to Washington, and that of the Prime Minister and the Foreign Minister, reinforced those key personal relationships with interlocutors across the spectrum in Washington and enabled us to inform ourselves of activities around the election campaign itself and the future, as it may arrive, in the post-election environment. Through early engagement with the new administration, I and our colleagues will be resolute in working closely with the new administration in support of our common regional and security interests. This government is committed to deepening our longstanding defence cooperation with the United States in the pursuit of peace, security and stability in our region. (Time expired)

The PRESIDENT: Senator Back, a supplementary question.

Senator BACK (Western Australia) (15:23): Can the minister inform the Senate how Australian and US troops are working together in international operations?

Senator PAYNE (New South Wales—Minister for Defence) (15:23): Together with the United States, our ability to work collaboratively is stronger than ever. Senator Back would know—through not only his chairmanship of the Senate Foreign Affairs, Defence and Trade Committee but also his own family experience—how important that collaborative capacity is for our international engagements in the military context. As I have advised the chamber previously, the Australian Defence Force is currently making some substantial military contributions to the US-led Counter-Daesh Coalition in Iraq and Syria to combat this extraordinary terrorist threat. Not only are we contributing through our Building Partner Capacity mission in Taji, through our Special Operations Task Group in Baghdad and the Air Task Group; we also have key senior ADF personnel embedded in coalition headquarters. Further, of course, the United States and Australia are working together in Afghanistan. We work on UN deployments together. We exchange officers in key positions in both militaries. The depth of the relationship and the purpose of the relationship—(Time expired)

The PRESIDENT: Senator Back, a final supplementary question.

Senator BACK (Western Australia) (15:24): I thank the minister for her responses. Can the minister advise the Senate of US and Australian collaboration in defence and security in pursuit of our common strategic interests?

Senator PAYNE (New South Wales—Minister for Defence) (15:24): I did have an opportunity to speak about some of this earlier. The depth of that relationship—and, even more importantly, the breadth of the relationship—is perhaps not always appreciated. When you see our Defence Science and Technology Group and the Chief Defence Scientist working
with the United States and other Five Eyes partners—the work they do in the technical cooperation, 'the technical partnership' as they call it—when you see how the US-Australia Defence Trade Cooperation Treaty enables both of our countries to share access to equipment, technology and information and services as we seek to achieve a fully interoperable force, then you see that they are foundational for our collaborative work. Our cooperation on the submarine program is an enduring example of where we work together so very closely. Our jointly developed combat system and the heavyweight torpedo are currently operational both on Australian and on US submarines. We have a joint naval communications station at beautiful Exmouth, in in Senator Back's own state of Western Australia, which I have had the chance to visit—

**North East Vocational College**

**Senator MOORE** (Queensland) (15:26): My question is to the Minister for Education and Training, Senator Birmingham. Can the minister confirm that under former Senator Day's student builder so-called student builders will not be paid any wages and, when participants are placed in unpaid work experience, host employers will pay a placement fee to former Senator Day's North East Vocational College?

**Senator BIRMINGHAM** (South Australia—Minister for Education and Training) (15:26): Let me firstly deal with the last part of Senator Moore's question, in which she describes it as 'Senator Day's North East Vocational College'. Let us be very clear: the North East Vocational College is a not-for-profit training provider. It is a trading provider that Senator Day voluntarily served on the board of, received no payment for and has no financial interest in. I want to be very clear about that, because there is smearing going on from those opposite not just of former Senator Day but also of a quality training provider that just last year was recognised in the South Australian Training Awards as the Small Training Provider of the Year and in the last few weeks was visited by the state Labor Treasurer, Tom Koutsantonis. It is a recognised quality training provider.

This is an alternative delivery model. That is the exact nature of the pilots that are in question here. And so it is that, yes—

**The PRESIDENT:** Senator Cameron, a point of order.

**Senator Cameron:** A point of order on relevance: we are now halfway through the response time for the question, and Senator Birmingham has not gone anywhere near answering the question that was put to him.

**The PRESIDENT:** Thank you, Senator Cameron.

We are now halfway through the response time for the question, and Senator Birmingham has not gone anywhere near answering the question that was put to him.

**The PRESIDENT:** The PRESIDENT: Thank you, Senator Cameron.

**Opposition senators interjecting—**

**Government senators interjecting—**

**The PRESIDENT:** Order, on both sides! Senator Birmingham quite clearly at the outset of his question answered a key element of the question posed by Senator Moore in relation to Senator Day, which was a clear part of the question. He has been in order.

**Senator BIRMINGHAM:** As I was telling the senators, I have emphasised again and again these alternative delivery pilots are exactly that: they are alternative to the different delivery arrangements that trial apprenticeship models in different ways and trial the delivery of qualifications in different ways. These students will receive a certificate IV in small
business planning and monitoring, and in small business management; a certificate III in carpentry; a certificate IV in building and construction building. They will also meet South Australia's Consumer and Business Services requirements, the Building Work Contractors Act, occupational and business licensing work requirements, all building work contractor licence—

The PRESIDENT: Pause the clock. Senator Cameron?

Senator Cameron: Again, a point of order on relevance. The issue was about the payment or non-payment of wages, and that has not been addressed.

The PRESIDENT: That was an element of the question.

Senator Cameron: It was a key element, Mr President.

The PRESIDENT: That was an element of the question. Senator Birmingham, you have the call and you are aware of the question.

Senator BIRMINGHAM: Thank you, Mr President. I was working through the elements of the question, and, indeed, reminding the Senate and Senator Cameron that not only are recognised qualifications received but also that there are licences that are received as well. Under the alternative delivery arrangements in this case, students are not paid. They are students; that is the nature of the arrangement for this model. Just as many students around the country receive qualifications for which they are not paid during their training. This is an alternative delivery pilot— (Time expired)

The PRESIDENT: Senator Moore, a supplementary question.

Senator MOORE (Queensland) (15:29): Can the minister advise the Senate how many hours of such unpaid work experience will be required of participants each year in former Senator Day's favoured student building apprenticeship delivery pilot?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (15:29): I will come back to the Senate with the details of the number of hours to receive the qualifications that they are getting—the qualifications under the Australian Qualifications Framework and the qualifications that meet licensing credentials.

Senator Wong interjecting—

Senator BIRMINGHAM: Which qualifications, Senator Wong? I will tell you again: as I just said, Certificate IV in Small Business Planning and 'Monitor and manage small business operations'; Certificate III in Carpentry; and Certificate IV in Building and Construction. Each participant receives all of these, as well as completing training to meet South Australia's business services and Building Work Contractors Act, occupational and business criteria licence requirements, the building work contractors licence, and building works—

The PRESIDENT: Order, Minister! Senator Cameron, a point of order.

Senator Cameron: Again, on relevance, there was one question on this, and that is: how many hours of unpaid work experience will be required of the participants? The minister has not gone near it.

The PRESIDENT: Order! Senator Cameron, I will entertain points of order, but I do not want it to become an abuse of question time by having an opportunity to repeat the question. Senator Birmingham very clearly, up front, indicated he would take the details of that on
notice, and that is the minister's entitlement. He indicated that, and the minister is entitled then, if he is relevant to the topic, to complete the answer fully. The minister was in order.

Senator BIRMINGHAM: As I was saying, a range of qualifications are received and, of course, there are on-the-job training elements to those qualifications. So I will check exactly what the on-the-job training elements are and the number of hours that are required to meet them, and I will happily provide that to the Senate—as I said, Senator Cameron, in the first 10 seconds of my answer. But all of this is about trying to trial new ways to lift apprenticeship numbers, which went into free fall thanks to the policy actions of the Gillard government in 2012. (Time expired)

Honourable senators interjecting—

The PRESIDENT: I believe there is one final supplementary question, Senator Brandis. Please do not get too excited, Senators! Senator Moore, a final supplementary question.

Senator MOORE (Queensland) (15:32): Senator Brandis, this will be a favoured question! Minister, prior to former Senator Day's resignation from the Senate, were there any limits on the Turnbull government's willingness to accommodate former Senator Day's favoured projects for access to taxpayers' money, even if it meant bastardising apprenticeship training?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (15:32): Former Senator Day, of course, employed more apprentices in his career than any person over there—any single one of you. Yes, he was passionate about training and about apprenticeships. But, if those opposite want to talk about use of taxpayer moneys, why don't we go back and have a look at the $300 million Early Years Quality Fund, which of course was just a great big rort to sign people up to the United Voice union? Why don't we go and have a look at the money that was paid to the Transport Workers Union, a payment they made to the union for the Road Safety Remuneration Tribunal's promotion because they thought it was a good idea to pay the trade union movement to go out and promote something that was going to destroy and cripple jobs in the transport industry? If they want to talk about value for money, why did former Prime Minister Julia Gillard think it was great to personally intervene to send mid-level union officials to Moscow at the taxpayer's expense for G20 meetings? There are many occasions— (Time expired)

Senator Brandis: I am almost embarrassed to interrupt Senator Birmingham's flow, but I ask that further questions be placed upon the Notice Paper.

DOCUMENTS
Qualifications of Senators
Media Rules
Tabling

The PRESIDENT (15:33): I inform senators about two matters. One is the response from the High Court, and the second is media rules in the chamber.

First, I table notices received today from the High Court setting 21 November as the date for the directions hearings in the matters referred to it by the Senate. I table those documents.

Second, in relation to the media rules, I present an amended copy of the rules for media related activities in Parliament House and its precincts, which the Speaker and I have agreed
to. The amended rules reflect the recent resolution of the Senate regarding photography in the Senate chamber. They also make consistent the number of photographers permitted in the galleries of both chambers. Also taken into account are references to resolutions of the houses and the Joint Committee on the Broadcasting of Parliamentary Proceedings in relation to the broadcast of proceedings, which were revised in 2013. The amended rules will replace those issued in November 2012 and will be made available on the Australian Parliament House website.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator CAMERON (New South Wales) (15:35): I move:

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

Well, what a performance from Senator Birmingham. Senator Birmingham today was supposed to supply all documents in relation to the money that was provided to the coalition's best mate in this place, former Senator Day. Senator Birmingham made no attempt to provide those documents and, unlike some other ministers, made no attempt to actually get up and address why they were not presented in line with the direction of the Senate.

Senator Birmingham: Madam Deputy President, on a point of order: Senator Cameron is misleading the Senate. The documents have been provided to the Table Office.

Senator CAMERON: If that is the case then I accept that; but documents are normally tabled here. We will see where the cover-up is and we will see what documents we have. They have to accept, I think, that what this is about is one thing: it is about destroying the capacity for working-class tradies to get a trade certificate. That is what this is about. What it is going to mean is that kids are going to end up going into registered training organisations like former Senator Day's pet training organisation, they will achieve some outcomes in terms of their technical education but they will not receive a trade certificate.

I think the coalition are not aware of how important it is to have a trade certificate. I do, because it is my only qualification. My only qualification is a trade certificate and a City & Guilds certificate to say that I completed my technical qualifications as a fitter and machinist. So it is very important that tradies get their trade qualification. It is very important that we do not see a diminution of the traditional trade training that takes place—the traditional trade training that even the government's own advisory group said was delivering. It was delivering flexibility. It was delivering good tradespeople, and they recommended against what this government has done. This government ignored their own group and their recommendations and set about giving almost $2 million to the most reliable crossbench senator in this place, the former Senator Day—a former member of the Liberal Party, a former high-office holder in the Liberal Party and a former very, very large donator to the Liberal Party in South Australia.

There are 1.65 million tradespeople in this country who are delivering the goods for this country in terms of productivity, in terms of the effort that tradies put in every day. They will be appalled to think that their trade certificate, the classification that they have and, for many of them, the only formal qualification that they have will be no more under this government, because this is what it is about: it is about destroying the trade certificate. It is about getting
kids out of school into education within the registered training organisations, sitting on their backsides for most of the time, getting technical training but no on-the-job training—and, if you go on the job, you will go on the job with absolutely no payment.

This is an absolute rort. Former Senator Day went to Senator Birmingham and said, 'Give me $1.4 million for my pet project,' and then Senator Birmingham set up the process to deliver not only the $1.4 million that he asked for but $2 million plus—$2 million plus was delivered! And the expert panel said, 'No need to do this.' But Senator Birmingham moved along and actually delivered what the expert panel said should not happen.

So tradies all over the country will be watching. The 1.6 million tradies in this country will have their trade recognition diminished under the coalition—absolutely diminished. This is not about productivity and it is not about the trades; it is about paying off former Senator Day, who was here as a reliable vote for the coalition. (Time expired)

Senator HUME (Victoria) (15:40): I was here two days ago, rising in this chamber at exactly the same time, to speak, ironically, on exactly the same issues. This is like deja vu all over again! And the last thing I want to do is to carry this metaphor any further, but I think one more time we have to refer to Alice in Wonderland: this is getting 'curiouser and curiouser'!

I am so fundamentally disappointed with the questions without notice asked by those opposite. There is no substance, there is no legislative focus. The government has important work to do and those opposite have a duty to constituents—they have a duty to all Australians—to get their act together, to start dealing with the substantive issues of policy and to get on with the job of statecraft.

I thought that perhaps today we would have some serious questions but, sadly, no—once again we are playing political games and personal witch-hunts rather than policy development and policy passage. Perhaps honourable senators will be more lucky next week and more dedicated in the next sitting week. This government, however, is getting on with the job.

On the issue of former Senator Day: I do not think this government could be more transparent in this matter. It has repeated these assertions: both the Special Minister of State and the Minister for Finance have made extensive statements to the Senate on Monday 7 November, outlining the time line and the circumstances surrounding the lease of former Senator Day's electorate office. The government has moved a motion in the Senate to refer the election of former Senator Bob Day to the High Court due to a potential breach of section 44(v) of the Constitution. And this passed the Senate unanimously on Monday 7 November. There is clearly only one body that has the power to determine whether former Senator Day was in breach of section 44, and that is the High Court. Those opposite agreed that this matter has now been referred to the High Court and it would be foolish of anybody to pre-empt their findings. And it is very important that neither house of parliament should try to have this matter tried outside of that court process.

On the issue of apprenticeships, that Senator Cameron has raised: clearly this government supports vocational education and training, and has made that support abundantly clear. Many stakeholders have raised concerns about apprenticeships, and this government has listened to those concerned. This is not surprising. It is not surprising, given that Labor cut $1.2 billion in apprenticeship incentives in government, leading to the largest single drop in apprenticeships
on record. Senator Birmingham commissioned the Apprenticeship Reform Advisory Group to consider a range of issues, including incentives, pre-apprenticeships and alternative models. The advisory group made 22 recommendations, including to explore and pilot alternative apprenticeship delivery arrangements. The government addressed this recommendation by providing $9.2 million under the Apprenticeship Training alternative delivery pilots initiative. The Australian government is funding five projects under pilots. The pilots are being delivered by Master Builders Australia, the National Electrical and Communications Association, the North East Vocational College in Adelaide, the Australian Industry Group—the Ai Group—and PricewaterhouseCoopers. The pilots will test training models which provide alternative skills development options both for industry and for those undertaking the training.

The Turnbull government wants to support industry efforts to explore these new arrangements and to examine and test potential regulatory or administrative barriers to innovation in industry-led apprenticeship training practices. All five of these pilots will be subject to ongoing evaluation, and the findings will be used to contribute to an evidence base that will inform future policy developments. This government is getting on with the job and delivering that which Australians expect and deserve.

Senator Watt (Queensland) (15:45): Today about half an hour or 15 minutes before question time, the Attorney-General issued the repeal of the Legal Services Amendment (Solicitor-General Opinions) Direction 2016. To anyone who actually bothered to look at legislation matters today, they would not really have known what that was about. They would have been distracted by that legalese—that boring wording. What that repeal is all about is a cloak for one of the most humiliating backdowns this chamber has ever seen. It is a humiliating backdown by this Attorney-General, who is fast becoming a complete embarrassment to this government—to the point that anywhere you go in Canberra there is active discussion underway about a ministerial reshuffle and about this Attorney-General being moved on to make way for someone who is actually up to the job.

Let us just retrace the history of this matter. For months now the Attorney-General has defended an unprecedented action that he took in issuing a direction which constrained the independence of this nation's Solicitor-General—our foremost lawyer. It required the Solicitor-General to get the permission of the Attorney-General to provide legal advice to anyone else in the government and it required anyone else in the government to come and seek the Attorney-General's permission before they could seek a legal opinion from the Solicitor-General. That has never happened before.

An inquiry that was held into this revealed that no other Solicitor-General had ever been subject to a similar direction, and yet this Attorney-General took it upon himself to issue that direction and constrain the independence of the nation's first legal officer. I talked about the report of this committee the other day and pointed out that we may reach three conclusions. Firstly, that this direction was improper. Secondly, that despite the Attorney-General's claims to the contrary, he did not consult the Solicitor-General in the issuing of that original direction, and, despite the fact that he is actually required to do so by law, not one other attendee at the meeting that the Attorney-General held with the Solicitor-General in November last year, which is the meeting the Attorney-General relies on to say he consulted the Solicitor-General, backs up the Attorney-General's claim. He did not consult the Solicitor-
General. And, thirdly, and even worse than that, that he has repeatedly misled the Senate about this consultation. The explanatory note which was issued with the original direction said that he had consulted the Solicitor-General on at least five occasions. He has told either this chamber or a committee hearing that he has consulted the Solicitor-General when all other evidence is to the contrary. He has repeatedly misled the Senate and, as we know, this Attorney-General has done that on other occasions as well.

The Prime Minister has previously said that he regards the misleading of parliament as a very serious matter and that if you mislead the parliament you have no choice but to resign. Even the Attorney-General admitted within our hearing that he agreed that if a minister misleads this chamber then they have no choice but to resign. Well, I am afraid for this Attorney-General his time is up. It is time to go. It is time to resign.

As I said, just before question time today we saw the original direction constraining the Solicitor-General withdrawn by the Attorney-General. Why did he do that? He knew that he was going to lose. He knew that he did not have the numbers to push this through, that everyone had finally caught him out, that everyone knew what he was up to and that everyone knew that he had been misleading the Senate when he claimed to have consulted the Solicitor-General. How humiliating to spend the last few months consistently arguing that he had consulted the Solicitor-General and consistently arguing that this direction was needed, only to withdraw it 15 minutes before question time on the day the game was up.

We must ask ourselves why this Attorney-General would do this. Obviously, on the one hand he was finally aware that he was going to lose and a motion was going to be passed today disallowing the direction. But I think the real reason why this direction was withdrawn was exposed by the Attorney-General's colleague the member for Bowman, Mr Andrew Laming, when he said on Brisbane radio recently of the direction:

… it's no longer needed now because he's gone—

'he' being the Solicitor-General—

and if it gets thrown out it doesn't matter — Justin Gleeson's gone.

That is what this was all about. This was about the Attorney-General not wanting to have a Solicitor-General who was independent of mind and would actually provide him with real legal advice rather than the advice he wanted.

In conclusion, there is no doubt that this Attorney-General is a failure. He has given rise to the term 'Brandis Fail'. We have had Brandis Fail I, when he misled the Senate over the Man Monis letters. We have had Brandis Fail II when he was censured for attacking Gillian Triggs, the President of the Australian Human Rights Commission. Now we have had Brandis Fail III, a humiliating backdown where he has had to withdraw his own direction about the Solicitor-General. I have not even got to the dodgy appointments to the AAT. Surely it is three strikes and you are out. No wonder there is talk about a reshuffle. No wonder there is serious talk about replacing him in the Senate with the member for Surfers Paradise in the state parliament, John-Paul Langbroek. (Time expired)

Senator REYNOLDS (Western Australia) (15:51): I too rise to take note of the answers provided by the Attorney-General to Senator Watt's questions. That does take us to the heart of the inquiry report that was tabled this week into the Legal Services Amendment (Solicitor-General Opinions) Direction 2016. I do not say this lightly, but I say it with great regret. The
inquiry and the majority report, I think, shame us all in this chamber. The facts in this case, despite all the bluster from those on the other side, are very simple. The inquiry was established by Labor and by the Greens to king hit the Attorney-General. Instead they knocked out the Solicitor-General. After the Solicitor-General unexpectedly fessed up—somewhat inconveniently to those opposite who had set up the inquiry—that he had actually himself breached caretaker conventions by having a previously undisclosed secret conversation with the shadow Attorney-General during the election campaign period where he arguably communicated privileged information to the shadow Attorney-General, he had no choice but to resign.

The DEPUTY PRESIDENT: Senator Gallacher?

Senator Gallacher: This is taking note of answers. The senator is reading a prepared speech. I thought we were having a debate.

The DEPUTY PRESIDENT: I will just remind all senators that we can use notes.

Senator REYNOLDS: Words matter in this place, and this is a very important issue—one of law and the reputations of the Attorney-General and the Solicitor-General. If that is the best those opposite can do so that I get the details precise—

The DEPUTY PRESIDENT: Order! That is a debating point. The standing rules say that we can refer to notes but you cannot read speeches.

Senator REYNOLDS: Is that the best you have got? I mean, really. So you might not like the fact that you inadvertently knocked out the Solicitor-General with this inquiry, but the facts are very clear. He had a conversation with the shadow Attorney-General during the caretaker period in breach of the caretaker guidelines which he was clearly obliged to follow, and he had absolutely no choice but to resign. As a barrister, the Solicitor-General must have known it was a breach of professional conduct and ethics to have ex parte discussions and breach client privilege. Consequently, the Solicitor-General had no choice but to resign. He was a senior legal adviser to the Commonwealth government, and it would be impossible after he had those conversations with the shadow Attorney-General which he did not disclose to either the secretary of the department or the Attorney-General. He had to go.

The shadow Attorney-General himself, as a previous Attorney-General and as a barrister, must have known better than to have made the call to the Solicitor-General, and certainly the Solicitor-General, a barrister himself, must have known better than to take the call and provide the information to the shadow Attorney-General that he did. Any objective analysis of the Solicitor-General's testimony will find it riddled with contradictions and unwarranted hubris. I am not surprised the Solicitor-General refused to answer a single one of my 34 questions to him after his bombshell revelation that he had in fact breached caretaker guidelines and breached privilege on information provided not only to the Attorney-General but also to the Prime Minister and potentially to the Governor-General as well.

Since when has it been discretionary for a witness in any Senate inquiry to flatly refuse to answer questions on the feeble excuse: 'There were too many questions' or 'I sort of, kind of, answered the questions before'?

An opposition senator interjecting—

Senator REYNOLDS: No, he hadn't answered those questions. They were carefully crafted questions. Each question was linked to his testimony, mostly in relation to his
bombshell revelation at the inquiry that he had breached caretaker guidelines and his professional duties as a barrister. But that is not the point, and those opposite know that.

Two issues that occurred in this inquiry should be of great concern to all in this place: firstly, the contempt the Solicitor-General has shown for all senators in this place by refusing to answer a single question on notice as a result of his testimony; and, secondly, the Labor and Greens members of this committee allowed him to use those feeble excuses to not answer a single one of my questions. The majority members' decision is a shocking precedent to set for future Senate committee inquiries. I understand why the majority committee members did not want them answered. If I had just fessed up to what he did in the inquiry, I would not want to answer the questions either—but it was too late. That horse had already bolted. It was too late when Labor committee members failed to do their due diligence with the shadow Attorney-General before they set up the inquiry. It was too late when, despite the fact that the government senators on the inquiry offered to have the inquiry in camera so as to preserve the dignity of the Solicitor-General and also that of the Attorney-General—oops, you king hit—(Time expired)

Senator GALLACHER (South Australia) (15:56): I too rise to take note of all answers to opposition questions. To start out, I want to go to the answers from Senator Birmingham to questions put by Senator Cameron. If you are a South Australian, you would not be unaware of the position of Family First with respect to employment opportunities, particularly for young people. I think they are on the record as saying that people should be able to work for whatever level of compensation they choose. If there were to be a minimum, it may well be $2 an hour. That is not a view that is generally supported by many people in South Australia, but I respect Senator Day's right to hold that view and to promulgate that view in whatever forum he sees fit. What I really do not think is all that proper is for a relationship to develop with the coalition government which allows for the coalition to be drawn into areas of potential disrepute, to put it mildly, where the views that are promulgated about people being able to work for whatever they like—$2 an hour is probably the minimum that they should get—and, therefore, reputable organisations who train hundreds of apprentices are given the same amount of contribution as organisations promoted by Senator Day.

If we look at Senator Cormann's contribution, it was: 'Nothing to see here. No rent paid. No arrangements in place. I was completely on top of things as Special Minister of State' Then, whoops, there is a matter for which another Special Minister of State seeks legal advice, and then we in this place are considering referring a senator to the High Court for potential pecuniary interests. Senator Cormann was, at the very least, asleep at the wheel. His defence at one stage was: because there was no rent paid, there was no reason to think there was any impropriety with respect to section 44 of the Constitution. I well remember the media coverage of the fact that Senator Day refused to move into a taxpayer funded office—he refused to move into it—and said he would go rent free for six months while arrangements were made. There was always the intent to have those premises rented by the Commonwealth. For two special of ministers of state and perhaps even three special ministers of state to have had carriage of that issue beggars belief when Senator Cormann says: 'Nothing to see here. I didn't a case or anything to answer.' The fact that he is sticking to his very comprehensive statement like glue means that he did have a case to answer and he needed to defend his position. That is the reason for his very comprehensive statement.
I turn to the Attorney-General, the Honourable George Brandis. There was one particular period of time when I had some sympathy for a view expressed by Senator Brandis. It was his very unkind characterisation of the Honourable John Howard. I had some sympathy for that view when he accused the former Prime Minister of mendacity and likened him to a rodent. That is as far as it goes. There were a few people on this side who thought that maybe Senator Brandis was on the right track. Since then, there has been a complete divergence of views. There was his treatment of Gillian Trigg; his treatment of the Solicitor-General; his arrogance at Senate estimates, where here got out a book of Australian poetry and pompously proceeded to read that while we were examining the accounts of the nation; his bookcase; his treatment of entitlements. He has always made himself the story. That is the thing about the Honourable Attorney-General: he becomes the story because of the way he conducts his affairs, and it is not becoming of the chief law officer of this country to always be the story. It should be about being prudent, having due diligence, governance and proper behaviour from our chief law officer. Instead, we end up with the Honourable George Brandis becoming the story. It is always going to continue until this government does something about the Attorney-General's position and returns it to its former august position, as it should be in any government of this nation.

Question agreed to.

DOCUMENTS
Parliament House
Tabling

The DEPUTY PRESIDENT (16:02): I table a statement relating to the building condition of Parliament House and an attachment, Australian Parliament House Condition Summary.

BILLS

Migration Legislation Amendment (Regional Processing Cohort) Bill 2016
First Reading

Bill received from the House of Representatives.

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (16:02): 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 McGrath (Queensland—Assistant Minister to the Prime Minister) (16:02): 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—

Australia's recent history has seen extraordinary challenges to our border security.
Under the Labor government, there were 50,000 illegal maritime arrivals on over 800 boats. To deal with this influx, the Labor government opened 17 detention centres onshore and two regional processing centres offshore.

Over 8,000 children were put into detention and, sadly, there were at least 1,200 deaths at sea.

The way in which the Coalition has responded to these challenges has been critical to maintaining the confidence of Australians in our migration policy and practices. 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.

Horrific images of people drowning trying to make it to our shores are etched in our national consciousness. Perilous voyages were arranged by people smugglers, criminal syndicates, motivated only by greed and trading in human misery.

It had to stop.

The Coalition's response to Labor's policy chaos has been strong and consistent. Since coming to government, the Coalition has diligently set about cleaning up Labor's border protection mess.

The government's reform of our border protection policies has sent the message to people smugglers that they cannot offer a path to Australia. Life in Australia is not an illicit commodity to be sold to the desperate and vulnerable at a great profit.

I am proud of the government's record at the border, because under the Coalition:
- there have now been over 830 days since a successful illegal boat arrival;
- there have been no deaths at sea;
- we have closed 17 detention centres; and
- we removed those children from detention.

And today I introduce legislation which will bolster the government's border protection infrastructure under Operation Sovereign Borders.

The purpose of the Migration Legislation Amendment (Regional Processing Cohort) Bill 2016 is to reinforce the government's longstanding policy that people who travel here illegally by boat will never be settled in this country.

The bill will amend the Migration Act to further strengthen Australia's maritime border protection arrangements by barring certain illegal maritime arrivals, who are subject to regional processing, from applying for an Australian visa.

The legislation will apply to people transferred to a regional processing country after 19 July 2013, including people who are currently in a regional processing country and are in another country, are in Australia awaiting transfer back to a regional processing country and who are taken to a regional processing country in the future.

This includes people temporarily transferred from regional processing countries to Australia for medical treatment and those who have since settled in another country or returned home.

This legislation, importantly, is consistent with the announcement by former Prime Minister Kevin Rudd, who, when announcing the signing of the Regional Resettlement Arrangement with Papua New Guinea on 19 July 2013, declared, 'From now on, any asylum seeker who arrives in Australia by boat will have no chance of being settled in Australia as refugees.'

The bar will apply to all visas, both temporary and permanent. It is critical that the bar apply to all visas to Australia. Any visa that allows a former illegal maritime arrival to come to Australia has the potential to provide a pathway to permanent residence. We cannot and will not leave the door open for people smugglers to find a backdoor once again into our country.
Operation Sovereign Borders has successfully halted the criminal people-smuggling networks and strengthened our borders to ensure that any future attempts to reach Australia illegally by boat will fail. But we cannot afford to become complacent and risk a return to the time when over 1,000 men, women and children drowned at sea.

It is lost on many in this debate, and in particular on the Leader of the Opposition, but the Australian public understands the very clear fact that there are now over 14,000 people in Indonesia alone waiting to get on to boats to come to Australia to provide a new life for them.

The way of our country, the way of this government, is to provide support to refugees—and in record numbers—but to continue to do that the right way.

We need to recognise that thousands of people this year alone have drowned on the Mediterranean, amongst many of thousands—indeed millions—of people who seek to make the perilous journey into Europe and other parts of the western world. We need to recognise that this problem will be with us for our lifetimes. This is not a problem that has gone away.

Yes, we have been able to deal with it successfully in turning back now almost 30 ventures. We have, through Operation Sovereign Borders, with the compliance of 16 Commonwealth agencies, including our intelligence agencies, been able to deal with the immediacy of this threat, and we have been able to deal with the legacy left us by Labor. But make no mistake: this problem has not evaporated. These people smugglers have not gone away.

In particular, if people believe that the door in Europe has now closed for them, they will make a path to Sri Lanka, to Vietnam, to Indonesia, to elsewhere to make their onward journey to this country. And this government is not going to preside over a re-emergence of boat arrivals, because we are not going to allow those 17 detention centres to be reopened. We are not going to allow the 2,000 children in detention, a legacy we inherited when we came to government, to stay in detention. And we have got those 2,000 children out of detention. Most importantly, we are not going to allow the deaths at sea of innocent men, women and children.

People can bring all sorts of views and compassion to this debate, but the reality is that this government has demonstrated how to deal with this problem effectively over the course of the last three years. When Kevin Rudd came into power in 2007, there were four people in detention, including no children. Yet Labor presided over a mess where people smugglers took control of our borders, and it cannot be repeated.

Under the amended law, the minister of the day will have the discretion to lift the bar, if it is in the public interest, and allow a visa application to be made. The discretion may be exercised in a range of circumstances, such as meeting international legal obligations or where individual circumstances justify special consideration.

In addition, the bar will not apply to persons who were under 18 years of age at the time they were first transferred to a regional processing country. The bill also contains transitional arrangements to ensure that the small number of former transferees who have already been given permission to apply for a visa in Australia will not have that application affected by this proposal.

This legislation sends a strong message to people smugglers and those considering travelling illegally to Australia by boat: Australia's borders are now stronger than ever.

The government is serious about border protection.

The measures in this bill underscore that commitment, and on that basis I commend this bill to the Chamber.

The DEPUTY PRESIDENT (16:02): In accordance with standing order 111, further consideration of this bill is now adjourned to 7 February 2017.
BUDGET

Consideration by Estimates Committees

Senator BACK (Western Australia) (16:03): On behalf of the respective chairs, I present additional information received by committees relating to the following estimates:

Additional estimates 2015-16—
Foreign Affairs, Defence and Trade Legislation Committee—Additional information received between 13 October and 9 November 2016—Defence portfolio.

Budget estimates 2016-17—
Environment and Communications Legislation Committee—Additional information received between—
5 May and 14 September 2016—Communications and the Arts portfolio.
5 May and 14 October 2016—Environment portfolio.
Foreign Affairs, Defence and Trade Legislation Committee—Additional information received between 13 October and 9 November 2016—Defence portfolio.

Budget estimates 2016-17 (Supplementary)—
Environment and Communications Legislation Committee—Hansard record of proceedings and documents presented to the committee.

Finance and Public Administration Legislation Committee—
Additional information received between 12 October and 8 November 2016—Parliamentary departments.
Document presented to the committee.
Foreign Affairs, Defence and Trade Legislation Committee—Hansard record of proceedings, documents presented to the committee and additional information.

COMMITTEES

Publications Joint Committee

Report

Senator BACK (Western Australia) (16:03): On behalf of the Chair of the Publications Committee, I present the second report of the Publications Committee.
Ordered that the report be adopted.

Parliamentary Joint Committee on Human Rights

Report

Senator BACK (Western Australia) (16:04): On behalf of the Parliamentary Joint Committee on Human Rights, I present the report No. 8 of 2016: Human rights scrutiny report.

Ordered that the report be printed.

Senator BACK (Western Australia) (16:04): 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 8 of 2016.

The committee's report examines the compatibility of bills and legislative instruments with Australia's human rights obligations. This report considers bills introduced into the Parliament from 10 to 20 October 2016 and legislative instruments received from 19 August 2016 and 13 October 2016. The report also includes the committee's consideration of eight responses to matters raised in previous reports.

Twenty-one new bills are assessed as not raising human rights concerns. The committee has also concluded its examination of three bills, three regulations and two other legislative instruments.

The report includes entries which demonstrate that Commonwealth agencies are positively engaging with the human rights scrutiny process.

For example, the statement of compatibility for the Regulatory Powers (Standardisation Reform) Bill 2016, which proposes to amend a number of Acts to replace current provisions providing for regulatory regimes with the standard provisions of the Regulatory Powers (Standard Provisions) Act 2014, discusses in detail the application of the relevant provisions of that Act to the specific context of each of the 15 Commonwealth Acts amended by the bill. The committee welcomed the detailed human rights assessment contained in the statement of compatibility and, based on the information contained in that assessment, considered that the bill is likely to be compatible with human rights.

Another example is the response received from the Treasurer in respect of the Federal Financial Relations (National Partnership payments) Determination No. 104—8 (March 2016)—July (2016). The Treasurer's response to the committee's request for further information regarding that instrument, which specifies the amounts to be paid to the states and territories to support the delivery of specified outputs or projects, facilitate reforms by the states or reward the states for nationally significant reforms, helpfully provides useful information in relation to the operation and impact of the National Partnership payments (NPPs).

The response demonstrates that while it is possible that there may be fluctuations from month to month in the funding amounts distributed to states and territories under the NPPs, generally trends show an increase in funding over time. Further, the provision of such funding would assist the progressive realisation of a number of economic, social and cultural rights.

Such engagement with the human rights scrutiny process demonstrates the important role that the committee plays in ensuring a better understanding of human rights more broadly.

The report contains consideration of a number of other bills and instruments, including those that may be the subject of differing personal views. As always, each bill and instrument is assessed against our human rights obligations. This is in accordance with the committee's mandate under the Human Rights (Parliamentary Scrutiny) Act 2011, and together with other members of the committee, I am required to ensure that this legislative mandate is fulfilled. The report therefore represents a technical assessment of these the bills which does not look to the broader policy merits of legislation.

I do, however, wish to acknowledge that some of these bills relate to important matters of individual conscience and policy, including for me personally. These matters are not enlivened by human rights law analysis due to the important function of the committee in relation to legislative scrutiny, but this is not to say that they are not deeply held beliefs by members of the committee.

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

With these comments, I commend the committee's Report 8 of 2016 to the Senate.
Public Accounts and Audit Committee
Rural and Regional Affairs and Transport References Committee

Government Response to Report

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (16:04): I present two government responses to committee reports as listed at item 15 on today's Order of Business. In accordance with the usual practice, I seek leave to have the documents incorporated into Hansard.

Leave granted.

The documents read as follows—

Australian Government response to the Joint Committee of Public Accounts and Audit Report No. 452
Natural Disaster Recovery; Centrelink Telephone Services; and Safer Streets Program

November 2016
Response to the recommendation Recommendation No. 10
Recognising that the Commonwealth Grants Rules and Guidelines do not explicitly refer to election commitments, the Committee recommends that the Department of Finance should amend the guidelines to deal explicitly with Commonwealth Funding Rounds that deliver on election commitments. Specifically, that only projects publicly committed to as part of the program should be included.

Noted
The CGRGs are largely principles based with a limited number of mandatory requirements. The objective of grants administration is to promote proper use and management of public resources through collaboration with the non-government sector to achieve government policy outcomes. The framework provides flexibility to develop and implement grant administration processes that are best suited and proportional to specific granting activities whilst maintaining accountability, probity and transparency.

The Department of Finance will revise guidance, that support the Commonwealth Grants Rules and Guidelines (CGRGs), to better assist entities with implementing the Commonwealth grants policy framework and clarify how the CGRGs apply to election commitments.

Australian Government response to the Senate Rural and Regional Affairs and Transport References Committee report: Australia's transport energy resilience and sustainability
November 2016
Introduction
The Australian Government welcomes the opportunity to respond to the Senate Rural and Regional Affairs and Transport References Committee report, Australia's Transport Energy Resilience and Sustainability (the report), released in June 2015.

Current Australian Government policy on liquid fuel security
The Australian Government does not own fuel market infrastructure and, apart from fuel quality, provisions for national emergencies, and competition regulation does not regulate the market. Successive governments have instead relied on an efficient and competitive global market to deliver supply at competitive prices to the benefit of Australian fuel consumers.

The rationale behind this approach is to create an environment conducive to encouraging investment in the Australian exploration, extraction, refining, trading and storage industries.
This market approach has, to date, provided a diversity of supply options that has delivered minimal disruption to Australia's fuel supplies and petroleum stocks held by the downstream industry have remained relatively stable over time.

However, this approach does not mean that the Government would leave it to the market to manage the liquid fuel supply chain in the case of a severe supply disruption.

The Government works with state and territory governments and industry to plan for managing disruptions to the liquid fuel supply, under the National Oil Supplies Emergency Committee (NOSEC). The NOSEC's primary role is to provide advice to the Minister responsible for energy on the state of the oil market in the lead up to and after the declaration of a national liquid fuel emergency under the Liquid Fuel Emergency Act 1984 (the Act). The Act has never been invoked. Under the Act, the Minister responsible for energy can control the industry's stocks of crude oil and liquid fuels, Australia's refinery production and the distribution of fuel stocks in an emergency. Essential users, including Defence, are given priority access to fuel.

The Australian Government's responses to the Senate Committee Report's recommendations, including additional recommendations made by the Australian Greens, are provided below.

**Recommendation 1**

The committee recommends that the Australian Government undertake a comprehensive whole-of-government risk assessment of Australia's fuel supply, availability and vulnerability. The assessment should consider the vulnerabilities in Australia's fuel supply to possible disruptions resulting from military actions, acts of terrorism, natural disasters, industrial accidents and financial and other structural dislocation. Any other external or domestic circumstance that could interfere with Australia's fuel supply should also be considered.

**Government Response**

The Government supports the recommendation. The Government is already undertaking a comprehensive whole-of-government risk assessment of Australia's fuel supply, availability and vulnerability.

The third National Energy Security Assessment (NESA), currently under preparation, is a forward-looking whole-of-government energy security assessment of Australia's liquid fuel, gas and electricity sectors. It identifies and analyses the main factors associated with the secure delivery of energy in Australia.

The NESA considers the wider security environment and other influences which shape Australia's energy security, including supply chain vulnerabilities and critical infrastructure resilience in the face of all hazards. This approach builds a picture of how these issues interact with energy market fundamentals which drive the adequate, reliable and competitive supply of energy in and to Australia.

The NESA is undertaken in close consultation with a range of security agencies across Government to ensure it examines the range of risks and threats to Australian energy supply. The upcoming NESA largely assesses the security of Australia's energy supply in response to the types of supply disruptions that have occurred over the past several decades. It does not examine scenarios of more widespread global conflict. The 2016 Defence White Paper addresses the full range of opportunities and challenges for the Defence force in the period out to 2035.

The upcoming NESA follows on from two previous energy security assessments undertaken in 2009 and 2011. These previous assessments considered the liquid fuel market and identified a number of watch points which led to subsequent work streams.

The need for analysis of the liquid fuel supply chain was identified in the 2011 NESA and a study was undertaken in 2012 on Australia's refinery rationalisation, which tested supply capacity in the Asian region and potential implications of further refinery closures. The study found that domestic refinery
closures would have no significant impact on Australia's fuel supply in normal market conditions, due to:

- new investment in converting some of our refineries to import terminals;
- reduced crude oil imports being replaced by refined product imports. This can increase supply reliability in instances where unexpected refinery outages occur as refined product is being shipped on a continuous basis;
- the impact of increasing Australian demand on Asia Pacific refining capacity will be small and is not likely to result in a material reduction in security of supply of petroleum products for Australia;
- the global refining outlook, which forecasts an increasing number of refineries in Asia are capable of supplying Australian-specification products; and
- our supply chain diversity and flexibility, which would be retained and provides continued security of supply.

The Government also notes that the committee strongly encourages the Australian Government to set out its plan to achieve (IEA stockholding obligation) compliance as soon as practical. Where appropriate, the plan should set targets and other measurable indicators of progress towards compliance.

The International Energy Agency (IEA) is the preeminent global energy governance institution and has played a valuable role in supporting international energy markets since its foundation in 1974.

As a member of the IEA, Australia is required to hold oil stocks equivalent to at least 90 days of our net oil imports in the previous year. These requirements are outlined in the IEA's founding treaty, the International Energy Program and are designed to allow Australia to contribute to a "collective action" if called by the IEA to respond to a severe supply disruption to global oil supplies. Collective actions have been initiated three times since the formation of the IEA—in response to the Iraq invasion of Kuwait in 1991, the damage caused by Hurricane Katrina in the US in 2005 and the political unrest in Libya in 2011.

Australia's non-compliance with the IEA's 90 day stockholding obligation since 2012 is due to the combination of increased imports to meet higher economic activity with reduced upstream oil production, rather than a decline in the reported level of stock held by the downstream industry. Australia's stockholdings in the past 12 months have varied between 50-57 days.

Australia values its membership of the IEA. On 31 May 2016, Australia provided a plan to return to compliance to the IEA's Governing Board. The plan contains both immediate actions and a forward work programme to enable full compliance to be achieved by 2026.

The Energy Security Office (ESO) in the Department of the Environment and Energy has been established to implement the plan. The ESO will be the primary contact for Australian engagement with the IEA, with a Counsellor (Energy) to be appointed and based in Paris to represent Australia at the IEA.

The Government has allocated $23.8 million to the first phase of returning to compliance. This funding is largely to be used to purchase 400 kilotonnes of oil "tickets". Tickets are commercial contracts under which a seller agrees to hold an amount of oil on behalf of a buyer, with the buyer able to buy the stock at market prices or release the ticket to the market in the event of an oil emergency. This will ensure that Australia can effectively contribute to a 'collective action', the IEA's emergency response mechanism, as required while Australia implements longer-term measures. The framework to purchase tickets will be in place by 2018.

A mandatory reporting regime will be established for petroleum statistics. This will improve the coverage and accuracy of the Australian Petroleum Statistics Report (APS) which is the basis of Australia's monthly reporting to the IEA. Mandatory reporting and continuous improvement in quality
assurance procedures will also ensure that Australia's compliance gap is accurately quantified and stocks not currently reported are captured.

Ticketing and mandatory reporting will address key issues that are critical to returning to full compliance. Mandatory reporting will provide an accurate picture of our existing stockholdings and hence our compliance gap; and our success in ticketing will inform the final mix of measures to return to full compliance. Accurate timeframes for the second phase will depend on the results of these two actions.

The ESO will design the long-term measures necessary to return to compliance. This will include an international engagement effort to expand the global ticket market so that it has the capacity to absorb a greater share of Australia's compliance requirement. The ESO will also develop proposals for other options to build stockholdings such as physical storage in Australia.

The administrative arrangements necessary to govern the establishment, funding and ongoing management of these compliance efforts will be finalised in consultation with industry during this phase, so that Australia can return to compliance in the most sustainable manner at least-cost. Importantly, the long-term compliance measures can only be finalised once mandatory reporting is fully established and the Government has attained a comprehensive understanding of the international ticket market.

Recommendation 2
The committee recommends that the Australian Government require all fuel supply companies to report their fuel stocks to the Department of Industry and Science on a monthly basis.

Government Response
The Government agrees with the recommendation.

As noted in the Government's Response to Recommendation 1, the Government announced, as part of the 2016 Budget, that it will implement mandatory reporting for petroleum statistics including oil company fuel stocks from 1 January 2018.

Analysis by ACIL Allen on behalf of the Department of Industry, Innovation and Science determined that the existing voluntary approach to the collection of petroleum statistics is no longer fit for purpose due to increasing non-reporting by oil companies. A particular concern is the under-reporting of fuel stocks, which ACIL Allen determined increased Australia's IEA stockholding compliance gap by approximately three days each month. Obtaining an equivalent amount of oil through the purchase of international oil tickets (the cheapest available form of IEA compliance) would cost around $6m per annum.

The Government will develop mandatory reporting for petroleum statistics in consultation with the petroleum industry and users of the APS Report.

Recommendation 3
The committee recommends that the Australian Government develop and publish a comprehensive Transport Energy Plan directed to achieving a secure, affordable and sustainable transport energy supply. The plan should be developed following a public consultation process. Where appropriate, the plan should set targets for the secure supply of Australia's transport energy.

Government Response
The Government does not support the report recommendation.

The Government's 2015 Energy White Paper set out energy policy priorities as being to increase market competition and national energy productivity, and secure investment in the energy sector.

For example, the Government considers that strengthening the alternative transport fuels sector to gain a larger market share will only occur through successful integration into the broader fuels market, and this is a more sustainable way to strengthen consumer acceptance for these fuels.
The Government continues to monitor and identify emerging risks to energy supplies, including relevant non-market security issues, through the NESA. Should the Government identify an emerging energy security concern, the Government will then consider what policy action or options could be taken to address the concern.

**Australian Green's [sic] - Additional recommendations**

**recommendation 1**

*That the Australian Government develop and publish a comprehensive Transport Energy Plan directed to achieving a secure, affordable and sustainable transport energy supply. The plan should be developed following a public consultation process. The plan should set targets for the secure zero carbon supply of Australia’s transport energy, and outline a transition to achieve this supply over the coming two decades.*

**Government Response**

The Government does not support this recommendation.

The Government notes that this recommendation is largely covered by the Government’s response to the Senate Committee’s Recommendation 3.

**Recommendation 2**

*That the government encourage and support the development of zero carbon and potential zero carbon transport energy sources and transport systems, including*

- comprehensive public transport systems across all capital and regional cities
- investment in infrastructure to support and facilitate greater use of walking and cycling
- the rollout of electric vehicles and the production of biodiesel produced from genuine waste products

**Government Response**

The Government notes this recommendation. Public transport policy options are a matter for state, territory, and local governments.

The 2015 Energy White Paper outlines a competitive technology neutral preference for all transport fuels. Successful commercial integration of alternative fuels into the broader fuels market is the most sustainable way to strengthen consumer acceptance for these fuels.

The Government is also pursuing complementary policy options related to energy productivity. The Government has released a National Energy Productivity Plan (NEPP) that will support energy consumers to make better decisions on energy use and has committed to a national energy productivity improvement target of 40 per cent between 2015 and 2030.

The NEPP covers all fuel types. There is a wide range of options to improve energy productivity in transport, including options similar to those proposed in these recommendations. Other measures to be considered include better tools to help consumers make informed choices when buying a new car and measures encouraging innovation in the sector.

**Recommendation 3**

*That the Senate pass the Motor Vehicles (Cheaper Transport) Bill 2014 to reduce fuel demand across the economy by requiring the importation of new motor vehicles complies with global standards.*

**Government Response**

The Government notes this recommendation and that the *Motor Vehicles (Cheaper Transport) Bill 2014* was referred to the Senate Environment and Communications Legislation Committee on 20 August 2015. The Senate committee's report was released on 25 November 2015, with a single recommendation made that the *Motor Vehicles (Cheaper Transport) Bill 2014* not be passed. The
Australian Greens submitted a dissenting recommendation that the *Motor Vehicles (Cheaper Transport) Bill 2014* should be passed.

The Government is taking a whole of government approach to addressing vehicle emissions. A Ministerial Forum was established in 2015 to examine vehicle emissions standards in Australia and vehicle testing arrangements. In February 2016 the Forum released a discussion paper for public comment to examine ways to reduce the health and environmental impacts from motor vehicle emissions. The paper received 80 submissions which will inform options to be considered by the Australian Government to address vehicle emissions including examining fuel efficiency measures including CO2 for light vehicles, implementation of Euro 6 standards, fuel quality standards, as well as emission testing arrangements. These options will be assessed through comprehensive Regulation Impact Statements and public consultation.


**DOCUMENTS**

**North East Vocational College**

**Order for the Production of Documents**

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (16:04): I table a document relating to the order for the production of documents concerning a student builder pilot program.

**REGULATIONS AND DETERMINATIONS**

**Legal Services Amendment (Solicitor-General Opinions) Direction 2016 Disallowance**

Senator Wong (South Australia—Leader of the Opposition in the Senate) (16:05): I move:

That the Legal Services Amendment (Solicitor-General Opinions) Direction 2016, made under the *Judiciary Act 1903*, be disallowed.

Today the Attorney-General has registered the Legal Services Amendment (Solicitor-General Opinions) Direction 2016. That is a direction that purports to have the effect of repealing the amendment to the Legal Services Directions 2005 made by the instrument that I am moving to disallow today.

After all of the blustering, posturing and lying, it has come to this. Australia’s Attorney-General has reversed his own legal services direction which limited the role of the Solicitor-General to such an extent that it forced the former Solicitor-General, the well-respected Mr Justin Gleeson, to resign. This is the direction that the Attorney-General has been defending for months, arguing that he was simply bringing the Solicitor-General's procedures in line with the law that Mr Gleeson had asked for that it cause no trouble at all.

Just hours before the direction was set to be disallowed, Senator George Brandis has backed down and removed it himself to avoid embarrassment. This is extraordinary. We have seen the Attorney-General running around the chamber trying desperately to get the numbers to stop the committee inquiry into this issue. It is no wonder. If you look at the evidence before that committee and if you look at Mr Gleeson’s evidence you will see that it does not paint this law officer in a good light. In fact, the committee inquiry really demonstrated that
the first law officer of this land, Senator George Brandis, misled the Senate and engaged yet again in an attack on a statutory officer.

Senator Brandis's decision today—which he has done because he could not get the support of the Senate against this disallowance, let us be clear—is an embarrassment to Senator Brandis, but it shows us one thing clearly. It demonstrates one things very clearly: that this direction was only ever about getting rid of Mr Justin Gleeson. That is right. This Attorney-General changed the law to get to a senior statutory office holder whom he disliked. It is an extraordinary admission by the behaviour of the first law officer of the land.

However, I want to be clear with the Senate what it is I am proposing today. Notwithstanding the repeal instrument registered, I am proceeding to move this disallowance motion on the basis that it is the Senate protecting its rights to prevent the previous instrument being remade without the consent of the Senate. This approach is similar to examples from page 423 of *Odgers’ Australian Senate Practice*. For example:

In June 2000 the Senate disallowed some regulations under the Customs Act which had already been deemed to be disallowed in the House of Representatives because of the expiration of the statutory time limit for resolving a notice of a disallowance motion given in the House. The purpose of this seemingly unnecessary action was to ensure that the regulations could not be remade without the consent of the Senate.

So I move the disallowance motion to protect and assert the rights of the Senate. But, given the additional legal services direction has been registered today, I seek leave to continue my remarks.

Leave granted; debate adjourned.

**COMMITTEES**

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

**Reference**

_Senator BILYK_ (Tasmania—Deputy Opposition Whip in the Senate) (16:10): At the request of Senator Gallacher, I move:

That the following matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 11 May 2017:

The Department of Defence's management of credit and other transaction cards, with particular reference to:

(a) controls in place to manage credit card expenditure, including action to prevent credit card misuse and minimise risk to the Commonwealth;

(b) issuing of Cabcharge Fastcards and e-tickets to staff, including monitoring and management of e-ticket accounts;

(c) controls in place on the use of fuel cards for commercial and military vehicles, including compliance testing of the assurance framework;

(d) implementation of the Department of Defence's new governance arrangements for credit card management;

(e) legislative requirements and framework set out in the *Financial Management and Accountability Act 1997* and its successor, the *Public Governance, Performance and Accountability Act 2013*; and

(f) other related matters.
Question agreed to.

Reference

Senator LAMBIE (Tasmania) (16:11): I move:

(1) That the following matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 20 March 2017:

   The operation of the Australian Defence Force's (ADF) resistance to interrogation (RTI) training, with particular reference to:
   
   (a) what training methods are used;
   
   (b) whether these training methods are in accordance with Australia's international obligations and Australian domestic laws;
   
   (c) the effectiveness of existing ADF supervisory control measures;
   
   (d) the ongoing mental health and wellbeing of personnel who have participated in RTI training; and
   
   (e) the matters raised in questions to Lieutenant General Campbell during the 2015-16 additional estimates.

(2) That the Senate:

   (a) notes that Lieutenant General Campbell acknowledged, during estimates questioning, that video and other electronic records were made by the ADF of RTI training; and
   
   (b) calls on the Minister for Defence (Senator Payne) to provide the committee, under special circumstances which protect serving and former ADF personnel identities and operational security, with all recordings made by the ADF of RTI training by 28 December 2016 to assist the committee with the inquiry.

Question agreed to.

BILLS

National Integrity Commission Bill 2013

Second Reading

Senator RHIANNON (New South Wales) (16:11): I move:

That this bill be now read a second time.

I rise to speak on the National Integrity Commission Bill. The trappings of power are dangerous. The more successful and powerful a politician is, the bigger the trap. Without an equally powerful institution to keep all of us in line, even well-intentioned politicians could get tempted by the power of their office. Everywhere you look there are questions asked about conflicts of interest between decision-makers and backers of major projects that require government funding or approval. This is just one way that problems can arise for politicians.

Many law and politics experts have noted policy trajectories favouring vested interests and have joined the call for a national anticorruption agency. The time for such an agency is long overdue. Our state parliaments worked on this, in some cases, many decades ago, and we are still dragging the chain. We are dragging the chain because Labor, Liberal and the Nationals too often unite together to stop the introduction of an agency that is long overdue.

A national anticorruption commission would be an independent statutory agency. The Greens proposal outlines the need for a National Integrity Commissioner, a Law Enforcement Integrity Commissioner and an Independent Parliamentary Advisor. Surely we all know that the public interest is best served by a clear separation between politics and business. I would
hope that that would be a starting point in how all politicians of whatever persuasion operate when they are elected. But we see that there are so many cases where politicians not only do not leave their business behind but also foster new practices or get into bed with businesses that have an interest in fleecing the public purse.

Recent revelations by state corruption watchdogs make it clear that there are corruption practices across Australia. They do not stop at state borders and they certainly are not ring fenced out of national politics. We know that confidence in the political process is low. We have seen that around the world with repeated examples, and we are not immune from it. We know that the public is increasingly cynical about politicians, whatever party they are from. When there are bad practices, it impacts on all of us and is a reminder of why we need greater accountability, and that means the need for a national corruption watchdog. So on behalf of the Greens I again put on record the urgent need for a national anticorruption commission to oversee anticorruption measures at a federal level in the same way that such commissions do at a state level.

At the recent federal election there were a number of incidents that reminded us of why such a commission was needed—examples which, if we had a commission, could have been referred there, good have been dealt with quickly, could have helped to give confidence to the public in terms of the politicians who put themselves forward for office. We saw Sophie Mirabella claim that the Indi electorate was denied hospital funding due to her 2013 election loss. At a candidates forum, Mrs Mirabella claimed that $10 million for a local hospital had been secured by her but the Abbott government pulled the plug when she was not elected. Is that how politics is done? Are those the deals that go down? That was a clear example that could have been investigated if we had a national anticorruption commission.

And then we heard of the possible fraud of Joe Hockey's Cabcharge account. Several questionable hire car rides were charged to Mr Hockey's Cabcharge account amounting to $10,000, according to research undertaken by Fairfax Media. And then it was alleged that the Liberal Democrats were offered a seat in return for $500,000 in donations. A written agreement shows that Roostam Sadri offered to donate to the Liberal Democratic Party in return for a position as the party's lead Senate candidate in South Australia. Significant evidence has also been uncovered that the Liberal Party used its own software company, Parakeelia, to recycle parliamentary entitlements into political donations. Questions were also raised over the role of a staffer who was employed at the coalition advisory service but was also allegedly doing work for Parakeelia. It is extraordinary using allowances in that way. It is a story that has fallen out of the headlines and, from what we know, is not being pursued. Certainly, it is a very clear example of what should have been investigated further so that we can ensure allowances—public money—are being used properly and the politicians in this place learn, and abide by, the standards that the public expects.

Evidence also came to light that the federal government removed Dr Lynn Simpson after she exposed cruelty and horrific conditions aboard live export ships. The then First Assistant Secretary of the Department of Agriculture's Animal Division, Karen Schneider, admitted the removal was because the live export industry expressed dissatisfaction with Dr Simpson. So here we have Dr Simpson, who is employed to carry out work on the ships, work that the government requires, and an external body, a business that is making money out of how the shipping of live exports is conducted, puts pressure on the government, which in turn sack
somebody who is carrying out the work they are employed to do. There was no explanation and no investigation. Again, that is really unacceptable.

Now that we are considering the bill, it is worthy to put on record a scandal that Senator Bob Day has been caught up in that is relevant to this debate. As we know, there are many scandals associated with Mr Day, but the one that is relevant to this debate is the $2 million in funding granted to the North East Vocational College. The college was chaired by Mr Day. The grant equalled $90,000 per student. By comparison, the equivalent certificate IV in construction and building at TAFE costs just $12,000 per student. The money did not even go towards a student's tuition. The students were still forced to take out loans under the discredited VET FEE-HELP scheme. I understand that Minister Birmingham has denied any knowledge of this. But then a photo came out of him with Mr Day at the college. Clearly he has more information about that, so it would be useful to hear from him. But that will probably not occur because there is no central body to investigate these types of breakdowns in standards.

Just to add a little more on that case: we understand that, really, Mr Day was triple dipping. As well as getting this $2 million grant from the government, and as well as requiring the students to apply for VET-FEE HELP, he was also requiring employers to pay for the apprentices that were taken into the college he was associated with. The Electrical Trades Union has claimed that the money that came in from the government was tied to Mr Day's support for government bills while he was a senator. Again, we do not know of any discussions that went on behind closed doors, so it is understandable that people will speculate about these types of arrangements.

Again, this is very serious. Are votes being bought because of deals that are done and money that is exchanged? It is not something that people associate with Australia—that level of corruption. But we are starting to find some disturbing examples, and to say that it does not happen at the federal level is ludicrous.

These allegations, whether true or not, damage the reputation of all involved. I cannot emphasise that enough, and I do believe that all politicians in this place must recognise that. When we are out talking to the public we have those conversations with people who have become deeply cynical about how politics works and about our own individual activities as politicians. I am sure we all try to explain how the situation works, but it underlines the unhealthy aspect that is now occurring at the federal level because we do not have this national commission.

As former Labor senator John Faulkner noted, the perception of corruption can be just as bad as actual corruption. That is so important to reflect on. The public is wondering increasingly what the point is of participating in our democratic processes if they are rigged against them. This is particularly so in New South Wales, because we have had such a big problem with donations from developers of millions of dollars at the same time as the laws were being changed. Labor, Liberals and Nationals voted together to weaken the planning laws in New South Wales. People in communities were just fighting for a fair go and fighting for some decency—at least to be consulted. A lot of them would just say to me, seriously, 'We just want our turn—to be able to put our position and for there to be a fair judgement here.' The result so often was that they just became deeply cynical about politics.
One comment that was said to me on a number of occasions is, 'What's the point of engaging? I don't have the money that the developers have. Politicians won't listen to me, because I can't donate money. They're not going to pick up the phone when I ring, and I know they pick up the phone when the developers ring.' This is how things are playing out in our society because of this very serious failure at the national level to introduce a national corruption watchdog.

I believe that a federal anticorruption watchdog would give the public some confidence that their representatives are actually representing them fairly—that it is not loaded against them and that there are not other people in the room who have more power because they have money, they have influence or they have something over somebody. Transparency International supports a national anticorruption watchdog, as does the Law Council of Australia, the Accountability Round Table, the Governance Risk Compliance Institute and an associated investigator with the ARC Centre of Excellence in Policing and Security.

When you consider the very impressive line-up of organisations supporting a national anticorruption watchdog, the big question is: why do the major parties—the Liberal Party, the Labor Party and the Nationals—not support one? You have to ask the question: is it because they have interests that prevent them from making that step? This is 2016—why do they keep holding out on it? I believe it would be in the interests of the major parties in terms of improving their own standing, as well as doing something for the democratic process across Australia. I also argue it is in their interest to cooperate and weed out the corrupt people that damage the credibility of everyone, and those closest to that corruption are damaged most. We need a federal anticorruption body for both corrupt politicians, and those trying to do the right thing, to tackle real corruption and the perception of corruption. We need this body most urgently.

A national anticorruption commission would have extensive roles—and I will just finish up with some of the aspects of what it could undertake. It would investigate and work to prevent misconduct and corruption in all federal departments and agencies and corrupt behaviour by federal parliamentarians and their staff. The commission would deal with corruption in relation to public officials and federal agencies. It would have full investigative powers, including conducting public and private hearings, summoning any person or agency to produce documents and appear before the commission.

I congratulate our former leader, former senator Christine Milne, who did a great deal of work in this area. She was very passionate about it and she continues to advocate for it. It is something that the Greens feel very strongly about, and certainly we will continue to put it forward. But it really is about time that we had a combined position in this Senate. How can you keep saying no to a national anticorruption watchdog? The time to introduce it should be now. We are already running late on it. There are so many things that should have been investigated. It needs to happen now, and I look forward to the debate.

Senator MOORE (Queensland) (16:26): I rise to speak on the National Integrity Commission Bill 2013. Labor abhors corruption in all its forms, whether that be in politics, business, banking or unions. Over the last 30 years we have seen several of Australia's states established anticorruption bodies, with a number of high-profile cases in recent years. Senator Rhiannon mentioned a couple, but I thought I would throw in a few more. They include the New South Wales Independent Commission Against Corruption, the Queensland Crime and
Corruption Commission, the Western Australian Corruption and Crime Commission, the Tasmanian Integrity Commission, the Victorian Independent Broad-based Anti-corruption Commission and the South Australian Independent Commission Against Corruption. These bodies have at times been tremendously successful in highlighting accountability issues in government and bringing corrupt politicians, party members and business people to task—for example, in recent years New South Wales ICAC has heard allegations that illegal political donations had been funnelled to the New South Wales Liberal Party via various slush funds. That saw the resignation of 11 New South Wales Liberal state politicians—an extraordinary number. That investigation was known as Operation Spicer. Through its years-long investigation it found that enormous sums of money, including from property developers banned from making political donations under New South Wales law, were laundered through sham organisations Eightbyfive and the Free Enterprise Foundation before being passed on to the New South Wales Liberal Party.

These revelations, which came to light through ICAC, were so explosive that they forced the resignations of former New South Wales Liberal Premier Barry O'Farrell and two New South Wales Liberal cabinet ministers. Also it caused federal Liberal senator and former Assistant Treasurer Arthur Sinodinos to be stood aside by the Prime Minister. We heard the evidence and we now know that there was an investigation. It was found his evidence was 'difficult to accept', but he has since been returned to the frontbench as Cabinet Secretary. The Queensland Crime and Corruption Commission is also active, currently investigating the member for Fadden for his alleged involvement in property development donations funnelled to candidates in the Gold Coast council city elections. These state-based anticorruption organisations have been operating effectively, in some cases for decades.

Contrary to Senator Rhiannon's statements, Labor is open to considering a federal ICAC. Labor has never objected to a federal anticorruption body in principle. The calls for such a body to be established are not new. They have in fact existed since the 1980s when the first state bodies were being established. In particular, a report in 2005 by Transparency International and Griffith University called for a comprehensive, independent anticorruption agency which would operate across the Commonwealth. In 2011 the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity recommended the Australian government conduct a review of the existing Commonwealth integrity system, with an examination of the merits of establishing a Commonwealth integrity commission. The Labor Party's concern has always been that the case for one overarching body to exist, over and above the network of existing agencies, has not yet been proven. Australia does have federal integrity agencies which have been effective in capturing instances of potential corruption at the federal level. The Australian Commission for Law Enforcement Integrity works to counter corruption in federal law enforcement bodies such as the Australian Federal Police. The Ombudsman and the Auditor-General have broad oversight over federal administration and expenditure, while specialist bodies such as the Inspector-General of Intelligence and Security oversee particular parts of the federal bureaucracy such as the Australian Security Intelligence Organisation. The Australian Federal Police and the Commonwealth Director of Public Prosecutions investigate and prosecute criminal misconduct in government. We cannot discount the work that these agencies already do. If we are to consider another separate body, we must have a strong case as to why it is necessary on
top of these existing agencies. We must also consider in detail how they would interact with any new body and which would have supremacy.

Labor took important steps to improve government integrity when we were last in government. Labor created a new statement of ministerial standards, introduced a lobbying code of conduct and a federal lobbyist register and implemented a code of conduct for ministerial staff. We expanded the powers of ACLEI, introduced whistleblower protections for public servants and sought to improve transparency over political donations, something that we are still trying to achieve despite the intransigence of the current government.

There was a former select committee in the 44th Parliament, and we actually supported the establishment of a special select committee to inquire into a national integrity commission—essentially a federal ICAC—initiated by former Senator Dio Wang in February 2016. The committee was established to inquire into the adequacy of the Australian government’s legislative, institutional and policy framework in addressing corruption and misconduct and whether a national integrity body should be established. There were a series of detailed terms of reference which looked at the role and, importantly, whether a national integrity commission should be established, looking at the scope of coverage, the powers and the advantages and disadvantages associated with domestic and international models of integrity and anticorruption commissions. It also looked at whether there should be broader powers and the necessity for privacy or secrecy provisions. It also looked at budgetary and resourcing issues and—that very important one—any other related matter.

This committee considered the various arguments in favour of and against the establishment of such a commission and received 29 submissions from key advocacy organisations, academics, industry and unions. It found in its interim report that there was a significant difference of opinion across these bodies about whether such a body should be established—again, contrary to some of the statements made by Senator Rhiannon. A number of submitters argued that a NIC—a national integrity commission—is not the best way to deal with any problems of corruption that may exist. These arguments can be broadly grouped into two categories: firstly, that there is a lower risk and a lower level of corruption at the federal level which reduces the need for an overarching anticorruption body; and, secondly, that there is already a strong anticorruption framework in place that has proved successful at preventing and revealing corruption in the limited cases where it has occurred. It also argued that there are costs that would be associated with a dedicated anticorruption agency, including the diminution of legal rights and financial costs. For example, the Rule of Law Institute expressed concerns that a national integrity commission creates a new system of justice without the legal protections embedded in the current system. On the other hand, a number of submitters expressed concerns regarding the adequacy of the current system. They argue that it cannot be said to be working in light of the scandals that have emerged in recent years. They question the underlying assumption that there is a reduced risk of corruption at the federal level, and they argue that a multiagency approach creates holes that may facilitate corruption.

There were also, however, a number of arguments made in favour. It was proposed that the establishment of a national integrity commission would improve policy coordination, provide leadership and education services, reduce potential jurisdictional gaps, increase administrative efficiency, send an unambiguous signal that the issue of corruption is being taken seriously
and provide that necessary confidence to the public that corruption is minimised at the highest level of government. It was suggested that anticorruption bodies at the state level play a significant educative role and that the mere existence of a federal anticorruption body would send a strong and positive signal to the public. The report quotes Associate Professor Gabrielle Appleby as follows:

One of the main purposes of these types of bodies is to promote public confidence in the integrity of government administration. The establishment, in and of itself, is one way of demonstrating that.

Other witnesses to the select committee inquiry suggested that there were gaps in the current coverage of federal bodies which had anticorruption responsibilities. Professor AJ Brown of Griffith University, always a strong contributor to these arguments, said:

Currently there are very large areas of important Commonwealth public administration which are not subject to effective review and oversight in relation to the management of integrity risks and breaches. While it is valid and sensible for the Commonwealth Parliament to prioritise those areas of activity which should be subject to closer scrutiny and oversight than others, the fact is that all agencies and departments should be included in these elements of the Commonwealth’s overall integrity system.

Additionally, a single body would provide one point of contact for tips and complaints from individuals and would remove the conflict of interest where a body may end up having to investigate itself in cases of alleged corruption. An NIC, it was suggested, would have no incentive as an independent agency to cover up any corrupt activities which may have occurred.

But there was by no means a unified conclusion found by the committee in its interim report. We are still a long way from consensus on what such a body, if it were proposed, should look like. For example, Transparency International Australia, in its submission, proposed a two-phased approach of establishment of a serious fraud and corruption office and a separate process to improve measures to address non-criminal corruption and serious misconduct. That included examining options for a national integrity commission and a parliamentary integrity commissioner. The Law Council of Australia, which previously had supported a national integrity commission, also suggested instead a staged approach comprising the development of a national anticorruption strategy for the Council of Australian Governments, the completion of an updated national integrity system assessment and, on the basis of that assessment, consideration of whether the Australian government should establish a national integrity commission or an anticorruption council. Accordingly, the majority on that committee recommended in its interim report that the government support research into potential anticorruption systems which would be appropriate for Australia and did not come up with a clear conclusion on the need for a national integrity commission. That committee lapsed at the prorogation of parliament earlier this year and has not been revived in the 45th Parliament.

Labor’s position on the bill before the chamber today is that we are open, in principle, to looking at a federal corruption body but we believe that this particular bill is premature. If the Greens actually were dedicated to establishing a federal corruption body, as opposed to making points and grandstanding, they would not have brought this bill on for debate today when it is so clear that there is still much work to do to determine how such a body would function.
The National Integrity Commission Bill 2013 is similar to others that the Greens party has introduced: the original National Integrity Commissioner Bill, which was introduced by Senator Bob Brown in June 2010 and reintroduced when parliament reconvened after the August 2010 election; and the National Integrity Commissioner Bill 2012, introduced by Adam Bandt MP. There are serious problems with the current bill, which the Greens party knows very well. As it stands, this bill has three components: a federal ICAC body based on the New South Wales model, the Australian Commission for Law Enforcement Integrity in its present form, and an independent parliamentary adviser to advise MPs on ethics and entitlements and to develop a parliamentary code of conduct.

The creation of an independent parliamentary adviser is not necessarily good policy. For example, the former New South Wales Parliamentary Ethics Adviser was not consulted by any MP during the last New South Wales parliament. We are yet to hear an argument as to how the federal version would be any different. There are also open questions about how a number of existing federal integrity bodies, including ACLEI, ought to be integrated with or situated alongside any federal ICAC body. These are very difficult questions which the select committee found it could not answer without further research.

Labor has never ruled out supporting a federal anticorruption body, but if we choose to pursue this it must be done correctly and should not be rushed, because that would not be the appropriate message. It cannot be done with this bill without the proper consultation and without the further research recommended by the select committee. Labor supports a broad approach to anticorruption consistent with our longstanding policy. We will continue to explore the idea of a federal anticorruption body, particularly when so many federal Liberal MPs have demonstrated that corruption is an issue that cannot be ignored at the federal level. While Labor does not support this bill, we know that this is a conversation which is not yet over and should not be over.

**Senator Di Natale** (Victoria—Leader of the Australian Greens) (16:41): I rise to speak in support of the National Integrity Commission Bill 2013, and I note that Senator Moore has just indicated that the Greens have a long track record of introducing bills dealing with integrity and the establishment of a national anticorruption watchdog. That is absolutely correct, Senator Moore. It is absolutely true. In fact, in 2010, my predecessor Bob Brown introduced a similar bill, and it was introduced again by Senator Christine Milne in 2013, and here we are in 2016 with the Greens again championing a national anticorruption watchdog. We have been consistent. We have absolutely championed the cause of more transparency and accountability in our parliament.

In 2010 this bill was introduced at the same time as a private member's bill for Senate voting reform. One of those policies has already passed into law, and my view is that it is only a matter of time before we see this change pass through the parliament. It has a sense of inevitability about it. Let's just look at what is happening right around the world. We saw the election of Donald Trump. I have made my views on Donald Trump very clear, but his platform was ostensibly one arguing that corruption was endemic within the political process, positioning himself as an outsider within that process and suggesting that the establishment was rotten. We see similar trends coming from different directions in other parts of the world. We saw, for example, during the US election the emergence of Bernie Sanders, another candidate criticising the lack of accountability and transparency in Washington. In the UK
there is Jeremy Corbyn. We are seeing these trends right around the world: people not part of the political establishment gaining support because the public is sick and tired of what they perceive as a system that is stacked in favour of big corporate political interests, with their politicians doing their bidding rather than the bidding of the community, and they have had enough. They have absolutely had enough.

So a national anticorruption watchdog is a case of when, not if. It has the same inevitability about it as the cause for marriage equality, something the Greens have also fought long and hard for. No matter how much people in this chamber push back on it, they will be worn down. I make a prediction now: given where the political winds are blowing, what you will see is either the government or the opposition, within the next year or so, taking to the next election a proposal for a national anticorruption watchdog, and we welcome that. We absolutely welcome that.

Senator Moore says this is backed in principle. Well, 'in principle' is not enough, Senator Moore. We want to see it in action. We want to see a national anticorruption watchdog established here in Australia. What is most curious is that Senator Moore says that the Labor Party backed this in principle but she has concerns about specific elements of this bill. Well, talk to us. We are prepared to work with you to address the concerns that you may have so that we get this bill into the parliament. The invitation is there, I am more than happy. My door is open. Come and talk to us. Tell us what your concerns are and let us introduce this change through the parliament. Let me also say that we have again seen the Labor Party support our call for a royal commission. They opposed it when it was introduced as a motion here in the chamber and then took the issue to an election campaign. Here is your opportunity. Work with the parliament you have, those people and those members of the crossbench who have been driving this change now for close to a decade, and let us get this thing done. Let us not play petty politics. This can be something that we all own and what we will do is ensure we restore some faith with the Australian community. I suspect that had they had the courage to back the Greens on this leading into the last election, it might be that the Labor Party would be in government right now.

Some the things might have been prevented if we had had an anticorruption watchdog established in the last parliament. Senator Day might have been warned that his actions would give rise to a perception of conflict. We might not have seen that debacle play out in the way that it has. The Department of Finance might have been more forceful in making it clear to the government that the leasing of an office that the senator had a proprietary interest in should not proceed. Most importantly, an anticorruption commission might have influenced the decisions of the Special Minister of State, who overrode the Department of Finance's advice and decided to give the supporting vote of Senator Day a helping hand. That is the sort of thing that an anticorruption watchdog can address.

Let us look again to the US for a moment and reflect on what has just happened there. The irony of course, is that President-elect Trump, who positioned himself as an anti-establishment candidate despite being the epitome of the establishment and who criticised the media despite being a product of it, is somebody who pays no tax. He has a business model of bankruptcy as his risk management strategy and a long line of creditors, contractors and employees who have gone unpaid from his shonky businesses. He uses his charitable foundation as a personal piggy bank. He has refused to release details of his tax returns and
financial arrangements. That is a living, breathing example of why we need to have those transparency mechanisms in our parliaments. We are starting to become much closer to that US model of politics, with big dollars and high stakes and a high risk of corruption. That is what is at stake. We have an opportunity to chart our own course, one that responds to the public distrust that is developing around politics, by opening up the box of tricks and shining a light on it.

The political winds are blowing in this direction. This is a case of being not just good public policy but now good politics. It is the Australian community who are saying: 'We are fed up. We have lost faith with our democratic institutions. We need more transparency and more accountability.' They do it because they have seen evidence of MPs who know that if there is a good chance they might be able to get away with something they will do it. If something is in the grey zone, they will give it a go. When they do not have the threat of a regulator looking over their shoulder, they will not dot every i and cross every t.

Month by month another scandal arises. It was Senator Day recently. Of course, there is the evidence of MPs abusing their entitlements, people travelling on helicopters for short trips and people travelling across to the other part of the country to check out their investment properties. That is the reason we need to get these transparency mechanisms into the parliament.

Let us look specifically at what the National Integrity Commission Bill 2013 does. The bill establishes a National Integrity Commission as an independent statutory agency, which will consist of a National Integrity Commissioner, the Law Enforcement Integrity Commissioner and an Independent Parliamentary Adviser. It will provide for the investigation and prevention of misconduct and corruption in all Commonwealth departments and agencies and by federal parliamentarians and their staff, provide for the investigation and prevention of corruption in the Australian Federal Police and the Australian Crime Commission and provide independent advice to ministers and parliamentarians on conduct, ethics and matters of propriety, including use of entitlements. So it seeks not just to expose corruption but, more importantly, to prevent it. This is both through its functions of advising MPs and also in its ability to investigate cases where corrupt conduct is feasible and where it can provide advice, making the office proactive in addressing potential issues of corruption.

Again I say to Senator Moore, who outlined that the Labor Party support this proposal in principle: work with us. If there are specific elements of this legislation that you have issues with, talk to us. We are happy to have a conversation that ensures that we get a national anticorruption watchdog introduced through this parliament.

Let's not pretend for a moment that the federal parliament is somehow immune to the influence of corruption. Every state in Australia now has some kind of anticorruption commission. The federal government is the only exception, and that must stop. At a state level we have seen the work they have done. We have seen what has been uncovered. Corruption at the state level has already been established.

Let me give you some examples. Last year in South Australia the chief executive of a state government agency was charged with two accounts of abuse of public office. In Victoria we had the likes of the education department financial manager, who funnelled $2.5 million from schools into his pocket and into the pockets of his relatives and senior departmental officials. Some of the money was spent on overseas trips and on lavish parties. Last month IBAC
charged nine people, including two mid-level public servants, for allegedly funnelling $25 million from Victoria's public transport department into various family linked businesses over seven years. The money was spent on real estate and luxury goods, including jetskis and a grand piano. IBAC, the anticorruption body in Victoria, is now turning its attention to revelations of a fraud of up to $1 million involving the botched school computer program, Ultronet, amid calls for its powers to be ramped up.

Of course, let's not forget the now infamous revelations of the New South Wales ICAC, charging with corruption offences former state Labor ministers Eddie Obeid and Ian Macdonald, along with exposing illegal donations from property developers to several state Liberal MPs. It is remarkable that in that context of the work that the New South Wales ICAC has done they have been criticised for uncovering the stench of corruption in New South Wales leading to very serious charges.

Again I say that the federal jurisdiction is the only jurisdiction that is unchecked against the very real threat of corruption and maladministration across the federal Public Service. Federal parliament is not immune. We are not immune to the same sort of activities of those individuals who would choose to exploit the public purse for their personal gain. It is clear, given the widely established corruption charges that have been dealt with at the state level, we need the same oversight at the federal level.

Let me quote from some esteemed legal professionals. Let me quote the counsel assisting New South Wales ICAC, Geoffrey Watson QC, who said:

I have seen things that show that federal politicians are not immune from temptation. That was very, very pointed. He was saying very clearly that there is a need to do something in the federal parliament. Information gathered by the New South Wales corruption body left him 'convinced of the need for a federal ICAC'. That says to me that if one were to be established it would need to get to work straightaway and it would have clear cases in mind where we would see evidence of corruption uncovered.

It is not just people within the legal community. Those accountability monitors responsible for addressing issues of transparency have said for many years that Australia is lagging behind the back of the pack. We have got Neville Tiffen, Transparency International Australia director, who said:

... it is almost unbelievable that the Commonwealth does not have an ICAC. Detractors say that there is no need for a federal ICAC because there is no evidence that corruption exists at the federal level. This is a nonsense. They must believe behaviour changes as you board a plane for Canberra. Without a federal ICAC, we simply do not know the level of corruption that exists.

Transparency International have criticised Australia for our low and ineffective penalties for corruption. A 2009 reports highlights that Australia 'made little or no effort to enforce the OECD Convention on Combating the Bribery of Foreign Public Officials in International Business Transactions. Our reputation is not good. In late 2014 Transparency international released a report which said that Australia had dropped for the second consecutive year in its annual corruption perceptions index, slipping outside the top 10 countries for the first time.

We need to address this issue. The Australian community—indeed, the global community—are saying to politicians of all colours, all stripes: 'We have had enough. We have lost faith in the people who are elected to lead us.' Globally, we are slipping in our
standing. We are slipping in the standards that the Australian people expect. The political winds are blowing and they are blowing hard. It is the Greens who will continue to lead the charge in helping to win back trust from the public. If we do not, we leave it to demagogues like Donald Trump who will ensure that they prey on fear, on division, on the politics of hate. They look to enemies to blame for the problems that lie before us.

The critical challenge here is that we restore faith in our democratic institutions. We do that by establishing a federal anticorruption watchdog. We need an ICAC that has the powers to hold all Commonwealth departments, agencies, federal parliamentarians and their staff to high standards of transparency. We need investigation and prevention of corruption in the Federal Police and the Australian Crime Commission. We need independent advice to ministers and parliamentarians on conduct, ethics and matters of propriety, including the use of entitlements.

We can have these reforms right now if either the government or the opposition support this bill. If they have concerns with this bill, talk to us and we are prepared to look at ensuring that we take their concerns into consideration. Learn the lessons from what is going on right around the world and do not think that what is happening in many of those other nations cannot happen here.

We Greens, having a long track record from my predecessors Bob Brown and Christine Milne, will continue taking this fight into this parliament. We will not rest until the Australian parliament has a national anticorruption watchdog that ensures that politicians and public officials are held to account.

Senator PATERSON (Victoria) (16:58): I am delighted to participate in this debate and I thank the Greens for bringing it before the Senate. In my view there are a number of good arguments against an anticorruption commission, but I am going to focus in my contribution today on one which I would have thought or would have hoped would appeal to the Greens as sympathetic to their way of thinking. That is, of course, the issue in the area of civil liberties and legal rights and the way in which anticorruption commissions have, sadly but, I think, because of their very nature inevitably, trampled upon them. I am indebted to Senator Di Natale, who mentioned the New South Wales ICAC, and I intend to come back to that in a moment and talk about some of the ways in which that body has abused its powers, trampled on people's legal rights and trampled on their civil liberties. There has been a very grave threat to people's individual freedoms in the state of New South Wales.

Before I do so, I wanted to begin with a general, broad philosophical point here. Of course corruption is a terrible thing. We all want to see corruption-free government, and Australia has a remarkably good, clean record on this. It is not a perfect record, but by world standards it is an outstanding record on corruption. We achieved that without an anticorruption commission at the federal level and with anticorruption commissions only at the state level in recent years. It is not because of the existence of anticorruption bodies that Australia is a relatively corruption-free country; there are many other reasons for that, which we can come to in a minute.

The prospects for corruption in government inevitably increase the bigger government gets, the more weight it places on society, the more it intervenes in people's lives and the more it intervenes in the economy. A big government, a government which lords it over everything, which has its fingers in every single pie, is a government which is extremely prone to
corruption, because when people are subject to the force and influence of government they have an interest in influencing that government. If a regulation or a subsidy is going to make or break their business, of course they are going to go, in some cases, to extreme lengths to ensure that that regulation is favourable, that that subsidy exists, that their competitor is disadvantaged. So the Greens have an inconsistency here. They say they are going against corruption but the very philosophy that they promote in this place of government playing a greater role in the economy and a greater role in people's lives gives the incentive that is necessary for people to seek corrupt means to influence government. A government which treaded much more lightly on the economy and much more lightly on people's lives would be a government that people would have much less interest in influencing. They would spend much less time thinking about what we do in Canberra, because it would be of much less consequence to them and their lives, leaving people to run their own businesses and to live their own lives. To not interfere with them is the best method, if we want to discourage interest in corruption.

I turn now to the New South Wales Independent Commission Against Corruption, because I think it provides a very salutary lesson on why we should be concerned about setting up these bodies in perpetuity, with extraordinary legal powers, and what the natural consequences are that flow from that. It is not because the people running the New South Wales ICAC in themselves are necessarily bad but because of the very nature of setting up a corruption body, giving it powers, giving it a budget and allowing it to exist in perpetuity inevitably leads to a culture and a behaviour which is going to trample on the legal rights of its suspects. The reason for that is that all of these bodies exist, once they are created, to perpetuate themselves, to justify their own existence. If there were no corruption in New South Wales, the New South Wales Independent Commission Against Corruption would have to find corruption in order to justify its own existence, in order to perpetuate the salaries of its employees and in order to justify its purpose. Although I certainly would not argue that there is no corruption in New South Wales, even with the corruption that has existed in New South Wales we have seen the New South Wales Independent Commission Against Corruption pursue many unjust cases, trample on people's legal rights and behave, in my view, in an appalling manner.

I am going to quote a number of newspaper articles on the New South Wales ICAC, because I think it provides a salutary lesson for us at the federal level. I will flag in advance that many of them are from The Australian newspaper. I want to congratulate them on the great level of scrutiny they have focused on this issue, because bodies with great power deserve great scrutiny. It is a tribute to The Australian that they have taken this issue so seriously. I am going to quote now from an article published in The Australian on 12 September 2016. It was by Anthony Klan, and it is about a case against the Kazal family. The headline is 'ICAC hid evidence against Kazal family'. It begins:

The NSW Independent Commission Against Corruption hid key evidence that supported the case of people it was seeking to label as corrupt in another of its operations.

The Australian has obtained a sworn statement provided to ICAC's Operation Vesta—well before it held public examinations or handed down its findings—that seriously undermined the watchdog's case but which never saw the light of day.
Operation Vesta, launched after ICAC received one complaint and following a series of articles in *The Sydney Morning Herald*, focused on allegations that Sydney's Kazal family had bribed a government employee.

The Kazals operate a string of businesses in Sydney's The Rocks from buildings they lease from the government's Sydney Harbour Foreshore Authority.

The allegations were that Charif Kazal had paid for a business trip for then authority employee Andrew Kelly in return for favourable treatment on lease deals on buildings, in particular 100 George Street.

ICAC interviewed and took a statement from Paul Neilsen, who worked as the foreshore authority's manager of property services when Mr Kelly gave the alleged favourable treatment.

In contrast to the thrust of ICAC's thesis, Mr Neilsen told ICAC that Mr Kelly had had "no direct involvement" in the 100 George Street lease. It was in fact Mr Neilsen who had dealt with the Kazals in the negotiations.

Further, Mr Neilsen said the outcome at the site was the "best outcome" for the authority and the NSW government.

But ICAC did not submit any of this evidence to the Operation Vesta public inquiry into the Kazals, nor did it provide Mr Neilsen's affidavit to the legal teams handling the case.

I make no judgement about the guilt or innocence of any of the people in this case, but I do make a judgement about the way in which ICAC handled this case. They found evidence which appeared to contradict their case and they did not provide it to the relevant public inquiry, which would have assisted the inquiry in its work but might not have assisted ICAC in its case.

I want to turn to another article published in *The Australian*. This one is by Chris Merritt, the crusading legal affairs editor of *The Australian* and, might I say, someone who has a great appreciation for the legal rights and freedoms of Australians and has been a terrific advocate for them. In this article, entitled 'ICAC raids given go-ahead despite lack of protocol', he writes:

The NSW government's anti-corruption agency spent years obtaining search warrants from the same court official before the practice was authorised by formal guidelines.

A protocol was issued only in April 2014, requiring the Independent Commission Against Corruption and other agencies to approach deputy registrar Stephen Lister when they wanted permission to conduct raids.

But documents obtained by *The Australian* show that, in the three years before the protocol came into effect, Mr Lister had authorised eight of the agency's most high-profile raids. Before April 2014, he had given ICAC permission to conduct raids on businessman Charif Kazal, the family of former NSW politician Eddie Obeid, former NSW politicians Darren Webber, Chris Spence and Chris Hartcher, businessman Nick Di Girolamo, and former emergency services commissioner Murray Kear and his deputy Steve Pearce.

ICAC Commissioner Megan Latham has supplied a copy of the protocol to a committee of the NSW parliament after being asked about Mr Lister's role in ICAC's failed investigation of prosecutor Margaret Cunneen SC.

Three months after the protocol was issued he approved an ICAC raid of Ms Cunneen's home in July 2014, and the seizure of her mobile phone despite the fact that it was already in ICAC's possession.

The search warrant gave ICAC permission to "break open any receptacle in or on the premises"—Which is a pretty extraordinary allowance. It goes on:
Ms Latham told a public hearing of the committee last month that the search warrant to seize Ms Cunneen's phone had been granted by "a judicial officer independent of the commission who was satisfied of the legitimacy of the grounds for the warrant".

Mr Lister had issued other search warrants for ICAC because "he is the nominated registrar at the Downing Centre for the purposes of agencies like us when we apply for search warrants".

I could go on, but I think the point is clear. This may seem, on the face of it, to be a small matter, but it is one of many matters that ICAC has been found to be engaging in in unorthodox ways.

I will move to another article by Mr Merritt, this time concerning one of the star barristers, as Mr Merritt calls him, Geoffrey Watson SC. This article was published on 23 June 2016:

The star barrister of the NSW anti-corruption agency, Geoffrey Watson SC, has been found to have engaged in unsatisfactory professional conduct because of statements he made in a newspaper about "the bloody Liberal Party".

The NSW Bar Council, the governing body of the Bar Association, has issued a caution to Mr Watson, the public face of the Independent Commission Against Corruption during a series of spectacular hearings.

It goes on to say:

The Bar Council found that Mr Watson, while ICAC's counsel assisting, had breached a rule that prohibits barristers from taking "any step" towards having the media publish material about their current cases. The ruling, which covers just more than five pages, indicates that Mr Watson has persuaded the Bar to drop an earlier proposal to refer his conduct to the NSW Civil and Administrative Tribunal. That proposal, from the Bar's professional conduct committee, could have exposed him to the risk of penalties ranging from a fine to the cancellation of his practising certificate.

Again, perhaps in the view of some this is a minor matter, but it is certainly one which contributes to a general perception in New South Wales that ICAC has acted as a law unto itself.

There was a very substantial and important article published by Sharri Markson in The Australian in August this year. It was about Mike Gallacher, someone who has been relentlessly pursued by ICAC, and, in the end, unsuccessfully. But it has had an enormous impact on his life and on his career, and it seems to me on the available evidence that he is one of the clear victims of ICAC and its behaviour. I will quote from this article, which quotes Mr Gallacher about the impact that this commission has had on his life:

"It's like that nightmare that you have, that we've all had, where you feel you're being chased and you want to scream but nothing's coming out and no one is listening to you and no one really wants to listen to you."

Mike Gallacher, former NSW police minister, is speaking at a cafe in Sydney's Hyde Park, detailing for the first time the futility of trying to clear your name once the Independent Commission Against Corruption has you in its claws.

Gallacher, a former policeman, had been expecting to be entirely exonerated yesterday. ICAC had advised him there would be no corruption findings against him in its investigation into whether the NSW Liberal Party and MPs had been funneling illegal donations from property developers.

And there weren't. But while the thick ICAC report cleared him of corruption, it found he had intended to evade laws that banned donations from property developers in NSW.
That is an interesting view of a future crime. I think there was a movie about that. The article continues:

ICAC ruled Gallacher, along with former energy and resources minister Chris Hartcher and others, were parties to an arrangement where property developers made payments of $66,000 and $53,000 for the NSW election campaign. The report also says Gallacher sought a $7000 political donation from a property developer for a New Year's Eve fundraiser. And, it claims his evidence was "untruthful".

The damage to his reputation was so great. Premier Mike Baird declared Gallacher would not return to cabinet, nor to the Liberal Party. Gallacher has enjoyed an esteemed career. He was awarded a police commendation in 2010 …

I am sorry—my article has been cut off there so I will have to jump across:

He spent a large part of his career in internal affairs exposing corrupt police officers and even took on the appearance of a junkie in Kings Cross, which resulted in the smashing of a major drug ring involving a senior police officer.

Now his career is in tatters. Worse. "It's destroyed, it's gone now," Gallacher says. He is a man without a portfolio, without a party.

Later in the article he goes on to talk more about how this has affected his life:

"We'd go to the shops, and I'd assist Judy with the shopping, people would look at you, and you knew what they were thinking because the allegation was this guy took money in exchange for developers getting developments through. You knew it wasn't true but you couldn't defend yourself."

I will not go on with Mr Gallacher's case. It is pretty clear that he is a victim of an organisation which does great damage to the people it pursues—sometimes without any successful outcome, as it was in this case.

There are many more, and I could go on, but this is just a small snapshot of the way in which these independent commissions against corruption, whether they be at the state level or, as the Greens propose, at the federal level, can really seriously breach people's legal rights and freedoms, and damage their reputations. And for no good aim—most spectacularly, I think, in the Cunneen case, which I think is very well-known.

I think that is a really salutary lesson for us here in federal parliament to consider very seriously. If we were to establish a federal anticorruption body it could very easily—and I would not be at all surprised if it did—go down the same road as the New South Wales body against corruption. Although it may have had some success, it has come at a very high price for some people who are, obviously now, clearly innocent.

I would urge all senators to consider that very sincerely as they contemplate this Greens proposal for a federal anticorruption body.

**Senator CHISHOLM** (Queensland) (17:13): I rise to speak on the National Integrity Commission Bill 2013. My understanding is that this is not the first time this bill has sought to establish a national integrity commission, or an organisation somewhat similar in style to various state bodies. The one I am most familiar with is the work of the Queensland Crime and Corruption Commission. I stand here today talking about this issue on the second anniversary of the death of Wayne Goss, the former Premier of Queensland. No politician has done more in Queensland to stamp out corruption than Wayne Goss, and I pay tribute to him today.
The forerunner to the Queensland Crime and Corruption Commission was the Criminal Justice Commission, which was formed following the revelations of the Fitzgerald inquiry into corruption of the police force and the Bjelke-Petersen National Party government in the seventies and eighties. These were the days of brown paper bags, illegal casinos and when politicians in the highest offices of Queensland were prepared to look away. These were dark days for Queensland, and reflect some of my earliest political memories. 'The joke', as it was known amongst those who were coordinating this corruption in the highest offices of the police and government in my state, damaged Queensland's reputation on the national stage and amongst other Australians.

The large-scale corruption uncovered in Queensland was done by the great work of journalists; media organisations; politicians, including the Labor opposition; and numerous community groups and concerned individuals. They really put a spotlight on what was going on. As we know it now, the Queensland Crime and Corruption Commission has become an institution in Queensland that people have great faith in. Those dark days of the seventies and eighties seem so long ago, but for many Queenslanders they remain etched in our minds. So much so that, for the most part, the Crime and Corruption Commission has been an untouchable element of Queensland democracy.

It has been very rare for governments to attempt to weaken or interfere with the CCC, but on any occasion when a government has tried this they have certainly suffered the consequences. The most recent example occurred under the Newman government between 2012 and 2015. This arrogant government made many errors—attacking the judiciary, sacking public servants, cutting health and education funding—but few hurt Queenslanders more than undermining the Crime and Corruption Commission.

I think back to the by-election in Stafford, which was caused by the resignation of Dr Chris Davis. In 2012, he was elected as the LNP member for Stafford. Frustrated by the lack of accountability and integrity in the Newman government, Dr Davis quit, causing a by-election. The undermining of the Crime and Corruption Commission was a key element of his frustration; it formed a key part of discussions and debates within that by-election. What we saw in that by-election was a record swing to Labor and the election of Dr Anthony Lynham, who has since gone on to be a cabinet minister in the Queensland government. This history lesson is important because despite only having one house of parliament in Queensland, the status that the Crime and Corruption Commission has in Queensland has meant that if any government tries to undermine it, or nobble it, they suffer the consequences. The election of the Annastacia Palaszczuk government is the most recent example of that in Queensland. It was only after the widespread revelations of corruption that there was a public mood and understanding of the importance of an anticorruption body in Queensland.

Another important asset in the fight against corruption is openness. For me, it is vitally important that that openness starts with our political parties. I believe that includes openness with regard to preselections, with public scrutiny; open party conferences, again with public and media scrutiny; openness about ballots for party leadership. These are real, important tenements that our political parties say they operate on, but too often, particularly with the Greens, we see them fail this test of public accountability. Greens preselections are all done behind closed doors. Their party conferences are not open to scrutiny from the public or the media. And too often we have seen that with any ballots for the leadership we find out what
has gone on sometimes days later. This is clearly not good enough. On our side, the Labor side, we are actually moving the other way, towards more openness, and there has been none more important than allowing branch members to have a say in electing our leaders at state and federal levels. That shows you what we have done.

Another important and transparent accountability mechanism that needs urgent attention is around donation reform. We cannot ignore the public cynicism in this regard. The LNP have an appalling track record at the state and federal level. At a time when the public want greater accountability and transparency, all we see from the LNP is they have gone the other way. They increased declaration thresholds and they have done nothing to change the long lag time before donations are declared.

I think it is pretty easy when you ask yourself, 'Why are the LNP opposed to such basic reform, particularly given what the technology allows us to do in terms of real time donations?' We have to look no further than who the Prime Minister is at the moment and what he did to fund his own election campaign. It is outrageous that four months after the federal election we still do not know whether it was $1 million, $2 million or $3 million that the Prime Minister put into his own campaign. This is something that should have been known before election day, not something we still are waiting to find out some four months later. This is completely unacceptable, and donation and declaration reform is a task that needs urgent attention.

There are serious problems with the current bill. It has three components: a federal ICAC body based on the New South Wales model, the Australian Commission for Law Enforcement Integrity in its present form, and an independent parliamentary adviser to advise MPs on ethics and entitlements and to develop a parliamentary code of conduct. The creation of an independent parliamentary advisor is not necessarily good policy in general and, in any case, is open to question about whether such an office should be housed within a watchdog body. There are other open questions about how a number of federal integrity bodies ought to be integrated or where they sit alongside each other in some form of federal body.

Labor have a broad approach to anticorruption consistent with our longstanding Labor policy. Given the present scandal infecting the federal branch of the Liberal Party, there clearly needs to be a focus on campaign finance. I thought Senator Paterson did an admirable job of trying to whitewash ICAC's finding in regard to the New South Wales Liberal Party. I am sure the Liberal executive will be very happy with him, but the work that ICAC did in exposing the New South Wales Liberal Party is absolutely vital.

This bill is a rehashed proposal from the Greens, but sadly in its six-odd years of different iterations they still have not ironed out the details, which goes to show you the political stunt that this is. There are valid reasons why this keeps getting knocked back, as I have indicated. But perhaps the Greens wanted this to fail in parliament so they can continue to campaign against it. Similar to their grandstanding in question time today on the US alliance, the Greens do not actually want to provide a workable policy here; they just want to be appealing to their base.

Why are we opposed? The National Integrity Commission Bill is similar to others the Greens party have introduced again and again in the past. The National Integrity Commission Bill was first introduced by Senator Bob Brown in June 2010 and reintroduced when parliament reconvened after the 2010 election. The National Integrity Commissioner Bill
2012 was introduced by Adam Bandt. These bills lapsed without having been debated when
the 43rd Parliament was prorogued and were not considered in substance by a committee.

The Senate Select Committee on the Establishment of a National Integrity Commission
was established in February 2016 to consider this very issue. The committee considered the
various arguments in favour and against the establishment of such a commission, and received
29 submissions from key advocacy organisations, academics, industry and unions.

The committee found, in its interim report, that there was a significant difference of
opinion across these bodies about whether such a body should be established; there was no
established need given the interlocking oversight given by a multitude of agencies was
present; there were no answers given as to how the number of federal integrity bodies ought
to be integrated or situated alongside any federal ICAC body; that there was potential for gaps
to arise when starting from scratch with a new system; and that potential for a federal ICAC
needs more consultation in an integrated manner.

Labor remains open-minded about a national corruption body. But I believe the
circumstances I spoke about—how this came to be in Queensland and how this body is best
formed—are really important. The effort by the Greens is high on politics but lacks the
substance that is needed for such an important reform. Again, I go back to how these bodies
were formed in Queensland. It really is important to understand the historical context and the
public mood at the time. These are some of my first political memories. My family had a
background in Tasmania. In coming to Queensland, they were really astonished by the lack of
transparency and accountability in our political system. Yes, in Queensland, as I mentioned
before, there is a unicameral system—a one chamber parliament—so the importance around
integrity and accountability measures is heightened. The mood, and the thought that was
established in 1989 on the election of the Goss government, is something that has prevailed
until today. I reiterate that any government that tries to attack or undermine that
accountability gets found out.

In terms of how this body would be looked at and established in our system, the Greens bill
before us lacks the detail that is required. Labor remains open-minded on this but cannot
support the bill as it stands.

(Quorum formed)

Senator O’NEILL (New South Wales) (17:29): It is my pleasure and privilege to speak
on the National Integrity Commission Bill 2013, which is before us this afternoon.

The ACTING DEPUTY PRESIDENT (Senator Ketter): Excuse me, Senator O'Neill. A
point of order, Senator Bilyk?

Senator Bilyk: There is a whole lot of noise on the other side, Mr Acting Deputy
President. I am finding it hard to hear, even though Senator O'Neill is standing nearly next to
me.

The ACTING DEPUTY PRESIDENT: I encourage those senators who are not staying
to listen to the debate to leave the chamber quietly.

Senator O'NEILL: The National Integrity Commission Bill 2013, which is being
considered this afternoon, is an important conversation that Australians have been having and
that they have resolved in a range of different ways in different contexts across the country. If
we look at the history of the development of bodies to deal with integrity in public office we
can see that over the past 30 years there have been a significant number of anti-corruption bodies established throughout the states of Australia. Being a senator for New South Wales, I can certainly attest to the impact of and interest in the ICAC when it was established in New South Wales. The New South Wales ICAC is just one of the august bodies examining corrupt practices in this country. There is also the Queensland Crime and Corruption Commission and, just to prove that it is not confined to the eastern states, there is the Western Australian Corruption and Crime Commission. In Tasmania there is the Integrity Commission, in Victoria there is the IBAC and in South Australia there is the ICAC. These bodies give rise to an increasing understanding in the community about the importance of holding government in all its forms, and government officials, to account. We would have to say that overall these bodies have been tremendously successful in highlighting accountability issues that relate to good governance.

I know that in my great home state of New South Wales we have had significant activity from the state ICAC with regard to political donations. I live in a hotbed of the drivers of that activity, on the Central Coast, where we had an extraordinary set of circumstances emerge around the washing of money funnelled to the Liberal Party through the Free Enterprise Foundation. Many of those who would be perhaps listening to the parliamentary broadcast or watching us on digital TV would remember the many permutations of the way in which money was taken to support state campaigns but channelled through the federal Liberal Party to prevent it being considered illegal. In fact, the whole set-up of the structure was illegal, and that was all revealed.

What I want to point out is that, while these bodies aspire to sorting out issues of corruption and lack of integrity, there are challenges in establishing bodies that are truly effective. Sadly, in the case of the New South Wales member for Terrigal, Mr Hartcher, and the washing of money through the federal party to avoid the scrutiny of state legislation around electoral donations, there was such a delay in the interrogation and the report that, even though the whole sorry saga and the dirty laundry were revealed in the papers over the course of time, the statute of limitations kicked in and the matter could not be dealt with. I know that, because people on the coast who speak to me are quite disgusted at the way in which the manipulation of this process occurred. They are very concerned that what they thought was going to be an excellent body, the New South Wales ICAC, has been stymied. They feel the ICAC has been played with in a way that has not allowed what the community thinks is justice to be done—in other words, having the conversation with the people who have broken community standards, bringing these things into the public place to have a full and proper discussion and having appropriate action in response, such as having the illegal activities dealt with in a court. That is, sadly, a failing that is very much still alive in the minds and conversations of people on the Central Coast, who ask, ‘Why do we have to be tarred, from all the experiences we have had, as a place of corruption?’

We know that, in that context, there was a longstanding Liberal staffer who actually confessed to the independent corruption commission that enormous sums of money donors were being donated, including by prohibited donors—property developers who were right across the coast—in the full knowledge that they were breaking New South Wales law, laundering them through a sham organisation that was called Eightbyfive and the Free Enterprise Foundation before they were passed on to the New South Wales Liberal Party.
The scale of this, despite the fact that the Independent Commission Against Corruption existed, was such that there were 11 state New South Wales Liberal politicians who were forced to resign. Now, those opposite like to point to corruption—and I will call it wherever I see it in any context, whether it is in any political party, in any corporate organisation, in any non-corporate organisation. Wherever corruption happens it should be called.

There is a very important purpose for these bodies that are established to raise awareness about it—to respond to it—but they are not perfectly formed. Sometimes, in their haste to advance a political cause, we have seen legislation advanced by the Greens that just does not have the desired outcome that they articulate here in this place. That is because there has been a failure to consider the unintended consequences of the legislation they bring forward. That is why we cannot really support this legislation. I do think that it is flawed and I think it does not deal with the complex realities of establishing a national body.

We know that there has been a significant embarrassment to one of our colleagues here in the chamber, the federal Liberal senator and former Assistant Treasurer, Senator Sinodinos, who was stood aside by the Prime Minister in the course of this Eightbyfive-Free Enterprise Foundation fiasco that was considered by the ICAC. Indeed, in reports there were damning comments. I refer in particular to an article by Neil Chenoweth in The Fin Review who said:

Any investigation of NSW state finances inevitably involves some scrutiny of federal fund-raising. It's done by the same people, the same structures, there are constant crossovers.

Given the fact that we have these bodies that I have referred to—the New South Wales ICAC, the Queensland Crime and Corruption Commission, the Western Australian Corruption and Crime Commission, the Tasmanian Integrity Commission, the Victorian IBAC, and the South Australian ICAC—one has to question: what is the purpose of a duplication of these bodies, which are at a level that is closer to the political activity of the people of those states, and an unnecessary impost of another layer of regulation over the top of those state bodies? That is not to say that Labor will not at any point in time consider a federal independent commission against corruption. In principle Labor has never objected to such a body. But the question remains as to the case for such a body and also, as I alluded to just a little while ago, the outcome of making a decision to establish such a body without sufficient consideration of unintended outcomes from such a body.

We have a series of protections that are already in place, which include a number of federal integrity agencies. People would be familiar with the Australian Commission for Law Enforcement Integrity, who have the task of working to counter corruption in federal law enforcement bodies, and they do that work very seriously. They are funded to achieve those outcomes, and their hard work is a matter of public record now. We also have the ombudsmen structures and the Auditor-General. The ombudsman, which is perhaps more familiar to ordinary Australians, who might not have anything to do with the federal parliament, is a critical set of checks and balances that sit outside the court system—but in partnership with it to a degree—to provide a place for people who have important matters that need to be resolved but who do not have either the will, the desire, the financial capacity to have matters dealt with by a court, or for people who just want to deal with them on a more human-interaction level by going to the ombudsman and getting matters resolved. The ombudsman also deals with the reports of people who have been exploited, and they become points of
awareness-raising for the whole of that state body about points of pressure in the system, and there can be a response at that state level. So ombudsmen, federal and state, do exist.

When I first came to the parliament in my role in the House of Representatives as the member for Robertson, I felt extremely privileged to sit on the Joint Committee of Public Accounts and Audit. In the course of my work through the 43rd Parliament, I was able to see the work of the Auditor-General in action. What an amazing contribution the Auditor-General makes to our public life here. The care and independence of that body is really important in enabling us to have clear oversight of the expenditure of government moneys. I believe that the vital role that the Auditor-General plays is something that needs to be considered as part of any suggestion for a federal ICAC. The two bodies that I have just been speaking a little about—the ombudsman and the Auditor-General—clearly have very significant oversight over federal administration and expenditure, but they are complemented by the Inspector-General of Intelligence and Security, which oversees the federal bureaucracy. There are three significant bodies that are already reporting frequently, certainly annually, on what they find, and that gives the capacity for this place—the chamber opposite and the Senate—to respond to matters of concern that they raise.

Of course, here in Canberra we see slightly different police cars from those over the border in New South Wales. The AFP, the Australian Federal Police—our national police—and the Commonwealth DPP investigate criminal misconduct in government. They are more agencies that are dedicated to the task of carefully monitoring and responding to any corruption or matters that reveal a lack of integrity in the federal space. While we have those bodies, I guess we could always say there is more work to do. The Australian Labor Party, when in government, certainly looked to enhance the integrity of the work that is done at the federal level. When we were last in government, we took important steps to make sure that we did do that work of enhancement. There was a change to the ministerial standards under Labor to more explicitly articulate not just the behaviours of the ministers but an ethical standard that goes to a principle based model of making sure that people choose in the interests of whom they serve, in a way that exists not just within the boundary of the law. That is, a predisposition to choose ethical behaviours over behaviours that lack integrity. That is really what the Australian people expect of us.

One of the concerns that I have is that bodies such as ICAC and other bodies that gather evidence about observed behaviours deal with the consequences of bad behaviours, but we need to invest not just in the cleaning up of bad behaviours but in the preparation of people for public life, in public office and in service, through the Public Service—to choose ethnically, to discern ethically, not just to live within the boundaries of rules that are articulated. There has been some debate this week. My colleague who has taken her place in the Senate—and I expect she may speak after me—Senator Pratt, in her questioning of Senator Brandis, asked about interpretations of the word 'consultation'. In the conversation that happened in this place this week, we can see a miserly mess of a view of what ethical behaviour should look like and a determination to play word games, trying to stay within boundaries that were arbitrarily constructed after the fact, just to excuse what we would consider on this side absolutely unethical behaviours.

In addition to establishing ministerial standards, Labor in government introduced a lobbying code of conduct and a federal lobbyist register. We saw in the papers just last week
concerns about former ministers of the Abbott-Turnbull government who, too quickly for public taste it would seem, have gone to lobbying roles that were clearly linked to their previous ministerial responsibilities. These are things that go to the heart of people's decision-making about what they think is fair and just. I question whether the threat of a federal ICAC body would be enough to prevent somebody who is of such a mind from going ahead and undertaking behaviours that, for most Australians, would be considered inappropriate or, further along the scale, actually misconduct.

While in government at a federal level, the Labor Party expanded the powers of ACLEI, we introduced whistleblower protections for those who were disclosing government wrongdoing, and we sought—and we continue to seek—to improve transparency over political donations. As I said in my opening comments, coming from the state of New South Wales and seeing the nature of outrageous behaviour that was characterised by Mr Chris Hartcher, the former member for Terrigal, and people on his staff who actively went out to construct a really aberrant model of cleaning up money to get back into their campaigns for the Central Coast and the Hunter Region, I sincerely wonder if we can see the impact of a federal ICAC body in preventing such behaviour.

The reality is that there are people for whom there are no boundaries and who will take any advantage that will suit themselves and their immediate purposes, and they are in every sphere of life. Serious questions of significant corruption in the federal sphere are, of course, open to the full suite of measures that we might need to restore public trust. As I said, Labor is not averse to the consideration of an anticorruption body, but it needs to be very well considered, it needs to be carefully constructed, and it needs to be something about which there would be general and generous agreement right across this chamber.

I believe that this bill that is being put forward by the Greens party is premature, for some of the reasons that I have just outlined, not because corruption has never been part of the fabric of our society and not because it will not come into the future. But, if we are genuinely going to deal with this issue, we need to, as I said, have a greater agreement about what it actually should look like to prevent unintended outcomes. We also need to have a much more careful look, with the states, at how some integrated body might be established that would give sufficient space, power and status to those bodies that already exist at state level and to learn from the failures of state bodies. I described the work of ICAC in New South Wales a little earlier. It is one thing to document the Eightbyfive scam, the Free Enterprise Foundation and the laundering of so much money for the Liberal Party, through the national office back to the state, that the scale and the audacity of it really take your breath away. Having an ICAC body does not necessarily prevent those behaviours, and we need to attend to that reality.

In closing, can I say that there are serious problems with the current bill as it is constructed. There are three elements to this bill. One is a federal ICAC body based on the New South Wales model, and I hope my comments this afternoon have highlighted that the existence of such a body, in and of itself, does not necessarily mean that it can do the work that the community asks it to do. What it achieves in terms of criminal conviction of people who break the law is something that is very much still in question for the people of the Central Coast, who have seen a damning ICAC finding yet a failure of the capacity to implement any penalties for those who perpetrated that great misuse of public office and the power and authority that it has.
The Australian Commission for Law Enforcement Integrity, ACLEI, in its present form is part of this bill, as is the independent parliamentary adviser to advise MPs on ethics and entitlements and to develop a parliamentary code of conduct. But, just like the establishment of an ICAC, the creation of an independent parliamentary adviser is not necessary good policy in general. In New South Wales, there was an ethics adviser who was in fact employed to undertake that role. Notionally, what a wonderful idea that is. But the reality was that they were never consulted. That goes to what I was saying about the need for an induction into a deep understanding of the place of an ethical disposition in the principles based management and responsible use of public office. I do not believe that this bill deals with that.

Senator PRATT (Western Australia) (17:50): I rise to speak against the National Integrity Commission Bill. The Labor Party has in the past supported, and currently does support, the principle of an ICAC type of body. But I do not believe the bill that is before us meets the kinds of objectives that Labor would like to see. The bill has a number of key components—a federal ICAC body based on the New South Wales model. I think that is problematic. Very diverse types of models operate in very different ways around the states, and what is before us does not give due consideration to the different models around the country and how they operate. I notice that the Australian Commission For Law Enforcement Integrity would be brought into this, but I have not been convinced that that needs to happen in terms of its current capacity to stand alone.

To me, like Senator O’Neill, the question of an independent parliamentary adviser to advise MPs on ethics and entitlements and to develop a parliamentary code of conduct seems problematic given the high level of debate and control that we have on those questions within the parliament and that sense of collective accountability, noting that the parliament itself is the highest authority on these questions. To my mind, the level of scrutiny we give each other will always be more successful and more important than a simple code of conduct. I do not necessarily object to the idea of codes of conduct, but I do believe that the idea of an adviser on ethics and entitlements within this bill would need further consideration.

Perhaps if some members of this place sat down and asked someone a few questions about their interests and the way they have disclosed them, they might not get themselves into as much trouble as they have done. But I do not think it necessarily requires legislation to see something like that happen. On the face of it, given that a number of recent decisions by a few members of this parliament have fallen short of public standards and indeed our own standards, it is pretty easy to draw the conclusion that we might need a body like this. But can such poor decisions be conflated with corruption and unethical behaviour? I do not necessarily believe they always can; they were simply poor decisions. Even after all of that—we have all played our roles in political theatre—the truth is that these matters have been dealt with openly and played out publicly, and the punishment and accountability comes out through public debate to the satisfaction of most people. We have seen ministers come and go because of that kind of scrutiny.

But when it comes to more serious matters too many cases, both now and in recent times, have been brought to the attention of the law and the public. By that, I specifically mean the New South Wales ICAC. But there are of course cases before other state commissions. For example, the ICAC in New South Wales heard allegations that illegal political donations had been funneled to the New South Wales Liberal Party via various slush funds. I also note that
a longstanding Liberal staffer confessed to ICAC that enormous sums of money, including from property developers—who under New South Wales law are banned from making political donations—were laundered through sham organisations, including Eight by Five and the Free Enterprise Foundation, before being passed on to the New South Wales Liberal Party. Eleven New South Wales Liberal politicians were forced to resign, including Premier O'Farrell. Most damningly, it caused federal Liberal senator and former Assistant Treasurer Arthur Sinodinos to be stood aside by the Prime Minister. These are all examples, in terms of the pub test, that show the DPP that the current agencies are indeed working.

Federally, we already have the Australian Commission for Law Enforcement Integrity, the Ombudsman and the Auditor-General, and these agencies have very broad oversight of federal administration and expenditure. We have specialist bodies, such as the Inspector-General of Intelligence and Security, and they oversee particular parts of the federal bureaucracy. What is most important here, because our bureaucracy is so diverse, is that the agencies that are responsible for their own management have internal accountability processes that are embedded throughout the agencies. That is why connecting, for example, security and intelligence agencies is important. Of course, we have the Australian Federal Police, who have a very important role in investigating corruption. We have seen recent examples of them coming to collect parliamentary documents, for example, so we need to be very considered about issues of parliamentary privilege. We also have the Commonwealth DPP.

Along with all of that—and at the risk of being somewhat repetitive in this debate—we have also created a new Statement of ministerial standards. We have introduced the Lobbying code of conduct and a federal lobbyist register, and we have implemented the Code of conduct for ministerial staff. We have also expanded the powers of ACLEI, introduced whistleblower protections for those disclosing government wrongdoing and sought to improve transparency over political donations. At a state level, Labor governments have been seen to introduce the New South Wales ICAC, the Queensland Crime and Corruption Commission, the West Australian Corruption and Crime Commission, the Tasmanian Integrity Commission, the Victorian IBAC and the South Australian ICAC.

Like my colleagues, I do not dismiss the objects of this bill, but we already have a proliferation of agencies designed to deal with accountability and corruption in our country. If you are going to put together an overall Australian type ICAC body, the extent to which it becomes just another one of those agencies or the extent to which it relates to those other bodies are really critical questions, and I do not think they have been properly resolved in this bill. In that context, I worry about the unintended consequences of legislation like this: jurisdiction demarcation and duplication. In addition to looking at existing powers, we should be looking for opportunities to integrate functions between existing agencies. These are some of the examples we need to consider. With more time I think I could come up with a few more.

Reflecting on what Senator Lee Rhiannon had as examples to justify the bill, I return to my earlier comments that many existing agencies can—and indeed do—very successfully investigate these matters. I do not accept that we work in a system that is dominantly corrupt in any way. In fact in global ratings, when you look at corruption and accountability indexes, Australia rates highly in terms of the existing accountabilities in our political and bureaucratic
systems and the accountability that they exercise over companies and other parts of the community.

In conclusion, the Labor Party and I support a broad approach to anticorruption, consistent with a longstanding tradition of Labor policy. That means it needs to be embedded in a wide variety of agencies, because accountability is something that needs to rest with each of us as individuals and with every government institution, every parliamentary institution and every company, school or other agency.

The PRESIDENT: It being 6 pm, the time for the debate has expired.

MOTIONS

National Library of Australia

The PRESIDENT (18:00): I have received a letter from Senator Seselja, resigning his place as a member of the Council of the National Library of Australia, and a letter from the Leader of the Opposition in the Senate nominating Senator Moore to serve as a member of that council.

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) (18:00): by leave—I move:

That, in accordance with the provisions of the National Library Act 1960, the Senate elect Senator Moore to be a member of the Council of National Library of Australia for a period of three years, on and from today, in place of Senator Seselja.

Question agreed to.

COMMITTEES

Membership

The PRESIDENT (18:00): I have received letters requesting changes in the membership of committees.

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) (18:00): by leave—I move:

That senators be discharged from and appointed to committees as follows:

Education and Employment Legislation Committee—

Appointed—

Substitute member: Senator Siewert to replace Senator Hanson-Young for the committee's inquiry into the provisions of the Social Security Legislation Amendment (Youth Jobs Path: Prepare, Trial, Hire) Bill 2016

Participating member: Senator Hanson-Young

Environment and Communications Legislation Committee—

Appointed—

Substitute member: Senator O’Neill to replace Senator Urquhart on 18 November 2016

Foreign Affairs, Defence and Trade References Committee—

Appointed—
Senator Siewert to replace Senator Ludlam for the committee's inquiry into Australian veterans

Participating member: Senator Ludlam

**Red Tape—Select Committee—**

- **Appointed**—
  - Senator Dastyari
  

**Resilience of Electricity Infrastructure in a Warming World—Select Committee—**

- **Appointed**—
  - Senators McAllister and Urquhart
  

**Treaties—Joint Standing Committee—**

- **Discharged**—Senator Sterle
  
  **Appointed**—Senator Kitching.

**Question agreed to.**

### DOCUMENTS

**Estimates Committees**

**Consideration**

**Senator POLLEY (Tasmania) (18:01): I move:**

That the Senate take note of the document.

I would like to speak on item No. 1 'Estimates hearings—Unanswered questions on notice'.

I think it is important that when we have the opportunity we remind the community of how important estimates are in our democratic process. We know that it is an excellent forum for the opposition parties to hold the government to account. But for us to be able to do that we need to have good management and good chairing of the estimates time that we have available to give scrutiny to the issues that we believe are very important. What we find most of the time—I certainly did when I was at estimates last month, for health and aged care—is that there is never adequate time to delve into the issues that need scrutiny.

There is little doubt that this government needs to be held accountable. It needs to be held accountable because it has not demonstrated the capacity to lead this country and to govern. A typical example is when there are issues that are so incredibly important for our older Australians and for the wider community when it comes to issues around aged-care. It is so disappointing when we have a minister at the table with department officials who are unable to answer our questions. That is disappointing enough, but then when you put those questions on notice it is not too little to expect that we will have those answers returned to us and to the committee members so that we have time give them the due diligence that they require to see whether or not they have in fact answered the questions. We know that politicians sometimes
are quite skilful in avoiding answering any questions. They talk a lot, but they actually say very little.

So I wanted to take the opportunity to remind the government of how important it is to ensure that their departments take their responsibility very seriously. It is a minister's responsibility to have oversight to ensure that those questions are answered as soon as possible.

As I said, it is also an opportunity to talk about how important the estimates process is to our democracy. It is at those estimates we find out the detail about the budget expenditure—whether in fact that money has been spent, whether it has been spent according to the legislation and the intent of the legislation or whether in fact, and sometimes it is, the money has not been spent within that financial year. It is a very important process for us to undertake as senators.

I have to say that those people in the other place, in the House of Representatives, have very little understanding when it comes to how the Senate operates, let alone the importance and the credence that we place on the estimates. But I recall when I first came to this place that two very wise senators, Robert Ray from Victoria and John Faulkner from New South Wales—

Senator Williams: The only two you have ever had!

Senator POLLEY: I will take that interjection, because you agree with me that they were very, very wise senators. They had been in this place for a very long period of time, and what they taught me was that it is about how you approach the Senate estimates that will determine how much information you are going to be able to extract from the government officials. After all, we all know it is the responsibility of the government officials to respond to questions but not to make comments on the policy of the day.

So it is a very important process, and I myself have a lot to thank both the former Senators Robert Ray and John Faulkner for, for their expertise. They were so intrinsic to ascertaining information and helping us when we were in opposition, but they were also just as keen and had an eye for detail when we were in government.

I just want to place on record the importance of the estimates process, and I urge all government agencies and departments to note that when we do put questions on notice, we do that because we are seeking information. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Consideration

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

Institutional Responses to Child Sexual Abuse—Royal Commission—Report of case study no. 33—The response of The Salvation Army (Southern Territory) to allegations of child sexual abuse at children's homes that it operated. Motion of Senator Urquhart to take note of document agreed to.

Institutional Responses to Child Sexual Abuse—Royal Commission—Report of case study no. 23—The response of Knox Grammar School and the Uniting Church in Australia to child sexual abuse at Knox Grammar School in Wahroonga, New South Wales. Motion of Senator Bilyk to take note of document agreed to.

Institutional Responses to Child Sexual Abuse—Royal Commission—Reports of case study no. 21—The response of the Satyananda Yoga Ashram at Mangrove Mountain to allegations of child sexual abuse by the ashram’s former spiritual leader in the 1970s and 1980s. Motion of Senator Urquhart to take note of document agreed to.

Institutional Responses to Child Sexual Abuse—Royal Commission—Reports of case study no. 30—The response of Turana, Winlaton and Baltara, and the Victoria Police and the Department of Health and Human Services Victoria (and its relevant predecessors). Motion of Senator Urquhart to take note of document agreed to.

Australian Hearing—Report for 2015-16. Motion of Senator Bilyk to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

NBN Group—Report for 2015-16. Motion of Senator Bilyk to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Aged Care Complaints Commissioner—Report for the period 1 January to 30 June 2016, including final report of the Aged Care Commissioner for the period 1 July to 31 December 2015. Motion of Senator Bilyk to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.


Institutional Responses to Child Sexual Abuse—Royal Commission—Reports of case study no. 30—The response of Turana, Winlaton and Baltara, and the Victoria Police and the Department of Health and Human Services Victoria (and its relevant predecessors). Motion of Senator Urquhart to take note of document agreed to.

Australian Hearing—Report for 2015-16. Motion of Senator Bilyk to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Attorney-General’s Department—Report for 2015-16. Motion of Senator McKim to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.


National Gallery of Australia (NGA)—Report for 2015-16. Motion of Senator Bilyk to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Independent National Security Legislation Monitor Act 2010—Certain matters regarding the impact of amendments to the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014—Report by the Hon. Roger Gyles AO QC. Motion of Senator Bilyk to take note of document agreed to.

Fair Work Commission—Report for 2015-16. Motion of Senator Bilyk to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Asbestos Safety and Eradication Agency—Report for 2015-16. Motion of Senator Bilyk to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Institute of Marine Science (AIMS)—Report for 2015-16. Motion of Senator Bilyk to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Security Intelligence Organisation (ASIO)—Report for 2015-16. Motion of Senator Bilyk to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.
Reserve Bank of Australia—Report for 2015-16. Motion of Senator Bilyk to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Reserve Bank of Australia—Equity and diversity—Report for 2015-16. Motion of Senator Bilyk to take note of document agreed to.

Reserve Bank of Australia—Payments System Board—Report for 2015-16. Motion of Senator Bilyk to take note of document agreed to.

Australian Fisheries Management Authority—Report for 2015-16. Motion of Senator Bilyk to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Productivity Commission—Report for 2015-16. Motion of Senator Bilyk to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Postal Corporation (Australia Post)—Report for 2015-16. Motion of Senator Bilyk to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Postal Corporation (Australia Post)—Diversity and inclusion—Report for 2015-16. Motion of Senator Bilyk to take note of document agreed to.

Australian Communications and Media Authority (ACMA) and the Office of the Children’s eSafety Commissioner—Reports for 2015-16. Motion of Senator Bilyk to take note of documents called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Department of Communications and the Arts—Report for 2015-16. Motion of Senator Bilyk to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Airservices Australia—Report for 2015-16, including report of the Aircraft Noise Ombudsman. Motion of Senator Bilyk to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Fair Work Building Industry Inspectorate (Fair Work Building and Construction)—Report for 2015-16. Motion of Senator Bilyk to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Comcare and Safety, Rehabilitation and Compensation Commission—Reports for 2015-16. Motion of Senator Bilyk to take note of documents called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Commonwealth Ombudsman—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Department of Social Services—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Federal Court of Australia—Report for 2015-16, including report of the National Native Title Tribunal. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Federal Circuit Court of Australia—Report for 2015-16, including financial statements for the Family Court of Australia. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.
Australian Commission for Law Enforcement Integrity—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Financial Reporting Council (FRC)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

National Competition Council—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Competition and Consumer Commission (ACCC)—Report for 2015-16, including report of the Australian Energy Regulator (AER). Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

CrimTrac Agency—Report for 2015-16 [Final report]. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Institute of Criminology—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Crime Commission (ACC)—Report for 2015-16 [Final report]. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Superannuation (Government Co-contribution for Low Income Earners) Act 2003—Operation of the Government co-contribution scheme—Quarterly report for the period 1 April to 30 June 2016 under subsection 12G(1). Motion of Senator Carr to take note of document agreed to.


Clean Energy Regulator—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Export Finance and Insurance Corporation (EFIC)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Trade and Investment Commission (Austrade)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Department of Health—Report for 2015-16, including the Pharmaceutical Benefits Advisory Committee report on processes, financial statements for the Australian National Preventive Health Agency, and the report of the Australian Digital Health Agency. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.
Food Standards Australia New Zealand—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Independent Hospital Pricing Authority (IHPA)—Report for 2015-16, including report of the Clinical Advisory Committee. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Department of Human Services—Report for 2015-16. Motion of Senator Sierwert to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Indigenous Business Australia—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Indigenous Land Corporation—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australia Council for the Arts (Australia Council)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Transaction Reports and Analysis Centre (AUSTRAC)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Commission on Safety and Quality in Health Care—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

National Blood Authority—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Fair Work Ombudsman—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Transport Safety Bureau (ATSB)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Maritime Safety Authority—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.


Repatriation Medical Authority—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.
Australian Reinsurance Pool Corporation (ARPC)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Civil Aviation Safety Authority (CASA)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Commonwealth Grants Commission—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Central Land Council—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Meat and Live-stock Industry Act 1997—Live-stock mortalities during exports by sea—Report for the period 1 January to 30 June 2016. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Migration Act 1958—Section 4860—Assessment of detention arrangements—Personal identifiers

| 1001627-0 | 1001660-0 | 1001661-0 | 1001664-0 | 1001691-0 | 1001701-0 | 1001757-0 | 1001774-0 | 1001789-0 | 1001827-0 | 1001828-0 | 1001878-0 | 1001907-0 | 1002063 | 1002071 | 1002184 | 1002217 | 1002237 | 1002328-0 | 1002377 | 1002385 | 1002487 | 1002498 | 1002512 | 1002603 | 1002686 | 1002694 | 1002744 | 1002771 | 1002782 | 1002789 | 1002825 | 1002887 | 1002888 | 1002890 | 1002896 | 1002898 | 1002902 | 1002904 | 1002949 | 1002964 | 1002996 | 1003013 | 1003076 | 1003124 | 1003362 | 1003441 | 1003455 | 1003511 | 1003514 | Commonwealth Ombudsman's reports—Report no. 19 of 2016. Motion of Senator Carr to take note of document agreed to.

Migration Act 1958—Section 4860—Assessment of detention arrangements—Personal identifiers

| 1001627-0 | 1001660-0 | 1001661-0 | 1001664-0 | 1001691-0 | 1001701-0 | 1001757-0 | 1001774-0 | 1001789-0 | 1001827-0 | 1001828-0 | 1001878-0 | 1001907-0 | 1002063 | 1002071 | 1002184 | 1002217 | 1002237 | 1002328-0 | 1002377 | 1002385 | 1002487 | 1002498 | 1002512 | 1002603 | 1002686 | 1002694 | 1002744 | 1002771 | 1002782 | 1002789 | 1002825 | 1002887 | 1002888 | 1002890 | 1002896 | 1002898 | 1002902 | 1002904 | 1002949 | 1002964 | 1002996 | 1003013 | 1003076 | 1003124 | 1003362 | 1003441 | 1003455 | 1003511 | 1003514 | Government response to Ombudsman's reports. Motion of Senator Carr to take note of document agreed to.

Migration Act 1958—Section 4860—Assessment of detention arrangements—

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Senator Carr to take note of document agreed to.
1003526—Commonwealth Ombudsman's reports—Report no. 20 of 2016. Motion of Senator Carr to take note of document agreed to.

*Migration Act 1958*—Section 4860—Assessment of detention arrangements—

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1003526—Government response to Ombudsman's reports. Motion of Senator Carr to take note of document agreed to.

*Migration Act 1958*—Section 4860—Assessment of detention arrangements—Personal identifiers

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*Migration Act 1958*—Section 4860—Assessment of detention arrangements—Personal identifiers

1001345-0, 1001353-0, 1001506-0, 1001521-0, 1001526-0, 1001572-0, 1001575-0, 1001583-0, 1001584-0, 1001590-0, 1001821-0, 1001880-0, 1001882-0, 1001911-0, 1001938-0, 1001942-0, 1002046-0, 1002088-0, 1002162-0, 1002202-0, 1002220-0, 1002229-0, 1002259-0, 1002261-0, 1002272-0, 1002277-0, 1002285-0, 1002456, 1002543, 1002562, 1002691, 1002696, 1002908, 1003148, 1003256, 1003269, 1003338, 1003363, 1003369, 1003374, 1003389, 1003404, 1003409, 1003412, 1003420, 1003424, 1003477, 1003504, 1003505, 1003515 and 1003520—Commonwealth Ombudsman's reports—Report no. 21 of 2016. Motion of Senator Carr to take note of document agreed to.

Public Interest Disclosure Act 2013—Review on the operation of the Act—Report by Mr Philip Moss AM. Motion of Senator Carr to take note of document agreed to.

Treaty—Multilateral—Trans-Pacific Partnership Agreement between the Government of Australia and the Governments of: Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States of America and Vietnam and associated side letters (Auckland, 4 February 2016)—Corrigendum to the national interest analysis. Motion of Senator Carr to take note of document agreed to.
National Heavy Vehicle Regulator (NHVR)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Parliamentary Service Commissioner—Report for 2015-16, including report of the Parliamentary Service Merit Protection Commissioner. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Federal Police (AFP)—Report for 2015-16, including reports on assumed identities, the National Witness Protection Program and unexplained wealth investigations and proceedings. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Public Service Commission—Report of the Australian Public Service Commissioner for 2015-16, including report of the Merit Protection Commissioner. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Bundanon Trust Limited—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Crimes Act 1914—Controlled operations—Report for 2015-16. Motion of Senator Carr to take note of document agreed to.

Remuneration Tribunal—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Commonwealth Director of Public Prosecutions (CDPP)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Department of Finance—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Electoral Commission (AEC)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Bureau of Meteorology—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australia Business Arts Foundation Limited (Creative Partnerships Australia)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Institute for Teaching and School Leadership Limited (AITSL)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Office of Financial Management (AOFM)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Research Council (ARC)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Cancer Australia—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

National Museum of Australia—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Northern Territory Fisheries Joint Authority—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Queensland Fisheries Joint Authority—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Screen Australia—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Western Australian Fisheries Joint Authority—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Curriculum, Assessment and Reporting Authority (ACARA)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian War Memorial—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Department of Education and Training—Report for 2015-16, including reports of the Student Identifiers Registrar, Trade Support Loans Program and Tuition Protection Service. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Department of the Treasury—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Superannuation Complaints Tribunal—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Tertiary Education Quality and Standards Agency (TEQSA)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Charities and Not-for-profits Commission (ACNC)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Institute of Health and Welfare—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Prudential Regulation Authority (APRA)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Taxation Office (ATO)—Report of the Commissioner of Taxation for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.
Climate Change Authority—Report for 2015-16. Motion of Senator Carr to take note of documents called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Commonwealth Scientific and Industrial Research Organisation (CSIRO)—Report for 2015-16, including report of the Science and Industry Endowment Fund. Motion of Senator Carr to take note of documents called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Future Fund Board of Guardians and Future Fund Management Agency (Future Fund)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

National Australia Day Council Limited—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

National Health and Medical Research Council (NHMRC)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Professional Services Review—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Safe Work Australia—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Tax Practitioners Board—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

ASC Pty Ltd—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Auditing and Assurance Standards Board—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Accounting Standards Board—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Centre for International Agricultural Research (ACIAR)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Film, Television and Radio School (AFTRS)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Financial Security Authority (AFSA)—Report for 2015-16, including reports on the operations of the Bankruptcy Act 1966 and Personal Property Securities Act 2009. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian National Maritime Museum—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.
Australian Pesticides and Veterinary Medicines Authority (APVMA)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Renewable Energy Agency (ARENA)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Skills Quality Authority (ASQA)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Sports Commission—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Department of Industry, Innovation and Science—Report for 2015-16, including reports of Geoscience Australia and IP Australia. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Infrastructure Australia—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

National Capital Authority—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

National Disability Insurance Scheme Launch Transition Agency (National Disability Insurance Agency)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Old Parliament House (Museum of Australian Democracy)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Public Lending Right Committee—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Sydney Harbour Federation Trust—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Competition and Consumer Commission—Report to the Australian Senate on anti-competitive and other practices by health insurers and providers in relation to private health insurance for the period 1 July 2014 to 30 June 2015. Motion of Senator Carr to take note of document agreed to.

Australian Institute of Family Studies—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Nuclear Science and Technology Organisation (ANSTO)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Radiation Protection and Nuclear Safety Agency (ARPANSA)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Rail Track Corporation Limited (ARTC)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.
Australian Securities and Investments Commission (ASIC)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Sports Anti-Doping Authority—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Sports Foundation Limited—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Clean Energy Finance Corporation (CEFC)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Department of Agriculture and Water Resources—Report for 2015-16, including reports on the operation of the Natural Resources Management (Financial Assistance) Act 1992, National Residue Survey, Water Efficiency Labelling and Standards Scheme, and Water for the Environment Special Account. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Department of Infrastructure and Regional Development—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Department of the Environment and Energy—Report for 2015-16, including reports on the operation of Acts administered by the department, and financial statements for the National Heritage Trust of Australia. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Director of National Parks—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Gene Technology Regulator—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Inspector-General of Taxation—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Moorebank Intermodal Company Limited—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

National Health Funding Body—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

National Health Funding Pool—Report for 2015-16, including financial statements for state and territory State Pool Accounts. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

National Library of Australia—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

National Portrait Gallery of Australia—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.
Office of the Official Secretary to the Governor-General—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Repatriation Commission, Military Rehabilitation and Compensation Commission and the Department of Veterans’ Affairs—Reports for 2015-16, including financial statements of the Defence Service Homes Insurance Scheme. Motion of Senator Carr to take note of documents called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Royal Australian Mint—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Takeovers Panel—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Tourism Australia—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Veterans’ Review Board—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Information Commissioner—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Coal Mining Industry (Long Service Leave Funding) Corporation—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

National Film and Sound Archive of Australia (NFSA)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Office of Parliamentary Counsel—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Broadcasting Corporation (ABC)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Special Broadcasting Service Corporation (SBS)—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Defence Force Discipline Act 1982—Director of Military Prosecutions—Report for 2015. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Inspector-General of the Australian Defence Force—Report for the period 1 January 2014 to 30 June 2015. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Australian Human Rights Commission—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Northern Land Council—Report for 2015-16. Motion of Senator Carr to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.
Climate Change Authority Act 2011—Towards a climate policy toolkit: Special review on Australia's climate goals and policies—Report. Motion of Senator Carr to take note of document agreed to.


Transport-Funding of infrastructure projects-Letter from the Auditor-General (Mr Hehir) responding to the resolution of the Senate of 3 February 2016. Motion of Senator Carr to take note of document agreed to.

Science and technology-Commonwealth Scientific and Industrial Research Organisation review-Letter from the Cabinet Secretary (Senator Sinodinos) responding to the order of the Senate of 10 October 2016, and attachments. Motion of Senator Carr to take note of documents called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

Indexed lists of departmental and agency files for the period 1 January to 30 June 2016-Statements of compliance pursuant to the order of the Senate of 30 May 1996, as amended-Attorney General's portfolio; Australian Taxation Office; Department of Veterans' Affairs; Environment and Energy portfolio. Motion of Senator Carr to take note of documents agreed to.

Departmental and agency appointments and vacancies-Budget (Supplementary) estimates 2016-17-Letters of advice pursuant to the order of the Senate of 24 June 2008-Attorney General's portfolio; Foreign Affairs and Trade portfolio; Health portfolio. Motion of Senator Carr to take note of documents agreed to.

Departmental and agency grants-Budget (Supplementary) estimates 2016-17-Letters of advice pursuant to the order of the Senate of 24 June 2008-Attorney General's portfolio; Cancer Australia; Foreign Affairs and Trade portfolio. Motion of Senator Carr to take note of documents agreed to.

Estimates hearings-Unanswered questions on notice-Budget estimates 2016-17-Statement pursuant to the order of the Senate of 25 June 2014-Defence Housing Australia. Motion of Senator Carr to take note of document agreed to.

Safe Work Australia Act 2008-Review of Safe Work Australia's role and functions. Motion of Senator McAllister to take note of document agreed to.

Migration Act 1958-Section 4860-Assessment of detention arrangements-Personal identifiers 1000353-0, 1001309-0, 1001358-0, 1001401-0, 1001414-0, 1001528-0, 1001619-0, 1001626-0, 1001675-0, 1001819-0, 1001973-0, 1002211-0, 1002351-0, 1002355-0, 1002364-0, 1002455-0, 1002541-0, 1002688-0, 1002693-0, 1002728-0, 1002732-0, 1002804-0, 1002836-0, 1002975-0, 1003008-0, 1003047-0, 1003131-0, 1003267-0, 1003281-0, 1003291-0, 1003297-0, 1003367-0, 1003379-0, 1003392-0, 1003394-0, 1003396-0, 1003405-0, 1003415-0, 1003423-0, 1003443-0, 1003455-0, 1003460-0, 1003481-0, 1003489-0, 1003508-0, 1003521-0, 1003523-0, 1003524-0, 1003525-0-Government response to Ombudsman's reports. Motion of Senator McAllister to take note of document agreed to.

Migration Act 1958-Section 4860-Assessment of detention arrangements-Personal identifiers 1000759-0, 1000821-0, 1000849-0, 1000870-0, 1000968-0, 1001002-0, 1001028-0, 1001129-0, 1001146-0, 1001191-0, 1001396-0, 1001435-0, 1001499-0, 1001912-0, 1002117-0, 1002139-0,
1002188-0, 1002232-0, 1002269, 1002278-0, 1002319-0, 1002329-0, 1002347-0, 1002365, 1002457, 1002496, 1002497, 1002538, 1002679, 1002684, 1002707, 1002731, 1002815, 1002820, 1002903, 1002911, 1002977, 1003247, 1003385, 1003427 and 1003461-Commonwealth Ombudsman's report-Report no. 23 of 2016. Motion of Senator McAllister to take note of document agreed to.

Migration Act 1958-Section 460-Assessment of detention arrangements-Personal identifiers 1000759-0, 1000821-0, 1000849-0, 1000870-0, 1000968-0, 1001002-0, 1001028-0, 1001129-0, 1001146-0, 1001191-0, 1001396-0, 1001435-0, 1001499-0, 1001912-0, 1002117-0, 1002239-0, 1002457, 1002496, 1002497, 1002538, 1002679, 1002684, 1002707, 1002731, 1002815, 1002820, 1002903, 1002911, 1002977, 1003247, 1003385, 1003427 and 1003461-Government response to Ombudsman's reports. Motion of Senator McAllister to take note of document agreed to.

Migration Act 1958-Section 460-Assessment of detention arrangements-Personal identifiers 1000762-0, 1001039-0, 1001047-0, 1001262-0, 1001343-0, 1001410-0, 1001497-0, 1001525-0, 1001585-0, 1001803-0, 1001941-0, 1001944-0, 1001969-0, 1002054-0, 1002170-0, 1002209-0, 1002229-0, 1002250-0, 1002252-0, 1002254-0, 1002256-0, 1002262-0, 1002263-0, 1002273-0, 1002293-0, 1002297-0, 1002306-0, 1002332-0, 1002342-0, 1002343-0, 1002350-0, 1002386-0, 1002403-0, 1002409-0, 1002417-0, 1002425, 1002427-0, 1002435-0, 1002520, 1002566, 1002863, 1003043, 1003142, 1003152, 1003350, 1003384, 1003413, 1003440, 1003490 and 1003503-Commonwealth Ombudsman's report-Report no. 24 of 2016. Motion of Senator McAllister to take note of document agreed to.

Migration Act 1958-Section 460-Assessment of detention arrangements-Personal identifiers 1000762-0, 1001039-0, 1001047-0, 1001262-0, 1001343-0, 1001410-0, 1001497-0, 1001525-0, 1001585-0, 1001803-0, 1001941-0, 1001944-0, 1001969-0, 1002054-0, 1002170-0, 1002209-0, 1002229-0, 1002250-0, 1002252-0, 1002254-0, 1002256-0, 1002262-0, 1002263-0, 1002273-0, 1002293-0, 1002297-0, 1002306-0, 1002332-0, 1002342-0, 1002343-0, 1002350-0, 1002386-0, 1002403-0, 1002409-0, 1002417-0, 1002425, 1002427-0, 1002435-0, 1002520, 1002566, 1002863, 1003043, 1003142, 1003152, 1003350, 1003384, 1003413, 1003440, 1003490 and 1003503-Government response to Ombudsman's reports. Motion of Senator McAllister to take note of document agreed to.

Migration Act 1958-Section 460-Assessment of detention arrangements-Personal identifiers 1000513-0, 1000589-0, 1001340-0, 1001409-0, 1001438-0, 1001535-0, 1001585-0, 1001597-0, 1001763-0, 1001903-0, 1001918-0, 1001949-0, 1001964-0, 1001964-0, 1001974-0, 1002130-0, 1002175-0, 1002193-0, 1002215-0, 1002219-0, 1002223-0, 1002231-0, 1002243-0, 1002247-0, 1002286-0, 1002321-0, 1002329-0, 1002329-0, 1002371-0, 1002372-0, 1002388, 1002394-0, 1002411, 1002412-0, 1002604, 1002823, 1002912, 1003039, 1003173, 1003241, 1003348, 1003475, 1003509 and 1003518-Commonwealth Ombudsman's report-Report no. 25 of 2016. Motion of Senator McAllister to take note of document agreed to.

Migration Act 1958-Section 460-Assessment of detention arrangements-Personal identifiers 1000513-0, 1000589-0, 1001340-0, 1001409-0, 1001438-0, 1001535-0, 1001585-0, 1001597-0, 1001763-0, 1001903-0, 1001918-0, 1001949-0, 1001964-0, 1001964-0, 1001964-0, 1001974-0, 1002130-0, 1002175-0, 1002193-0, 1002215-0, 1002219-0, 1002223-0, 1002231-0, 1002243-0, 1002247-0, 1002286-0, 1002321-0, 1002329-0, 1002329-0, 1002371-0, 1002372-0, 1002388, 1002394-0, 1002411, 1002412-0, 1002604, 1002823, 1002912, 1003039, 1003173, 1003241, 1003348, 1003475, 1003509 and 1003518-Government response to Ombudsman's reports. Report no. 25 of 2016. Motion of Senator McAllister to take note of document agreed to.
Thursday, 10 November 2016

Great Barrier Reef Marine Park Authority-Report for 2015-16. Motion of Senator Macdonald to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.


My Health Record System Operator-Department of Health-Report for 2015-16. Motion of Senator Urquhart to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

My Health Record Service Operator-Department of Human Services-Report for 2015-16. Motion of Senator Urquhart to take note of document called on. On the motion of Senator Urquhart debate was adjourned till Thursday at general business.

**COMMITTEES**

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

**Government Response to Report**

Consideration resumed on the motion:

That the Senate take note of the document.

**Senator GALLACHER** (South Australia) (18:12): I rise to take note of the government response to the Foreign Affairs, Defence and Trade References Committee report entitled *Capability of Defence's physical science and engineering workforce*. I would like to highlight to the Senate that often Senate inquiries do not have the level of success that this inquiry appears to have had. I would commend the work of the secretariat, the quality of the witnesses and former Senator McEwen's keen interest and participation in this inquiry.

What we have here is some seven recommendations, of which four have agreement, one has in principle agreement, another has been noted and yet another has been disagreed with. Given the impending greatest procurement in Australia's defence history, I think this report is a really good forerunner, if you like, for defence capabilities that may well be required and built up in this country. A simple recommendation is recommendation 1, which states:

The committee recommends that the Department of Defence commit to maintaining its physical science and engineering workforce capabilities in key areas to allow it to be both a 'smart buyer' and a technically proficient owner of materiel.

These things are self-evident and it is good to see that the inquiry drew this to the government's attention, and clearly we are on the same track.

Recommendation 2 states:
The committee recommends that the Department of Defence create a role, with appropriate subject matter expertise, analogous to the Director General of Technical Airworthiness, as a regulator to assess the competencies required for specific procurement and sustainment positions and the suitability of candidates to meet those competencies.

Once again, this recommendation met with agreement.

Recommendation 3 states:

The committee recommends that the Department of Defence take a strategic approach to the professional development of its physical science and engineering workforce as part of the Defence Industry Capability Plan.

Once again, we struck an appropriate chord in the inquiry and the government has agreed.

Recommendation 4 states:

The committee recommends that the Department of Defence undertake an assessment of workforce models to encourage more flexible and attractive arrangements for its critical physical science and engineering workforce.

Once again an appropriate agreement was reached and was agreed to by the government.

Recommendation 5 was that:

… the Australian Government clarify that the Defence Science and Technology Group will not be integrated into the Capability, Sustainable and Acquisition Group.

As has been noted by the government, recommendation 2.17 of the 2015 first principles review recommended that the Defence Science and Technology Group become part of the Capability Acquisition and Sustainment Group. The government did not agree to this recommendation and directed that it be considered again and advice provided as part of the annual update to the government on the progress of the implementation of the first principles review. The first annual update is being prepared by Defence.

Item 6 was that:

… Defence ensure that the roles and responsibilities of the Defence Science and Technology Group are directed to its areas of competence, rather than to technical risk assessments.

The government disagreed, saying that technical risk assessments are an important component of capacity development and that the area of technical risk assessments is the identification of the risk that novel technologies which are acquired to realise the desired capability cannot be developed in the time available. I think a fair amount of consideration went into the sole item of disagreement with the committee. I think the committee, on balance, would probably accept the government’s position.

The final recommendation was that:

… Defence, in establishing the Defence Innovation Hub and the Next Generation Technology Fund review the obstacles to public research agencies, academia and industry personnel participating in research and development initiatives.

That has been agreed to in principle. On the whole, it was a very short, sharp, cogent inquiry which has produced a report that has had some favour and is in accordance with government’s policy and directions.

I seek leave to continue my remarks.

Leave granted; debate adjourned.
Consideration resumed of the motion:
That the Senate take note of the document.

Senator GALLACHER (South Australia) (18:17): I will not take an inordinate amount of time, but I just want to say that Senator Back and all members of the committee worked in a very collegiate way to examine the delivery and effectiveness of Australia's bilateral aid program in Papua New Guinea. To set the scene, over about 10 years we have spent nearly $5 billion in Papua New Guinea. During that time they have had an annual growth rate which is quite respectable. Their annual growth rate over about 15 years is just under four per cent. So they have a GDP which is growing, and there is a continual line of expenditure of Australian aid.

Unfortunately—and this is what the committee was most concerned about—there did not appear to be any measurable indicators of success. The World Health Organization indicators were not good. In a number of areas there was criticism of the effectiveness of our aid program. What we as a committee sought to do was try to find areas of excellence. There were a couple of areas of excellence. They are highlighted in the coalition report. I will not steal Senator Back's thunder on that, but they were not overly expensive or onerous amounts of money being spent in those areas of excellence.

We appear to be spending an inordinate amount of money in Papua New Guinea and the effectiveness of that is under question. I do not think that is because our department is not doing its best or that we have not got skilled people on the job. It may be that we really need to have a look at how we provide aid to New Guinea given, as I say, that it has a growth rate, which means it should be looking after its poorest people. There is no evidence of that. The poor are still very poor; the areas of need are getting more pertinent, and I struggle to assess this as being a good spend of public money.

I am not saying that we should reduce our aid; I am saying that we should really shake it up. We should examine every area of competency, every area of due diligence, every area of governance and find things that are proven to be working and invest more heavily in those areas. There is not a lot of evidence at the moment that our $490 million or $500 million is being well spent. That is not a criticism particularly of the department—they try to do the right thing—it is more an indication of the difficulty in New Guinea of actually getting an effective aid dollar to where it needs to go.

I do not want to be too critical of New Guinea. They have inordinate challenges in respect of their population, their diversity, their transport challenges, their weather challenges and their language challenges. Suffice to say, we looked at it to see if we could find a way of improving effectiveness. We did not get a great deal of agreement with the government responses. Most of our positions are noted, with a few exceptions where we are in agreement. I would say that it is really a work in progress, and leave it at that.

Senator BACK (Western Australia) (18:21): I endorse the comments of the chair, Senator Gallacher. While the government did not agree with all of the recommendations—there were 18 in the main report—they were noted or agreed to. There was not one recommendation that the government rejected. But, as Senator Gallacher said, if you look at the criteria, such as...
maternal health, there has been no improvement since independence. If you look at childhood mortality, if you look at the growth rate of children, if you look at early education there really is a long, long way to go—especially with domestic violence, particularly in the highlands.

One of the areas of real concern to the committee—and I applaud the secretariat as well as those who made submissions and appeared before the committee—is that issues relating to multidrug-resistant TB are increasing dramatically; they are not stable. Some of the recommendations talked about some of the funding, which we know is going into that space. It is important to Australia, of course, because the distance between Papua New Guinea and the northern reaches of Australia is such that an aluminium dinghy carrying someone with multidrug-resistant TB is a possibility of coming here, into our population of people. It is a high risk.

As Senator Gallacher said, in addition to the main report the coalition senators made three further recommendations, all of which were agreed to by the government, including: (1) a continuation to recognise and support the important role played by churches, NGOs and other civil society organisations, because they certainly do seem to be the ones that are largely kicking goals; and (2) the government continues to encourage the building of new partnership between these organisations and the PNG government by way of building local capacity to tackle development challenges, and that seems to be a spot where that work needs to be undertaken.

But in the few minutes available to me, I do want to place on record the work of YWAM—Youth With A Mission. They have two medical ships that they operate. Their home base is in Townsville, where we visited them. An earlier vessel, which they still have in use, was a Japanese longline fishing boat. It is largely now being supported by a vessel built by Austal shipping in Fremantle—a fact that Senators Cash and Smith will be interested in and pleased to learn. It had been a cruise vessel. The interesting thing is it spends about 10 months of the year in the waters around the coastline and up the rivers of Papua New Guinea. It is funded partially by the Australian government through DFAT, by the Papua New Guinea government and by some regional governments. Either the vessel itself or a fleet of rigid inflatables go up the river systems and bring people down onto those vessels, particularly the big catamaran. The catamaran houses about 60 personnel, the vast majority of whom are actually volunteers: doctors, specialists, dentists, nurses, those with expertise in gynaecology and in obstetrics.

Many of these people come from remote villages and remote areas. Often they will come three or four days in canoes before they are put onto rigid inflatables and they can be treated on one of these medical ships by YWAM. It is one of the most successful and innovative programs, and of course the volunteers pay their own way to Townsville, to Moresby or to Lae, where they board the vessel. The vessel also has on board senior medical students from either Australian or, I think, one Papua New Guinea university.

I will leave you with one story. A 17-year-old boy with bilateral cataracts was facing blindness at 17 for the rest of whatever length of life that young fellow was to have. He was brought down by canoe onto one of the rigid inflatables and onto the medical vessel. There are tremendous surgical facilities. Both cataracts were replaced. He will now have a fully sighted, fully useful life, hopefully well into his sixties or seventies. It is a very practical process, obviously supported by Australians, supported by philanthropists—in fact, I am proud to say another Western Australian based fuel company, Puma, is providing much of the
fuel—and they are even looking forward to the prospect of having a helicopter on board that vessel so they can go even further.

So I support the comments of Senator Gallagher, who chaired this committee. There is a long way to go. In my view, we are not achieving what we need to be. There needs to be greater engagement by government officials from Australia working with government officials in Papua New Guinea—although I know it is happening now in police and in other areas like customs, immigration and health. But there is a long way to go, and I think we are going to be supporting Papua New Guinea for a long time into the future.

I seek leave to continue my remarks.
Leave granted; debate adjourned.

Economics References Committee

Consideration resumed of the motion:
That the Senate take note of the report.

Senator LEYONHJELM (New South Wales) (18:27): I would like to speak on interim report of the inquiry into personal choice and community impacts of bicycle helmet laws. This is generally known as the 'nanny state inquiry'. During that 'nanny state inquiry'—which I chaired—in the last parliament, mandatory bicycle helmet laws were nominated by many submitters as a primary example of nanny state paternalism. They argue that individuals should be able to manage the risks involved in a bike ride and that the ability of the individual to do so is constrained because their assessment of such risk is overridden by the state.

They questioned why Australia cannot trust its citizens to assess their circumstances and make that choice for themselves. They said things like:
If we need the law to protect us from ourselves, then what does that say about ourselves? The helmet law is an insult to our civil liberty.

It was argued that the state can only justify interference in the conduct of individual citizens when it is clear that doing so will prevent a greater harm to others. It was argued that helmet laws do not meet this test, because an individual's head poses no plausible threat to the safety and wellbeing of others. Indeed, it was suggested that helmet laws are a textbook example of where the state overreaches itself in imposing norms of behaviour where the matter should be left to the individual.

Other related arguments included the view that the individual and societal benefits of cycling and cycling more frequently outweigh the costs of not wearing a helmet and therefore the health and social costs. In this regard the view was put that mandatory helmet laws have had a negative impact on cycling participation rates in Australia as they deter people from cycling. It was suggested that mandatory helmets were responsible for the low participation rates in Australia's two public bike share schemes, which have the lowest usage rates in the world. It was argued that helmet laws involve unnecessary use of law enforcement resources and misuse of police power. One witness to the inquiry described being arrested and strip searched for failing to pay fines arising from not wearing a helmet. Even claims that helmet laws have achieved any meaningful reduction in the rate of brain or head injury were questioned by witnesses.
Australia was the first country to enact mandatory helmet laws, which became nationwide in 1992. New Zealand and the United Arab Emirates followed, and a number of countries enforce a helmet requirement for children. But that is it. The rest of the world has not adopted Australia's approach. The requirement for the use of helmets is included in the Australian Road Rules, national model legislation which is adopted by the individual states and territories. However, a number of submitters noted that the states and territories introduced mandatory helmet laws in order to comply with a Commonwealth 10-point road safety program, which included bicycle helmets, and thereby secure Commonwealth funding under the black spot road program—that is, they were either bribed or blackmailed.

There have been reviews of mandatory helmet laws. In November 2013, the Queensland parliament Transport, Housing and Local Government Committee recommended a 24-month trial that would exempt cyclists aged 16 years and over from helmet laws when riding in parks, on footpaths and shared cycle paths and on roads with a speed limit of 60 kilometres per hour or less. The Queensland government did not support the recommendation, insisting that 'the weight of evidence confirms the importance of wearing a bicycle helmet while riding.' In 2010, the New South Wales parliament's Joint Standing Committee on Road Safety noted that the majority of submissions and bulk of evidence received by it support the current mandatory use of helmets for bicycle riders. This weight and bulk of evidence, so convincing to the Queensland government and the New South Wales road safety committee, but unconvincing to the rest of the world, was equally unconvincing during the inquiry.

As I said, whether helmets actually reduce injuries is contested. Some witnesses suggested they merely change the nature of the injuries sustained. The point was made that if helmet legislation had been effective in preventing head injuries, there would be a fall in head injury incidents but not in other injuries. Yet the committee was informed that a 1996 study in NSW and Victoria found that the decline in cycling was at least as substantial as the decline in head injuries. In other words, if people are not cycling they cannot incur head injuries. One witness put to the committee that a person cycling two hours per week for 50 years would cycle for a total of 5,200 hours and, over that time, only have a one per cent risk of hospital admission for serious head injury. Yet it was suggested that even if one traumatic brain injury was avoided, it was worth it. A reduction of civil liberty was said to be preferable to the long-term effect of a head and brain injury on a victim's family, carers and society.

This is the nub of the issue. Such an assertion is based on an assumption of socialised medicine. In other words, the cost of health care is socialised via Medicare and other taxpayer funding. This is a slippery slope. If we are to minimise the burden of health care on each other, then all of us must ensure we avoid risks, and insist others do the same. Every glass of wine, every cigar, every potato chip, every piece of chocolate is potentially increasing the cost of the health system to our fellow Australians. Where does it end? A better option is to consider health as a private matter and not the business of the government. This merely requires each of us to have health insurance, with public funding limited to paying for insurance for the genuinely poor. In the end, the committee simply recommended a review of the mandatory helmet laws. I would go much further than that.

I believe a cost-benefit study would show the impact of helmet laws to be negative, given the low prevalence of cyclist head injury, notwithstanding the seriousness of individual traumatic brain injury cases, and the negative effects of the policy. I also maintain that, in the
absence of compelling evidence demonstrating a substantial social benefit, there should be a
bias in favour of individual choice and responsibility. It is especially not the role of
government to protect individuals against the consequences of their own choices when the
risks, particularly, are small, foreseeable and borne personally. I would remove the obligation
from all cyclists to wear helmets, while making it clear to parents that their responsibility to
their children should include serious consideration of wearing one. I seek leave to continue
my remarks.

Leave granted; debate adjourned.

Select Committee on Health
Report
Consideration resumed of the motion:
That the Senate take note of the report.

Senator O’NEILL (New South Wales) (18:35): I seek to make some remarks this evening
on the final report of the Senate Select Committee on Health from the 44th Parliament,
Hospital funding cuts: the perfect storm: the demolition of federal-state health relations 2014-
16. Can I commence my remarks with a statement from the opening part of the report, which
comes from that very significant contributor to public discussion in the field of health, Dr
Stephen Duckett, who is the director of the health program at the Grattan Institute. To make
my remarks I will need to contextualise his statement. He was speaking about the impact of
the 2014 budget, and this is what he said:

The 2014 budget did serious damage to Commonwealth-state relations and the confidence with which
states could plan and manage health services. It did this by abrogating an agreement about public
hospital funding which had been signed by governments of all political persuasions and unilaterally
imposing a new funding model on the states.

It is in that context that we are now receiving health care across the country that, as
documented in this report, state by state and territory by territory, reveals a crisis of care
because of an abrogation of responsibility under the leadership of Mr Abbott, which has not
changed very much at all since the change of leadership.

Senator Polley interjecting—

Senator O’NEILL: As Senator Polley has indicated: yes, we have a Leader of the Liberal
Party and the Liberal-National Party coalition, who speaks the same language as Mr Abbott,
wear a different suit—in fact, I am finding it pretty hard to imagine Mr Turnbull in his
leather jacket these days. He seems to have discarded it well and truly. However, I want
to go to the state of New South Wales, in particular, to put on record the committee's view about
that particular state. It is the most populous state in Australia, and the committee concurred
that New South Wales faces a crisis as a result of these coalition government hospital funding
cuts. It is by forcing the state to scrape together funds year to year for hospital services
because of the federal government cuts that make forward planning virtually impossible.

Without the ability to invest with long-term certainty in the health-related infrastructure
and training a state government's ability to make a hospital system more efficient is severely
curtailed. We made remarks that, from what we could see, the New South Wales government
was absolutely unable to sustain the increased need for adequate hospital services without
those contributions from the Commonwealth that were simply withdrawn arbitrarily.
Agreements that saw the states and the federal government under Labor leadership agree to a shared responsibility model for looking after health care were ripped up. What that has led to is a severe impact on clinical effectiveness and patient care that is delivered in our hospitals.

I particularly want to refer to some of the crises that have been reported in the course of this year in New South Wales, including failures that were documented very clearly in the quarterly reports of health data but also in the public space in our media. The people of New South Wales are aware of the scandal of chemotherapy underdosing that has now been documented and revealed—after what would seem to have been fair attempts at hiding it—at none other than St Vincent's hospital. That very highly regarded institution does indeed do very good work, but underdosing of chemotherapy is something that shocked the community. It has become more shocking, in terms of the scale and expanse of that practice, with chemotherapy underdosing at St George and Macquarie University hospitals as well as the clinics in Orange and Bathurst. I am very aware that the people of Orange and Bathurst are not so far from Sydney that they cannot get there. But when people are unwell they do rely on high-quality chemotherapy and radiotherapy in the area in which they live. Sadly, this underdosing that we have seen in Orange hospital is a very major concern.

Professor Frankum gave evidence to the committee in November 2015 that was very important. Just for the record, at the time he gave evidence, Professor Frankum was the vice president of the AMA for the New South Wales branch. When he spoke to the committee he said that the scale of the cuts in New South Wales between 2017 and 2024 would have a terrible impact. He said:

That is short enough that the effects will be felt keenly and immediately but long enough to be sufficiently insidious that the true cause would be masked by the political cycle.

The depth of the impact of this is very, very important. He was backed up by Dr Andrew Pesce and Dr Antony Sara, who also gave evidence. In response to the question of whether the priority was to save money in these hospitals, they made these comments:

Dr Pesce: Yes. If the priority is to save money, it is very hard to reform the system.

Dr Sara: It becomes impossible. Essentially, the managers and doctors in those hospitals and districts go into further spiralling into a pit of despair. You would be unable to do any of the strategic planning stuff [workforce planning and infrastructure] that [Dr Andrew Pesce] has talked about; it just becomes a race to the bottom. That has been happening in South Australia over the last couple of years, and it is a nightmare. They are not looking at reconfiguration, they are just looking at slashing and burning. Then people start thinking about their jobs. They start thinking about which patients gets the care and which do not—

Let me just restate that evidence given to the Senate committee by a doctor, Dr Sara, working in New South Wales, describing the impact of the cuts and the interaction of those federal cuts with state health care. He said people in hospitals 'start thinking about which patients gets the care and which do not'—

Any rational basis for planning delivery of health services just goes out the door.

We are seeing, in places like Orange, the reporting of chemotherapy underdosing. That is just a symptom of a system that is now under so much pressure because of the removal of adequate funding and the abrogation of responsibility of this Liberal-National Party government that our friends, our families and people seeking health care in our hospitals are now at risk. I am sure people would be very alarmed to think that doctors are making
decisions about who gets the health care and who does not. It cannot be any clearer than decisions where people need a particular dose of chemotherapy and they are underdosed. The sorts of pressures that are being applied to our highly trained workforce of professional health carers is absolutely unprecedented in our history.

Concerns such as those expressed by Dr Sara were actually echoed by Dr Keat, who also gave evidence to the committee. This is a description of the delays in care that are beginning to happen now:

We have patients who need muscle biopsies to make a diagnosis for changes in treatment or for aggressive treatment we need to give but we need a bed for that because it needs anaesthetic but we cannot necessarily book that patient in for an elective procedure which would save hospital beds to a degree. We know if it is going to happen that day, we will bring the patient in that evening. The next morning they have the procedure and potentially go home the next evening. We cannot plan that well. We tell the patient we will give them a call if there is a bed available in maybe a week or two weeks. As it goes on, the patient becomes weaker or we cannot initiate the appropriate treatment in time and they may end up in hospital and a vicious cycle develops.

What we heard about, in the evidence that was received by the select committee, is echoed across the country. I am certainly looking forward to making further remarks about other states that have delivered very important information about the breakdown of health care for Australians that is happening because this Liberal-National government, under Malcolm Turnbull and under Tony Abbott—seamlessly under both of them—has failed to adequately fund hospitals.

We are seeing pressure on doctors to service their patients inadequately. We are seeing pressure on hospitals to fail to provide beds in a timely way for basic care in accordance with established protocols. That is a crisis in health care that is not just about the dollars; it is about the people, it is about their patient care and it is about their rights to decent health care in this country. I seek leave to continue my remarks.

Leave granted; debate adjourned.

COMMITTEES

Consideration

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

Economics References Committee—Personal choice and community impacts—Interim report. Motion of Senator Leyonhjelm to take note of report called on. On the motion of Senator Smith the debate was adjourned till the next day of sitting.

Economics References Committee—Personal choice and community impacts—Sale and use of marijuana and associated products (term of reference c)—Interim report. Motion of Senator Leyonhjelm to take note of report called on. On the motion of Senator Smith the debate was adjourned till the next day of sitting.

Economics References Committee—Personal choice and community impacts—Western Sydney Wanderers supporters (term of reference f)—Interim report. Motion of Senator Leyonhjelm to take note of report called on. On the motion of Senator Smith the debate was adjourned till the next day of sitting.

Economics References Committee—Non-conforming building products—Interim report. Motion of Senator Bilyk to take note of report agreed to.
Intelligence and Security—Joint Statutory Committee—Criminal Code Amendment (High Risk Terrorist Offenders) Bill 2016—Report. Motion of Senator Bilyk to take note of report called on. On the motion of Senator Urquhart the debate was adjourned till the next day of sitting.


Intelligence and Security—Joint Statutory Committee—Review of the declaration of Islamic State as a terrorist organisation under the Australian Citizenship Act 2007—Report. Motion of Senator Bushby to take note of report agreed to.


Finance and Public Administration References Committee—Domestic violence and gender inequality—Report. Motion of Senator Waters to take note of report agreed to.

Legal and Constitutional Affairs References Committee—Nature and scope of the consultations prior to the making of the Legal Services Amendment (Solicitor-General Opinions) Direction 2016—Report. Motion of the chair of the committee (Senator Pratt) to take note of report agreed to.

Community Affairs References Committee—Interim report—Growing evidence of an emerging tick-borne disease that causes a Lyme-like illness for many Australian patients—Government response. Motion of Senator Siewert to take note of document agreed to.

Legal and Constitutional Affairs References Committee—Establishment of a national registration system for Australian paramedics to improve and ensure patient and community safety—Report. Motion of Senator Urquhart to take note of report agreed to.

Legal and Constitutional Affairs References Committee—Need for a nationally-consistent approach to alcohol-fuelled violence—Interim report. Motion of Senator Urquhart to take note of report agreed to.

Economics References Committee—Personal choice and community impacts: the classification of publications, films and computer games (term of reference e)—Interim report. Motion of Senator Leyonhjelm to take note of report called on. On the motion of Senator Smith the debate was adjourned till the next day of sitting.

Economics References Committee—Personal choice and community impacts: the sale and use of tobacco, tobacco products, nicotine products and e-cigarettes (term of reference a)—Interim report. Motion of Senator Leyonhjelm to take note of report called on. On the motion of Senator Smith the debate was adjourned till the next day of sitting.

Economics References Committee—Personal choice and community impacts: sale and service of alcohol (term of reference b)—Interim report. Motion of Senator Leyonhjelm to take note of report called on. On the motion of Senator Smith the debate was adjourned till the next day of sitting.

Community Affairs References Committee—Report—Palliative care in Australia—Government response. Motion of Senator Polley to take note of report called on. Debate adjourned till the next day of sitting, Senator Polley in continuation.

Economics References Committee—Report—Interest rates and informed choice in the Australian credit card market—Government response. Motion of Senator Urquhart to take note of report agreed to.

National Disability Insurance Scheme—Joint Standing Committee—Accommodation for people with disabilities and the NDIS—Report. Motion of Senator Urquhart to take note of report agreed to.
Finance and Public Administration References Committee—Aboriginal and Torres Strait Islander experience of law enforcement and justice services—Report. Motion of Senator Urquhart to take note of report agreed to.

Foreign Affairs, Defence and Trade References Committee—Planned acquisition of the F-35 Lightning II (Joint Strike Fighter)—Report. Motion of Senator Gallacher to take note of report agreed to.

**AUDITOR-GENERAL’S REPORTS**

**Consideration**

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

Auditor General—Audit report no. 33 of 2015-16—Performance audit—Defence's management of credit and other transaction cards: Department of Defence. Motion of Senator Gallacher to take note of document agreed to.

Auditor-General—Audit report no. 20 of 2016-17—Performance audit—The management, administration and monitoring of the Indemnity Insurance Fund: Department of Health; Department of Human Services. Motion of Senator Bilyk to take note of document agreed to.

Auditor-General—Audit report no. 21 of 2016-17—Performance audit—Reforming the disposal of specialist military equipment: Department of Defence. Motion of Senator Bilyk to take note of document agreed to.


Auditor-General—Audit report no. 23 of 2016-17—Performance audit—National rental affordability scheme – Administration of allocations and incentives: Department of Social Services. Motion of Senator Bilyk to take note of document agreed to.

Auditor-General—Audit report no. 24 of 2016-17—Performance audit—National Disability Insurance Scheme – Management of the transition of the disability services market: Department of Social Services; National Disability Insurance Agency. Motion of Senator Urquhart to take note of document agreed to.

Auditor-General—Audit report no. 25 of 2016-17—Performance audit—The Shared Services Centre: Department of Employment; Department of Education and Training. Motion of Senator Siewert to take note of document agreed to.

**ADJOURNMENT**

The PRESIDENT (18:46): Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

**Taxation**

Senator McKENZIE (Victoria) (18:46): I will let the Senate know that I will not be using all the time allotted, so, No. 2, get down now if you are here. I wanted to make some brief remarks about the shenanigans and stunts pulled by the Labor Party and Senator Lambie this morning with regard to the backpacker tax. I come from the state where the horticultural industry contributes $1.2 billion in export earnings and where 3½ thousand businesses are involved in horticultural production.

During the state election I spent a lot of time in the seat of Murray in the beautiful Goulburn Valley where 80 per cent of our national pear production occurs and the iconic
business of SPC Ardmona is located. Horticulture in this country's heartland resides in the
great state of Victoria. When people choose to play politics with the businesses, particularly
the small businesses, regional Victoria's ability to do what it does so well—that is, get the
crop off, get it processed and get it out to market—is affected. It is not just domestic markets
that are affected but markets around the world employing so many locals through the
processing facilities at a local level. That is a task that is not always able to be fulfilled with
local labour, as we know. As, indeed, my own Senate committee inquiry into working visas
found last year.

We need this very special class of visa. It is the Nationals that, through the federal election
campaign, strove to wind back what was started under Wayne Swan in terms of increasing the
backpacker tax from 29 per cent—

Senator O'Neil interjecting—

Senator McKenzie: Don't shake your head, Senator O'Neill—to 32.5 per cent. That
actually occurred under a Labor government. It is your policy. This is what is ironic about this
conversation: it is the coalition members and senators who are hoping to ensure that the local
worker is remunerated at the same level as the international worker, in those particular
businesses right around the country.

What Labor and Jacqui Lambie are putting forward in this space is to ensure that the
domestic worker is paid less—will take home less—than the international worker, and that is
not fair. Indeed, we employ a lot of workers under that visa class in our dairy industry, a $1.9
billion industry with 4,200 dairy farmers. In the actual production of milk, 10,600 people are
employed and just over 9,000 people are in processing. We do use that particular class of
worker to assist us in the dairy industry, so it is not just in horticulture.

We need to have this addressed. We have done the review. Industry wants it set at 19 per
cent. We agreed to that. It will actually ensure that there is parity between domestic and
international workers and it will ensure, at 19 per cent—and I think the important fact that
Labor chooses to forget about is that we are in a competitive international environment for
this type of worker—that we are still very, very competitive against New Zealand and
Canada—

Senator O'Neill: That's not true. We cannot compete with New Zealand.

Senator McKenzie: when you take into account the whole package, Senator O'Neill. I
would ask, on behalf of industry and on behalf of the Victorian horticultural industry in
particular, that Labor and Senator Lambie stop playing politics with this issue.

When we go to the report into this issue that was handed down earlier this week, I note that
the only farming groups arguing against the 19 per cent tax rate are Reid Fruits, a Tasmanian
grower; Hansen Orchards, another major fruit producer in Tasmania; Fruit Growers
Tasmania; the Tasmanian Farmers and Graziers Association; and Primary Employers
Tasmania. Now—great—Tasmania produces a lot of great fruit, but I am telling you that
Victoria produces a lot of fruit, as do Queensland and New South Wales. All of those grower
bodies are backing the 19 per cent. All of those bodies! And you know what? What the Labor
Party may not realise is that the fruit is ripening now—right now! We need this addressed
today. We could have had this dealt with this week in a manner that the industry seeks and
that the budget requires. It is a great disappointment that, again, the Labor Party chooses to
play politics with farmers and small businesses across regional Australia. It is a very, very sad day, but not unsurprising.

I want to commend the growers. I know from speaking to the council in the City of Greater Shepparton during the election campaign, and to the mayor at the time, Dinny—who has been re-elected; congratulations!—how passionate those particular growers and that community were. The then candidate Damian Drum, now the member for Murray, and I were left in no doubt whatsoever that this is absolutely essential to the economic growth and development of the region going forward. The fruit is ripening now. I have spoken to growers in the Goulburn Valley and the Yarra Valley in my home state. They are saying that if we do not get this sorted now the fruit is going to rot. They will lose a whole crop. Businesses are going under and families are going under because Labor chooses to play politics.

We have got the solution. We have consulted widely and it is an appropriate solution that the horticulture industry wants and is backing. I call on the Labor Party and Senator Lambie to solve this issue as soon as possible on behalf of all growers.

**Housing Affordability**

**Senator WATT** (Queensland) (18:53): Tonight I would like to talk about one of the major social issues confronting our society, which is the ongoing problems of housing affordability and homelessness. In particular I am going to talk about this government's failure to deal with both of those issues.

There is no doubt that homelessness and housing stress are major social and economic problems and they are getting much, much worse. The 2011 census found that 105,000 Australians, or one in 200, were homeless and that roughly 6,000 people, unfortunately, sleep rough in Australia each night. The federal government's own *Affordable Housing Working Group: issues paper* acknowledged that the increased cost of housing has had the greatest impact on younger Australians and has resulted in an increased number of people trying to obtain rental accommodation, especially at the lower end of the market.

Housing affordability and homelessness are undoubtedly issues that affect communities right around Australia, but I particularly wanted to mention the effect they have and the impact that is felt on the Gold Coast in Queensland.

As I previously advised the Senate, it is my intention to establish my Senate office on the Gold Coast in the new year. As part of that process, I have been stepping up my discussions with Gold Coast residents and organisations, and the feedback that I have consistently received from people is that, due to the fact that the Gold Coast is currently dominated wall-to-wall by members of the LNP at all levels of government, people do not feel like their concerns are being represented adequately. Housing and homelessness is definitely one of those issues because, despite the image of the Gold Coast as the glitter strip, it is not immune from the housing and homelessness crisis that we are seeing in Australia. In fact, there are particular features of the Gold Coast that make it a real focal point for homelessness. It obviously has a highly transient population, and it does have a great lifestyle and climate which attracts people from all around the country. The fact that it has a large population of people with a New Zealand background is causing issues around homelessness because, of course, many people who come here from New Zealand do not necessarily have access to Centrelink benefits and other benefits that can enable them to put a roof over their head.
Many people are obviously aware that one of the most exciting things that is going to be happening on the Gold Coast in the near future is the Commonwealth Games in 2018. While on balance that is going to be a fantastic thing for the Gold Coast and Queensland in general, we do need to make sure that a big event like the games does not have some negative impacts on the local community, particularly in the area of homelessness. What we have seen when other big events like this have been held in other parts of the world is that unscrupulous landlords take advantage of the fact that people will be arriving for a short-term visit for the big event and really massively jack up the rents that they are charging people. What that can do is displace tenants who are ordinarily renting accommodation there, leaving people without anywhere to live or leaving the tenants who are displaced to take cheaper accommodation, which has that trickle-down effect and eventually displaces much poorer people from their homes. So, while on balance the Commonwealth Games is certainly going to be a big positive for the Gold Coast, we do need to make sure that it does not have those kind of negative, adverse consequences.

There have been some recent reports in the Gold Coast Bulletin about the cost of housing escalating markedly on the Gold Coast. The cost of renting homes continues to soar, with reports of tenants now offering to pay six months rent up-front in order to get rental accommodation. When you think about the fact that most people who rent a property are not exactly wealthy people, if people are now having to find six months rent up-front that is quite a concern about their ability to find a place to live.

Last week on the Gold Coast I spoke at the Gold Coast homelessness symposium, which was organised by the Gold Coast homelessness network, and it was great to see so many representatives from specialist government and allied services all with a common goal of making sure that we put a roof over every single person's head. When I was there, I talked about some ideas about potential solutions to the housing and homelessness problems that we are seeing on the Gold Coast. I think, more than anything, the best solution that we can have here is for this government to finally come up with the funding that is needed to provide social housing and other homelessness services both on the Gold Coast and across Australia as a whole.

As a Labor senator, I am very proud of the work that has been done by past federal and state Labor governments to reduce homelessness. When we have been in office we have invested billions of dollars to deliver new social and affordable housing, we have struck national partnership agreements on social housing and homelessness to provide long-term security of funding and we have established the National Rental Affordability Scheme, or NRAS, which has seen the construction of even more dwellings. That is why it is so frustrating, with that record from Labor, that we are seeing the Turnbull coalition government failing to extend the National Partnership Agreement on Homelessness beyond its current expiry date of June 2017. That is just a little bit over six months away. We have the Christmas period coming up where nothing really happens much around government negotiations, and there are a lot of services and a lot of people on the Gold Coast very exposed by the fact that this government has not actually got around to providing the funding and providing a commitment of funding beyond June 2017.

The reason that matters is that this funding under the national partnership agreement performs a substantial part of the budgets for many homelessness services, such as provision
of temporary accommodation, social work and referrals to other services. In some cases, funding that is provided under the national partnership agreement forms one-third of housing services budgets.

So what we need is a long-term funding commitment from the federal government to provide certainty not only to homeless people and people who are living in social housing but also homeless services and their employees. It is not very easy to run a community housing service if you are heavily reliant on government funding when you do not know whether that funding is going to be there in a bit over six months time. It is difficult to hire staff, to replace staff and to provide staff with the certainty they need to make a decision about whether they are going to stay in a job or not.

That atmosphere of uncertainty is undoubtedly being caused by the failure of this government to sign a new national partnership agreement. And that comes on top of the Abbott government’s previous cuts to capital funding of $44 million per annum for women and children who are fleeing domestic violence. We still have not seen that funding shortfall rectified by this government, and it needs to be done.

Time does not allow me to go into a lot of detail about the other potential solutions for our housing affordability and homelessness crisis. Obviously, Labor took some very strong policies to the last federal election about making current concessions for negative gearing and capital gains tax on housing a lot more equitable. Currently, they are weighted far too heavily towards the very wealthiest in our community, which is depriving the taxpayer of funding that could be provided to more important services; and they are distorting housing prices in the market as well, which particularly for first home buyers is making it even harder to enter the market. And there are obviously many other things that we can do to improve this housing affordability and homelessness crisis as well.

Homelessness is a really clear manifestation of the inequality we are seeing on the Gold Coast, in Australia and right around the world. The election in America gives us all pause for thought about what more we can do to reduce inequality in our community. There is no doubt that that was one of the reasons we saw the election of Mr Trump. There is no doubt that that was the reason we have seen the election of other groups not just in Australia but overseas as well. It is not beyond us to fix this inequality, particularly in terms of homelessness. What it requires is a government that is prepared to sit down with the states and talk about a funding agreement that is going to provide certainty of funding. We have to improve housing affordability, particularly by reviewing negative gearing and capital gains tax concessions.

Obviously, what we need on the Gold Coast is to make sure we have more diversity among our political representatives so that we do not just have wall to wall LNP members, as we currently do, who sit by and allow this housing crisis to continue without a peep and without any pressure being applied to their own government.

Qualifications of Senators

Senator HINCH (Victoria) (19:03): Earlier this week the Senate got involved in the serious issue of whether two senators were able to claim their seats in this chamber after being elected at the 2 July poll. It was decided that the cases of Bob Day and Rod Culleton be referred to the High Court, sitting as the Court of Disputed Returns but for different reasons. In the case of Bob Day, who resigned recently, it will be a case of who replaces him—a
Family First representative, or another party's candidate if the court decides that a recount is in order.

In that debate, I flagged another issue about election eligibility, and that was the issue of dual citizenship. I foreshadowed to the Senate earlier this week that I would give notice of a motion calling for a review of the eligibility of all senators and members based on their citizenship at the time they were elected this year and at previous elections. Section 44 of our Constitution says—in far more formal language than this—that to be eligible to sit in the Senate or the House of Representatives you must not owe allegiance to another country. If you do hold dual citizenship then before the election you must have revoked the other one, you must have renounced your citizenship granted to you by another country. It is clearly stated in the Constitution that failure to renounce allegiance to another country, to another power, makes a person ineligible to hold office. Section 44(i) states that any person who is under any acknowledgement of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the right or privileges of a subject or a citizen of a foreign power, cannot sit in our parliament.

The issue of dual citizenship is not a new one. It has prompted the disqualification and the eviction from this house in the past, including former One Nation Senator Heather Hill, Nuclear Disarmament Party Senator Robert Wood and Liberal MP Jackie Kelly. I did realise that even in raising this issue I risked reigniting the so-called Australian birth movement surrounding the eligibility of former Prime Minister Tony Abbott and when he officially renounced his British citizenship. Well, sbeit, but I was targeting no specific person. Claiming that somebody was born somewhere other than where they claim to have been born can do wonders for your political career. A billionaire by the name of Donald J Trump started the birth movement in the United States eight years ago, insisting that Barack Obama was occupying the White House illegally because he was supposedly born in Kenya and not the state of Hawaii as was shown on his birth certificate. Donald Trump did not withdraw that slur until a couple of months ago, at the end of the election campaign. Last night, he was elected President of the United States. So go figure.

Although my notice of motion to make changes to the Electoral Act was aimed at all members of the parliament, current and future, the member for Warringah obviously was drawn into it, but he could have killed that dual citizenship issue in his case and headed off what was a 30,000- or 40,000-strong petition by just pulling his renunciation document out of his bottom drawer, because that is where I store my revocation certificate from New Zealand. But, instead, when he was Prime Minister, the Prime Minister's office had the document sealed with a confidentiality stamp. They issued a statement saying only that the Prime Minister is an Australian citizen and does not hold citizenship of any other country—full stop. It is surprises me that no dual citizen is required to produce that cancellation proof before nominations close. One of the Justice Party candidates renounced both their British and Swiss citizenships before that deadline. All candidates should be aware of the restrictions on eligibility. Mid campaign, one of our own candidates had to withdraw because it was discovered that that candidate was near the end but not fully discharged from bankruptcy. So the candidate withdrew.

I decided to tell the Senate tonight that I have started a private senator's bill to amend the Australian Electoral Act. I want to make it a requirement that candidates must provide
evidence to the Australian Electoral Commission that they are a citizen of Australia and a citizen of Australia only, that they are not a dual citizen and do not owe their allegiance to any other country. If they cannot provide that evidence, I think they should be ineligible to stand for federal parliament, in line with section 44 of the Constitution. It should be a no-brainer, and I am surprised that it was not recorded and included in the Electoral Act many decades ago.

**Goodluck, Mr Bruce John**

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (19:07): I rise today to pay tribute and acknowledge the life of an extraordinary man. Bruce Goodluck, a champion of the people, a colourful politician and a much loved family man, died on 24 October, at the age of 83, after a long battle with his health. Born in Hobart, Tasmania, 14 May 1933, he spent his life working for others, becoming one of the few Tasmanians to serve in all three tiers of government. He had an unusual childhood as he grew up during the war years. His father worked as a boiler attendant at Boyer and received a very modest wage. His mother left the family when he was only seven, taking his eldest sister to live with her in Melbourne. Sadly, he never saw his mother and sister again. Bruce and his younger sister, Betty, remained with their father at Dromedary, in Tasmania’s south.

In spite of a somewhat isolated and lonely existence, in a house with no electricity, Bruce made fond memories as his hardworking father made the most of the little they had, to make their lives as comfortable as possible, often snaring and cooking up rabbit for dinner. Several years flew by in Dromedary before the family moved to the isolated town of Bundella, further west along the Derwent River, to a house with electricity but still no hot water. Bruce spent much of his time swimming in the River Derwent and playing footy with the local lads. He became a capable swimmer, and, at the age of 13, he saved a local boy, pulling him out of the icy Derwent waters, after he had difficulties swimming against the strong current. For this feat, he received a Royal Humane Society Award for bravery.

While attending the Bridgewater state school, Bruce was tested for his abilities and subsequently moved to the Hobart High School. He actively partook in boxing, football and cricket, captaining both the footy and cricket teams in his final years. At 16 years of age, Bruce faced the hard-nosed headmaster of the day who, during class, asked to speak to him outside. With tears in his eyes, the headmaster informed the boy that his father had passed away at the age of 47. The headmaster assured Bruce he would be well looked after, and this was certainly the case. He went to live at the Hobart college hostel and fondly remembers the many teachers who looked out for him while he was there. Still at the age of 16, Bruce was scouted by the Melbourne Football Club during a game against Launceston. Upon finishing his studies he took up their offer and moved to Melbourne to play with the Melbourne Thirds. However, he moved back to Hobart not long after and readily admits, 'I wasn't as good as I thought I was and I wasn't as good as what other people thought I was.'

He subsequently started working at Eastern Shore Motors, which was taken over by the Golden Fleece service station shortly after, where he remained working for 15 happy years, raising his five daughters alongside his wife, Cynthia. During this time, Bruce also started his own tyre company and became president of the Tasmanian Automobile Chamber of Commerce. He was also avidly involved in community life and became Warden of Clarence in 1972. In 1974, after furthering his studies following encouragement by the Victorian
Automobile Chamber of Commerce, Bruce became president of the Australian Automobile Chamber of Commerce. Shortly after, he was offered a position to work in Melbourne. He decided to accept the offer and made arrangements for his children to catch the ferry across Bass Strait and start school in Melbourne.

Just when he was about to leave, in early 1975, the Tasman Bridge was infamously taken out by the oil carrier Lake Illawarra. Bruce felt morally obligated to remain in Hobart and fulfil his duty as warden and champion for the Clarence population, now cut off from Hobart City Centre. In later years, reflecting upon this decision, Bruce made the comment that it was the best decision he had ever made. His local government experience and small business background attracted the Liberal Party, who asked him to stand for the electorate of Franklin in the House of Representatives in 1975. Bruce admits he did not know much about federal politics at the time and went to the preselection wearing his Golden Fleece overalls and grease still on his hands. When asked whether he would cross the floor, he had no idea what that meant. Upon being enlightened, Bruce remarked that, if he felt he was right and thought he had to, he would. Of course, he ended up crossing the floor 11 times during his time in federal parliament.

In a 2014 interview on the ABC, Bruce remarked that he was dogmatic and difficult at times, stating, 'I would have been very difficult for years. I wouldn't get elected these days.' In any case, the preselectors chose him to run, but he had his work cut out for him. The seat was held with a 13 per cent buffer by the sitting member, Ray Sherry, father of former Senator Nick Sherry, and required a massive swing away from Labor to win. Needless to say, it was a long shot. But Bruce ran an unconventional campaign and exclaimed that the majority of his electorate supporters probably did not know if he was Liberal or Labor, especially as his posters and campaign material were coloured black and yellow, which at the time were old Labor colours. When approached by a lady on polling day who asked him whether he was Labor or Liberal, Bruce replied, 'Madam, I'm both,' and he subsequently won her vote.

The bridge disaster had also caused a subdued mood in the electorate and the Whitlam government's total disarray worked to the Liberals' favour. The supposedly safe Labor seat was defeated in a landslide and Bruce rode the wave which carried the Fraser government to power in December 1975. In Tasmania, new Liberal MPs won all five seats, including Michael Hodgman in Denison. Bruce held Franklin for 18 years until his retirement in 1993. For over a decade of that time, Bruce shared a cramped Canberra unit with Michael Hodgman during sitting weeks. The pair earned national renown with their antics, earning them the nickname, The Hodglucks. Their antics included entering into a cringe-worthy dummy-spitting contest and inviting TV cameras into their flat, with Bruce posing next to a vacuum cleaner, exclaiming that he did all the housework in that apartment.

He certainly had an interesting relationship with the media. He once started his own, albeit very short lived, newspaper in protest against the bad run he was receiving in the media. He also boxed the ears of 60 Minutes reporter, Charles Wooley, with a burnt Mercury newspaper because he disliked the line of questioning that he was receiving.

Senator Fierravanti-Wells: The chicken suit!

Senator BUSHBY: I am getting to that. Bruce and Wooley, however, remained on good terms and, in fact, together caused a major upheaval in the Canberra press gallery when Bruce insisted on accompanying Charles into a budget lock-up reserved for the media, earning the
displeasure of then Treasurer Paul Keating. The most well-known antic of Goodluck was, of course, the infamous chicken suit incident. Upon a dare from a Labor colleague, Bruce turned up to federal parliament in 1985 wearing a full chicken suit. The Deputy Speaker of the time yelled out, 'Remove that thing from the House!' and, with his feathers thoroughly ruffled, Bruce flew out of the chamber and managed to elude capture.

Extraordinarily, despite everyone being well aware that Bruce was the culprit no-one ever came forward to dob him in, showing that everyone must have enjoyed the antic more than they could let on at the time. It was only years later, shortly after his retirement, that Bruce confessed to the misdeed. While not keen for the antics to become his legacy, he acknowledged that the escapade worked to his advantage when he returned to politics in 1996 after three years of retirement from federal parliament. This time he stood successfully as an Independent member for the Tasmanian House of Assembly in 1996 and held the seat until the 1998 election.

While Bruce was a renowned prankster, he also did some very serious work. Influenced by his childhood and upbringing, people and their welfare always remained the most important aspect of his work—evidenced in his grassroots political style. His resolute commitment and track record for getting things done earned him the title, 'the little Aussie battler'. Michael Hodgman dubbed him 'the champion of the people', emphasising that Bruce was always determined, passionate and authentic. He advocated on behalf of thousands of Tasmanians, extending beyond the borders of his electorate with problems ranging through public housing, pensions, taxation and health care to immigration, and even to neighbourhood feuds.

His experience of being brought up by a single father led him to champion extending the then sole mothers' benefit to become the sole parents' benefit. He also worked hard alongside Michael Hodgman to put Tasmania on the map, as they wanted the rest of the nation to know the many good things that my home state—and your home state, Mr President—has to offer.

Bruce Goodluck led a full life and his legacy is one that any man would be proud of. He will be greatly missed by his family, friends and by the many people on whom his hard work and determination had such a positive impact. Rest in peace Bruce, Goodluck.

*Senate adjourned at 19:16*