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SITTING DAYS—2014

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FORTY-FOURTH PARLIAMENT
FIRST SESSION—FOURTH PERIOD

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

Senate Office holders
President—Senator Hon. Stephen Parry
Deputy President and Chair of Committees—Senator Gavin Mark Marshall
Temporary Chairs of Committees—Senators Christopher John Back, Cory Bernardi, Sam Dastyari, Sean Edwards, Alexander McEachian Gallacher, Susan Lines, Deborah Mary O'Neil, Nova Maree Peris OAM, Dean Anthony Smith, Zdenko Matthew Seselja, Glenn Sterle, Peter Stuart Whish-Wilson and John Reginald Williams
Leader of the Government in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Government in the Senate—Senator Hon. George Henry Brandis QC
Leader of the Opposition in the Senate—Senator the Hon Penny Wong
Deputy Leader of the Opposition in the Senate—Senator the Hon Stephen Conroy
Manager of Government Business in the Senate—Senator Hon. Mitchell Peter Fifield
Manager of Opposition Business in the Senate—Senator Claire Moore

Senate Party Leaders and Whips
Leader of the Liberal Party in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Liberal Party in the Senate—Senator Hon. George Henry Brandis QC
Leader of The Nationals in the Senate—Senator Hon. Nigel Scullion
Deputy Leader of The Nationals in the Senate—Senator Hon. Fiona Nash
Leader of the Opposition in the Senate—Senator the Hon Penny Wong
Deputy Leader of the Opposition in the Senate—Senator the Hon Stephen Conroy
Leader of the Australian Greens—Senator Christine Anne Milne
Leader of the Palmer United Party in the Senate—Senator Glenn Patrick Lazarus
Deputy Leader of the Palmer United Party in the Senate—Senator Jacqui Lambie
Chief Government Whip—Senator David Christopher Bushby
Deputy Government Whips—Senators David Julian Fawcett and Anne Sowerby Ruston
The Nationals Whip—Senator Barry James O'Sullivan
Chief Opposition Whip—Senator Anne McEwen
Deputy Opposition Whips—Senators Catryna Louise Bilyk and Anne Elizabeth Urquhart
Australian Greens Whip—Senator Rachel Siewert
Palmer United Party Whip—Senator Zhenya Wang
Deputy Palmer United Party Whip—Senator Jacqui Lambie

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

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

**PARTY ABBREVIATIONS**

AG—Australian Greens; ALP—Australian Labor Party;
AMEP—Australian Motoring Enthusiast Party; CLP—Country Liberal Party;
DLP—Democratic Labour Party; FFP—Family First Party; IND—Independent;
LDP—Liberal Democratic Party; LNP—Liberal National Party; LP—Liberal Party of Australia;
NATS—The Nationals; PUP—Palmer United Party

**Heads of Parliamentary Departments**

Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services—C Mills
Parliamentary Budget Officer—P Bowen
<table>
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<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon Tony Abbott MP</td>
</tr>
<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senator the Hon Nigel Scullion</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for the Public Service</em></td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for Women</em></td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon Josh Frydenberg MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon Alan Tudge MP</td>
</tr>
<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
<td>The Hon Warren Truss MP</td>
</tr>
<tr>
<td>(Deputy Prime Minister)</td>
<td>The Hon Jamie Briggs MP</td>
</tr>
<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>The Hon Julie Bishop MP</td>
</tr>
<tr>
<td><strong>Minister for Trade and Investment</strong></td>
<td>The Hon Andrew Robb AO MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Foreign Affairs</strong></td>
<td>Senator the Hon Brett Mason</td>
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<tr>
<td><strong>Minister for Employment</strong></td>
<td>Senator the Hon Eric Abetz</td>
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<tr>
<td>(Leader of the Government in the Senate)</td>
<td>The Hon Luke Hartsuyker MP</td>
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<tr>
<td><strong>Attorney-General</strong></td>
<td>Senator the Hon George Brandis QC</td>
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<tr>
<td><strong>Minister for the Arts</strong></td>
<td>Senator the Hon George Brandis QC</td>
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<tr>
<td>(Vice-President of the Executive Council)</td>
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<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
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<tr>
<td><strong>Minister for Justice</strong></td>
<td>The Hon Michael Keenan MP</td>
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<tr>
<td><strong>Treasurer</strong></td>
<td>The Hon Joe Hockey MP</td>
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<tr>
<td><strong>Minister for Small Business</strong></td>
<td>The Hon Bruce Billson MP</td>
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<tr>
<td><strong>Acting Assistant Treasurer</strong></td>
<td>Senator the Hon Mathias Cormann</td>
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<tr>
<td><strong>Parliamentary Secretary to the Treasurer</strong></td>
<td>The Hon Steven Ciobo MP</td>
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<td><strong>Minister for Agriculture</strong></td>
<td>The Hon Barnaby Joyce MP</td>
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<td><strong>Parliamentary Secretary to the Minister for Agriculture</strong></td>
<td>Senator the Hon Richard Colbeck</td>
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<tr>
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<td>The Hon Christopher Pyne MP</td>
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<tr>
<td>(Leader of the House)</td>
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<tr>
<td><strong>Assistant Minister for Education</strong></td>
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<td>The Hon Bob Baldwin MP</td>
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<td>The Hon Kevin Andrews MP</td>
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<tr>
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<td><strong>Minister for Sport</strong></td>
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<tr>
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<td>Senator the Hon Michael Ronaldson</td>
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<tr>
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<td>The Hon Darren Chester MP</td>
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<tr>
<td>Minister for the Environment</td>
<td>The Hon Greg Hunt MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for the Environment</td>
<td>Senator the Hon Simon Birmingham</td>
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The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 09:30, read prayers and made an acknowledgement of country.

BILLS

National Security Legislation Amendment Bill (No. 1) 2014
Second Reading

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

Senator FIERRAVANTI-WELLS (New South Wales—Parliamentary Secretary to the Minister for Social Services) (09:31): As I was saying before the debate was adjourned, it is very much like a computer: you have to have the best hardware possible, but, without the software, the computer will not function properly. Community engagement is the vital software; hence, the government's action to do whatever is possible to keep us safe depends on both working together. It is vitally important that we explain what the legislation is about and earn the respect and trust of all Australians, whom this legislation is designed to keep safe.

As the Prime Minister has indicated, sometimes the delicate balance between the freedoms we enjoy and security arrangements may have to be adjusted such that more restrictions need to be placed on more of us so that more protections can be afforded to others. The safety of our community is of paramount importance. Consequently, additional security measures may be the price that we need to pay to ensure that, as the Prime Minister has said, we maintain the social fabric of an open, free and multicultural nation.

I have been honoured over many years to have been engaged with many communities, including some which are now in the forefront of security matters. I reiterate that this bill and the proposed next tranches of legislation apply to all Australians and are not targeted at one particular community. However, for more than two years, the civil war in Syria, followed by the conquest of much of northern Iraq, has provided a fatal allure for predominantly misguided and disenfranchised young Muslim Australians. It is why I have made a concerted effort in recent months, in my role with responsibility for multicultural affairs and settlement services, to reach out to Muslim communities and, in particular, the leaders and women and earn their trust and respect.

This work, of course, is not new to me. It is part of the process that has evolved for me since my young days, when I was an advocate for multicultural communities, starting with my own Australian-Italian community. I have known some of the leaders in the Muslim community for many years and have worked with them on interfaith and other issues. Hence I have been very pleased to support the Attorney-General in the roundtables with leaders of Muslim communities, not just because of my longstanding involvement but most especially in my current role. This has been an important process. Whilst this is not about religion, regrettably it is the Muslim communities that feel mostly targeted, although I also appreciate that some non-Muslim communities also have concerns.
It is important to put the current issues into context. According to the 2011 census, 466,000 people claimed Islam as their religion, representing 2.2 per cent of the Australian population, which is an increase of 40 per cent since the previous census. It is important to note also that around 179,000 were born in Australia, and almost 39 per cent, just under half, are women and children. People claiming Islam as their faith come from different parts of the globe: Lebanon, Pakistan, Afghanistan, Turkey and Bangladesh, just to name a few. They are different and diverse communities, with the majority living in New South Wales and Victoria followed by Western Australia, Queensland, South Australia, small numbers in the Australian Capital Territory, Tasmania and the Northern Territory.

Most importantly, we must note that young people represent a significant proportion of the Muslim population, with 57.2 per cent of Muslims aged 29 years and under. The vast majority of the communities are law-abiding citizens committed to Australian values and the Australian way of life. They have come to Australia to build a better life for themselves and their families. Many have made commendable contributions to our country, whether culturally, economically or socially.

We are strengthening our partnerships with Muslim leaders in Australia and our region to reinforce that it is illegal for any Australian to support terrorist activities. Let me stress that our concern relates to about 60 Australians who are on the ground fighting in Syria and Iraq and to at least 100 who are providing facilitation in Australia. The overwhelming majority of Australians, including Muslim Australians, find the barbarism of ISIL absolutely and utterly abhorrent.

It is vitally important at this time that all Australians, irrespective of their ancestry, are tolerant and supportive. To turn on each other on the basis of religion or race would be to play straight into the hands of ISIL who want nothing better than to divide us. Given the number of Australians now with hands-on experience and given that we have several times more than we had in Afghanistan, the challenge is much greater. For this reason, the government announced its package of $630 million on 5 August. An important component is the government's commitment to work with Australian communities to combat radicalisation of young Australians.

As part of this package there is $13.4 million to counter violent extremism, and we are developing that package in consultation with communities to address the particular requirements of young Australians at risk. This may include a whole series of measures. There will also be referral and support processes to individuals at risk, to disengage them from their activities and to combat online radicalisation with education programs and, most importantly, working with communities, industry and overseas partners.

The intervention will provide resources and support to help communities work with individuals at risk. Considerable work is already being done quietly and purposefully by various groups and organisations to support young Australians at risk, and we need to focus our efforts on enhancing and building on that work already being done. Tailored interventions need to be developed and delivered in close collaboration with those communities, but this will take time. The incident that occurred overnight—the shooting dead of an 18-year-old, by the police in Melbourne, known to be a terror suspect—reinforces the absolute priority and need for this sort of intervention.
Young people become disenfranchised for any number of reasons. When this happens, they become vulnerable. They turn to drugs, gangs, crimes or other activities. What we are seeing with some young people is this disenfranchisement manifesting itself in radicalisation. They are vulnerable and susceptible to being preyed on by those intent on radicalising them, especially through social media. As was reported in the *Sun-Herald* recently, the Grand Mufti of Australia, Dr Ibrahim Abu Mohammad, has warned young people not to trust 'Sheik Google and Sheik YouTube', saying that they are 'very dangerous and they have no moral or religious authority'.

It is very clear from discussions with communities and through the recent round tables that the most effective and financially beneficial way to progress our countering-violent-extremism efforts is to work directly with the communities. Community engagement has been an important component of the consultations that the Attorney and I have had with community leaders in Sydney, Melbourne and Brisbane and that I have had in Canberra. I am sure it will be an important discussion point in future round tables in other parts of Australia.

In my 30 years involvement in the diversity that is today contemporary Australia, I have always found that open and honest dialogue is the best way to earn trust and respect. The relationships that I have built up over time enable me now to facilitate introductions and dialogue between key leaders with my ministerial colleagues to advance our necessary objective of keeping the Australian community safe—key leaders such as the Grand Mufti, imams, and influential community stakeholders, including the key women who are at the grassroots of communities affected by radicalisation issues.

As I have said, you need the hardware and the software to work together for the computer to function properly. Community engagement is the key that will ensure this bill and the additional legislation being introduced will operate effectively. We all know that terrorists and violent extremists represent a small fringe minority of Australian society. Community leaders have made known their opposition to the involvement of young Australians in the conflicts in Syria and Iraq. They have expressed their abhorrence at the devastating actions of ISIL. Indeed, many of the innocent people killed or affected by these conflicts are Muslims. As the Grand Mufti has said, these criminals are committing crimes against humanity and sins against God. Forced evictions, threat of execution and burning of places of worship, including churches, have no place in any faith.

The Australian government will continue to do all it can to support community leaders who play a critical role in dissuading young Australians from travelling to the conflict zone to fight. It is vitally important that the positive narrative of the Australian Muslim community and its contribution is not overshadowed by the negative publicity generated by the actions of a small number.

We are a highly cohesive nation of people from around 300 different backgrounds who speak as many languages. Since 1945, some 7½ million people have arrived here, including 800,000 under our humanitarian programs. Today, one in four of our 23 million people were born outside Australia, and 45 per cent of Australians—almost half of us—were born overseas or have at least one parent who was. The postwar immigration program has benefited our lives in many ways. These changes have enhanced our economic, social and cultural fabric and have enriched us a nation. Our successful multicultural society has been built through the efforts and commitments of millions of Australians, unified by the goal of a
prosperous future for all. Australia is a nation of strength in its diversity, and we need to do all we can to protect and to help protect our rich multicultural society.

Senator LEYONHJELM (New South Wales) (09:42): I rise to speak against the National Security Legislation Amendment Bill (No. 1) 2014. I support the Attorney-General's amendments responding to my concerns about torture and to concerns raised by the Parliamentary Joint Committee on Intelligence and Security. However, the bill, even in its amended form, continues to include concerning provisions. More broadly, the case for the bill has not been made.

I appreciate the Attorney-General's amendment with respect to torture. We have a difference of opinion regarding its necessity. I maintain that torture can fall short of causing serious injury, but the proposed section 35K provides participants in a special intelligence operation with an immunity from criminal and civil liability for certain conduct, provided that it does not cause serious injury. There is no existing provision that would override this immunity in instances of torture and the decency of the current minister and current ASIO staff does not justify having bad law on the books.

Given this, I welcome the exclusion of torture from the immunity, and thank the Attorney-General for this exclusion. Nonetheless, the bill, even in its amended form, continues to include concerning provisions. I have raised my concerns in my submission to the joint committee and in discussions which Attorney-General. But the concerning provisions remain in the bill. These concerns relate to changes to the role of ASIS, to changes to ASIO powers to access computers and to discloses of information about special intelligence operations.

The bill, in schedule 5, seeks to authorise ASIS to cooperate with foreign authorities in undertaking training in the use of weapons. No definition is provided of foreign authorities, so groups such as the Kurdistan Workers Party, a listed terrorist organisation, could be covered. The bill also seeks to authorise ASIS to provide weapons and weapons training for self-defence purposes to an officer of a foreign authority with whom ASIS is cooperating. These provisions would seem to change fundamentally the nature of ASIS. ASIS's legislation prohibits it from undertaking activities that involve paramilitary activities, violence against the person or the use of weapons by ASIS agents. There are only limited exceptions to this prohibition. As such, ASIS should have no particular expertise in weapons and weapons training. While ASIS agents would still be prevented from undertaking paramilitary activities, the provisions of the bill may facilitate ASIS agents in providing weapons and training to underpin those with paramilitary activities. Covert support for paramilitary activities does not have a good track record—think of the CIA—and should not be facilitated.

The bill in schedule 2 amends the definition of a computer so that a warrant authorising ASIO to access data from a particular computer serves to authorise ASIO to access data from one or more computers, one or more computer systems and one or more computer networks. ASIS is not prevented from seeking warrants for such access at present. They just need to specify the access they seek. As such, this provision is an abuse of both language and judicial oversight. The government has committed to update the explanatory memorandum to clarify that a computer access warrant only authorises access to the extent that it is necessary for the collection of intelligence in respect of a specified security matter. While this will be a positive
development, the change should be made to the bill. It is the bill that becomes law, not the explanatory memorandum.

The bill also authorises ASIO to make additions, deletions or changes to communications in transit and to third-party computers in order to access data on a target computer. ASIO would be given this power even if less intrusive methods for accessing the data have not been exhausted. As such, this provision would allow the abuse of property. The government's amendment will require material disruption of a computer and non-routine access to third-party computers to be reported to the Attorney-General. This again is a positive development, but reporting should also be directed to the Inspector-General of Intelligence and Security. The bill in schedule 3 also introduces offences for disclosing information on special intelligence operations. There is no public interest exception to the offence. The government has committed to amend the explanatory memorandum to require the Commonwealth Director of Public Prosecutions to take the public interest into account before initiating a prosecution. While this will be a positive development, public interest disclosures should be dealt with in the bill rather than the EM. Moreover, public interest disclosures should not be considered to be an offence that will not be prosecuted. Rather, public interest disclosures should be excluded from offence provisions. As it stands, disclosures remain an offence even if the information was provided by the minister, director-general or deputy director-general; disclosures remain an offence even if the discloser sought to consult with the organisation prior to the disclosure; disclosures remain an offence even if the disclosure does not include information on the identities of participants of a special intelligence operation or information on a current special intelligence operation; and disclosures remain an offence even if the information concerns corruption or misconduct in relation to a special intelligence operation. Disclosures that do not endanger anyone's health or safety, but nonetheless prejudice the effective conduct of a special intelligence operation, give rise to a maximum penalty of 10 years imprisonment. This is excessive—even extraordinary.

When considering these disclosure offences we should remember that keeping secrets is ASIO's job. It is not the job of everyday Australians. It is most definitely not the job of media organisations. We must not forget that it is the role of ASIO to serve the public; it is not the role of the public to serve ASIO.

I will have amendments addressing each of these concerns regarding the role of ASIS, ASIO powers to access computers, and disclosures of information about special intelligence operations. I apologise to the Senate for the delay in the presentation of these amendments. I had hoped to make some progress on these issues in my recent discussions with the government, but these discussions have not borne fruit.

I note that a convincing case has not been made for other measures in the bill, such as changes in schedule 4 to empower ASIS to gather information on Australians overseas, and changes in schedule 6 to introduce new offences for making and copying records and to increase penalties for exiting disclosure offences. Problems with schedule 6 are addressed in Senator Ludlam's amendment—an amendment which I support.

So there are significant problems throughout the bill. Taken as a whole, it could well be described as contrary to the rule of law and detrimental to our liberties. More importantly, a convincing case has not been made that current national security legislation is inadequate. As such, I oppose the bill in its entirety.
You may not find my arguments convincing. You may not be convinced by the arguments of the other voices in this chamber against the bill, but these are not the only arguments against this bill. Thirty submissions on this bill were received in the three-week window provided by the parliamentary joint committee on intelligence and security. These submissions outline numerous arguments against the bill. To my mind many of these arguments were not addressed by the joint committee in its report, and many have not been aired in this Senate debate. Moreover, if more time was given for consideration of this bill I suspect that more arguments against it would surface. If you are uneasy about voting on a bill when the arguments have not been aired I urge you to vote against it.

To those still inclined to support the bill on the basis of the current security environment and the decency of the government and our security agencies, I say this. The security environment will change, the government will change, and our security agencies will change, but this law, if enacted, will remain. I urge my fellow senators to oppose this bill.

Senator LAZARUS (Queensland—Leader of the Palmer United Party in the Senate) (09:52): As the Leader of the Palmer United Party in the Senate I would like to announce on behalf of my fellow Palmer Unity colleagues Senator Lambie and Senator Wang, and Senator Muir of the Australian Motorist Enthusiasts Party our clear and unequivocal support for this bill.

We are in the midst of difficult and challenging times. The global unrest is at an all-time high. The unrest is both coordinated and uncoordinated and is being experienced throughout all levels of society across many countries. In Australia, as a nation we have upgraded our alert levels in response to this unrest.

Upgrading our alert levels is important, however it is also imperative that we have the power, capacity, resources and capability to respond to risks—importantly, risks which are far more covert, sinister and veiled than risks traditionally encountered in the global environment. We must provide our people and organisations responsible for maintaining the safety and security of our country with the necessary support to undertake their role with confidence, quickness, certainty, diligence and precision.

This bill will modernise and improve the ability of ASIO and ASIS to undertake their work in protecting the safety and security of our country, and it will also enhance our country's capability to penalise those who compromise the safety and security of our country. It is imperative that Australia has the capacity to protect our shores. Not only do we need this level of capacity for our people on a day-to-day basis; we also need this capacity given increased risks around high-profile events such as the upcoming G20 summit. It is imperative that Australia has the capacity to protect our shores. Not only do we need this level of capacity for our people on a day-to-day basis; we also need this capacity given increased risks around high-profile events such as the upcoming G20 summit.

Last week I awakened to the fact that we had some 800 police across Queensland and New South Wales conducting raids. The police had received intelligence regarding threats on the safety of everyday Australians. The intelligence suggested that members of a terrorist group living in Australia were plotting to harm innocent people at random in order to gain media coverage for their cause. I would like to thank the federal and state police for their work in foiling this terror plot on our home soil.
It should be noted that this work was also supported by the work of ASIO and ASIS in securing the necessary intelligence to inform relevant authorities of the risk and need to act. While we support this bill, I would also like to inform the chamber and the people of Australia of our intent to take additional steps to further strengthen Australia's safety and security capabilities by introducing an amendment to strengthen the penalties for anyone who exposes the identity of an ASIO or ASIS officer.

We are in the midst of difficult and challenging times. Not only has our country become the target of extremists who seek to hurt us and hinder our way of life; we are also contributing to an international campaign to reduce the threat and impact of terrorism globally which is raising the potential for attacks against our country.

The threat is real, it is concerning and we must act quickly, decisively and comprehensively to protect the safety and security of our wonderful country. The reality is that the threat of attack is coming from both outside our country and from within. Advancement in technology and communication masking means the world is a very different place and those seeking to attack have the benefit of complex and highly sophisticated technology. It is for this reason that our country should and must increase our capacity to deal with these threats and provide the people and the organisations charged with protecting our shores with the necessary tools, rights, capabilities and powers to keep our country safe.

The brave and hardworking men and women keeping our country safe are undertaking at times extremely dangerous and highly sensitive work. Many are putting their own lives at risk to protect our country and our way of life. We cannot expect these brave men and women to protect us to the fullest extent possible with their hands tied behind their back. These men and women need all the support and capability necessary to perform their roles with precision, professionalism and success. We cannot and must not compromise on this.

Many of these men and women work undercover, take part in special operations and participate in activities which require high levels of secrecy. Their anonymity is key to their success and safety and to the safety and security of this country. And yet, despite this, as the legislation stands, if a person discloses the identity of an ASIO or ASIS officer, the penalty for doing so is only a maximum of one year's jail. This is a trivial penalty for a significant breach of trust. By exposing the identity of an ASIO or ASIS officer, not only are you compromising the safety and security of the officer working to protect our country; you are also directly compromising the safety and security of this country. Further, once the identity of an ASIO or ASIS officer is exposed, the officer can no longer work in the industry. Their career is effectively over. That is why, the Palmer United Party along with the Motoring Enthusiast Party is putting forward an amendment to strengthen the penalties in this area.

We must take the safety and security of our country seriously. We must take the most care possible to ensure the safety of those working hard to protect us. We must afford them the highest level of security. Therefore, we are recommending that the penalty for disclosing the identity of an ASIO or ASIS officer or affiliates is increased from a light penalty of up to one year's jail to a serious crime of up to ten years jail.

Exposing the identity of an ASIO or ASIS officer should be a serious offence and the penalty should be sufficient to warn people off from engaging in such stupid and dangerous acts. Exposing the identity of an ASIO or ASIS officer is a serious breach of national security and should be treated accordingly.
In summary, I love Australia, I love our way of life and I love our freedom. I along with all Australians feel that our great country must be protected. Many people have fought and died for our great country. Everyone in this chamber has a responsibility to ensure that we act to protect the interests of all Australians and to ensure that we enable our country the capability to keep our country safe and secure.

I note that the safety and security of our country must be balanced with human rights and the need for our people to enjoy reasonable levels of privacy, but safety and security must come first. Let us ensure that we continue to protect our great country and give those protecting our great country the resources, capability, power and scope to do their jobs and do them well. The Palmer United Party supports this bill and we seek the chamber's support of our amendment to further strengthen the safety and security of those protecting our country.

Senator XENOPHON (South Australia) (10:01): I too support the second reading stages of this bill and for the bill generally, but I do have a number of reservations. Fortunately we will be having, I hope, what will be a constructive committee stage of this bill in order to discuss those concerns and in order to appropriately consider the amendments that have been put up.

There is no question that one of the key roles of the state is to protect the public from terrorist acts. That is axiomatic. Public safety is a paramount consideration. But, if you accept the necessity of intelligence agencies—and I do; it is a no-brainer—then you have to accept the necessity for those intelligence agencies to operate in secret and have adequate powers and resources to do their jobs. If you do not accept that they must operate in secret, then you are not being serious about protecting the public. For example, for ASIO to exist it needs a high degree of operational secrecy. It needs to assure all its current and future sources and partners, here and abroad, that it will keep their secrets. Failure to do so, in one case, affects its credibility in all cases. Any compromise of ASIO's credibility, when it comes to protecting its secrets, in one area could affect its credibility in relation to sources and methods in all areas. Similarly, if we are to have an effective ASIS it needs a high degree of operational secrecy. To deny its operational secrecy is to deny its ability to exist. National security is and must be a key goal.

A key role of the state to protect its citizens from harm, from terrorist attacks, must never be an alibi for abuse of power. I have grave misgivings, therefore, about some provisions in this bill that impose harsh penalties for disclosure of intelligence information, with no consideration given to a public-interest exemption. Let me give two examples that are not hypothetical. The first relates to so-called witness K. I refer to reports that the Australian government had breached international law by ordering ASIS to bug East Timor's cabinet rooms during the 2004 bilateral negotiations over the Timor Sea treaty relating to oil and gas. This cannot possibly have anything to do with national security. East Timor is no threat to Australia. At the time of the special operation carried out by ASIS East Timor was the poorest country in Asia, and during the Indonesian occupation it had suffered the largest loss of life relative to total population since the Holocaust.

A key whistleblower here is a former Australian spy, who is said to be the director of all technical operations for ASIS, which allegedly conducted the bugging operation using the Australian aid program as a cover. This aspect of the allegations is extremely disturbing. If the espionage operation used the Australian aid program as a cover then it has endangered the
safety of the good, well-intentioned Australians who go overseas to many parts of the globe in order to work with those who are less fortunate. *The Age* editorial of 11 December 2013 stated:

… deceit of this kind brings suspicion on all non-government aid workers, irrespective of who they are and what they do. It runs the risk of endangering all legitimate aid workers who seek to help the disadvantaged.

… … …

Aid agencies operate in extreme and difficult conditions, often on the front line of danger and often in countries where they are constantly at risk from brutal regimes. They dare to help when no one else will. To deploy intelligence agents under the cover of aid workers is to exploit the fragile trust that aid agencies must forge with their host country. It weakens their security because it discredits their altruism.

We should be grateful to the ex-ASIS whistleblower and to others like him. The whistleblower, known in the press as Witness K, has not endangered Australia's national security. Instead he has shone a light on a most disreputable episode in Australia's foreign policy. It is unjust to pass a law that would send someone like him to prison for up to 10 years. It is unjust to pass a law that would deprive someone like him of his freedom for a substantial period of his life without any consideration of his motivations—or, indeed, of the public interest considerations in respect of his actions. Whistleblowers like him do not appear to be motivated by money or career prospects. Rather, they appear to be moved by a sense of duty to answer the call of basic human morality. This bill makes no distinction between people like him and people who would do us harm.

Let me put this in perspective so that the Attorney does not misunderstand where I am coming from on this. If there is a special intelligence operation and, as a consequence of that special intelligence operation, there are people working undercover with a terrorist cell and the identity of a person is disclosed, that is a very serious matter and I support the government in treating it as a very serious matter because you could effectively be passing a death sentence on that person—an undercover operative working in a very sensitive operation—by disclosing their identity. So I get where the government is coming from and I commend it for wanting to strengthen the legislation where the lives of intelligence operatives and our sources are put at risk.

But, in the case of Witness K, there is a clear distinction. That is something that I think is very, very different to the circumstances which I have just set out. In circumstances where, as I believe, it was in the public interest to know about that operation, in a matter where international law, I believe, was breached, that person, Witness K, cannot be treated in the same light as someone who is endangering the lives of security operatives who are working to protect Australia's interests.

My colleagues will also be familiar with the case of Dr Mohamed Haneef, an Indian national who was arrested at Brisbane Airport on 2 July 2007 in connection with a failed Glasgow bomb plot. Dr Haneef was held for 12 days before being charged with providing support to a terrorist organisation. This is an offence for which he could have been jailed for up to 15 years. The charge was unsustainable and was quickly dropped. Meanwhile, his immigration visa was cancelled on character grounds. This was later found to be unlawful. The Hon. John Clarke QC conducted an inquiry into the Haneef case. He concluded that
Haneef was 'wrongly charged' because an individual AFP officer, Commander Ramzi Jabbour, had 'lost objectivity' and was 'unable to see that the evidence he regarded as highly incriminating in fact amounted to very little'. No disciplinary action was recommended against Commander Jabbour.

I want to emphasise here that the inquiry found that Commander Ramzi Jabbour was 'impressive, dedicated and capable', yet he was acting selectively, even cynically. He was keeping evidence that might exonerate Dr Haneef from the magistrate who was detaining the doctor in the Brisbane lockup, and also keeping evidence from immigration minister Kevin Andrews, who cancelled his visa. This is where this bill is weak: it assumes a best-case scenario at all times and impeccable behaviour by all concerned. Yet Commander Jabbour was not a bad person. Indeed, the inquiry found that he 'presented as a committed, professional and competent individual, and was held in high esteem by the officers he led'. If this operation or something like it had been a special intelligence operation—the Haneef case was an overt, not a covert, operation, but it could just as easily have been a covert operation—the details could not have been reported unless the reporter was willing to risk up to 10 years in prison. It should not be left to prosecutorial discretion whether a reporter should be tried in such a case. There must be a public interest exemption or, at the very least—and I am moving an amendment to this effect—public interest matters must be considered in the course of fixing a penalty.

On the issue of disruption of target computers and third-party computers—and I am grateful to the Attorney-General's office for the communications I have had with them; I will refer to the response I received just a few minutes ago—I want to set out the concerns that have been expressed to me by people who work in the field of cybersecurity. The bill allows the targeting of third-party computers. In other words, it allows ASIO to break into computers belonging to innocent people in order to obtain covert access to a target. What happens when ASIO accesses the servers of an internet services provider to read the emails of a target? If ASIO has obtained the cooperation of the company or the systems administrator by virtue of the ASIO affiliates scheme, then they will be able to do what they need to do with no disruption to the network. So far, so good—but what happens if ASIO decides to breach a system without the consent of the company? If the company spots the intrusion and tells all its clients it has been attacked, would that be disclosing information about a special intelligence operation? The Attorney-General's office has indicated to me in an email, and I am grateful for the information, that would not be the case; but it would be useful in the context of the committee stages to confirm that, because it is a real concern that has been expressed to me.

Another problem I can foresee is that an attempt to enter a network undetected is usually accompanied by privilege elevation, seeking to elevate low-privilege users to super users. This is because user accounts can only read/write their own data and run some applications but systems accounts can read/write any data and run all applications. Successful privilege elevation would allow ASIO continued access via so-called rootkits or backdoors. A backdoor is a method of bypassing normal system authentication accomplished by installing software on the host using remote access administrative tools and exploiting vulnerabilities in the target system such as default administration accounts. While a symmetric backdoor can be used by anyone, an asymmetric backdoor can only be used by the attacker. A rootkit is a stealthy backdoor which provides persistent, privileged access to a system. It is usually
installed after the attacker has gained system-level access. It can alter system logs and registry values. What happens if another outfit—an individual hacker, a group of hackers or a foreign government's signals intelligence directorate—detects a rootkit and also gains access after ASIO has done its job? Won't the target be permanently weakened? So the question I pose, and I pose it genuinely and sincerely, is: what safeguards are there so we will not make systems more vulnerable to those who have evil intent towards Australians as the result of an intelligence operation?

On the issue of oversight, as their own Rt. Hon. David Davis, a leading figure on the backbenches of the UK Conservative Party and editor of The Future of Conservatism: Values Revisited, has argued:

Security services handpick recruits who are intelligent, tricky, quick-thinking and determined: the sort of people who will pull out all the stops to protect the public.

This is exactly what our spies should do. However … it is inevitable that any big bureaucracy—government departments or agencies—will at some point misuse the powers it has and the data it holds.

If we can't trust government departments, the Met or even our health service to respect our privacy and personal information, we should not trust the security services either.

As David Davis points out, 'We cannot expect James Bond to behave like Mother Teresa. That is why there must be clear limits on the spies' powers.'

I would like the Senate to call on the government to investigate the establishment of a committee, independent from the executive arm of government, to oversee Australia's intelligence services in a similar way to the Foreign Intelligence Surveillance Act, FISA, court in the United States or the Parliamentary Control Panel, the G10 Commission and the Confidential Committee of the Budget Committee in Germany; I move my second reading amendment to that effect. There is clear judicial oversight in the United States. The FISA Court, consisting of 11 federal judges who are appointed by the Chief Justice of the United States, meets in secret, allows only the government to appear before it and provides an annual report to Congress concerning its activities. There is also clear legislative oversight in the United States. The intelligence committees and judiciary committees in the Senate and House of Representatives exercise general oversight over all intelligence collection programs and committee members are regularly briefed. Members of congress receive detailed briefings prior to each reauthorisation. I note that the Attorney's counterpart in the United States, Eric Holder, has done some interesting work in terms of metadata and protocols in place with the media. The media has protocols and safeguards in place so there are not needless metadata searches of journalists, for instance, when contacting their sources. I think that is important and we need to look at emulating that.

There is also excellent oversight in Germany. The parliamentary control commission exercises legislative oversight over the intelligence agencies. The chancellery is obliged to inform this committee at least once every six months about the activities of the intelligence services. The commission can request documents and data and can conduct hearings with members of the intelligence services. The parliamentary control committee's deliberations are kept secret. The parliamentary control committee also appoints the four standing and the four deputy members of the G10 Commission, which serves as a permanent control body for intelligence activities. The commission reviews and authorises all requests for surveillance
activities subject to the G10 law. The chair of the G10 Commission needs to have the qualifications to serve as a judge. It meets at least once a month and can schedule on site 'control visits' at German intelligence facilities.

The G10 Commission not only authorises surveillance programs but also controls how these programs are implemented regarding the collection, storage and analysis of personal data. The intelligence agencies have to justify their surveillance requests and specify their scope and targets. The German oversight mechanism belongs to the legislative branch and does not include judicial review. I indicate parenthetically that they have those safeguards in Germany as a result of the excesses of the Stasi in communist East Germany and their enormous surveillance of citizens. When Germany was reunified this was the response, in a sense, to deal with those excesses. These are safeguards so the awful excesses of the Stasi are never repeated in Germany.

By comparison, Australia currently has the weakest oversight mechanisms. This is not a criticism of this government. This is something that has occurred—it is almost a cultural issue—over a number of years. It lacks institutionalised review of surveillance programs from both the legislative and judicial branches of government. Despite claims that Australia's courts may be unable to evaluate intelligence experts, courts routinely evaluate complex evidence in other areas from complex corporate transactions to elaborate taxation schemes and highly structured trust arrangements. Courts do not typically object that they lack expertise in the complex areas of commercial litigation, taxation, mergers and acquisition deals. I believe our judicial officers have the capacity to provide the sort of oversight that they have in the United States, Germany and the United Kingdom.

Finally, I want to refer to the comments made by Bret Walker SC on the national security amendments on ABC's Lateline program last night in an interview with Steve Cannane, the presenter of the program. I will refer to this more in the committee stage of this bill, but I think it is fair to say that Mr Walker had some views as the former first Independent National Security Legislation Monitor and as someone who is highly respected in the legal profession nationally in this country. There are concerns about what the implications will be of releasing information in the instances I have given of witness K. In the Haneef case clearly there were some issues that were unsatisfactory. If it had been a covert operation, it would have led to significant penalties for anyone reporting on it. Mr Walker SC does distinguish between that and someone deliberately sabotaging a special intelligence operation—and I acknowledge the risk that poses to the men and women of our security services and their associates whose lives would be at risk if that information were disclosed. That is why we need to have appropriate and significant penalties.

But it was put to Mr Walker whether the same sort of penalties ought to apply if, for example, there were politically embarrassing leaks from the intelligence service that did not endanger lives. I think that what Mr Walker said—his caution in respect of that—ought to be heeded. I am concerned that there is no distinction made between someone who is clearly acting in the public interest where there is no question of an intelligence officer's life being at risk or indeed the operation being at risk, such as the witness K example with respect to East Timor.

These are matters that need to be explored in the context of the committee stages. I have provided the Attorney-General's office details in advance of some of my concerns, because I
do want there to be a constructive discussion in relation to this. I genuinely want to engage with the government in respect of this, but I have concerns that some parts of the legislation have gone too far without adequate safeguards. I think that is why the committee stage of this particular bill is particularly important.

Senator LAMBIE (Tasmania—Deputy Leader and Deputy Whip of the Palmer United Party in the Senate) (10:21): I rise to speak to the National Security Legislation Amendment Bill (No. 1) 2014. This bill seeks to make several amendments to legislation used by two of our major intelligence agencies—the Australian Security Intelligence Organisation, ASIO, and the Australian Secret Intelligence Service, ASIS. Before I detail my reason for supporting this bill, I want to thank those officers and their families for their service and loyalty to Australia. While I do not consider them rough, I believe that a variation of a famous quote from George Orwell is one way of describing the situation we now find ourselves in: we sleep soundly in our beds because rough men and women will visit justice on those who will do us harm.

Because of the very secretive nature of the work, ASIO and ASIS officers do not receive public recognition for their acts of bravery and sacrifice, but I know that the vast majority of Tasmanians appreciate and value the contribution that the Federal Police, ASIO and ASIS officers give to our nation. So, thank you for your service.

There are some in this chamber and in our community who think that we have a choice about whether we wage war or not. They forget that war and conflict is sometimes visited and forced upon people. When that happens you do not have a choice on whether you fight or not. I am glad our nation has a history of fighting for what is right, and against the bullies and thugs who impose their culture on us.

The bill contains a number of reforms to modernise and improve the legislative framework governing the activities of the Australian intelligence community—primarily ASIO—and those agencies assisting them, to gather intelligence to protect our nation against national threats. The bill came about after the Joint Parliamentary Committee on Intelligence and Security released a report in June 2014 making a number of recommendations to give ASIO officers and their peers in other agencies the powers that they need to detect and deal with threats against our country.

Where the bill makes some changes of an administrative nature, these appear to have support from all members and senators. The bill gives appropriate powers to ASIO, ASIS and other intelligence agencies to share information which they should have had, and need, to fight the real threats that certain individuals, groups and even other nations may pose to this country.

The bill provides extensive additional warrant powers to provide them with the tools they need to keep pace with technologies to uncover and to continue to foil plots of terrorism against our nation. The bill will give ASIO and ASIS the powers they need to work with private entities when they need to gather intelligence using geospatial imagery and similar methods to gather critical information on terrorists and others who seek to harm Australia.

Probably the most contentious part of the bill is schedule 3, which provides ASIO with the framework to conduct controlled intelligence operations which will be called 'special intelligence operations'. The framework of these special intelligence operations largely mimic
operational powers that the federal and state police already have to investigate organised crimes, including those by outlaw motorcycle gangs and drug dealers. The bill was reviewed by a Senate committee, which made 17 recommendations to strengthen the accountability of ASIO staff in performing their duties under the powers given to them under the bill. As I understand it, the government has supported all of these recommendations and has amended the bill to reflect that.

The amended bill will require ASIO to seek approval from the Attorney-General before a special intelligence operation would commence or vary in its tasks or goals. Special intelligence operations will be restricted to a six-month period and only extend beyond that time if the Attorney-General approves this. Government employees conducting special intelligence operations will receive the exemptions from committed offences and civil liability. They will not be exempt if their actions cause death or serious injury to any person, or their actions involve sexual offences or their actions result in significant loss or damage to property. Over the past few days Senator Brandis has also added the offence of torture to this list. Again, this legislation is not unusual and, in fact, closely mimics the same legislation given to the federal and state police to use in the collection of evidence in undercover operations on crime.

Schedule (3) of the bill also makes it a criminal offence to disclose information about a special intelligence operation that would endanger the health and safety of the staff working on it or which would endanger the effectiveness of the operation. When the Senate committee reviewed the bill, it was concerned that the offences for disclosing information about special intelligence operations would prevent disclosure of relevant information by persons in some legitimate circumstances. For example, whistleblowers, including undercover ASIO operatives, who have seen something that they knew was wrong and wanted to report it to their agency, or to the oversight agency or to the Attorney-General.

The committee recommended that the bill be changed to allow disclosure about special intelligence operations in certain instances, including: disclosure of information for the purpose of obtaining legal advice; disclosure of information by any person in the course of inspections by the Inspector-General of Intelligence and Security, the regulator of ASIO or oversight agency, or as part of a complaint to the Inspector-General of Intelligence and Security or other proactive disclosure made to the Inspector-General of Intelligence and Security; or communication of information by Inspector-General of Intelligence and Security staff to the Inspector-General of Intelligence and Security or other staff within the office of the Inspector-General of Intelligence and Security in the course of their duties.

Whilst I acknowledge this would allow whistleblowers to raise concerns with ASIO’s regulator if powers were being abused under special intelligence operations, I wonder what would happen if the Inspector-General of Intelligence and Security failed to act on those disclosures. That could happen. It has happened in other states in this country—Queensland, being one, has learnt this through royal commissions. To overcome the possibility of that happening and preventing accountability, the legislation in Queensland states that if whistleblowers report their concerns to an authorised agency and that agency fails to act within six months of the disclosure then the whistleblowers may take their concerns to a member of parliament.
In closing, it is important to note this point: we would not be in this position, where there are armed guards on high alert patrolling our national parliament and where we are debating legislation that undermines personal rights and freedoms, if we had cracked down and taken a harder line with the enemy we face today—the sharia law extremists of 10 years ago. We would not be worried about beheadings and acts of gross violence from sharia extremists if the politicians of the past had cleaned up our own backyard of sharia supporters.

On that note, I am very disappointed by the latest public comments of Mr Keysar Trad, spokesman for the Islamic Friendship Association of Australia, who attacked my views on sharia law. He is not being very friendly or honest. Mr Trad must stop playing the victim and become more truthful with the Australian people. This latest war with extremists and their threat to Australia is not about any religion. It is all about support for a law, and that law is sharia law.

Everyone knows that our enemies support Sharia law. Everyone knows that the people who are planning to cause mass killings and beheadings of innocents in Australia and to commit terror attacks want Sharia law imposed on our country and, indeed, on the rest of the world. So, right now, the question every Australian must ask is: do I support or sympathise with Sharia law? If the answer is yes then those people, as I have already said in the past, should get out of Australia, because you clearly have divided loyalties and you breach section 44 of our Constitution. You cannot support or offer sympathy for Sharia law in any way, formally or informally, because part of the official deal of living in Australia and being a citizen is that you have undivided loyalties. Our Constitution is clear, Australian citizens must exclusively support only one law and Constitution, and that is Australian law and the Australian Constitution.

In the middle of war and during a high national security threat it is time that our law and our Constitution were obeyed by all. You either reject all laws other than Australian law, or you lose all rights as an Australian citizen. If you want to express support for Sharia law, then do not play the victim, or attack my right to free speech, or try to intimidate me. Just get out of Australia and leave us in peace. My message for Mr Trad and other Sharia law supporters is simple: if you want Sharia law so much, if you want to defend it, then go and live in a country that has Sharia law. There are plenty to choose from. Australia does not have Sharia law and never will. Good luck; now get out.

I support the bill before the parliament and urge senators to support the Palmer United amendments to increase penalties for those found guilty of disclosing the identities of ASIO and ASIS agents. I thank all the public servants who are placing their lives on the line to protect ours.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (10:31): May I begin by thanking all honourable senators for their contributions to this debate. This is quite a historic debate. The Australian Security Intelligence Organisation has served Australians well and has kept our country safe for 65 years since it was inaugurated during the last year of the Chifley government, in March 1949. The powers and functions of ASIO were the subject of comprehensive review by Justice Hope in the Hope report of 1977, on the basis of which the current ASIO Act was drawn. The amendments, which the government brings to the Senate today, are the most significant set of amendments to the ASIO Act and to the powers and
functions of ASIO since the time of the Hope report. So this, as I say, is a debate of some historical significance.

Not all of the subject matter of the bill is directed to ASIO. There are amendments as well to the statutes governing other national security intelligence organisations, in particular, the Australian Secret Intelligence Service and others, and there are many consequential amendments. However, I think it is fair to say that, far and away, the most important of the amendments in the bill are the amendments to the powers and functions of ASIO.

ASIO, as I said a moment ago, has served our country well and has kept our people safe for 65 years since the time the first Director General of ASIO, Sir Geoffrey Reed, was appointed by the Chifley government. It is very timely, therefore, that this debate comes at a time when we have just appointed a new Director General of ASIO, Duncan Lewis, a former distinguished commander of Australia’s Special Forces and secretary of the Department of Defence, who commenced his role on Monday of last week.

The bill before us is the fruit of long, bipartisan cooperation. I want to thank the Australian Labor Party for their support and their significant role in the shaping of these measures. I also want to acknowledge and thank other minor party and crossbench senators who have indicated their support for these reforms, in particular, the Palmer United Party and Senator Xenophon, who have already spoken today.

The history of this legislation arises from a reference to the Parliamentary Joint Committee on Intelligence and Security by Attorney-General Roxon during the life of the last parliament to undertake a comprehensive review of Australia’s national security legislation. One of the topics that the PJCIS report examined was the powers of the agencies including, in particular, the powers of ASIO, and 22 recommendations were made in chapter 4 of that report in relation to ASIO powers. This bill adopts 21 of those 22 recommendations.

During the 43rd Parliament, I sat on that committee, and I want to take the opportunity to pay tribute, in particular, to Mr Anthony Byrne who chaired the committee during its hearings and who conducted a very, very comprehensive and important inquiry in a spirit of immaculate bipartisanship and professionalism. I want to thank all the other members of the committee as well. The fact that the committee was able to produce a bipartisan report should of itself provide reassurance to those who may be sceptical of this legislation, but it commands the endorsement of the Australian political mainstream. It commands the endorsement of both sides of politics and of successive Labor and coalition governments.

It fell to me as the incoming Attorney-General to deal with the recommendations of the PJCIS report and, as I have said, the government decided to adopt 21 of the 22 recommendations in relation to the powers of the agencies.

When the bill was prepared—and, as you know, Mr Acting Deputy President, I introduced it into the Senate in the last sitting week before the winter recess—it was referred again to the PJCIS and, with the change of government, there was a change of the chairmanship of the committee. It is now chaired under the admirable leadership of my colleague Mr Dan Tehan, the member for Wannon. The PJCIS examined the bill and it came back with 17 further recommendations, six of which involve relatively minor legislative change. I am pleased to be able to tell you that the government was able to accept all of those 17 recommendations and
those recommendations which involve legislative change will be incorporated in the
government amendments, which I will move in the committee stage.

This has been an impressive example, if I may say so, of the parliament through its
committees working with the executive government and the agencies of the executive
government to reform our law in the national interest. It has been an impressive example of
the parties putting patriotism above partisanship and working together for the common good.
As I said before, it is very timely that this bill should be before the Senate for consideration at
this time. It is a lamentable fact but an unavoidable truth that Australia at the moment needs
the protection of its intelligence services perhaps as never before. Certainly, there has been no
time since the Cold War or perhaps even no time including the Cold War when the domestic
threat posed by those who would do us harm has been so immediate, so acute and so present
in the minds of our people. Tragically, we saw that illustrated as recently as overnight in
Melbourne.

The approach that the government has taken to this legislation is to give the agencies the
powers they need to keep Australians safe. The protection of the public is the paramount duty
duty of government. Every duty, every obligation and function of government is secondary to the
paramount obligation to keep our people safe. However, because we are and must always
continue to be a free liberal democracy we must always be very careful in crafting our laws to
keep our people safe, to ensure that we do not overreach and that the powers that are entrusted
to our security agencies are subject to rigorous oversight. That has been the philosophy that
we have brought to this legislation, to give the agencies strong powers and to subject those
powers to strong safeguards and strong oversight mechanisms.

I have listened with respect to the contributions of those who criticise this bill. I listened
with respect, in particular, to the contributions of Senator Leyonhjelm and Senator Xenophon.
I want to thank Senator Leyonhjelm and Senator Xenophon for making themselves available
to speak to me and my staff so that we could consult them on the bill. Senator Xenophon has
indicated his support for the bill, subject to one reservation which, if I may, I will deal with in
the committee stage.

Senator Leyonhjelm has indicated his opposition to the bill. It disappoints me that that is
the position you have taken, Senator, but I understand and respect your philosophical
approach. I understand and respect the fact that you believe that the power of government
should be used sparingly, if at all, in a free society. If I may presume to paraphrase your
political philosophy in a sentence that, I think, is it. But may I remind you, Senator
Leyonhjelm, that freedom is not a given. A free society is not the usual experience of
mankind. Freedom must be secured and particularly at a time when those who would destroy
our freedoms are active, blatant and among us. It is all the more important that our freedoms
be secured by those with the capacity and the necessary powers to keep us safe. I want to
reassure you, Senator Leyonhjelm, that the powers that are invested in the agencies by this
bill are a proportionate, a judicious and a limited response to the threats we face, and I want to
extend that assurance to all members of the Australian public.

I thought, if I may say so, my colleague Senator Lazarus put it very well in the contribution
he made a few moments ago when he said, 'I love this country, I love our way of life and I
love our freedoms.' Every man and woman in this chamber would share those noble
sentiments of Senator Lazarus, but most of us also accept that to protect and secure those
freedoms it is necessary to empower the agencies of government to protect us from those who would shred them.

I wonder if I might deal with the particular issues that have been foreshadowed, by way of amendment, by the Greens, by Senator Leyonhjelm and by Senator Xenophon for the committee stage debate. Let me conclude by once again thanking the Labor Party for its bipartisan contribution to this debate. Let me in particular thank the successive chairs of the PJCIS Mr Anthony Byrne and Mr Dan Tehan and the members of that committee for their outstanding work. Let me acknowledge and pay tribute to the recently retired Director-General of ASIO, Mr David Irvine, largely on whose watch this legislation was prepared and among whose legacies to the organisation this legislation will be; and the officers of the Attorney-General's Department, led by Jamie Lowe, who have, at a departmental level, made such a significant contribution to its preparation. Let me end where I began: this government will do what is necessary to keep Australia safe and we will do so in such a manner as will keep Australia free.

Senator LUDLAM (Western Australia) (10:47): Mr Acting Deputy President, before you put the question to a vote, I seek leave to make a short statement.

The ACTING DEPUTY PRESIDENT (Senator Back): Leave is granted for one minute.

Senator LUDLAM: I thank the chamber. I just want to put some notes on the record because Senator Xenophon had not moved this second reading amendment at the time I made my contribution earlier in the debate.

The Australian Greens will support Senator Xenophon's amendment because he is obviously seeking to establish an oversight structure that does not exist in Australia at this time. We support it with some reluctance, obviously, as citing the Foreign Intelligence Surveillance Court in the United States, which is effectively a court that operates entirely in secret, is not a particularly good template or model for independent oversight of intelligence agencies. But, nonetheless, we understand Senator Xenophon's intention and that it is simply one example of an entity that is cited and the Australian Greens would support the intention of the amendment, even if we do not believe that the FISC necessarily provides the best working model for open, public oversight, which we do agree that Australia needs.

The ACTING DEPUTY PRESIDENT: The question is that the second reading amendment moved by Senator Xenophon be agreed to.

The Senate divided. [10:53]

(The Acting Deputy President—Senator Back)

Ayes .......................... 14
Noes .......................... 41
Majority...................... 27

AYES

Day, R.J.
Hanson-Young, SC
Ludlam, S
Milne, C
Rice, J
Waters, LJ

Di Natale, R
Leyonhjelm, DE
Madigan, JJ
Rhiannon, L
Siewert, R (teller)
Whish-Wilson, PS

CHAMBER
Question negatived.
Original question agreed to.
Bill read a second time.

**In Committee**

Bill—by leave—taken as a whole.

**The CHAIRMAN** (10:57): The question is that the bill stand as printed.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (10:57): I table two supplementary explanatory memoranda relating to the government amendments to be moved to this bill. I also table a replacement explanatory memorandum relating to the bill.

**Senator LUDLAM** (Western Australia) (10:58): Senator Brandis, in your closing remarks you mentioned quite correctly that this bill originated from the Parliamentary Joint Committee on Intelligence and Security report, of which committee you were a member, and you were a signatory to the recommendations that were put forward. One of the recommendations, I believe recommendation 41, was that the bill should firstly be put into the public domain as an exposure draft, which obviously was not done, but also that the views of the national security legislation monitor should be sought.

Australia's oversight of these intrusive and, in some instances, quite coercive powers has effectively three limbs: the Parliamentary Joint Committee on Intelligence and Security, the
Inspector-General of Intelligence and Security and, I would argue, the national security legislation monitor—not so much concerned with operational oversight as with the policy architecture that governs how these agencies operate. As to the national security legislation monitor, the government sought to abolish that office as part of some kind of red-tape initiative. Later there was an agreement, I understand, to restore the operations of that office. Why does it currently not exist? And why has the government not sought the views of a reinstated national security legislation monitor—as, Senator Brandis, you signed to? It was a recommendation that I thought had merit. Why does that office not exist? When will you instate such an office?

Do you believe in its importance? Why was this bill not subjected to having his or her views sought, as you recommended last year?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (10:59): The criticism that appears to come from Senator Ludlam is that this bill has not had sufficient scrutiny. That criticism could not be more misconceived. The bill was first introduced by me on 16 July. It has been in the public domain and the subject of much public discussion since that time. It has been back to the Parliamentary Joint Committee on Intelligence and Security since then which has reviewed it and, as I said in my second closing speech, it has been the subject of 17 recommendations by that committee, all of which have been accepted by the government.

The process and genesis of this bill, as I explained in my second reading speech, is a process that has been in train for more than two years. These recommendations, along with many others which will be the subject of other legislation brought forward by the government, were the subject of the most exhaustive review by the PJCIS during the life of the 43rd Parliament. So it could not be possibly maintained that these provisions, the provisions that command the support of the entirety of the political mainstream in this country, have not had exhaustive deliberation and extensive opportunities for public scrutiny. Indeed, the report of the inquiry on the basis of which these bills have been drafted was tabled by Mr Byrne as long ago as June 2013, so the recommendations have been in the public domain for much longer than a year. So the suggestion that these proposals have not had the benefit of exhaustive public discussion is a piece of arrant nonsense.

Senator Ludlam asked about the Independent National Security Legislation Monitor. Might I inform the senator, because he seems to be unaware of the fact, that the proposal for an Independent National Security Legislation Monitor came from the Liberal Party. Specifically, it came from the former member for Kooyong, Mr Petro Georgiou, during the life of the 42nd Parliament. It was proposed in this place by my friend and former colleague Senator Judith Troeth, and was seconded by me. So I do not need to be informed by you, Senator Ludlam, about the wisdom of having an Independent National Security Legislation Monitor.

That was opposed by the Labor government at the time, the first Rudd government. However, with the passage of time, that unhappy government saw the wisdom of what Mr Georgiou and former Senator Troeth and I were proposing. They changed their position from one of opposition to one of support and the Independent National Security Legislation Monitor was created with the Liberal Party and the National Party's support.
Earlier this year, the government considered whether an efficiency could be made by abolishing that office. But, in view of the fact that we knew that extensive new legislation governing national security was going to be introduced during the course of 2014, we decided not to proceed with that idea. So the office was retained. Senator Ludlam asked when the office will be reinstated. The office exists. Mr Walker, who had been appointed by the previous government to occupy that office, served his term. His term expired and the government is currently considering the replacement of Mr Walker as the Independent National Security Legislation Monitor.

Lastly, might I point out to you, Senator Ludlam, that the role of the Independent National Security Legislation Monitor is to oversee the operation of legislation and to advise government on the suitability of that legislation in the light of the manner in which it operates. This legislation, obviously, is legislation yet to be enacted; therefore, the need for the particular contribution of the Independent National Security Legislation Monitor has not arisen. But I can assure Senator Ludlam that when Mr Walker's replacement is named, that man or woman will be a person who will be in a good position to advise future governments on the efficacy of this legislation.

Senator LUDLAM (Western Australia) (11:05): Senator Brandis, the potted history actually is useful in the context of people who might be discovering this issue for the first time. And you probably will not appreciate being reminded of the last time, I suspect, that you would have supported an amendment that I put into this place. It was to create greater transparency in the operations of the office and to keep it at arms-length from the Prime Minister's office. Support for that amendment I appreciate to this day. So I think it probably is useful to put that historical perspective because we were obviously a part and we were advocating very strenuously for the former government to put this office into the field. But if what you just told us is correct then why did you sign a recommendation last year, recommendation 41, proposing that the monitor review this draft bill?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:06): I see no need to add to anything I have already said in response. It cannot be maintained that this bill has suffered from an insufficiency of scrutiny at many levels. Senator Ludlam, I wonder whether you might get on with Greens amendment (1), which is in relation to ASIO's warrant based computer access powers.

Senator LUDLAM (Western Australia) (11:07): Senator Brandis, you have been here longer than I have. You are very well aware that we are able to take time to ask general questions about the operation of the bill. I will move to that amendment when I am ready. Thank you for your advice.

I might put a couple of other general questions to you before we do start moving through the amendments. I wonder whether you might care to address a fairly general question about the operation of the SIOs because I think these special intelligence operations are really at the heart of what this bill implements. Would you care to comment on the Law Council's submission to the PJCIS that this bill should not pass in its current form? I think that calling it scepticism is currently underplaying it somewhat. There are those in the legal fraternity, of which you were obviously a part for a very long time, who believe that this bill does overstep the mark, that it is an overreaction, that it is overreach and that we are taking agencies who
already operate at arm’s length from any form of parliamentary scrutiny and further shrouding their operations behind a veil of secrecy. Obviously, that is a perspective that the Greens share, but I wonder if you would care to reflect on the fact that the Law Council, who you would not exactly phrase as radicals in this area also share that view?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:08): The Law Council of Australia, with which I am very familiar, and whose current president, Mr Colbran, is a personal friend of mine, encompasses all the lawyers in Australia, of whom there are tens of thousands. As you would expect, among tens of thousands of people one would expect a wide variety of views. There are some among those tens of thousands who disagree with the special intelligence operation. There are many who would agree with it. But the government does not agree with the view expressed by the Law Council.

Senator XENOPHON (South Australia) (11:09): In relation to the most recent question and answer about the Law Council of Australia's submission: what does the Attorney-General say about the broad concerns that there are not adequate safeguards? For instance, in terms of the unauthorised disclosure: as I said in my second reading contribution, I acknowledge the need for secrecy. I acknowledge the importance of not disclosing the identity of an officer or associates of an operative because it would put their lives at risk. But for the penalty going from two years to five years for disclosing a special intelligence operation—under the current legislative regime it has been a two-year penalty for disclosure; a five-year penalty is a significant jump. Ten years in terms of putting others at risk, I can understand the rationale for that, but in terms of the general disclosure provisions, I do have a concern about them being without any safeguard of a public interest test or a public interest factor in respect of mitigation.

I would be grateful if the Attorney-General could either address it now in this general area of questioning or when the particular provisions are being considered. For instance, the Law Council considered that ASIO officers should be required to seek a new warrant in every instance where there is a significant change in circumstances:

…which could include a change in the premises subject to a search warrant (noting that a change in premises from a person’s home to a large workplace could have broad privacy implications), the identity of a person subject to a listening device or tracking device, or the range of activities needed to be authorised to execute a warrant.

The Law Council of Australia is not known for its radicalism. I think it has taken a prudent and cautious approach to this, with the balance of keeping Australians safe. I would be grateful if the Attorney-General could either address that particular concern now or in the context of the specific clauses when we deal with them.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:11): I do not know why you say the Law Council is not known for the radicalism its views. I find some of its views—not all of them, but some of them—of a—

Senator XENOPHON (South Australia) (11:16): It is all relative.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:16): Indeed, it is relative—very alarming, in any event.
You asked me what particular safeguards there are in relation to the offence of the disclosure of the identity of an officer of ASIO. This is governed by section 92 of the ASIO Act. Before I come directly to your question, might I point out that there are very good and sound reasons why there should be a prohibition on doing so. To identify an officer who may, for example, as part of their daily work engage in covert operations with dangerous people, could very easily place their life at risk. The work that ASIO does is, in many of its aspects, very dangerous work. To put into the public arena the identity of a man or woman engaged in a covert operation among, let us say, dangerous people could, as you can readily imagine, put their life at risk. So there are very sound policy reasons why there should be such a prohibition.

You asked me particularly what special protections there are. I can tell you there are two particular protections and then there are some more general protections. Section 92 of the ASIO Act is not excluded from the whistleblower regime. If a person who is a bona fides whistleblower reports a matter through the process established by the whistleblower regime, they do not find themselves in breach of section 92 of the ASIO Act. That is not a public declaration, of course, that is a private complaint. As you know, because I know you are very well informed about the whistleblower regime, in the first instance, a person who has a bona fides issue and wants to avail themselves of the protections of the whistleblower regime is able to do so without falling foul of section 92 of the ASIO Act.

Secondly, Senator Xenophon, there is another, very particular, protection in the existing section 92. That is subsection 92(3), which provides:

A prosecution for an offence against this section shall be instituted only by or with the consent of the Attorney-General.

I think you are aware that there is a small number of criminal offences in Commonwealth criminal law which, beyond the orthodox manner in which prosecutions are instituted by the Commonwealth director of prosecutions—on top of that—require the consent of the Attorney in his capacity as the first law officer of the Commonwealth. That is a super-added protection specifically in relation to this provision. The fact that the parliament has put that super-added protection there should indicate to you that the point you make—that prosecutions of this kind are a little unusual and do merit an additional layer of scrutiny and discretion—has already been accommodated by the existing act.

As well, there are multiple layers of executive and legislative oversight in relation to the exercise of powers under the ASIO Act already. Those levels of oversight and scrutiny have been increased, not decreased, by the legislation before the chamber today.

Senator XENOPHON (South Australia) (11:16): I am grateful to the Attorney for his answer. I said this in my speech in the second reading debate and I will say it again: I want to make it absolutely clear that I understand the grave danger that an ASIO officer or an ASIS officer is placed in if they are involved in a covert operation and their cover is blown. I understand that. That is why I am generally supportive of a significant penalty for disclosing that person's identity.

But, if we are talking about the specific instance that I referred to in my contribution in the second reading debate, in respect of witness K—and I understand it is a matter before the courts—if there is no question of the security officer's identity being involved, if the covert operation is already over and done with, and there may be some compelling public interest
reasons to disclose, I think that ought to be taken into consideration, in the context of penalties.

I do not want to verbal one of the Attorney's very fine advisers, who have been very helpful in this whole process. I want to congratulate the Attorney on the quality of his advisers and the advice that they have given. But there is a concern about whether, in the case of witness K, the disclosure of information is in the public interest. This is a real-life example currently before the courts; the circumstances relate to allegations of the bugging of the East Timor cabinet room and the implications for East Timor in relation to a treaty negotiation. I am of the view it is in the public interest; presumably, the Attorney would say it is not.

But there would be many people of good faith who are concerned about security who would think that it is not an unreasonable thing to disclose why that person should be subject to a much more significant level of penalty and why there should not be consideration of the penalty or the prosecution of that person. That would be distinct from someone who is a spy for another country, putting the lives of Australians at risk. That person would be a traitor to this nation—in other words, someone with a commercial consideration, receiving money to disclose information to another government. That is very different from a situation where an intelligence officer or someone disclosed information about something that may be dubious or unethical or illegal. That is the context.

I want the Attorney to please understand that I do not want to put the lives of our security officers at risk in covert operations. I understand fully the imperatives in ensuring that they are not at risk. As I said earlier, disclosing their identity if they are operating in a covert operation, with some pretty evil people, is effectively signing their death warrant. I do not want that to occur. There should be clear legislative sanctions against that. The case of witness K is quite different I think.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:19): Senator Xenophon, as you say, the witness K matter is before the courts so of course you would not expect me to comment on it, and I will not. Secondly, in a sense, you have already answered your own question by indicating that there is a variety of circumstances, a gradation of seriousness, of the kind of conduct which could constitute an offence against the existing provision, section 92.

That is what courts do in sentencing offenders. They do not need legislative direction to do so. They take into account all the facts of the particular offence. If a person has committed a crime, then obviously the circumstances in which the crime was committed and the circumstances of either severity or mitigation will always be, as a matter of the orthodox application of the principles of criminal sentencing, taken into account by the judge. So the sentiment you have expressed, if I may say so, is correct, but I do not think you give sufficient credit to the capacity of judges, uninstructed by provisions of the kind that you propound, to take those considerations into account in arriving at sentencing decisions.

Lastly, I should not sit down without acknowledging and thanking you for your complimentary remarks about my staff. I think it was Mr Justin Bassi here that you dealt with. I have the immense good fortune to have as my advisers some of the most talented men and women in the service of the Commonwealth of Australia.
Senator XENOPHON (South Australia) (11:21): Without embarrassing Mr Bassi, I can say that you do have some pretty good staff and advisers working with you.

You mentioned that there is a provision for an ASIO officer to be a whistleblower. There is a mechanism there; they are not exempt from provisions of the whistleblower act. I take it—and a nod from the Attorney would be sufficient—that also applies to ASIS officers as well?

Senator Brandis: Yes, it does.

Senator XENOPHON: I do not want to hold up this part of the committee stage. I do have serious concerns about some aspects of the increased penalties in this legislation. I take the Attorney’s point about the general judicial discretion in determining penalties, in determining a sentence, for instance. But I think sometimes having something drawn to the attention of the judiciary—as is done quite often particularly by state governments on so-called law and order matters—and directing the judiciary to certain matters that should be of particular emphasis or importance, particularly in respect of the public interest in such matters, would be a good thing and would be an added safeguard. Depending on how the committee stage goes, I hope that the government can at least seriously consider that particular amendment.

The logical extension of what the Attorney is saying is that if the court already has the discretion to take these matters into account then what harm is done if we elevate that concern about public interest within the legislation? It is a remark I address also to the opposition—if they are so minded to look at that. All I ask is that it be considered in the course of this debate because I think it would provide some comfort to those who were concerned about any overreach in these matters. Having said that, I am grateful for the Attorney’s answers.

Finally, notwithstanding that the Witness K matter is before the court, I think we can safely discuss circumstances similar to Witness K or a similar hypothetical example in the context of considering how this law would apply in increased penalties and in disclosure. I will not take it any further than that at this stage. Witness K is a real-life example. Whilst we cannot comment on what the court will do, we can, I think, comment on allegations and the sets of circumstances that may present themselves again at some time in the future in respect of some of these operational matters.

The TEMPORARY CHAIRMAN (Senator Whish-Wilson): Senator Ludlam, do you seek to move amendments (1) and (2) on sheet 7570 together?

Senator LUDLAM (Western Australia) (11:24): No. I have a question for Senator Brandis regarding the Standing Committee for the Scrutiny of Bills report, the Alert Digest. I presume you have seen it, Senator Brandis. It is No. 11, dated 3 September 2014. Have you or your department provided a response to that committee?

Senator Brandis: Yes.

Senator LUDLAM: Senator Brandis, would you care to provide that document to the Senate so that we can assess it?

Senator Brandis: It is a public document.

Senator LUDLAM: I am not in possession of that but I have got the scrutiny of bills committee document in front of me. I am going to put a couple of questions to you, Senator Brandis, based on the issues that they have put into the field. It seems the committee have
identified some grave misgivings about the way that the bill operates. I will go to one specific issue, which I think is the third or fourth one that they raise, around delegation.

Item 1 of schedule 1 of the bill inserts a definition of ASIO affiliate into the act that effectively allows ASIO to delegate an extraordinary array of powers to somebody who is not an employee of ASIO. I just wonder, Minister, if you could give us the benefits of your wisdom on the degree to which ASIO is currently able to delegate any or all of its powers to third parties who may not be an employee of the organisation. Does this power exist at the moment? Is it something that is completely new?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:26): Senator Ludlam, I am looking at the proposed definition of ASIO affiliate. You said 'delegate' but the term actually is 'ASIO affiliate'. It does not strike me as being particularly unusual or inappropriately extensive.

Senator LUDLAM (Western Australia) (11:27): Thank you, Senator Brandis, for that response. No, I am using the word 'delegate' in terms of the fact that ASIO is able to delegate its powers, apparently a very wide range of powers, to an affiliate that is newly defined in schedule 1, item 61. My question is about the degree to which ASIO is already empowered to delegate its responsibilities or its authorities to third parties or whether this is a completely new power. What it looks like to me, and the way the scrutiny of bills committee has identified it, is it will extend to these ASIO affiliates an extraordinary range of intrusive and coercive powers. What I am trying to do before I get to the substance of the way that this amendment will operate is get a sense of the status quo that prevails at the moment as far as delegating ASIO's powers away.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:27): Whoever wrote that reportedly Senate scrutiny of bills committee report was not much of a lawyer, I am bound to say. The delegation power is in section 16 of the act. It says:

The Director-General may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Director-General, delegate to an officer of the Organisation all or any of the powers of the Director-General that relate to the management of the staff of the Organisation or the financial management of the Organisation.

And there are some consequential subsections.

The provision which concerns you, the definition of ASIO affiliate in item 1 of schedule 1, plainly does not include officers of ASIO and, therefore, nobody comprehended by that definition would be a person to whom the power of delegation under section 16 of the act would be exercisable.

Senator LUDLAM (Western Australia) (11:29): For the benefit of the non-lawyers among us, I will just try to paraphrase that in plain English and then you can tell me whether or not I have got it correct. The delegation powers that exist in the ASIO Act at the moment allow delegations within the organisation of various powers on the signatory of the Director-General. And this new item 1, schedule 1 allows those powers to be delegated to persons outside of the ASIO organisation. Could you please let me know whether my apprehension is correct.
Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:29): Senator Ludlam, I have read to you the delegation power in section 16 which deals with officers of the organisation. I really don't know that I can take it much beyond that.

Senator LUDLAM (Western Australia) (11:29): Under these new amendments and item 1, schedule 1, ASIO affiliate in particular, could ASIO delegate its powers to, for example, an officer of a foreign intelligence agency?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:30): Not unless that person was an officer.

Senator LUDLAM (Western Australia) (11:30): So that person would have to be an officer of ASIO already for item 1 of schedule 1 to apply?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:30): That is what it says, Senator.

Senator LUDLAM (Western Australia) (11:30): So are you able to confidently allay my concerns—and evidently the concerns of the Scrutiny of Bills Committee—that these authorities are still only delegable to people who are officers of ASIO? My reading and my reading of the concerns that have been put by the Scrutiny of Bills Committee is that the categories of persons who can have these powers delegated to them is extremely broad. I wonder, Minister, if you might then explain to us what exactly the change is, because I do not understand exactly how this is drafted in that case? What is the material change: if the delegation power still only includes people who are ASIO officers then what exactly is being changed here?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:31): What has been changed is the insertion of a definition of ASIO affiliate, Senator.

Senator LUDLAM (Western Australia) (11:31): But the ASIO affiliate is already an officer of ASIO, so they are under the existing drafting of the act—is that correct?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:31): I have read you what section 16, which is the delegation power, says. You are familiar with and you are addressing the new definition of ASIO affiliate. These definitions and these words, I think, are reasonably clear on their face.

Senator LUDLAM (Western Australia) (11:32): Senator Brandis, could the definition of an officer of ASIO encompass somebody who worked for a foreign intelligence agency? How would they be an officer of ASIO? Would they have to be employed in the paid employ of ASIO?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:32): No. As I understand it, an officer of a foreign intelligence agency is not someone to whom the powers of the Director-General could be delegated under section 16 of the act.
Senator LUDLAM (Western Australia) (11:32): So you could confirm for us that this amendment that we are debating today makes no material change to the way that ASIO's powers to delegate to people are interpreted?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:33): I do not really have anything to add to my answers to your question. The power to delegate, which is a power exercisable by the Director-General, is a power to delegate to officers of ASIO—that is what section 16 says.

Senator XENOPHON (South Australia) (11:33): On the same line of questioning, if I could just make brief reference to the Senate Standing Committee for the Scrutiny of bills, the Alert Digest No. 11 2014 of 3 September 2014. The committee states that:

The committee’s consideration of the new provision—that relates to the delegation—would likely be assisted examples of the sorts of delegations that would be appropriately authorised by the proposed new power of delegation, but are not possible under the terms of the existing provision.

I wonder if the Attorney is able to assist us, as the Scrutiny of Bills Committee set out, whether it may be of assistance to this committee to understand the types of delegations that would be authorised now under this provision as distinct from the sorts of authorisations that were available previously.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:34): Largely, I understand, I am informed in relation to management.

Senator XENOPHON (South Australia) (11:34): Is the Attorney saying that these relate to management issues as distinct from operational issues?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:35): The two categories identified by the bill, though not defined, are management and financial management.

Senator XENOPHON (South Australia) (11:35): Is the Attorney saying that these relate to management issues as distinct from operational issues?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:35): Yes, I am. The provision does not extend to any of the Director-General's functions and powers under the ASIO Act. It only deals with powers relating to management or financial management, so let me be very clear—I think there is some confusion here, if I may say so—there is no capacity under this provision to delegate operational powers.

Senator LUDLAM (Western Australia) (11:36): Page 11 of the Alert Digest that I have been referring to notes that:
This provision has the effect of extending to ‘ASIO affiliates’ an exception from the prohibition on the interception of a communication passing over a telecommunications system.

Have they just got it completely wrong? I would have thought that would relate to an operational issue rather than a management or financial one?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:37): As you could readily appreciate, ASIO, like any government agency, on occasion employs contractors to perform tasks including technical tasks. That is what the ASIO affiliates definition is intended to comprehend. To enter into an arrangement to enable a contractor to perform a task, including a technical task, is not to delegate to them an operational power.

Senator LUDLAM (Western Australia) (11:37): But that would be a technical task up to and including wire-tapping, for example.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:37): I am not going to speculate on the range of activities which might be the subject of contracts, but I have given an unequivocal answer to Senator Xenophon’s question of whether or not the power of delegation exists in relation to operational matters. The answer to that question is no.

Senator LUDLAM (Western Australia) (11:38): But then, Minister, as soon as I got specific you suddenly did begin equivocating.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:38): No, I am not. I have given you an unequivocal response, Senator. There is no capacity to delegate operational powers.

Senator LUDLAM (Western Australia) (11:38): As it stands at the moment, I wonder whether you are prepared to directly contradict or express that the Scrutiny of Bills Committee simply got it wrong when they said the provision has the effect of extending to ASIO affiliates—such as contractors and subcontractors, which you have identified would also need to be ASIO officers, and I do not quite understand how that would then apply to contractors or their subcontractors. We will come back to that in a moment—an exception from the prohibition on the interception of a communication passing over a telecommunications system. Would you define that as an administrative task rather than an operational one? If you do, I might need to ask you: what is your definition of an operational activity? If it is the case that those who drafted the Alert Digest just have completely got it wrong, then I will let the issue rest, because I suspect there is plenty more that other senators want to ask. This seemed to me to be extremely important. A very broad range of people are potentially going to have powers delegated to them and there does not appear to be any circumscribing of the kinds of powers that can be delegated out, and it would appear, at least on the reading of this report, that that could include anything up to and including installing surveillance equipment or wire-taps. If, as I say, the committee simply got it wrong, I will not detain the chamber any further.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:40): I do not
know how many times I have to say this, Senator. That which may be delegated are powers of management, including financial management, not operational powers.

**Senator LUDLAM** (Western Australia) (11:40): This might have occurred while I was out of the room, but where in either the act or the amendment is that prescribed?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:40): By section 16.

**Senator LUDLAM** (Western Australia) (11:40): You said at the very outset of the comments that you made that, to have these powers delegated to them, the affiliate would need to also be an officer of ASIO—which is how you argued the fact that those powers could not then be delegated out to somebody who worked for a foreign intelligence agency, because they would need to be an officer of ASIO. Will all these contractors and subcontractors also need to be defined as officers of ASIO for the purposes of the operation of this amendment?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:41): No. The role of an affiliate—to give the example I gave you, a contractor—will be defined by the contract but there is no power to delegate operational powers to anyone other than an ASIO officer. A contractor is not an officer of an organisation.

**Senator LUDLAM** (Western Australia) (11:41): Senator Brandis, I will go back to the transcript, because I thought that when I asked you before who powers could be delegated to you were black and white. You repeated yourself a number of times that they could only be delegated to an officer of ASIO. Now you are saying that they could be delegated to a contractor or a subcontractor who is not an officer of ASIO. Just clarify for us exactly how this provision will operate, if you will.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:42): No operational function of ASIO may be delegated to anyone other than an officer of ASIO.

**Senator LUDLAM** (Western Australia) (11:42): Where, Minister, can I find a definition of 'operational' as distinct from the technical, the financial and the management?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:42): I do not think there is a definition in the act, Senator. I do not think there ever has been. I think the distinction between what we might broadly call administrative functions and operational functions of an intelligence or law enforcement agency is pretty readily appreciated and understood.

**Senator XENOPHON** (South Australia) (11:43): Could I go the Alert Digest No. 11 of 2014 that I referred to earlier from the Senate Standing Committee for the Scrutiny of Bills. At page 11, under the heading 'Undue trespass on personal rights and liberties—authorisation of a person to exercise significant power', it says:

ASIO affiliates may thus include a broad range of persons and it is unclear whether the exception should appropriately apply to them given their qualifications … and the nature of their ‘appointment’. The explanatory memorandum merely repeats the effect of the proposed amendment.
Can the Attorney indicate whether, for instance, if ASIO approaches an internet services provider as part of an operation and the ISP cooperates with ASIO in respect of that, does that mean that they would be an ASIO affiliate in those circumstances and therefore have certain protections in respect of that? Also, is the Attorney able to clarify the concern expressed by the Scrutiny of Bills Committee as to what the nature of the appointment would be and the protections afforded to affiliates? I think there was a concern raised by the committee in respect of that, saying that it is unclear whether the exception should appropriately apply to them, given their qualifications.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:44): Senator, I am reluctant to speculate on the way in which these provisions might operate in hypothetical cases. I cannot really do any more than to point out to you, as I have done a number of times now, that there are certain things that ASIO, like any organisation, does through contractors, and they are comprehended within the definition of 'affiliates'. But the delegation of powers is not capable of being made in relation to operational matters.

**Senator XENOPHON** (South Australia) (11:45): I am grateful to the Attorney for his response. I guess, reading between the lines of the *Alert Digest*—or one interpretation of it that can be reasonably made—is that, if there is an issue as to the nature of the appointment, that may lead to some liability or legal exposure for those affiliates. Of course, I think that is something that would not be desirable at all. If they are an affiliate, if they had been appointed to undertake a certain task, they would want to be sure that they have the privileges or the protections that go with that. My interpretation of the *Alert Digest* concerns is that there may be some gap that would leave those affiliates exposed to issues of legal liability.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:46): Senator, the answer to your question is that any affiliate—and the best example I can give you which I think is readily understandable is a contractor; somebody who is not an officer or an employee of the organisation but an external contractor performing a particular function—is bound by two things. They are bound by the law and they are bound by the terms of their contract. There is no general exemption from legal liability in relation to a contractor. If they were to be indemnified by the organisation, that indemnity against a public liability, for example—they cannot be indemnified against a breach of the law, of course—would have to be found in the terms of their contract.

**Senator XENOPHON** (South Australia) (11:47): I am grateful to the Attorney for his response. I will again refer to the *Alert Digest* of the Senate Standing Committee for the Scrutiny of Bills. I do so because one of the great things about the Australian Senate is that we do have these processes for thoroughly scrutinising legislation. The committee process and the way the Attorney is engaging in this committee process is a fine example of that.

Page 12 of the *Alert Digest* relates to enlarging the category of persons who may be authorised to exercise powers and extending authorisations to ASIO affiliates to receiving, communicating, using or recording foreign intelligence and also extending provisions to ASIO affiliates which permit the disclosure of information or documents to ASIO. That is just some of the examples given in the *Alert Digest* based on the legislation. The concern expressed by the committee was:
A key question for each of these instances is why is it appropriate to extend a range of powers, authorisations and exemptions to ASIO affiliates. This does not appear to be addressed in the explanatory memorandum other than to say it is 'consistent with operational requirements'. It seems to the committee that there is a real issue about what powers etc. might be appropriately be held by different classes of decision-makers, how appropriate qualifications will be determined and assessed and what safeguards will apply given that ASIO affiliates are not employees of the organisation.

I think they are reasonable questions by the committee. The Attorney has, in his previous answers, gone some way to explaining those, but I think it is an issue of concern. Insofar as the committee asserts that the explanatory memorandum does not address those issues, I would be grateful if the Attorney could address those issues now.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:49): The committee has speculated upon the application of provisions in a range of hypothetical cases. I am not going to do that; I am going to respond to your evident and perfectly proper concerns by reassuring you that there is no capacity to delegate operational matters. The Australian Security Intelligence Organisation, like any other government agency, deals with contractors and other external parties who fall within the definition of affiliates all the time. It could be in relation to something as innocuous as, for example, catering services. You understand that.

The terms of the relationship between the organisation and an external entity which falls within the definition of affiliate will be governed by the contract between the organisation and the affiliate and the nature of the obligations will be found in the terms of that contract. But the point I want to make to you, because it seems to be at the heart of your concerns, is that the operational roles of ASIO—for example, participating in a covert operation—are something that has to be done by officers of ASIO. The operational role is not capable of being delegated outside the organisation.

Senator XENOPHON (South Australia) (11:51): I query whether for the Attorney to categorise these as hypothetical matters is actually correct. The Alert Digest makes reference to six particular matters under six subheadings. The first is:

• item 62 enlarges the category of person who may be authorised to exercise powers conferred by Part 2-2 warrants;

That is not hypothetical. The second is:

• item 63 extends authorisation to intercept communications on behalf of ASIO;

Again, I do not think that is hypothetical, and I think the same could be said for:

• item 67 allows ASIO affiliates to communicate foreign intelligence information to another person.

• item 69 extends to affiliates an exception to an offence relating to accessing stored communications;

• items 70, 71 and 72 will extend authorisation to ASIO affiliates relating to receiving, communicating, using or recording foreign intelligence; and

• items 73 and 74 will extend provisions to ASIO affiliates which permit the disclosure of information or documents to ASIO.

I do not think that they are hypothetical matters. I appreciate the Attorney's candor in his answers to date, but it seems that these are matters where the committee raised issues of how qualifications will be determined and assessed and what safeguards will apply given that those ASIO affiliates are not employees of the organisation. To categorise them as
hypothetical matters is not fair. I think it is reasonable to say that the committee has identified a number of items where there are some additional powers. All I am trying to establish is how those additional powers will be dealt with and what safeguards will apply. The Attorney is quite right to say that this does not relate to operational matters, but can there sometimes be circumstances when a so-called management issue can flow into or intersect with an operational matter?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:53): The provisions to which you have referred, Senator, if I understand your question correctly, are amendments to the Telecommunications (Interception and Access) Act. Is that correct? You refer to item 62 and following of the bill. Those are amendments to the Telecommunications (Interception and Access) Act. Is that right?

**Senator Xenophon:** That's right.

**Senator BRANDIS:** The functions comprehended by those sections are not delegations of the Director-General's power. So, with respect, I think your question is based on a false premise, as I keep reminding you, Senator. There is to be found in the ASIO Act the power to delegate. The powers of ASIO are ultimately vested in the Director-General and in offices of ASIO. Merely to enter into an arrangement with an external entity, which would fall within the definition of an ASIO affiliate, is not to delegate a power. As I keep pointing out—I do not know how many times I have to say this—there is no capacity to delegate operational powers.

**Senator XENOPHON** (South Australia) (11:55): At the risk of exasperating the Attorney—and I am not intending to—there is a proposition in the *Alert Digest* that asks what safeguards will apply, given that ASIO affiliates are not employees of the organisation. If my questions are based on a false premise, they are based on the *Alert Digest* in front of me. That, I think, will help crystallise the question. In other words: what safeguards are there given that ASIO affiliates are not employees of the organisation? Is the Attorney saying—I am not trying to answer the question for the Attorney—that the premise of the *Alert Digest* of the Senate Standing Committee for the Scrutiny of Bills is mistaken in its approach to this particular legislation? If that is the case, I cannot take it any further. But, if he considers that there is an issue with respect to safeguards that needs to be at least addressed, then it would be useful to address it now.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:56): Senator Xenophon, I am relying on what you are quoting to me from this Senate *Alert Digest* which addresses what may be done under the Telecommunications (Interception and Access) Act. One of the agencies, as you know, which can avail itself of those powers in defined circumstances is ASIO. What ASIO may do, either by officers or by agents, including external third parties, is limited by the ASIO Act. What may be done under the Telecommunications (Interception and Access) Act limited by that act. So there is a double set of safeguards. There are safeguards in the ASIO Act that apply to any conduct by or on behalf of ASIO, and there are safeguards in the TIA Act that apply to any activity authorised under that act and anyone. You asked what safeguards there are. There are safeguards in the forms of limitations of what may be done by ASIO under its act and under the TIA Act.
Senator LUDLAM (Western Australia) (11:57): Senator Brandis, at the outset of this debate you informed us that your or your office's or the department's response to the scrutiny committee was a public document. Could you seek advice as to whether that is correct? My understanding is that it has, in fact, not been published. It is still a draft and it will not be available until later this afternoon. Could you just seek advice and then inform us as to whether that document does, in fact, exist?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:58): It is a public document. I am told it is being tabled during the course of the day.

Senator LUDLAM (Western Australia) (11:58): It is a document that is not yet in the public domain. You did inform us before that we would be able to see it, that it is a public document. I took that to mean, in plain English, that it is something we would be able to access. When will the chamber actually be able to avail itself of this so-called public document?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:58): Of course it is a public document. If it is a document that is published, it is a public document.

Senator Ludlam: You haven't published it.

Senator BRANDIS: But, Senator, it is not being withheld from publication. It will be published, as these things always are, in the ordinary course of the Senate's business. I am not the author of the Senate standing orders. This is a category of document that is always put into the public domain and this document will also be put into the public domain at the normal time.

Senator LUDLAM (Western Australia) (11:59): Senator Brandis, were you to seek leave to table this document so we could avail ourselves of it now, I am sure leave would be forthcoming. Could you just seek some advice as to whether you are able to actually put that document into the field now? If the clerks disagree, we will let that go, but this is something that is directly relevant the operation of the bill that we are debating now.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:59): Senator Ludlam, we have been debating this bill since half past nine. As I say, I am not the author of the standing orders. What I want to do is get on with the debate. You have yet to move your first amendment. This bill has been in committee now for about an hour and a half. I would ask you to move your first amendment.

Senator LUDLAM (Western Australia) (12:00): Senator Brandis, I will take as long as I need, as will other crossbench senators and presumably government senators, to establish how this bill will actually operate in practice. Thank you, again, for your advice on how to conduct the debate but it is not required. The Alert Digest contains another issue on page 12 under the heading, Insufficiently defined administrative power—exercise of authority under warrant conferred upon a person or class of persons, and states:

Proposed subsection 24(2) would enable the Director-General (or her or his delegate) to approve a class of persons as people authorised to exercise the authority conferred by relevant warrants or relevant device recovery provisions.
Senator Brandis, can you explain for us how the execution of various warrants under the ASIO Act, which, as the committee points out, involves the exercise or may involve the exercise of significant coercive powers, and whether you consider that to be an operational matter? Again, I think those who drafted the Alert Digest are putting to us that the exercise of authority that has been delegated to various people is extraordinarily wide. This is one of the most complex and detailed Alert Digests that I have come across. So, if the minister is not willing to provide us, in writing, with his answers to the very serious questions that have been raised, then I do propose to take as much time as I think is necessary to make sure that it is clear.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:02): Senator Ludlam, the execution by ASIO of warrants is governed by very strict provisions in the act. It is also, I might say, governed by strict internal protocols and, of course, warrants are sought from the Attorney. As the officer of government who has to authorise these warrants from time to time I can assure you that the material put before the Attorney in order to satisfy the statutory tests is very, very extensive. Now, it is not for me, or for that matter for you, to speculate on the meaning of what is not a defined term in the act. We can each have our own views about the meaning of an ordinary term in the English language. I do not think that is very helpful, frankly. I did not understand it to be in controversy in this debate, even with the Greens, even with your party, Senator,—the manner of the execution of ASIO warrants—which have been an established part of the ASIO Act since, I believe, the first ASIO Act was enacted.

Senator LUDLAM (Western Australia) (12:03): I take your point, Senator Brandis, and it is not something that we sought to bring forward by way of a committee stage amendment. It is something that, I believe, if those who have spent time drafting the Alert Digest thought it worth raising and seeking a specific advice, which you are not able to provide us with,—I well understand now that it will be provided later in the day—then I think it is worth canvassing in some detail. If we are not able to have that information in writing, the only way for us to get to it while we are at this stage of the debate is to put these questions to you now. Minister, I wonder whether you could satisfy for us—and I put this question to you in the form of words that it has been put by the scrutiny committee, which said:

… the committee seeks the Attorney-General's advice as to whether consideration has been given to these matters and whether there are ways in which to address them. The committee is also interested in whether it would be appropriate to provide legislative guidance as to any parameters on the class/es of persons to whom authorisation can be granted and whether the option to authorise classes of persons could be limited to emergency situations (those involving 'very short notice').

That is one particular remedy that the scrutiny committee have proposed. In your written response to the committee have you considered that possibility?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:05): I have responded to that question by the committee, if that is what you mean, yes.

Senator LUDLAM (Western Australia) (12:05): What is the nature of your response, Minister?
Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:05): Senator, the nature of my response is that it is a written response to the question that was asked, which will be tabled during the ordinary course of Senate business at the time when the report and the response is tabled. Senator, if I may say so, through you Madam Temporary Chair, we are in the committee stage of the debate, none of the amendments circulated have yet been moved by any party. There is a series of questions that have come in, particularly from Senator Ludlam, to issues that have been raised by a Senate scrutiny committee to which a detailed response has in each particular case been provided but which, as a matter of ordinary course in the Senate business, will be tabled later in the day. I question whether or not we are now approaching an abuse of the committee stage of this debate by delaying the debate on amendments which have been circulated that, after nearly two hours, have not yet been commenced by questions which, in the ordinary course of events as part of the Senate's routine, as prescribed by the standing orders, will be tabled later in the day.

The TEMPORARY CHAIRMAN (Senator Lines): Senator Brandis, the bill stands as printed and this is the opportunity for general debate. I think it is reasonable for Senator Ludlam, or indeed any senator, to explore issues around this bill.

Senator LUDLAM (Western Australia) (12:07): Thank you, Chair. It is remarkable that, after the period of time in which Senator Brandis has sat in this chamber, you would even need to spell that out.

Senator Brandis, through the chair, the reason this is taking time is that you are refusing to provide us with your counterarguments, which you have written. You obviously consider that the concerns raised by the scrutiny committee are legitimate enough to be worth bothering to reply in writing. You are withholding those responses from those who are seeking to ask those same questions. You are offering to table them later in the day, presumably, after this opportunity for us to put these questions to you has lapsed and that opportunity will be lost. Then you wonder why things are taking time.

Let me spell it out: things are taking time because you are withholding information which you are proposing to provide in a couple of hours time. Just seek leave, table the document and we can move on, if we are satisfied with the answers that you have provided. Senator Brandis, in the meantime, through you, Chair, I do not appreciate being accused of abusing Senate procedure, for coming in here and asking you perfectly reasonable questions, which have been asked by a Senate committee and which deserve answers. With that in mind I would, again, invite you to just produce the document so that we can get on with the debate. Or, if not, feel free to just read in sections of what you have provided to the Scrutiny of Bills Committee so that we can see whether we are satisfied with your response.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:08): I did not hear all of that, Senator Ludlam, because I was consulting with the shadow spokesman. However, might I point out to you that I am not at liberty to table the report of a committee of which I am not a member. Might I also point out to you, Senator Ludlam, that you are merely wasting the time of the committee stage of this debate when you could actually be moving your own amendments. I am not at liberty to table the report of a committee of which I am not a member.
Senator XENOPHON (South Australia) (12:08): It is very rare that I quote the standing orders and I should do it more often. And I might take some cues from Senator O'Sullivan, who seems to know more about them in a couple of months than I have in six years. But if I could draw the Attorney's attention to standing order 166, under the heading 'Other methods of tabling documents,' which states:

1. Other documents may be presented pursuant to statute, by the President, or by a minister.

Specific reference is made to the fact that a minister can provide:

to the President, or, if the President is unable to act, to the Deputy President, or, if the Deputy President is unavailable, to any one of the Temporary Chairmen of Committees, a document which is to be laid before the Senate …

It seems to me that standing order 166 may assist the Attorney in terms of tabling a document. As I understand it, it can be done pretty much automatically by the minister and that he is entitled to do so. I may have misunderstood standing order 166 but, on the face of it, that is what it says. That may give the Attorney comfort in order to table these documents sooner rather than later which may, in turn, assist the debate.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:10): There are two things, Senator Xenophon, and I will also comprehend you in this reply, Senator Ludlam. I am looking at standing order 166. There are certain conditions that need to be satisfied, including the assent of the acting chair, if this is in the committee stage. I am not sure that I am in a position to avail myself of standing order 166, so I am not going to do so without careful consideration and without knowing what the attitude of others who must consent to the process you recommend may be. But may I say, Senator, particularly at a time like this, I find it unbelievable that you would spend two hours of the committee stage of the debate on an urgent bill playing procedural games and engaging in what is starting to sound a little like a filibuster.

Senator XENOPHON (South Australia) (12:11): I have great regard for the Attorney, but I take exception to being accused of playing procedural games. I have been referring to the Scrutiny of Bills Committee, to an Alert Digest in respect of this bill. I do not think that is an abuse of process. It is what we are meant to do. I do want to get to the amendments and I do want to deal with them expeditiously. But these are matters that were raised by a standing committee of the Senate that raised, I think, quite legitimate questions in respect of this bill. I will not cop it from the Attorney—with great respect to the Attorney—to be accused of filibustering or wasting the Senate's time. I simply alerted the Attorney to standing order 166 as a mechanism to perhaps short-circuit the debate on the tabling of documents. However, I think the questions and the answers given by the Attorney have been useful in understanding this very important bill.

Senator LUDLAM (Western Australia) (12:13): I would just like to add my comments to those of Senator Xenophon. It is offensive in the extreme and, presumably, by invoking the urgency of this bill, Senator Brandis, you are accusing us of endangering people's safety and security by doing our jobs in here. And if that is what is insinuated, that is utterly offensive. There is a Bills Digest here and I have not even had time to count the number of times where the committee have said:
The committee draws Senators’ attention to the provisions, as they may be considered to trespass unduly on personal rights and liberties, in breach of … the committee’s terms of reference.

Quite a number of these have been brought to the chamber's attention and it is our job to come in here and put these questions and it is yours to provide answers. You have provided written answers to the committee and we have identified that there is a standing order that will allow you to table them so that we can now consider your answers rather than having you withhold them in here. The reason why this is taking so long, Senator Brandis, to spell it out to you, through you, Chair, is that you are withholding information that, in a couple of hours, will be put into the public domain. Provide it to the Senate now, while we are debating these provisions, then we can move on. If you need the consent of the temporary chair, which is what you put to us before, I find it hard to imagine that that would not be forthcoming.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:14): Senator Ludlam, I do not know about that; I have not discussed it with the deputy chair. The point I make to you is that this is not—I do not have the liberty under that standing order to, by my own unilateral decision, take the course that you have recommended. This is not up to me alone, so I am not in a position in which I am able to do that. I am neither the author of the standing orders nor am I a member of the committee, so my hands are tied.

And I am not making an insinuation of the kind you suggest; I merely point out that this much, much scrutinised bill, which had its genesis more than two years ago, has been one of the most exhaustively scrutinised pieces of legislation that I can remember in my time in this parliament, and it is now quite urgent for reasons that we all understand. And frankly I think, given that your party, Senator, has circulated a number of amendments, that you would be eager to get on with the debate.

Senator LUDLAM (Western Australia) (12:15): Chair, I seek your advice: if Senator Brandis seeks leave to put that document to the Senate, would consent be forthcoming from you? Let us see if we can untie the minister's hands, shall we? Under standing order 166(b), I understand committee chairs could also table the document—I do not have the standing order in front of me. I seek your advice, Chair, and maybe if you want to avail yourself of advice from the clerks, because this is getting a bit ridiculous, we can help Senator Brandis to do his job.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:16): Senator Ludlam, my job is to progress this legislation through the chamber. That is what I am seeking to do in the face of your opposition. You and Senator Xenophon have asked me many questions about the bill, which I have responded to in detail and often. You are now proposing a course of variation of the Senate's procedure over which I have no power, so we are bogging down debate on an important piece of legislation with a quibble about procedural matters. What I am imploring you to do is to get on with the debate.

The TEMPORARY CHAIRMAN: The advice that I am given is that that report, as we have heard in the Senate, is due to be tabled in a few hours. I do not have the authority to ask that that report be tabled early. I understand that would have to be a decision of the whole Senate to table that report early.
Senator LUDLAM (Western Australia) (12:18): I am sorry if you misunderstood the request that I put to you. It was: if Senator Brandis sought the permission of the chair to table the report whether that permission would be forthcoming from you—so the initiative would come from the Attorney. I am trying to identify if there is any procedural reasons or otherwise why that consent would not be forthcoming, and then we can move this absurd debate along.

Senator JACINTA COLLINS (Victoria) (12:18): I am just hoping to facilitate this matter. Rather than dealing with the issue of fast tracking the report, as I understand it there is nothing to limit the minister from releasing his response to the committee independently of that report.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:18): I would be perfectly happy to do that but for the fact that my response, in the form of a letter, cannot be understood outside the context of the report. I am very eager to put Senator Ludlam at ease about these matters, but to in effect table my letter would be, for all practical purposes, to table the report and I am not at liberty to do that. I think it would be quite improper for me to do so.

Senator LUDLAM (Western Australia) (12:19): Senator Brandis, I wonder whether it would at least be possible for you to read from the report or whether you would consent to doing that, because otherwise I do not understand how we are able to ascertain how you have dealt with the very serious concerns that the scrutiny committee has put to you and therefore to the chamber. Otherwise I am effectively just taking your word that we should let the debate move on. It is unlikely that we would really be able to come back to the substance of the scrutiny committee's issues, of which there are many. I am presuming you took them seriously enough to write a response, that you to regard them as serious—although I think you said before they were not very good lawyers. So if we just traverse them one by one, are you able to just provide us with an outline of how you have responded to each of the committee's concerns? Otherwise I think what you are asking us to do is just set it aside and trust you and, quite frankly, I do not.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:20): I am not sure if I am being asked a question or not. I will answer any question relating to the bill that I am asked. I will not traduce the due process of the Senate by taking a course of action that I am not at liberty to take.

Senator LUDLAM (Western Australia) (12:21): All right, we will leave it there. If there is no way that you can see to bring the document to the chamber's attention while we are having this debate, then I will return to the questions of substance and you can reply as best you are able.

On page 16 of the Alert Digest, as it relates to schedule 2, item 29:
These subsections in the current ASIO Act—
the committee states—
make it unlawful for an ASIO officer, employee or agent to use a listening device, certain optical surveillance devices ... and a tracking device, where it would otherwise have been permissible in some States and Territories.

The committee says later on page 16,

It is possible that the—

proposed—

repeal of subsections 26(1) and 26A(1) may have the result of making the use of surveillance devices by ASIO lawful in circumstances beyond those authorised by Subdivision D. The explanatory memorandum states that uses not so authorised will generally be regulated by State and Territory law.

The substantive question that they have put to you, then, Senator Brandis, is:

The committee seeks advice from the Attorney-General as to whether there may be circumstances where use of surveillance devices by ASIO not authorised under Subdivision D may be lawful under State and Territory law and whether, therefore, the repeal of subsections 26(1) and 26A(1) will operate to enlarge the circumstances in which the use of surveillance devices is lawful.

I think you can see where this is going.

Further, if that is so, the committee seeks the Attorney-General’s advice as to the rationale for not dealing comprehensively with the legality of the use of surveillance devices by ASIO in the ASIO Act.

I will cease my quotation there and just acknowledge that that would seem to be an important, a relevant and a justified question for the committee to put to you. Could you foreshadow for us, or explain as best as you are able here, how you have responded to the committee, or how you would seek, I guess, to allay their concerns.

Senator Brandis: Senator Ludlam—

The TEMPORARY CHAIRMAN (Senator Lines): Senator Brandis, a point of order: please wait for the call.

Senator Brandis: I am sorry. I did not know there was a point of order.

The TEMPORARY CHAIRMAN: Well, you just keep standing up and then speaking; I need to call you first.

Senator Brandis: But, I am sorry—is there a point of order?

The TEMPORARY CHAIRMAN: I was trying to draw your attention to standing up and speaking before I had asked you to. So just wait for me to say, 'Senator Brandis,' because it makes sure that Hansard knows who is speaking and so on. You have the call now, Senator Brandis.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:24): Thank you. Senator Ludlam, I will not, for the reasons I have already explained, traduce the procedure of the Senate by, in effect, tabling the report; however, I can answer your question. The answer to your question is that the method that has been adopted by the provision to which you refer—that is, schedule 2, item 29—is to bring the provisions of the act into conformity with the scheme of the Surveillance Devices Act.

Senator IAN MACDONALD (Queensland) (12:24): I have been following this debate with some interest. It is something that I believe is vital for the national security and the security of all of my fellow Australians. With all of these sorts of issues, there is always some
apparent curtailment of liberties and freedoms we have enjoyed in the past. I have had a careful look through the work that Senator Brandis has done and what the government has proposed, and, whilst in different circumstances we might take a different view to this, I certainly am one of those in Australia—and I think there are a lot like me—who are very keen to see these measures implemented, even if it does, in some small way, impinge upon freedoms that I had previously enjoyed.

Quite frankly, I do not care who listens in to my phone. I would only feel sorry for them; they would die of boredom by listening! Certainly, I never have anything to hide. It does not, but if perchance this bill did give someone the right to listen to my phone calls because perhaps I was a threat to the community then so be it. But I have nothing to hide, so I do not care if they do.

It is important that we move on with the amendments that have been put. If there are other amendments to come, to address some of the issues that Senator Ludlam and Senator Xenophon have raised, then let us debate them, let us put them and let us get on, because it does seem to me essential that we do actually move on the bill.

I have not actually had a look at my standing orders. Senator Xenophon may be able to help me here. But, that being the case, I would seek leave to move the amendments listed in the name of the Australian Greens to schedule 2, items 12 and 25.

Leave granted.

Senator IAN MACDONALD: I move Australian Greens amendments (1) and (2):

(1) Schedule 2, item 12, page 28 (after line 17), after subsection 25(6), insert:

(6A) Subsection (5) authorises the use of a device to obtain access to data only if the total number of:

(a) devices used to obtain access to data; and
(b) devices from which data has been obtained;

(other than devices owned by the Commonwealth and brought on to premises specified in the warrant for the purpose of executing the warrant) in accordance with the warrant is no more than 20.

(2) Schedule 2, item 25, page 30 (after line 23), after subsection 25A(5), insert:

(5AA) Subsection (4) authorises the use of a device to obtain access to data only if the total number of:

(a) devices used to obtain access to data; and
(b) devices from which data has been obtained;

(other than devices owned by the Commonwealth and brought on to premises specified in the warrant for the purpose of executing the warrant) in accordance with the warrant is no more than 20.

I do not think they are very clever amendments, and, having moved them, I would suggest to the Senate that they are ones that the Senate would give very great scrutiny to. I am not particularly in favour of it myself, but I leave it to those who think it is a good idea to actually propose the reason that these amendments should be adopted. At the present time I am not convinced that they should be adopted. But I will listen to the debate and listen to the minister's response.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:28): Thank
you very much indeed, Senator Macdonald, for facilitating the committee stage of the debate to begin, after Senator Ludlam's 2½ hour filibuster. The government opposes Greens amendments (1) and (2). The Greens are proposing to fix in legislation the total number of devices in relation to which ASIO can undertake activities under a warrant. As you, Senator Macdonald, would well understand, that would impose an arbitrary, artificial and wholly unworkable limitation that would frustrate the ability of ASIO to perform its statutory functions. How can anyone—certainly, how can Senator Ludlam—stand in the Senate today and anticipate what the needs of ASIO will be in relation to warrant based computer access next year, or in 10 years time, or for however long this legislation exists? The idea of saying today, in September 2014, that we know that in years to come there will never be a necessity for ASIO to have any more than a finite number of computer access warrants in operation is of course an absurdity.

In the majority of cases, it is unlikely to be known in advance of a warrant being issued which parts of a computer network will contain data relevant to the security matter in respect of which a warrant is issued. With the variety and number of devices now commonly used as well as the increasing use of computer networks and remote storage, it is highly probable that data may be stored on a number of devices. In exercising its functions, including its powers under a computer access warrant or search warrant, ASIO is required to comply with the Attorney-General's guidelines. These require ASIO to use as little intrusion into individual privacy as is possible. The means used for obtaining information must also be proportionate to the gravity of the threat posed and the probability of its occurrence. In line with the PJCIS's unanimous recommendation, the government has issued an additional explanatory memorandum which explains the concept of a security matter in relation to section 25A and its limiting effect on the ability to issue warrants and authorise activities under them.

The Attorney-General can include appropriate conditions and restrictions in the warrant which could include a limitation on the number of devices to be accessed where appropriate. Limiting computer access warrants in the way the Greens propose would produce, as I said before, an absurdity. It would create a significant loss of ASIO's capability—perhaps that is Senator Ludlam's motive—which contradicts the position of the unanimous report of the PJCIS that there is a need to enhance, in line with developments in computer technology and its usage, ASIO's capability. It would be irresponsible in the extreme to seriously entertain that notion. I know Senator Macdonald has ridden to the rescue of the hapless Senator Ludlam by moving a motion he was unprepared to move, so that we could progress this debate in a mature and businesslike fashion. Having formally moved that motion, I hope I have persuaded you, Senator Macdonald, that the motion standing in the Australian Green's names is a nonsense.

Senator IAN MACDONALD (Queensland) (12:31): Minister, you have convinced me and it puts clarity to the point that came to my mind when I actually read the amendment, so much so have you convinced me that I now seek leave of the Senate to actually withdraw the amendment that I have moved.

The TEMPORARY CHAIRMAN (Senator Lines): Is leave granted?

Senator LUDLAM (Western Australia) (12:32): No, leave is not granted. Also, by way of a point of order, could I seek your advice on how Senate practice applies to senators moving
amendments that they have not actually introduced into the chamber—it seems somewhat unorthodox—and whether it then obliges Senator Macdonald to vote for the motion that he has put to the chamber. I am happy to debate it, but I just seek your advice in that regard.

The TEMPORARY CHAIRMAN: When Senator Macdonald indicated he wanted to move the amendment, I asked whether leave was granted and nobody stood up, and I granted him that leave.

Senator IAN MACDONALD (Queensland) (12:32): I appreciate your ruling, Madam Chair, which is my understanding of what the standing orders say. That being the case and leave not been given to withdraw the amendment, I will briefly speak to the minister's response. I thank the minister for his explanation. It has reinforced my own thoughts that the amendment is quite ridiculous and takes away the powers the government and, I think, Australian society deem that our protectors—ASIO—need to have. Minister, as you point out quite correctly, how can we anticipate today what technology and what new arrangements might apply in the future? That would be curtailed if this amendment were to be passed. I thank the minister for his explanation.

Senator LUDLAM (Western Australia) (12:34): I am happy to move to discussion of this amendment, but I foreshadow that, later in the debate, once the minister's response to the Scrutiny of Bills Committee is able to be read by people participating in this debate and if the minister has not to our satisfaction addressed the concerns that they have raised, we might revisit the issues even though we will obviously be in the clause-by-clause stage of the debate. I trust that the chair will allow for that to occur.

The reason the Greens have put forward this amendment is reasonably simple. Nearly all those who provided evidence to the joint committee on the bill noted a very wide loophole in the drafting in the way that a computer is defined. We are not seeking to amend that definition, but merely the way that ASIO's warranted intrusion powers would be interpreted. The simple interpretation is this: in expanding the definition of a computer to include a network or networks, you have effectively created an open-ended power for the exercise of a single warrant to, in theory, at least, to include anything connected to that device and anything connected to devices connected to that.

The internet obviously being a network of networks, I am not sure whether the government anticipates a maximum number of devices, for example, being mandated in these warrants. Is our reading of the drafting correct in that there is actually no upper limit to the number of devices that could be caught in the execution of a single warrant? If that is the case then that obviously justifies the purpose of this amendment. Firstly, if we could get the Attorney-General to explain whether there is an upper limit or whether that would be conceived of warrant by warrant, or exactly how open-ended this drafting is?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:36): I have explained this in answer to Senator Macdonald. I have nothing to add.

Senator LUDLAM (Western Australia) (12:36): I asked you a very straightforward question. Senator Macdonald did not raise this in his comments. You did not therefore address them because he did not think to ask. Is there a theoretical maximum to the number of devices that can now be caught by a single warrant, given that we have expanded the definition of a
computer to include a network or networks. That is a fairly straightforward question that you have not addressed. If it is the case that there is no upper limit, just let us know. If there is an upper limit or if you let us know how ASIO would handle that internally at the stage of applying for it being granted a warrant then we can move on.

Senator JACINTA COLLINS (Victoria) (12:37): I think at this stage of the debate it is probably opportune for the opposition to contribute to the committee stage, and perhaps allow Senator Brandis some opportunity to at least deal with the facts of the matter that Senator Ludlam is raising. However, from the opposition's point of view I can indicate that our response to this amendment will be not to support it. Indeed, for almost all of the amendments other than the government amendments the position will be pretty much consistent.

These are the reasons for this, in part already referred to by Senator Brandis with respect to the quite exhaustive process that this bill has been through, where many of these issues have been dealt with by the joint committee and weighed up in terms of the balance between both the powers that are required in our current national security circumstances and the adequate protections that need to prevail. Of course, if the government is convinced by additional matters such as those that Senator Leyonhjelm forecast earlier, we are in a position to reconsider what has been reached as a joint position arising out of the Parliamentary Joint Committee on Intelligence and Security.

Let me remind the Senate that that process involved the public and key stakeholders providing input through the intelligence committee's inquiry process. From the Labor Party's point of view, we are confident that the measures provided to our security agencies by this bill are both necessary and appropriate. We are also confident that the intelligence committee has reviewed this bill thoroughly and had no additional amendments beyond those recommended by the committee—which, indeed, the government has adopted. That said though, we certainly have an open mind if there are further additional issues that come forward arising from broader consideration as now the crossbenchers have had the opportunity to raise these. Were the government of a mind to make further amendments, then we would consider those—as indeed we have with respect to the issues that have been raised around torture.

Perhaps for the committee's benefit I can also indicate at this stage that when we get to the amendments around torture that the opposition will not be proceeding with those. We have been assured—and I wait to hear from Senator Brandis—that when we get to the government amendments there will be additional commentary added to the explanatory memorandum to deal with the definition of what torture is, which was our concern in that matter.

But just before we reached 12.45, I would like to put on the record my concern at how this committee stage debate has been proceeding. Unfortunately, we just saw the process deteriorate to farce. Senator Macdonald moving Greens' amendments in committee stage amendments is something I have not seen in my time! Indeed, had they sought to, it was available to the government to proceed with their own amendments. I think we could get to the first one at about third if they were frustrated at dealing with what, from my point of view, were fairly reasonable questions during the committee stage consideration.

But I would say to the government that this process becomes more lengthy than necessary when amendments are circulated later than perhaps should have been the case, like when the minister tells the Senate that a matter raised by one of the senators is a public document and then we discover in subsequent debate that that public document is not yet public but will be
made public later in the day, and when the minister ignores my suggestion that there is nothing to stop him, as minister, making available to the Senate the substance of his response to the scrutiny process. I think it is unfortunate that we have deteriorated the committee consideration in this way. I would encourage the government to ensure that when we return to the committee stage that we are in a position to deal with the issues that have been raised by the scrutiny committee and that we can move more promptly through the amendments.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (I would like to respond quickly to what Senator Collins has said. Senator Collins, I was not at liberty to do that. Under standing order 166 I did not have the capacity unilaterally to do that. Had I had the capacity I expect I would have done so.

The government amendments were circulated yesterday. That is not late in the piece. The government amendments were based on the recommendations of a parliamentary committee which reported and whose report was published two weeks ago. I announced not quite two weeks ago that they would be adopted. So there has been no obscurity or delay in the publicity given to the government amendments. They have been in the public domain, in substance, for two weeks and in a technical drafting sense for more than the ordinary length of time. I am not going to engage in a verbal quibble with you about whether a document that is published is a public document because it has not been published yet.

Senator Ludlam, you have successfully filibustered this important debate for two hours now.

Senator LUDLAM (Western Australia) (12:43): Madam Acting Chair, I raise a point of order. Acknowledging that this is an important debate, I ask Senator Brandis to withdraw the imputation that I filibustered anything. I have been asking you questions for a period of time, as have Senator Leyonhjelm and Senator Xenophon, that have been put into the public domain by the Scrutiny of Bills Committee. This is hardly a waste of time and I ask you to withdraw that. We have largely conducted debate respectfully and I would ask you to continue in that vein.

Senator BRANDIS: Madam Acting Chair, on the point of order: it is not, and never has been, regarded as unparliamentary language to say that another member of the Senate has engaged in filibustering.

The TEMPORARY CHAIRMAN (Senator Lines): There is no point of order. I think it is the flow of debate and I would urge that debate to continue.

Senator BRANDIS: Senator Ludlam, if you had been listening to my reply to Senator Macdonald, you would have heard the answer to your question. But you were not listening.

In my reply to Senator Macdonald I said that there is no arbitrary or artificial limit on the number of devices.

Debate interrupted; progress reported.

MATTERS OF PUBLIC INTEREST

The ACTING DEPUTY PRESIDENT (Senator Lines) (12:45): Order! It being 12.45 pm, I call on matters of public interest.
Molonglo Football Club
Anzac Day Schools' Awards
Senator Zed Seselja Awards
Benny Wills Gala Dinner

Senator SESELJA (Australian Capital Territory) (12:45): I want to raise a number of matters of public interest, relating to the community of the ACT, that I have had the pleasure of engaging with over the past few weeks: the Molonglo Football Club, the Anzac Day Schools' Awards, some other school awards, a youth forum held at Burgmann Anglican College, and the Benny Wills Foundation.

I have been given the privilege of working with Molonglo Football Club, through Junior Club President, Tim Macdonald, and Senior Club President, Dean Hill, over the course of this year. I was recently named the club's patron for 2014. As a father of five, I have a special appreciation for the work the club does in promoting community sport, and I feel honoured to have been given this position. I feel particularly passionate about the club's motto 'Enjoy your football', and the opportunities that the club has afforded to many talented young men and women within our community to do just that.

I recently attended the junior teams' presentation afternoon where team awards were presented to youth girls, rookies and age groups from under-8s to under-13s. There were also a number of club awards that were presented to players and volunteers. I would like to name a few. Firstly, congratulations to the Club Champion of the Year, Rowena Yates, and to Club Person of the Year, Jack Appleby. Both Rowena and Jack showed incredible passion and pride for the Wildcats Club throughout 2014, and it certainly did not go unnoticed by their team mates.

Riley Hawke was awarded the Doug Fraser Award, and Darcy O'Shannassy was awarded the Roger Williamson trophy. Riley and Darcy set great examples for their teams throughout the season, and I am sure they will continue to do their best in 2015.

As club patron, I presented the Aussie Footy Award to Francois Patron, and the Youth Footy Award to Ian Anderson, which was accepted by Mike Yates. And last, but certainly not least, the Volunteer of the Year Award was awarded to Trudi Fajri.

I am also excited that the club is celebrating its 20th anniversary this year, marking a considerable contribution to the strength and spirit of our local community. Through this contribution, it has come to my attention that as the Weston Creek area continues to grow with the development of new Molonglo suburbs, local sporting clubs such as the Molonglo Football Club are going to need more resources and support. I look forward to working with Tim and the Senior Club President, Dean Hill, in the coming year, and I hope to promote the club and gain support for its role within our community.

I am sure many of you will agree, the Anzac Centenary is a period of great national significance. It is a time to commemorate the service and sacrifices made by men and women who have worn, and also those who currently wear, our nation's uniform. The Australian government Anzac Day Schools' Awards seek to acknowledge secondary and primary schools that have shown an exceptional commitment to Australia's wartime history through both learning and commemorative activities. The competition is open to all Australian schools,
inviting entrants to showcase an activity that they have undertaken which reflects the Anzac ideals, and that balances inventiveness with tradition.

At the end of last month the 2014 winners of these awards were announced. It was great to see Melba Copland Secondary School announced as the national and ACT winner, and St Clare's College as the runner up within the ACT secondary schools category. Red Hill Primary School took out first place in the primary school category for the ACT, and Weetangera Primary School was the runner up. Well done to all those schools. I had a great opportunity to visit Red Hill Primary and see the wonderful commitment of teachers, parents and students to commemorate our Anzac history. I was particularly impressed that Red Hill Primary has a very strong veterans community a very strong service community, many of whom are serving overseas at the moment. We commend them for their service. I commend Red Hill and all those other schools that received those awards.

The national winner, Melba Copland Secondary School was commended on its outstanding entry and involvement with the local community in commemorating Anzac Day. They were shown to have encouraged students to research and reflect on Australia's military service, and they invited veterans and current serving members of the Australian Defence Force to engage with students and other local schools.

I was really honoured to be joined by the Minister for Veterans' Affairs, Senator the Hon. Michael Ronaldson, for an assembly at Melba Copland College. Both the minister and I congratulated the students for all their hard work and presented the principal, Michael Battenally, and Executive Teacher, Matthew Noonan, with their winning plaques, certificates and a cheque for $3,000, which the school will put towards their 2015 Centenary of Anzac commemorations.

I would like to congratulate not only the award winning schools, but each and every school that has shown initiative through participating in learning activities and commemorating Australia's wartime history. I would encourage all schools in the ACT to continue to promote learning about the significance of commemoration, and to enter the Anzac Day Schools' Awards competition in 2015.

Another selection of awards that are of particular importance to me are those which I established at the beginning of this year to be awarded to ACT students. They are the Senator Zed Seselja Award for Community Service and the Senator Zed Seselja Award for Academic Excellence. Through these awards, I aim to recognise students that embody the values of hard work, leadership, excellence and community spirit. I believe that it is important to recognise the works of students that have benefited their schools and the community at large and to encourage all students to constantly aim to achieve their best.

Already I have had the pleasure of attending John Paul College, St Clare's College and St Monica's Primary School to present some of Canberra's young bright leaders with their awards. The award winners from St Monica's Primary School in Evatt were two Year 6 students, Tess DeCosta and Joshua Knight. Tess was awarded the Academic Excellence Award for her achievements in all academic, creative and practical areas in semester 1 this year. Joshua was awarded the Community Service Award for his excellent leadership qualities and ability to act as a positive role model for the younger students.
The award winners from St Clare's College were two year 11 students, Lucy Kibble and Angie Lu. Lucy was awarded the Academic Excellence Award for achieving straight A's on her semester 1 report card and for consistently working hard. Angie was awarded the Community Service Award as she is a highly respected member of the St Clare's community and a continual source of inspiration and unity to her year group.

Finally, from John Paul College we had four students that were nominated for the awards, two year 7 students, Chloe McGovern and Zoe Nesbitt, and two year 8 students, Thomas Tran and Tom Mugridge. Chloe was awarded the Academic Excellence Award for achieving nine A's and one B on her report. Thomas also received an Academic Excellence Award for achieving eight A's and one B on his report. Zoe was awarded the Community Service Award for always being an enthusiastic student who loves to be involved in the school community. Tom also won the Community Service Award for always putting his hand up to volunteer at school events and for being an open and welcome student that is supportive of his peers. I look forward to engaging with more students and schools this year.

On that note, I was pleased earlier this month to attend, along with Andrew Leigh, a forum at Burgmann Anglican College which was organised and run by year 11 student Munashe Rusamo. There were a number of topics open for discussion including the budget, the carbon tax, asylum seeker policy and a range of other issues. I was extremely impressed with the quality of the questions asked, the knowledge of the students and the amount of interest that was taken in the community and the global political climate. The students chose to engage with Andrew and I on a very mature level and I would like to commend them on how they managed this event.

It needs to be recognised that these are our future leaders and will be our national leaders in the years to come. From what I saw from these young students and from what I saw of the students at Burgmann Anglican College, our nation and our city of Canberra are in great hands. We have some very impressive young people who take an interest in their world, who take an interest in their community and I commend them for it.

Following from this, I look forward to holding a youth leadership forum in October to give more young people the opportunity to share their views. I encourage anyone who is interested to contact my office. We want to see our young people thrive and we want to see them contributing now and into the future.

Before I finish, I would like to briefly mention the Benny Wills Foundation's gala dinner, which I had the pleasure of attending on Saturday night. Imogen and Dave Wills hosted the gala dinner in honour of their son Benny Wills and to raise much needed funds to support the Benny Wills Brain Tumour Research Program at the Sydney Children's Hospital. Sadly, Benny was diagnosed with a diffuse intrinsic pontine glioma, an inoperable brainstem tumour, in September 2008 and passed away just over twelve months later on 11 September 2009. We had the heartbreaking opportunity to hear about Benny's life, to hear about the struggles of Benny and his family and Dave and Imogen's journey as they dealt with this terrible disease and as they dealt with the loss of their son. Unfortunately, this continues to happen to too many families in Australia. We simply have not made the kind of progress that we need to in combatting brain cancer in particular. It needs to be an ongoing focus at all levels of government to have greater levels of research into this killer. Everyone who was at the dinner would have appreciated the importance of that.
At the dinner I had the opportunity to meet Dr David Ziegler, a Specialist Oncologist from the Sydney Children's Hospital. Dr Ziegler spoke about some of the progress and about the exciting breakthroughs he and his team have made in research on diffuse intrinsic pontine glioma brain tumours. For the first time in Australia, diffuse intrinsic pontine glioma tumour cells have successfully grown in test tubes. A national protocol has been initiated to allow for the donation of brain tumours for research after a child has died. Tumour cells from donated tumour specimens have successfully been grown. We also heard that as they have had the opportunity to test thousands of drugs as to how these tumours respond. There has been some progress. We have seen in fact anti-malaria drugs are having some impact it seems in early testing. Those are some of the signs of hope. I commend Dr David Ziegler and all of those who are involved in this type of critical research.

What was expressed on the night and what was expressed by Dave and Imogen and so many others who have been affected by this was that they do not want to see other people suffer in the way that they have. They cannot bring back their son but they want to see parents in the future, if they are faced with this terrible condition or when they see their children faced with this terrible condition that there will be a cure, that we will be able to first slow it and then cure it. I will end simply by commending Dave and Imogen on the really inspiring work that they do. They have shown great courage and great determination in raising awareness and in raising funds for this very important cause. I commend their work to the Senate.

**Aged Care**

Senator POLLEY (Tasmania) (12:58): I rise again in this chamber to talk about the Abbott government's cruel and arbitrary cuts to the aged care sector that have left providers reeling and older Australians at the most vulnerable point of their lives facing an uncertain future.

We are now fast approaching 100 days since the Assistant Minister for Social Services, Senator Mitch Fifield, shocked many in this chamber and across the sector when he announced the sudden axing of the dementia and severe behaviours supplement. That is right, 100 days. This of course followed a range of other harmful cuts to the sector late last year and earlier this year. Joe Hockey delivered a horror budget that slashed the $652.7 million aged care payroll tax supplement and made cuts to pensions which impact on the revenue streams of providers. But that is not all; team Abbott demolished the $1.1 billion aged care workforce supplement, which was designed to boost the pay and conditions of the aged care workforce.

As we reach the end of National Dementia Awareness Month, I travelled to meet with providers and experts in the fields of dementia and ageing more generally across Tasmania, Brisbane, Adelaide and surrounding regions.

Senator Fifield has previously accused the shadow minister for ageing, the member for Blair, and me of skulking around aged-care facilities. On these visits, just like the other visits that the member for Blair and I have undertaken, I can tell you that we were not skulking around; we were talking to and, more importantly, listening to people on the front line of aged care. It was indeed a worthwhile experience.

I think it is vital to escape the Canberra bubble whenever possible and actually speak to those charged with caring for vulnerable older Australians, including people with severe symptoms of dementia. It is also essential to speak to those older Australians who are being
cared for—to listen to them, lend an ear so that we can figure out how we can assist them to live their lives in comfort and with dignity in their final years.

I was very fortunate to visit RSL Care Fairview aged-care facility in Pinjarra Hills just outside of Brisbane where I learnt about the progress they have made in creating a friendly environment for their residents. They have done everything they can to brighten the mood of people who are no longer able to provide for themselves by providing reminders of their younger years and the activities that they most enjoy. There is a 1960's jukebox, an outdoors area featuring a nursery and other amenities that are a pleasant reminder of earlier times.

The staff are doing everything they can to care for the individual needs of residents, many of whom still have tremendous mobility, and some of whom require far more intensive support. But, as with many providers right across Australia, their job has been made that little bit harder by the Abbott government's cuts. RSL Care had numerous residents who qualified for the dementia and severe behaviours supplement, but since July 31 this has been ripped away.

The hardworking staff will of course continue to do all they can to look after these most vulnerable of residents; however, you certainly cannot blame them for feeling cheated, neglected and disrespected. Just like every other aged-care provider—and indeed all aged-care and ageing stakeholders—they were not consulted about the axing of this supplement. They were given no warning, they were not listened to.

I was also fortunate enough the following day to join the member for Rankin, Jim Chalmers, and Labor candidate for Logan, Linus Power, at Flexi Living in Hillcrest. This organisation provides support services to older Australians and people with disabilities. It was great to speak to them and learn about how Flexi Living has improved the lives of so many people.

Jim Chalmers and I also spoke to staff at the Logan Central Respite Centre in Slacks Creek nearby. They spoke about the pressures their organisation and others like them are facing, caring for older people and people with disabilities. The Abbott government must listen to their concerns and focus on more than just cruel cuts, because their advice needs to be heeded. They undertake work that often goes unrecognised, but it is work that is absolutely essential to the health and welfare of vulnerable people across Australia.

In Adelaide later that week I joined Senator Wong as well as local mayor John Trainor in visiting the St Martin's Aged Care Facility. This facility is located within the electorate of Hindmarsh, which actually has the highest percentage of older Australians of any seat in this nation. St Martin's offers first-class care and support for residents, and Senator Wong and I were more than happy to stay on after our tour and answer questions from residents on a range of issues.

St Martin's had seven residents who met the criteria of the dementia and severe behaviours supplement. Just like many others, the hardworking staff members of St Martin's have to contend with caring for people with severe psychological and behavioural problems associated with dementia without the support of this supplement. What this means in practice is that other residents, such as those without severe symptoms but who require high-level assistance, also have their levels of care and support potentially compromised.
The axing of the dementia supplement has a flow-on effect as to how providers run their operation—it cannot just be seen in isolation. Facilities such as St Martin's budgeted for this supplement and planned their care arrangements around its very existence. All of that has now been thrown into chaos.

Whilst at St Martin's, Senator Wong was also glad to sign the dementia and severe behaviours supplement petition, which now has over 8,500 signatures. I understand that Senator Fifield isn't the biggest fan of this petition, but I would encourage anyone who has an interest in the care provided to people with severe symptoms of dementia to visit the Australian Labor Party site and sign the petition right away.

I also had the pleasure of joining the member for Wakefield in visiting several aged-care facilities in his electorate north of Adelaide—facilities that are also affected by the axing of this supplement. At the Hamley Bridge Memorial Hospital I spoke to chief executive officer, David Adcock, who told me that the supplement cut had hit his local community funded facility hard. He said that the axing of the supplement had come as a complete shock: the facility had a total of 20 residents who qualified. As one of the few local facilities with a secure dementia unit, he informed me that extra staff were recently added to the roster to cater for growing demand.

He told me—and I am quoting directly here:

To be able to fund the staff during the special times we need, the supplement was great. To have that ripped out was very difficult but we weren't about to turn around and say we've got to get rid of the staff, because we need them to assist with behaviours that are getting worse with clients.

A total of 10 residents qualified under the supplement, and Mr Adcock said that the supplement needs to be brought back to the table with discussions about how it is going to be handled, right away. He said:

We're not going to change our rosters, but at the same time it's costing us money. It's difficult, but we are in the position where we are making losses and we can't keep doing that.

He went on:

This is a community facility, built by the community, so it's not a profit-making exercise and we still need to be able to survive. At the moment, we are finding it difficult and the change in the supplement has made it much harder.

Mr Adcock and staff were keen to impress upon the member for Wakefield and me that the Abbott government whipped the supplement away without any consultation and that residents and staff have been left feeling quite abandoned. He said:

We're going on for four months and there's still no vision, plan or policy coming from the government.

At the Mallala facility nearby we heard a similar story from staff: they had 10 residents who qualified under the supplement and they have also been abandoned by this Abbott government.

The acting CEO, Stuart Jillings, made it absolutely clear to me and the member for Wakefield that staff were concerned about just what this government has planned for aged care. The axing of the severe symptoms dementia supplement and other cuts has created a sense of urgency and uncertainty.

We must remember that the $16 dollar a day dementia supplement was paid to providers so that they could care for those with severe psychological and behavioural problems associated
with dementia. These are not just people who forget things or need some small measure of additional care; these are people who are at risk of harming themselves, their loved ones and, of course, the staff who are caring for them. The work of those in the aged-care sector is incredibly taxing, the responsibilities are immense and the financial reward is far from generous.

The Productivity Commission has pointed out that the increasing number of residents with higher and more complex care needs has added to the workloads of care staff in residential care settings. As we speak, some 50 per cent of the aged-care workforce is within 10 years of retiring, and it is proving particularly challenging to attract young, capable people to undertake this line of work. So I ask the minister: what message does it send to a sector trying to attract staff when you scrap a supplement designed to assist them in caring for people with severe symptoms of dementia? It tells them, 'We aren't listening to your concerns, we aren't prioritising investment in the sector and we don't really care whether or not vulnerable Australians receive the care and support they need.' The scrapping of this supplement is a backwards step, it is a dangerous step, it is a retrograde step. It quite simply is not good.

I would like to remind the Senate again that in a little over a week's time it will be 100 days since Senator Fifield announced the axing of the dementia supplement. The aged-care sector has endured close to 100 days of uncertainty and exasperation because this government refuses to act. Senator Fifield, you can throw dorothy dixers at us, you can have another 100 dixers in this chamber, but we do not need to hear more explanations, justifications, blame-shifting and evasion of responsibility. We need action. We remind you again: we were not skulking around aged-care facilities; we were simply listening to those on the front line caring for older Australians, including older Australians with dementia.

I strongly believe that the government needs to listen more closely to people who work in the aged-care sector. These are the people who undertake exhausting work caring for our mums, dads, uncles, aunts and loved ones. Of course, the remuneration they receive is scant recognition of the vital role they play in providing care and support for some of the country's most vulnerable people. You need to listen to them. The people who are being cared for in aged-care facilities are hurting because of your government's savage cuts. I am hearing the same message from all corners of this country. Those who are living in aged-care facilities who have dementia and also, particularly, their loved ones feel that they have been abandoned by this government. Those who are at the most vulnerable stage in their life feel that they have been abandoned. These are the people who need the support and care of those who work in the sector. The supplement that was introduced by the Labor government was introduced because it was demonstrated that there was a need. The people who care for those with severe psychological behaviour issues caused by dementia need to be supported. They need to be able to have additional training so that those in most need will get the best quality care possible.

As I said, we are facing a time when those working within the sector are within a decade of retirement. We need to be able to attract the best possible people to work in this sector. In doing that, we need to provide for them an avenue of advancement and a strategy for them to have good career prospects in this sector. This is a sector, as I have spoken about many times, that is at the forefront of most people's minds not only in Australia but globally. I urge the minister: don't be afraid to go out and listen to the sector. Don't be afraid to go and visit aged-
care facilities. Please go and listen to their concerns. We urge you to consult with the sector, to sit down with us to find a solution for those who are most vulnerable in this country, those in most need of care and support because they are suffering from dementia and severe behaviour problems. The staff who are working in this sector need government support. I urge Senator Fifield to go and talk to the community, talk to those in the sector, and come up with some sort of vision and plan for the future for the ageing population of this country.

These people deserve nothing less. These people have been part of building this great country. We are a country of wealth and it is an obligation of this government to respond to the need of those most vulnerable in our community.

**Southern Ocean and Antarctic Research**

Senator WHISH-WILSON (Tasmania) (13:13): I have made two matters of public interest speeches to the Senate so far in my two years here. This my third. Both of my previous speeches have been on matters deeply important to me—especially before I came into the Senate—and I recognise the privilege of being able to speak at this time in a non-political, non-combative way to raise issues that are critically important both to my state myself. The first speech I made reflected upon the growing environmental disaster of marine debris, especially marine plastics. I talked about how plastics reach all corners of our marine ecosystems—how you can find tonnes and tonnes of litter and debris washed up on even the most remote beaches of the otherwise pristine World Heritage areas of Tasmania's south-west coasts. In that speech I offered one of several solutions to help address this problem, including container deposit scheme legislation—legislation that recent studies by CSIRO have shown successfully reduce wastage and litter levels in South Australia and in South Australian waters and beaches. We could lead on this nationwide.

Unfortunately, the industry lobby has been too powerful and has sought to kill off any momentum towards this goal. That was reflected in the parliamentary decision of 2012 to reject the Greens' national container deposit scheme.

In my second MPI I talked on whaling. It was in the days leading up to the International Court of Justice case against Japan for whaling in the Southern Ocean. In that speech I urged caution—caution not to prematurely celebrate what a successful court victory could mean in the fight to prevent whaling. I then urged the government to prepare before the case a diplomatic strategy on how to engage with Japan to maintain enough pressure so that Japan would not seek to circumvent the court verdict and return to whaling. The government prepared no such strategy.

When the Japanese Prime Minister visited here, Prime Minister Abbott was silent on whaling. It took the media scrum to raise the issue. The government prepared no strategy when it visited Japan in bilateral talks on trade. What we have seen since is Japan seeking to circumvent both the International Court of Justice decision and the will of the International Whaling Commission, which was firmly reflected in a motion put by the New Zealand government last week—not the Australian government; the New Zealand government—once again, with no significant diplomatic pressure from Australia. When Minister Hunt was asked by the media if Japan could bring back whaling following the ICJ decision, he scoffed at the suggestion. He was wrong and the Australian government's inaction has now come at a cost, with Japan seemingly pushing on in its endeavour for commercial and lethal scientific whaling.
The third speech that I would like to give today is on the importance of the Southern Ocean and Antarctic research and research communities to my home state of Tasmania. Hobart is one of the few precious southern ports on this planet—with Capetown in South Africa, Ushuaia—the capital of Tierra del Fuego in Argentina, and Christchurch in New Zealand. Hobart is one of a small club of these precious few cities that face south, that have an affinity with the Southern Ocean—as many people who live in these cities and town have an affinity with the Southern Ocean.

There is a special feel to these places. It is an international outlook. You feel that you are a long way from the rest of the world, but you are a city that everyone who wants to head off into the 'wide blue yonder' has to pass through to get to the depths of the Southern Ocean or to Antarctica. These cities are taking part in a major, strategic global economic race—a science race; a geopolitical race; an economic race; a race to be the leader in Antarctic and Southern Ocean research and to subsequently secure a large slice of the growing Antarctic economy as the superpowers of the globe cast their eyes south. All of the world has to pass through one of these four cities to get to Antarctica. These are the launching places to voyage south. It is either Capetown, Ushuaia, Christchurch or Hobart. And, for the eastern half of Antarctica, the list narrows to South Africa, Australia or New Zealand. Our geographic location gives us distinct advantage, and our track record in research and logistics rams it home.

Hobart is home to the Australian Antarctic Division, the Institute for Marine and Antarctic Studies at the University of Tasmania, CSIRO Marine and Atmospheric Research, and the Antarctic Climate and Ecosystems Cooperative Research Centre. These are heavy-weight global institutions that have all made monumental contributions to our understanding of Antarctica, especially in the last decade, the Southern Ocean and especially our understanding of global and regional climate change. These 'big four' institutions play a critical global role in climate science. They provide research that is essential to our understanding of the fate of the planet and the fate of future generations of humanity.

I cannot underestimate the value of this research. How fast will the world warm? How fast will the oceans acidify? How high will the seas rise? How much drier or wetter will Australia get? These are questions we cannot properly answer without continuing and expanding research efforts in Antarctica and the Southern Ocean. As an economist I can say that there has been no single valuation given to the impacts or the potential risks and impacts of climate change. But we do know from a range of studies that it will be in the trillions of dollars. The only people who would place no valuation on those potential risks are climate deniers.

Only recently have we come to grips with the quirks of expanding Antarctic sea-ice and the significant decline and potential collapse of the continental ice-sheets. We are learning that the Southern Ocean is warming faster than other oceans and faster than we expected. We have also learned that the climate and rainfall of Australia is connected to the climate of Antarctica. The decline of rainfall of south-west Western Australia is directly related and highly correlated to climate changes in Antarctica and events such as snowfall. We need this research. We need these institutions to carry out this research. And we need these institutions to be based in Hobart.

Until recently there were as many as 630 scientists as part of a community of 800 professionals involved in Antarctic research based in Hobart, and there are many more people employed in technical support work, such as engineers, tradespeople, dock workers et cetera.
For a low-average income state all of these jobs are high paying—twice the state's average wage. The employees are highly specialised scientists or tradespeople who need to develop deep expertise to be able to carry out and support work in the Southern Ocean and Antarctica. The Tasmanian government estimates the Antarctic sector has a direct and indirect economic benefit to the state of $600 million to $700 million per annum. Any growth in this sector is an economic boon for the state, and any decline in this sector will have dire economic consequences—not to mention social consequences to a tightly knit Hobart community.

Growth is necessary from a national interest perspective on the need for climate knowledge alone. It is also needed from a national interest perspective because we need to maintain a significant presence to our south to justify the claims of sovereignty we make on the Southern Ocean, the whale sanctuary and Antarctica itself. But growth in this sector is also possible from outside of Australian government support. The world needs this scientific research. The world wants a deeper understanding of Antarctica. I believe this is very close to the single biggest economic opportunity for our state. But, unfortunately, this current government is going in the wrong direction. Massive across the board cuts to the Australian Antarctic Division and the CSIRO Marine and Atmospheric Research Centre has caused an enormous and ongoing brain drain and also cut our technical and logistical capacity to undertake research. These cuts are a direct assault on the economic future of Tasmania and put at risk the greatest opportunity we have.

Our researchers are world-class and world respected. We attract students from all over the world to study at UTAS and IMAS—something Peter Rathjen talked about here at Parliament House last night. Those researchers work in collaboration with the other institutions. But we need a critical mass, now and into the future, to retain them and to encourage future investment. Cuts to funding across the board only add uncertainty to their potential and their future careers in science.

It is no secret that China and other world powers are looking to boost their research presence and capability in the Southern Ocean and in Antarctica and are looking for partnership opportunities, but they need to choose between Hobart, Christchurch, South America or Cape Town. What will swing the decision will be logistics, research capacity and reputation. Reputation is everything in scientific research. Collaboration is essential for reputation, and vice versa. Our research capacity at the moment is at risk. We are doing okay on the logistics front. We have a shiny new CSIRO research vessel, which I and the Southern Ocean inquiry committee members were able to visit only last week. The Southern Ocean inquiry is very timely. It is finishing this Friday. It has certainly shone a light on the importance of research in the Southern Ocean and the Antarctic, to both Tasmania and Australia.

We are tendering out the construction of a new ice breaker and the AAD has an Airbus A319 to take passengers and light cargo down to Casey Station when it can. But we are cutting our research output and we are taking the axe to logistics routine expenses. We are getting fewer days of research on the *Aurora Australis* and, shockingly, the brand new RV *Investigator* only has a budget for 180 days, not the 300 days a year it was purchased for and scientists were promised. This means that research projects are now on the backburner. I quote from the recent Southern Ocean inquiry hearing in Hobart that early career academic researchers are 'sitting twiddling their thumbs'. Other scientists question whether this is a false
economy as it adds to both research and maintenance costs for the vessel to have it sitting in the dock and taking shorter voyages. It also means that we will not be able to undertake climate research in all seasons. This may punch holes in long-running climate projects and skew our understanding of climate change impacts. We have an impending crisis in our Southern Ocean endeavours. It is cutting to the core of our ability to undertake research and it is a handbrake on the sector's ability to grow and prosper.

I offer a suggestion to the government. The government has committed $38 million to extend the Hobart runway. This is an important initiative in the long term. It is not necessary or anywhere near the most pressing issue in Antarctic logistics and scientific research at the moment. It is the wrong time to allocate these funds when the sector has crises elsewhere. Here are my issues with the extension of the Hobart runway as a tool to benefit Antarctic research. The purpose of extending the runway is to enable Hobart to take larger planes that can carry heavier payloads, yet there is no assessment of the airfreight or passenger needs with regard to Antarctic transport. I do not see $38 million in value to the Antarctic sector at the moment from this investment. Our Wilkins runway at Casey Station, opened in 2008, was built for 30 flights a year, but due to ice melts it has barely managed to reach 10 a year. In some years they have had as few as four flights. Why add more capacity at one end of an air link if the other end is broken? Competition with the US-NZ route is often flagged as a reason to expand Hobart airport, but even Hobart airport recently admitted they could never compete with this 50-year relationship.

It makes sense to look at expanding Hobart runway, but only when you have a full assessment of all the Antarctic transport needs together: air and sea freight; Hobart and Wilkins runways. We also need to look at intracontinental transport on Antarctica itself. To say that we need this runway extension to enable Hobart to take larger planes that can carry heavier payloads, yet there is no assessment of the airfreight or passenger needs with regard to Antarctic transport. I do not see $38 million in value to the Antarctic sector at the moment from this investment. Our Wilkins runway at Casey Station, opened in 2008, was built for 30 flights a year, but due to ice melts it has barely managed to reach 10 a year. In some years they have had as few as four flights. Why add more capacity at one end of an air link if the other end is broken? Competition with the US-NZ route is often flagged as a reason to expand Hobart airport, but even Hobart airport recently admitted they could never compete with this 50-year relationship.

The funding for Hobart airport should be deferred until all of this planning has been undertaken. A business plan just for Hobart airport alone is insufficient justification for $38 million in spending. In the interim, the remaining funding should be redirected immediately to allow extra days of research to be carried out by the RV *Investigator* and the *Aurora Australis*. Both boats are sitting at dock in Hobart. The RV *Investigator* costs approximately $140,000 a day to run. Redirecting this money could give it over 85 days per year research over the next three years and would solve a major research logistical bottleneck. All of these things were very clearly pointed out to us by both the senior management of these major research institutions in Hobart as well as some of the world's best scientists, who cannot access this boat for two years for some absolutely critical projects, like ocean acidification projects. When the Antarctic transport review is completed, then we could look at reallocating funding to the Hobart runway extension, once a full business case has been produced by the government and by Infrastructure Australia, if it is deemed necessary.

We need to get this sector sorted. It is the future of my state and it is critical to our understanding of the fate of the climate and our planet. We cannot allow the brain drain and
logistical crisis to continue in Tasmania. We need to intervene now. I have put forward a positive practical suggestion and I hope that the government will consider it seriously.

**Economic Competitiveness**

Senator CANAVAN (Queensland) (13:28): The American radio businessman David Sarnoff once said:

Competition brings out the best in products and the worst in people.
In my view, that nicely sums up the dilemma that we have in harnessing competition to deliver good outcomes without damaging our own ethics and morals. Competition is a means to an end. As consumers, we want cheap, affordable and high-quality products. The best way to ensure that is to have choice and competition. If there is no threat that I could change my custom from one business to another, there will be no desire for others to go to great efforts to deliver what I want. Competition ensures that businesses never forget that the customer is always right, and David Sarnoff was right in saying that competition brings out the best in products.

The other part of the quote is true too—competition can bring out the worst in people, especially when some businesses seek to stifle the competition that makes life hard. David Sarnoff himself, as President of RCA, had a large AM radio network in the 1920s and 1930s. The emergence FM radio, invented by Edward Armstrong, was a clear threat to Sarnoff, so he lobbied the Federal Communications Commission to make changes to the FM band, which rendered many FM radios at the time useless. He tied Armstrong up in endless litigation, contributing to Edward Armstrong's suicide in 1951. Not only that, the actions of RCA at the time put back the widespread adoption of FM radio for 20 or 30 years.

Although undesirable, the desire to damage a competitor is a perfectly rational response, and some element of it is simply the competitive process. I cannot compete vigorously without risking damage to some individual competitors. Where there are winners, there will always be losers, too. However, what we should not allow is businesses that seek to damage the competitive process as a whole rather than just individual competitors.

That is why I welcome the Harper review's draft report which was released on Monday. This has been the first comprehensive, root-and-branch review of our competition law for more than 20 years, and the review has made some recommendations to strengthen our competition laws, especially those concerning the misuse of market power is laws under section 46 of the Competition and Consumer Act. Their recommendations would prohibit a corporation that has a substantial degree of market power from engaging in conduct if the proposed conduct has the purpose, or would have, or be likely to have the effect of substantially lessening competition in that or any other market.

The Harper review's proposed wording differs from the current wording of section 46. Under our current laws to prove the misuse of market power three things must be proved: first, that the corporation must have a substantial degree of market power; second, the corporation must have taken advantage of that power; and, third, the corporation must have acted for the purpose of damaging a competitor, preventing the entry of a person to a market or preventing a person from engaging in competitive conduct. The last two of these tests have become problematic and the Harper review's recommendations essentially seek to alter these tests. As the ACCC said in its submission to the Harper review:
... as currently drafted and interpreted, the provision is of limited utility in prohibiting conduct by firms with substantial market power which has a detrimental impact on competition.

The most stark of these limitations is that for an action under section 46 to be successful the complainant must prove that the action has been taken for an anticompetitive purpose. The keyword there is 'purpose'. Because proving why I act is an incredibly high hurdle for people to meet in our courts. Proving that I did not go for a run this morning is a pretty simple matter—I didn't do it—but proving why I didn't do it would take lengthy debate. I would argue that it is simply because I was busy preparing this very important speech this morning, but my wife would probably say it is just because I'm lazy.

**Senator Sterle:** Which one is right?

**Senator CANAVAN:** She is right, Senator Sterle. The current wording of section 46 is the competition law equivalent proving intent in criminal law—it is a much harder thing to do. The Harper review has recommended that the purpose test should be supplemented by an effects test. This would mean that corporations with substantial market power must not engage in conduct that has the effect of damaging competition.

It is important to note here that there are two changes being proposed. The first is to make large firms with significant market power responsible for the effects of their decisions. Those that seek to oppose such a change must answer the question as to whether big businesses should take into account the effects of their decisions. Do large companies in our retail, financial and utility industries believe they have an obligation to act in ways that promote competition rather than detract from it?

The second change is that corporations will only be liable for the impact of their decisions on the competitive process, not on individual competitors. It is clear that the effect of some perfectly reasonable—indeed, socially beneficial—business decisions will harm competitors. The very act of opening up a business will take custom from one business to another, thus causing harm. What we do not want, however, is damage to the competitive process as a whole. It is one thing to open up a store and compete; it is another thing completely to engage in conduct that is exclusionary, predatory or deters others from opening up a business lest they risk being subject to such behaviour.

The Harper review's changes will also remove the 'take advantage' test. The take advantage test has become too obtuse and hard to interpret. The test that requires that the advantage be taken in respect of the market power a business might have is in effect another quasi-purpose test within section 46. You have to prove that a business acted in a way that gave them an advantage and they did so with the purpose of using that in their market power. The take advantage test has become one of great dispute in for recent competition law cases, including in Melway, Boral, Rural Press and Cement Australia. These cases have involved the courts launching into long, hypothetical deliberations about the conduct of a corporation in a hypothetical world in which it does not enjoy market power. After two of these cases, the parliament made additions to section 46 to clarify the take advantage test. As the Harper review has succinctly summed up, however:

It is doubtful that the amendments assisted.

It is probably clear now that we simply need to remove such a test to remove any such ambiguity that remains, and that is what the Harper review has recommended.
The broader case that the Harper review makes for change is strong and it is supported by both logic and evidence. The first point to make is that the introduction of an effects test would not simply end up protecting inefficient companies to the detriment of consumers. Out-competing your rivals by competing on merit would not amount to conduct that significantly lessens competition under the proposed changes. ACCC Chairman Rod Sims reiterated this in a recent letter to the Harper review, saying that section 46 should protect and promote the competitive process:

... not by protecting the losers, but by preventing conduct by firms in a position of substantial market power that excludes efficient and innovative competition which would otherwise benefit consumers.

I recognise that there are some that disagree with this view but I think we can all agree on one thing: this debate should be informed by evidence, not speculation, and we can use evidence in this case because an effects test exists here in Australia and there are examples of effects tests overseas in other competition law regimes.

Here in Australia, an effects test already exists in regards to the telecommunication sector. Part XIB of the Competition and Consumer Act specifically prohibits a telecommunications company with a substantial degree of market power taking advantage of that power, '... with the effect, or likely effect, of substantially lessening competition ...'.

Overseas an effects test is the predominant way that competition laws are enforced. The law in the United States prohibits conduct that unreasonably restrains competition by creating or maintaining monopoly power. The courts have largely interpreted this prohibition to only capture firms with substantial market power. The Federal Trade Commission stated in their submission to the Harper review:

In recent cases, intent is rarely, if ever, the focus of the analysis ... A subjective intent test risks attributing too much weight to hyperbole or unrealistic speculation or too little weight to the harm from objectively anticompetitive acts.

Over the past century, US courts have moved from using intent to an expressly objective effects test. This view was also summed up recently by the US Court of Appeals for the District of Columbia Circuit in the famous case—the US v Microsoft. They said in that case:

... to be condemned as exclusionary, a monopolist's act must have an "anticompetitive effect"—and they use the word 'effect'—

That is, it must harm the competitive process and thereby harm consumers.

That is a very nice summary of exactly what the Harper review has recommended.

The US Federal Trade Commission also notes that the US courts apply the effects test pragmatically and that the test permits flexibility of proof based on the context and best available evidence. Similarly, in Europe they have provisions in their competition law relating to an 'abuse of dominance' test. Under the EU competition law—as well as in a number of European countries, including the UK and France—determining whether an arrangement is anticompetitive is assessed on the basis of its objective—like our test, the purpose test—or its effect on competition in the marketplace.

There is a simple effects test right here for the opponents of an effects test. If the effects test is to wreak such havoc on our economy, then people should be able to point to the effect of the effects test in other countries and here in our telecommunications sector. Surely, if the effects test is so detrimental to competition and if it is to have a chilling effect on the
marketplace, that would have become apparent in the US and Europe, who have had decades of experience of such laws.

In a recent unpublished paper on New Zealand's competition law, a competition law expert from Howard University, Professor Andrew Gavil, noted that the omission of an effects text is inconsistent with trends in competition law internationally. He was highly critical of what he termed 'the counterfactual test'. That is the test that I described earlier that our courts have applied in trying to work out if corporations have taken advantage of their market power. Professor Gavil noted:

The counterfactual test substitutes a hypothetical inquiry into the conduct's possible efficiencies for the more important question of its actual effects, both pro- and anti-competitive, when practised by a specific, dominant firm in a market with specific characteristics.

Professor Gavil gets to the heart of the issue when he says that the problem with the counterfactual test is that:

It never asks whether the anticompetitive effects are far more substantial than any realized efficiencies.

That is any efficiency associated with promoting competition or not regulating competition. I will put it in plainer English—mainly because my parents and children are in the gallery today, if they are still awake. The whole point of competition laws is to stop the negative effects of anticompetitive conduct and to promote the positive effects of pro-competitive conduct. We cannot achieve this unless we are actually looking at the effects of that conduct, not just their purpose.

As a legislator I am not interested in the state of mind of a big business and I am not concerned about the intent or purpose of their actions; I am interested in their effects. That is why we should have an effects test. We should have a competition law that is firmly focused on promoting the great benefits of competition, not on whether people are intending to act in a competitive way. If competition is a means to an end, why would we focus on the intent of actions and not their effect? I agree that competition is only a means to an end. It is a process to provide good things. With that in mind, competition laws should be firmly focused on those ends that are actually achieved by businesses, not what their hypothetical objectives or ends might be.

I agree with the ACCC: the proposed effects test is neither novel nor anticompetitive. I know that the recommendations the Harper review has made are now going out to consultation and there will be further submissions made on this. I certainly support the direction of the changes, but I too have some reservations about some of the proposals they have made. The Harper review has provided some defences to an effects test. First, the Harper review has said that a business could defend itself from a successful claim of misuse of market power by arguing that a rational business without market power would have acted in that same way. I am concerned that this would simply put us in the same hypothetical hyperspace that marks current section 46 cases. Although I note that the change that they have proposed would put the onus of proof on the business or on the defendant to prove that hypothetical situation rather than putting the onus of proof on the plaintiff or ACCC.

Second, the Harper review has provided an additional defence that the anticompetitive effect is in the long-term interests of consumers. I worry that that phrase is not well-defined enough in our current laws, although it has been used in the context of access pricing.
regulation. Even so, more work would have to be done to clarify exactly what that would mean in this context. Overall, however, I applaud the Harper review for suggesting these changes. Clarifying and strengthening our anticompetitive laws will be a shot in the arm for small businesses and farmers that are suffering under the yoke of too much market dominance. We should never put people in the position where they can basically be threatened or blackmailed into providing more and more every time. Business relationships are just like other relationships: they thrive best when there is give and take.

Western Australian Government

Senator STERLE (Western Australia) (13:43): I wish to make a contribution today while I have time before question time. We are well aware of some of the political stench coming out of New South Wales. I have been on the record more than once saying that, if politicians have been found guilty of any corrupt behaviour, the so-and-sos should be chuck in jail and the key should be thrown away. I make no mistake about that. I do not care if they are from my side of politics, being Labor, or from the other side, being Liberal. If the Liberals were playing cricket, once you had 10 out you would change batting. The Liberals have got 10 so far, not to mention a Premier as well. We are also missing an Assistant Treasurer at this stage, but we will see where that takes us.

I want to talk about the great state of Western Australia because there is a bit of a political pong coming from that side of the continent. Under the leadership of the Premier Colin Barnett, a few of his Liberal-National ministers have got themselves in a little bit of a pickle and, quite rightfully, the public should know what has led to this pickle.

I will talk about not only the Premier and the Liberal-National government in Western Australia losing our AAA credit rating but also a number of high-profile classic stuff-ups, if I can use that terminology. The $300 million wasted on a failed recommission of the Muja Power Station is just one of them, but there have been numerous broken promises from the last election that led to cuts in education and health and, sadly, cuts to infrastructure. At the time of the March 2013 state election, the Premier was gallivanting around the state of Western Australia, bragging about all these wonderful infrastructure projects he would build if he was elected, but he failed to point out the small print—that they would only happen as long as a Liberal government would fund them federally. Of course, we know what happened there: it did not. Some of these projects include the airport light rail being delayed by two years, and, of course, the MAX light rail is unfunded, unstarted and unlikely to be completed anywhere near 2018.

I want to talk about a certain building development in the north-west town of Karratha. This is no surprise to the West Aussies because it has been reported through the Western Australian media. It has escaped the attention so far of the federal media, to the best of my knowledge. Thirty million dollars of taxpayers' funds has been poured into a commercial property development that has become no less than a white elephant in Karratha. I actually feel sorry for the current minister, Minister Redman, because he has taken over the portfolio of Regional Development, which he inherited from the previous, National minister, Mr Brendan Grylls. There was $30 million of taxpayers' money poured into this building and part of the deal was to provide housing, but it has been such a white elephant that a heap of these units are left over. It was reported in yesterday's West Australian that Minister Redman, to save some face, is desperately trying to push Chevron into purchasing some of these units.
Chevron have turned around and said, 'No, thank you'—I do not know the exact words, but I assume that they have woken up to the fact that they do not want to be caught up in any of this overpriced housing that the government thought was a good idea to buy at the time.

It is only my opinion—it is not the opinion of my party—but I believe this white elephant was funded by taxpayers' money so that Mr Grylls and Mr Barnett could shore up Mr Grylls's transfer from the electorate of Central Wheatbelt, I think, out near Merredin. I am not sure of the name of the seat, sorry, but he wanted to move to the seat of—what is that seat?

Senator Bullock: Pilbara.

Senator STERLE: Thank you, Senator Bullock—Pilbara. It has had a few name changes. Karratha is in Pilbara. I will give the Senate some time lines to paint the picture of how this pong is starting to take shape. On 25 March 2010, in a joint Mr Barnett-Mr Grylls media statement, Finbar, a development company, was named as the preferred developer for a Karratha high-rise project, to be called Pelago West. According to the media statement: Pelago West, rising eight stories, is the first stage of the $225 million project, which will eventually comprise 292 residential apartments and 22 commercial lots with mining projects in close proximity and offering some residents sweeping views of red desert, the nearby Karratha Hills and Nickol Bay.

I am quoting the description by the minister and the Premier at the time. But on 21 April, about a month later, in parliament, Mr Grylls announced that LandCorp would sell two development lots in Karratha to Finbar as part of the deal. Mr Grylls said that the project would be delivered through the Royalties for Regions Pilbara Cities initiative.

In October 2011, 18 months later, a certain gentleman—I assume it is a gentleman; I apologise if it is not—Robin Vandenberg, who happened to be the National Party Karratha branch president and a local real estate agent, was appointed to the Pilbara Development Commission. There is a trend—it is coming. In June 2012, some nine months later, Pelago West opened and it was understood that the government had purchased 15 apartments. During the July 2014 state estimates, it was revealed that the Department of Housing was advised by Mr Paul White, who at one time was the general manager of commercial and business operations at the Department of Housing but in June 2014 was appointed acting D-G of the Department of Regional Development. I mean no disparity to Mr White; he is obviously competent and there is no doubt there. At estimates he answered a question, saying it was his understanding that 15 units were purchased in Pelago West, which is the first development. They were all occupied and continued to be occupied under the Government Regional Officers Housing program.

In the same month, on 18 June 2012, the business case for the Pelago East development—the one next to Pelago West—was approved by the Liberal-National Party cabinet. This business case included the intention to provide a portion of units under the shared equity scheme. In the same month, Finbar, the property developer, announced the release of Pelago stage 2-East. It was understood that the complex would have 174 residential lots and 14 commercial lots. At the same time, Mr Brendan Grylls, the Minister for Regional Development, said: 'Fifty apartments have been bought to house government workers like teachers and nurses, but this would be predominantly for nurses who would be needed for the new health campus.' On the surface it sounds great—no dramas. It was revealed later that the government purchased the 50 apartments for no less than 29,675,605 taxpayer dollars.
total cost, which included project management and legal costs, came to no less than 30,414,000 taxpayer dollars.

On 2 July 2012, the following month, Hanssen Pty Ltd, a building company in Western Australia, donated $50,000 to the Nationals. Hanssen Pty Ltd is the builder of the Pelago apartments. Since then, the Hanssen group have donated no less than $25,000 to the WA Liberals, in 2012-13, $50,000 to the Nationals and $25,000 to the Liberals. I am told very clearly that the Liberal donation of $25,000 was the first-ever Liberal Party donation from Hanson Pty Ltd. So there we go.

On 21 February 2013 Finbar, the property developer, donated $1,000 to the Liberal Party. Big deal. But three weeks later, on 8 March—which is one day before 9 March, for those of you who do not know, the Western Australian state election—Finbar found another $20,000 to donate to the Liberal Party. On 21 July 2013, at the state budget estimates, Mr Grahame Searle, Director General, Department of Housing, answered a question:

While Mr Whyte is finding the exact number, the percentage for growth has taken a while to settle down. We have been in a process of negotiating with departments as to who has a need in Karratha and what their need is. Some agencies have had a preference not to be in an apartment complex but rather as freestanding houses, and that has taken a while to negotiate out. So it has taken some while to finally determine the GROH position.

On the same day, Mr Searle answered another question, saying—

Senator Smith: Are you talking about Brian Burke?

Senator STERLE: Isn't it amazing, when the Western Australian Liberals all come in here to defend the corruption and stench coming from Western Australia.

Senator Smith: Are you talking about Brian Burke? Are we talking about WA Inc?

The ACTING DEPUTY PRESIDENT: Order!

Senator STERLE: He said:

Whilst we provide housing for most government agencies, WA Country Health we do not. And at the time there were some negotiations with WA Country Health as to whether they were interested in some of the apartments. There are probably 300—

Remember this figure—

GROH dwellings in Karratha; it is not insignificant. One of the options that was debated at the time was whether we could—

'We' is the department—

encourage people to move into these apartments and thereby free up houses in the town. Again there has been some reluctance for that to happen, which we did not anticipate given the quality and finish of the apartments and the facilities that are available. But people make choices for all sorts of reasons.

So what we have is the government made a down payment to a trust—not a deposit—for apartments in Pelago East. Unprecedented!

Estimates show that for Pelago East stage 2 in Karratha 23,741,000 taxpayer dollars was paid in 2012 2013 and 5,931,000 taxpayer dollars were paid in 2000 1314. On 17 February the WA government, the Liberal-National Barnett government, announced shared home-ownership schemes for 26 Pelago East apartments. Let's just get the picture. The government bought these units, with taxpayer dollars, at the height of the boom, when it was really
booming in Karratha, when you could not get housing for government workers. The market has collapsed.

On 17 February this year, in all their wisdom, the WA government announced this shared ownership scheme for these apartments, offering a 60-40 split: 60 per cent home owner to pay; 40 per cent Department of Housing. What a wonderful investment of taxpayers' dollars! Buy at the top of the market, let the market collapse, help out your mates and proper property developers and possibly help out somebody else in building construction and then you cannot put government workers in them. Then you have massive overflow of housing in Karratha. So what to do? 'Let's go and lose some more taxpayers' dollars. Let's offer a 40 per cent tax rebate.'

**Senator Back:** You're talking about Alan Carpenter losing the Inpex project, the biggest cost in WA history!

**Senator STERLE:** Mr Acting Deputy President, protect me from the morals of that side of the chamber! Protect me from the hypocrisy of the Liberals from Western Australia. You are just as corruptible. Save me!

**Senator Back:** What does it cost us, do you reckon?

**Senator STERLE:** I am shaking in my boots! They tell me that the truth hurts and I'll tell you what, it hurts! Listen to the squabbles over there. Listen to the squealing.

**The ACTING DEPUTY PRESIDENT:** Order!

**Senator STERLE:** Thank you, Mr Acting Deputy President. I was waiting for that protection.

*Senator Back interjecting—*

**The ACTING DEPUTY PRESIDENT:** Order! Senator Back.

**Senator STERLE:** I am shaking in my boots; thank you. It does not stop there. In Western Australia there are some 19,000 Western Australians who are homeless. They cannot get taxpayer dollars to build a home in the suburbs of Perth. I will give you another interesting figure, for the believers over there. There is a three-year waiting list for housing in Western Australia, and 19,000 families looking for a home. And you want to protect this disgraceful, corrupt behaviour in Karratha while you take donations from property developers and builders—

**The PRESIDENT:** Thank you, Senator Sterle. The time for your contribution has expired.

A government senator: I want you to tell me why Alan Carpenter lost the project.

**The PRESIDENT:** Order on my right.

**Rural Woman of the Year**

**Senator RUSTON** (South Australia—Deputy Government Whip in the Senate) (13:58):

In the minute or so we have left I would like to put on the record the fantastic event that is occurring tonight in the Great Hall: the Rural Industries Research and Development Corporation's Rural Woman of the Year. It is a fantastic event that recognises women in our rural communities who have the capacity and resources to become change agents for our rural communities and act as role models for women in rural areas. I congratulate Giovanna Webb
from the Northern Territory, Rural Woman of the Year last year, and I cannot miss the opportunity to mention Mary Retallack, who was the 2012 winner of this award. She comes from my home state of South Australia.

I would like to put on the record the best wishes from the coalition for all of the women who are up for awards tonight. Each and every one of them, from every state of Australia, would be an extraordinarily worthy winner in this particular award, but obviously only one of them can win. I also thank all of the women who have been recipients of this award for the extraordinary contribution they make to rural and regional Australia and the extraordinary contribution they make to women in rural areas, acting as role models in this very important area.

As we all know, in our rural and regional communities, often the women are the backbone. It is fantastic to see young women, particularly, moving to the fore of this area.

**SHADOW MINISTERIAL ARRANGEMENTS**

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (14:00): by leave—I inform the Senate that Mr Albanese has been appointed shadow minister for cities in addition to his current shadow ministerial responsibilities. I seek leave to incorporate the revised shadow ministry list into *Hansard*.

Leave granted.

*The document read as follows—*

**SHADOW MINISTRY**

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QUESTIONs WITHOUT NOTICE

Defence Procurement

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:00): My question is to Senator Abetz. I refer the minister to comments made by Senator Fawcett, recorded in the Adelaide Advertiser, that it is more important for South Australia to maintain Australia's new submarines than to build them. Are Senator Fawcett's views government policy?
Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:01): Senator Fawcett is one of those senators very respected by both sides because he came into this place with a genuine background in matters of defence. So when he speaks, it would be fair to say that a lot of people listen. Similarly, when he writes, a lot of people read and take good measure of that which he is suggesting.

The government is in the process of determining its position, and it is quite appropriate for people with particular expertise in the parliament to give us and the community the benefit of their opinions through op eds in newspapers or by making speeches. People from all sides do that. Does that mean that, as of necessity, it becomes government policy? Of course it does not. We have people freelancing on ideas and views from the Australian Labor Party as well, like those Labor Party senators that did not want a carbon tax and who knew they had been elected on a no-carbon-tax policy.

I simply say that Senator Fawcett is a highly regarded senator whose views should be taken into account and will be taken into account, but government policy will be determined on this in due course.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:03): I have a supplementary question. I refer the minister to further comments made by another South Australian Liberal MP, junior frontbencher Mr Briggs, who told 5AA in Adelaide, 'What work will be done on submarines in Australia will be done in Adelaide.' Given that this government refuses to rule out buying submarines from overseas, precisely what work is Mr Briggs referring to?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:03): I do not represent Mr Briggs in this chamber, so I think she has asked the wrong minister. They do have to be, as I understand it, supplementary questions to the same minister about the same topic. Regrettably, Senator Wong has failed in that regard.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:04): I have a final supplementary question. I remind the minister of the government's commitment outlined by the Defence minister prior to the election: 'The coalition is committed to building 12 new submarines here in Adelaide.' Can the minister confirm that the Prime Minister's refusal to recommit to this election promise in his recent visit to Adelaide is simply confirmation that he is softening up South Australians for yet another Abbott broken promise?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:04): No, I will not do that. I think it is the absolute height of hypocrisy of the Australian Labor Party that went to two elections—one in 2010 saying that there would be no carbon tax, then to the 2013 election saying that they had already abolished the carbon tax. Then when we brought in the abolition of the carbon tax legislation they voted against it.

Senator Wong: I rise on a point of order. The point of order is in relation to direct relevance. The minister was asked about his election promise and the Prime Minister's election promise. I invite him to repeat the Prime Minister's or the minister's election promise,
about which he was asked, that the submarines would be built in Adelaide. Why don't you put it on the record today?

The PRESIDENT: Senator Wong, you have made your point. There is no point of order. Your question started, 'Can the minister confirm,' and the opening lines of the minister's answer was, 'No, I cannot.' The minister is being directly relevant.

Senator ABETZ: Having answered the question straight off the bat, I am now outlining to the failed former finance minister of the record of her government with broken promises. As a former failed finance minister she might like to recall the promises that were made to the Australian people, day after day, about the surplus that they would deliver, and which never was delivered. That is why we have some situations to clean up— (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT (14:06): I draw to the attention of honourable senators the presence in the chamber of a parliamentary delegation from the Grand National Assembly of Turkey led by the Speaker, His Excellency Mr Cemil Cicek. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

With the concurrence of honourable senators, I would ask the Speaker to take a seat on the floor of the Senate.

Honourable senators: Hear, hear!

Mr Cicek was then seated accordingly.

QUESTIONS WITHOUT NOTICE

National Security

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:07): My question is to the Attorney-General, Senator Brandis. Can the Attorney-General update the Senate on the attacks on two police officers in Melbourne last night, including an update on their condition?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:07): I can tell the Senate that, although details of the incident last night at Endeavour Hills are still being investigated, we do know that two officers have been injured in the line of duty and one 18-year-old male was shot and killed overnight. As the Minister for Justice explained this morning, the person in question was of interest to both law enforcement and intelligence agencies from a national security perspective. The person in question attended the Endeavour Hills Police Station in Melbourne of his own volition following discussions with police earlier in the evening. He then carried out an unprovoked attack on the two officers at around 7.45 pm. The shooting by one police officer occurred in self-defence. Two officers were wounded in the attack, one seriously. An Australian Federal Police officer is in a serious but stable condition. I understand that a Victorian police senior constable is undergoing surgery today but is also in a stable condition.

The government's thoughts are with the injured officers and their families at this time. The bravery shown by the officers last night in what was a very dangerous situation demonstrates, yet again, the dedication of our law enforcement officers and their determination to keep our communities safe and secure.
Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:08): Mr President, I ask a supplementary question. Can the Attorney-General provide the Senate with any further information about the attack in Melbourne last night?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:09): Yes, I can, Senator. Although the investigation is ongoing—and for that reason I cannot provide too many further specific details—I can advise you that the Minister for Justice and I have been in contact with the Prime Minister, who is travelling overseas, and with the Acting Prime Minister following the incident. I understand that earlier today Prime Minister Abbott spoke to the wives of both of the injured officers. I have also briefed the Leader of the Opposition; the shadow Attorney-General; the local member, Mr Anthony Byrne, the member for Holt; and members of the Parliamentary Joint Committee on Intelligence and Security, and I have undertaken to keep them informed as the matter progresses.

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:09): Mr President, I ask a further supplementary question. Is there anything further the Attorney-General can elaborate in respect of this incident?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:10): What I want to say to you, Senator Fawcett, and to the Australian people in general is that the public should feel confident that law enforcement and intelligence agencies and the government are taking every possible step to ensure the safety and security of our communities. People should remain calm and let the authorities manage the situation that took place overnight. The government is ensuring that the agencies have the tools and resources necessary to combat threats to our security and safety.

Later today I will be introducing a second tranche of legislation to address the most pressing gaps in our current counter-terrorism legislative framework, those that have the greatest impact on prevention and disruption of domestic terrorist threats. I am pleased to be able to tell you, Senator Fawcett, that this morning the Prime Minister received a letter from the Leader of the Opposition, Mr Shorten, in which he advised the Prime Minister that the opposition would do all in its power to facilitate the effective and expeditious passage of that legislation through the parliament. (Time expired)

Workplace Relations

Senator CAMERON (New South Wales) (14:11): My question is to the Minister for Employment, Senator Abetz. I refer the minister to the fair entitlements guarantee and to a letter he wrote on 17 July 2013 to Mr Pierre Rault, a former employee of Autodom Limited, which said that the coalition 'have not flagged any changes to the slightly modified entitlements guarantee that currently exist and you can be satisfied there is no risk to your entitlements'. Was this undertaking true?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:11): Yes.

Senator CAMERON (New South Wales) (14:12): Mr President, I ask a supplementary question. Why has the minister broken this personal promise to Mr Rault by reducing workers' entitlements under the fair entitlements guarantee?
Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:12): There are two separate questions there. The first question was whether or not there would be changes to the entitlements of the person with whom I corresponded. The simple fact is that in the event this parliament makes any changes, they will not be retrospective. As a result, that person's entitlements were at all times protected. That is why I was able to very clearly answer yes to Senator Cameron's ill-thought-out first question.

In relation to the second question that he asked, regrettably, because of the failed finance minister sitting opposite me, we as a government had to make some decisions that we did not want to make to bring the budget back into shape, and that is part of bringing the budget back into shape. (Time expired)

Senator CAMERON (New South Wales) (14:13): Mr President, I ask a further supplementary question. Given the tricky response that we just had from the Leader of the Government in the Senate and given how casually you have broken your promise, how can anyone believe the minister when he says that he has got no plans to reintroduce Work Choices?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:14): I am reminded of what the former secretary of the Australian Workers Union, Paul Howes, said: 'When you hear those opposite starting to talk Work Choices, you know they are desperate.' You know they have no feathers to fly with. You know that there is no substance to their arguments in any way, shape or form. Just because Senator Cameron asks a silly, stupid, dumb question in this place does not mean that my response is tricky. What it means is that, yet again, Senator Cameron has not done his homework, has not done his research, has fallen flat on his face, and his only response is to accuse me of being tricky. He then breaks the glass and hauls out Work Choices. Everybody knows that Work Choices is dead, buried and cremated— (Time expired)

National Security

Senator WRIGHT (South Australia) (14:15): My question is to the Attorney-General, Senator Brandis, regarding the extension of preventative detention orders in the foreign fighters legislation to be introduced today. The COAG review of counterterrorism laws recommended preventative detention orders be repealed. Reports by the former Independent National Security Legislation Monitor, Bret Walker SC, also said that these orders are not effective, not appropriate, and not necessary. Why, then, is the coalition government proceeding with legislation against this expert advice and extending powers that Mr Walker has said 'are worse than useless'?

Senator Ian Macdonald: I rise on a point of order. Mr President, I think there is a standing order prohibiting questions about matters that are already on the Notice Paper. I would ask your ruling on that in relation to this question.

The PRESIDENT: Thank you, Senator Macdonald. The matter is actually referring to a notice of motion to introduce a bill. It is very close, but I will allow the question on this occasion. The Attorney-General.
Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:16): Thank you very much, Mr President. I am aware that Mr Walker is of that view. I am also aware that there are many, and they include those responsible for policing, who are not of that view. Those people include, most importantly, the acting commissioner of the Australian Federal Police, Acting Commissioner Andrew Colvin, with whom I had a discussion about this matter as recently as Sunday afternoon, and with whose officers I have had many discussions.

Senator Wright, there will always be legitimate room for a debate about the design features of particular measures. There will always be, in particular, room for a legitimate debate where those measures are unusual measures. Preventative detention orders, like control orders, are unusual features of our law. They were introduced by the Howard government in 2005 specifically to deal with a very unusual set of circumstances, and that is where a terrorist event was considered by the authorities to be imminent to give them the power to take a person into custody in circumstances in which, for various reasons, an arrest, which is, as you well know, the ordinary mode in which people are taken into custody might not be available. So rare are those powers that they were never used for last week.

As you know, Senator, the foreign fighters bill, which is being introduced into the Senate this afternoon, deals with the issue of preventative detention orders. The bill is going to be referred to the Parliamentary Joint Committee on Intelligence and Security, and they are going to have a good look at it as well. But it is the view of the government that there is a role, albeit in unusual and very limited circumstances, for this device. The government is determined that every piece of equipment needs to be in the armoury to keep our country safe.

Senator WRIGHT (South Australia) (14:18): Mr President, I ask a supplementary question. The position of the Independent National Security Legislation Monitor has been vacant since April, despite the fact that we have extensive changes proposed by the government to national security legislation, as you have indicated in your answer, including the imminent foreign fighters legislation. Will the Attorney-General inform the Senate when he will appoint a new Independent National Security Legislation Monitor?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:18): Yes, I can, Senator Wright. I can tell you that the government will be appointing a new Independent National Security Legislation Monitor soon.

Senator WRIGHT (South Australia) (14:19): Mr President, I ask a further supplementary question. Given that, first, the government decided to abolish the position of the Independent National Security Legislation Monitor, then in July decided to reinstate it, the position remains vacant and unfunded despite extensive changes to national security laws that are coming, the government's commitment to oversight the national security laws seems unreliable. When will the INSLM position be funded, and will the funding be the same or more than it was previously?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:19): Senator Wright, I think you ought to contextualise your history. The idea of having an INSLM was an idea that came from the coalition. It came from the coalition in the first year of the Rudd government, and it was initially opposed though subsequently adopted by the Labor
government of the day. It was in fact moved in this chamber over opposition from the Labor government of the day by former Senator Troeth and me.

It is true, as you also say, that in the budget process the government gave consideration to abolishing that position for economy reasons, but, on reflection and conscious that we were going to introduce very significant new laws in relation to national security, we considered that it was a good decision to retain the position. That is what we have done. So, a position first recommended by the coalition has been kept as a result of a decision by the coalition.

Indigenous Communities

Senator McGrath (Queensland) (14:20): My question is to the Minister for Indigenous Affairs, Senator Scullion. Can the minister update the Senate on negotiations with state governments to shift responsibility for municipal and essential services in remote Indigenous communities from the Commonwealth to state governments?

Senator Scullion (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:20): I thank Senator McGrath for the question. Earlier this year I announced that I would be working with state governments to reform the delivery of municipal and essential services. I am pleased to be able to update the Senate today that we have reached agreements with the Queensland, Western Australian, Victorian and Tasmanian governments for these states to take on responsibility for municipal and essential services in remote Indigenous communities.

The delivery of municipal and essential services includes the supply of power and water. The management of infrastructure is, of course, a state and local government responsibility; however, the Commonwealth government has been supporting these services in remote communities for decades. The agreement that this government has now reached will ensure that the Queensland, Victorian, Tasmanian and Western Australian governments will take ongoing funding responsibility for municipal services. The only exception is South Australia which has not yet accepted the generous offer we have made to fund the delivery of municipal and essential services in remote communities in that state.

The agreements we have reached with state governments include a single up-front payment that will be used to support municipal and essential services. The state governments will then take responsibility for the delivery of these services. This is a historic agreement that we have reached and it demonstrates that this government is delivering outcomes for Aboriginal and Torres Strait Islander communities by making governments work better in a more focused way on delivering services on the ground.

Senator McGrath (Queensland) (14:22): Mr President, I ask a supplementary question. Will the minister advise the Senate how these changes will benefit residents in remote Aboriginal and Torres Strait Islander communities?

Senator Scullion (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:22): In every town and city in Australia, essential and municipal services are the responsibility of state and local governments and it should be no different in Indigenous communities. The involvement of the Commonwealth government in funding municipal services has complicated and confused roles and responsibilities. Services have not been delivered in the way that residents in other towns and cities expect. Residents
have not had to deal with two or three different levels of government to receive basic services that most Australians take for granted.

The Commonwealth are getting out of the way and letting states do their job. Instead, the government will focus on our priorities of getting children to school, adults into work and making communities safer. Under our approach, we will deliver better outcomes for Aboriginal and Torres Strait Islander communities across Australia.

**Senator McGrath** (Queensland) (14:23): Mr President, I ask a further supplementary question. Can the minister outline to the Senate the significance of this announcement? How have previous attempts to transition responsibility for these services fared?

**Senator Scullion** (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:23): For many years successive Commonwealth governments have been funding municipal services in remote Indigenous communities using this inconsistent and confused approach. Since 2010 the former government—those opposite—announced their intention on an almost yearly basis to transition out of this funding arrangement but each year, extending the funding for another 12 months, failed to reach agreement. This is a significant achievement and I congratulate the Queensland, Victorian, Tasmanian and Western Australian governments on reaching the agreement with the Commonwealth.

Whilst I am disappointed at this stage that the South Australian government has not taken on responsibility for its residents in remote Aboriginal communities, I remain hopeful that we will be able to come to an agreement. My door remains open for the South Australian government to negotiate an agreement, so we can ensure the Aboriginal communities in their state are not left behind.

### Indigenous Health

**Senator Lines** (Western Australia) (14:24): My question is to the Assistant Minister for Health, Senator Nash. I refer to the observation of Associate Professor Brian Owler, President of the Australian Medical Association that all of the efforts in improving health outcomes in rural and regional Australia, including the closing the gap life expectancy for Indigenous Australians, will be 'adversely affected by poor policy in the form of the GP co-payment'. Is Associate Professor Owler right?

**Senator Nash** (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:25): I am always happy to hear the public comments from Professor Brian Owler. But can I say that the best thing this government can do for rural Australia is to fix the economic mess that was left to us by the previous Labor government. When it comes to Indigenous health, I would say, through you Mr President to the senator, that it is this government that is doing more for Indigenous health than the previous Labor government—$3.1 billion over the forward estimates and $920 million this year. Indeed, that is $500 million more over the forward estimates than was received from 2009 to 2013 under the previous Labor government.

This government has looked at bringing in a co-payment, because it is this government that recognises we need to have a sustainable health system into the future and people in rural and regional Australia understand that.
Mr President, I ask a supplementary question. A simple yes or no would have sufficed. But, anyway. I refer to the South West Aboriginal Medical Service, in Western Australia, which the senator recently visited, and comments by the CEO of the service, Mr Neil Fong. Does the minister agree with Mr Fong that if a mother with three kids has to pay the GP tax four times she won't bring her children—and I quote Mr Fong—'and then we've got no chance'.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:26): Indeed, as I travel from one side of the country to the other, talking to local communities, to local Indigenous leaders, I very much appreciate the feedback that they are giving me. I have appreciated the feedback since I have been in this position. Whether it is in Arnhem Land, as I was last weekend, whether it is in Bunbury in WA, just a couple of weeks ago talking to Mr Fong, I am actually listening to what they are saying and I am taking into account everything that they are saying. This government is going to make the right decisions for the future of this nation.

Opposition senators interjecting—

The PRESIDENT: Pause the clock! Order on my left! Minister, had you concluded your answer? Minister, you have the call.

Senator NASH: This government is going to make the right decisions for the future of this nation. We are going to do it based on fact and evidence, and we are going to ensure that we have a sustainable health system into the future.

Senator LINES (Western Australia) (14:27): Mr President, I ask a further supplementary question. According to the National Aboriginal Community Controlled Health Organisation, 12 per cent of Aboriginal Australians defer GP visits for more than a year because of costs, more than twice the rate of the general population. Won't imposing a $7 GP tax further deter Aboriginal Australians from seeking medical help when they need it?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:28): Indeed, it is this government that puts significant resources into the delivery of frontline services for Indigenous health. Indeed, as those opposite may not know, not only do Indigenous services get core funding—

The PRESIDENT: Pause the clock!

Senator Moore: Mr President, my point of order is on relevance to the question. It was a specific question about the impact of the $7 GP tax on the provision of service.

The PRESIDENT: Thank you, Senator Moore. The minister is only a quarter into her allocated time for the answer. Minister, you have the call.

Senator NASH: I am aware of the comments that were made by the senator. But this is about ensuring Indigenous health delivery and I was simply pointing out to the Senate that not only do Indigenous services get core funding this year of around $450 million—

The PRESIDENT: Pause the clock!

Senator Wong: Mr President, I rise on a point of order. The minister has entirely ignored the previous point of order. The question was a very simple one about the imposition—

Government senators interjecting—
The PRESIDENT: Order on my right! Senator Wong, you have the call; ignore the interjections.

Senator Cormann interjecting—

Senator Conroy: And you're about to knock over Eric!

The PRESIDENT: Order on my right and my left!

Government senators interjecting—

Senator Conroy: I would like to say I want some of what you're smoking, but I don't inhale.

The PRESIDENT: Order, Senator Conroy.

Senator Conroy: Sorry, I'm being provoked!

The PRESIDENT: Senator Wong, you have the call for a point of order.

Senator Wong: Thank you, Mr President. The question was very specific. It was about the effect of the $7 GP tax and, in particular, the deterrence such a tax will have on Aboriginal Australians seeking medical help. I ask that the minister answer that question.

The PRESIDENT: Thank you, Senator Wong. On the point of order, the minister has nearly half of the time allocated to answer the question. I remind the minister of the question.

Senator NASH: Thank you very much, Mr President. Indeed, the question is about ensuring delivery of health services to Indigenous people.

Senator Wong: Thank you, Mr President. The question, if the minister did not hear it, is this: won't imposing a $7 GP tax further deter Aboriginal Australians from seeking medical help when they need it? She cannot just make up another question. That was the question she was asked. The standing orders say 'directly relevant'.

Senator Abetz: Mr President, on the point of order: Senator Wong herself read out the words 'further deter'—in other words, bringing in the whole gamut of Indigenous health—so if Senator Wong cannot frame her questions as she should, it is then not Senator Nash's fault.

Honourable senators interjecting—

The PRESIDENT: Order on both my right and my left! Minister, you have 18 seconds left and I remind you of the question.

Senator NASH: Thank you very much, Mr President. The failed former finance minister may not like the answer that I am giving, but indeed it is about ensuring that Indigenous people get the health services they deserve. It is this government that is focusing on chronic disease—

Senator Moore: Mr President, I rise on a point of order—

Senator Wong: It is this Prime Minister who is selling out Indigenous Australians!

The PRESIDENT: Senator Wong, you have your manager on her feet waiting to take a point of order.

Senator Moore: Mr President, I rise on a point of order of direct relevance. There has been a series of points of order on direct relevance during this one answer. The specific question was about the $7 GP tax. The minister now has a short amount of time left; she could mention it.
The PRESIDENT: Thank you, Senator Moore. On the point of order, I would remind the minister of the question. Minister, you have four seconds remaining for your answer.

Senator NASH: Thank you, Mr President, and it is this government that is going to deliver better health outcomes for Indigenous Australians. (Time expired)

Workplace Relations

Senator BERNARDI (South Australia) (14:33): Mr President, my question is to the Minister for Employment, Senator Abetz. Can the minister advise the Senate how the government's workplace relations legislation reform package will improve national productivity and boost economic growth?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:33): I thank Senator Bernardi for the question. I am sure Senator Bernardi and most other senators would be aware of recent comments by the Managing Director of the International Monetary Fund, Christine Lagarde. She said:

… more focus in general on the job market reforms and on more opportunities delivered by the job markets will actually help us reach the double objective of both growth and jobs.

It is for these precise objectives of both growth and jobs that the government has introduced its workplace relations legislation reform package.

The former Labor government radically re-regulated the labour market, strapping our economy into a pre-Keating straitjacket and setting the time machine back to the 1970s. Only recently we had the revelation of a secret meeting at Kirribilli in 2011 when, according to Paul Kelly in Triumph and Demise, Ms Gillard gave the unions everything they wanted. Passing the Fair Work amendment bill will boost investment in new projects, creating new jobs while safeguarding workers’ conditions. Re-establishing the Australian Building and Construction Commission will improve productivity in an industry that has suffered a sevenfold increase in the number of days lost to industrial action under Labor. A more sensible and fair workplace relations system is vital to insure Australia against any external shocks or constraints to the economy. Inaction on workplace relations reform is simply not an option.

The IMF, the B20 and the Australian government are all speaking with one voice. If Australia implements sensible labour market reform, it will improve national productivity, economic growth and create future prosperity— (Time expired)

Senator BERNARDI (South Australia) (14:35): Mr President, I ask a supplementary question. Would the minister be kind enough to inform the Senate of any more support from unexpected quarters for the government's sensible approach to improving the Fair Work laws?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:35): Mr President, no less an authority than the former ACTU president and Labor cabinet minister Martin Ferguson said:

The Fair Work Act must be revised, especially in regard to major resource project construction.

Senator Wong can turn her back on the fact that a doyen of the labour movement has come to that conclusion, but it does not change the fact.
Commenting on exorbitant wage claims and the resources industry, Mr Ferguson said:

… it is time that some union leaders recognised that their members’ real interests are aligned with their long-term job security.

And Professor Andrew Stewart, the architect of Labor's Fair Work laws, said, 'We will hear a lot about this as a return to Work Choices and AWAs'—

Senator Lines: Because that is what it is!

Senator ABETZ: This is nothing of the sort, he said, Senator Lines. He said:

Even if you are looking to see if they are doing anything sneaky, it is a pretty straightforward implementation—

(Time expired)

Senator BERNARDI (South Australia) (14:36): Mr President, I ask a further supplementary question. Would the minister please inform the Senate of any further statements in support of the government's workplace relations reform agenda?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:37): Professor Stewart went on to say that our bill is a pretty straightforward implementation of the recommendations of Mr Bill Shorten's own Fair Work Act review panel. Responding to Mr Shorten's misleading claims that the government's proposed changes to IFAs would result in penalty rates being traded off for pizzas, even Professor Ron McCallum, a person hand-picked by Labor to review the Fair Work laws, said:

I don't think that the proposal of the Coalition in relation to IFAs means—listen to this, Senator Cameron—

an automatic go back to Work Choices.

So nobody believes the mantra of Senator Cameron or Senator Lines about these reforms.

Opposition senators interjecting—

The PRESIDENT: Order on my left!

Senator ABETZ: These are reforms that are needed for the economy and which will help to create jobs, and that is our task and that is what we will continue to do. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT (14:38): Order! I draw to the attention of honourable senators the presence in the chamber of a parliamentary delegation from the House of Representatives of the Autonomous Region of Bougainville. They are the Hon. Rose Pihei MP, the Hon. Joan Jerome MP and the Hon. Elizabeth Burain MP. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

Housing Affordability

Senator DAY (South Australia) (14:38): My question is to the Minister for Finance, Senator Cormann. I refer to current debates about high house prices and, in particular, the push by some for more government intervention on home lending rules, negative gearing,
capital gains tax, foreign investment in real estate et cetera. My home state of South Australia created the first state land management agency, the South Australian Land Commission, the primary aim of which was: ‘The provision of land to those members of the community who do not have large financial resources.’ Further, the act made clear that the Land Commission: ‘shall not conduct its business with a view to making a profit.’ Is the minister aware that state and territory land management agencies made almost $600 million in profit from land sales in the last reporting year and South Australia's land management agency profiteered more per capita than any other state in the Commonwealth?

Senator CORMANN (Western Australia—Minister for Finance) (14:39): I thank Senator Day for that question. I also thank him for and congratulate him on his strong advocacy in support of stronger economic growth, opportunities and self-reliance for South Australia, because along with Liberal members and senators from South Australia—

Opposition senators interjecting—

The PRESIDENT: Order on my left!

Senator CORMANN: and all of us on this side, Senator Day understands that the best way to create more opportunity for people in South Australia, and, indeed, around Australia, to get ahead is by driving policies for stronger economic growth.

I say to Senator Day that I was not aware of the precise figures that he mentioned, though I am aware of the broader issue of course. But, having said that, I am not at all surprised that in South Australia the profiteering, as Senator Day refers to it, is the largest around Australia, because of course South Australia has had a bad Labor government over an extended period of time, and the state Labor government in South Australia, in the bad tradition of state Labor governments and federal Labor governments, has made a mess of the budget, has not been able to live within its means and is always casting around for more cash. Arguably, the state of affairs in South Australia is the worst that it has been since the collapse of the State Bank of South Australia in the period of a previous state Labor government.

So what I would say to Senator Day in relation to the substantive issue that he has raised is that the most fundamental cause of declining housing affordability is that the supply of housing has not kept pace with the strong growth in demand in recent years. I am aware, for example, that growth in private dwellings in South Australia has been relatively low against similar growth in other states. Data from the National Housing Supply Council shows that dwelling growth by percentage is almost a third lower than the national growth average over the decade between 2001 and 2011, and previous Housing Industry Association data has also shown that land values in Adelaide had been around 40 per cent of— (Time expired)

Senator DAY (South Australia) (14:42): Mr President, I ask a supplementary question. There is an economic activity gap in South Australia and in the nation as a whole which, Treasury officials tell me, could be solved by meeting the shortfall of some 50,000 housing starts per annum. Housing affordability was once my home state's principal competitive advantage. Does the minister agree that housing construction would fill the national and South Australian activity gap and South Australia's GST shortfall?

Senator CORMANN (Western Australia—Minister for Finance) (14:42): I thank Senator Day for that supplementary question. What I agree is that, as a government, at a federal level, we need to continue to implement the policies necessary to build a stronger, more prosperous
economy where everyone can get ahead. Those of us on this side of the chamber all want to see stronger economic growth in South Australia—as we want to see stronger economic growth in all states across Australia—because that is the only way that we can ensure that all Australians, wherever they live, have the best possible opportunity to get ahead. As I was saying previously, Housing Industry Association data has shown that land values in Adelaide were around 40 per cent of new house prices in the early to mid nineties and declined over the subsequent decade, but those land costs rose significantly from 2003 onwards, which of course supports the proposition that Senator Day just put.

States and territories have responsibility for housing supply. This includes regulation of zoning, planning, and development, and the release of government-owned land for housing. Improving housing supply is primarily about—(Time expired)

Senator DAY (South Australia) (14:43): Mr President, I ask a further supplementary question. Does the minister agree that the Australian economy has been distorted by plummeting housing starts caused by high entry-level prices as a result of state government price-gouging? If so, what can the government do about it?

Senator CORMANN (Western Australia—Minister for Finance) (14:43): Let me firstly say that of course we would not want to see state governments—

Opposition senators interjecting—

The PRESIDENT: Order on my left!

Senator CORMANN: price-gouging in this space, because, to the extent that it occurs, it obviously does not help with ensuring housing affordability. There have been a number of reviews over recent years that have found that restrictive planning controls and inefficient development assessment processes at the state or territory level reduce the efficiency of the housing market and add to the cost of housing. Indeed, the housing supply and affordability reform council—

Opposition senators interjecting—

The PRESIDENT: Order on my left! I cannot hear the answer, let alone Senator Day.

Senator CORMANN: I really do not understand why those on the Labor side are jumping up and down like this. I would have thought there was bipartisan support in this chamber and indeed support right across the chamber for better access to affordable housing. The Housing supply and affordability reform report, which was released by the Council of Australian Governments under the previous government in 2013, made a series of recommendations about what the states should do in terms of removing development barriers, including minimum block size requirements, deeming development applications—(Time expired)

Higher Education

Senator KIM CARR (Victoria) (14:45): My question is to the Minister representing the Prime Minister. I refer to the Prime Minister's statement in parliament yesterday:

… the Commonwealth taxpayer will continue to cover 50 per cent of people's university education.

I also refer to the fee schedule released yesterday by the University of Western Australia which shows that under the government's plan the Commonwealth will pay only 10 per cent for commerce students, 27 per cent for arts students and 43 per cent for science students. Why did the Prime Minister mislead the parliament?
Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:46): Of course the Prime Minister did not mislead the parliament. If there is one exemplar of misleading the parliament it is Senator Kim Carr himself. I suggest that that is not a strong suit for Senator Carr to seek to bring to the parliament. What the Prime Minister said is that the figure is on average. As we know, on average means that some will be lower and some will be higher. That is what 'average' means. Every single Australian knows that. But, of course, what Senator Carr seeks to do, very mischievously, is to extrapolate that to every single example and that is not able to be done if you are honest.

Senator Kim Carr: Mr President, I rise on a point of order going to relevance. The Prime Minister did not say 'on average 50 per cent'; he said '50 per cent'.

The PRESIDENT: Senator Carr that is not relevance; that is debating the point.

Senator ABETZ: What the Australian people also know is that the average university graduate has the benefit of earning an extra $1 million over their lifetime that those without university degrees will not be able to achieve. What the Labor Party are saying, allegedly the representatives of the workers, is that the truck drivers out there without a university degree and the farm workers out there without a university degree should continue to pay taxes to subsidise young people to go to university so that they can earn $1 billion more in their lifetime than those who do not go to university. What we are doing is restoring balance and longevity, and ensuring that our universities will be world competitive. Day after day as universities and— (Time expired)

Senator KIM CARR (Victoria) (14:48): Mr President, I ask a supplementary question. Under the government's plan, at how many other universities will students have to pay more than 50 per cent of their university education, contrary to the Prime Minister's assurance?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:49): As the honourable senator knows, no student will actually have to pay until such time as they earn over $50,000 per annum. That is a very important consideration. Knowing that these people, once they are earning over $50,000 per annum, are likely—

Senator Moore: Mr President, I rise on a point of order, again, on direct relevance. The minister has had half his time for this answer. The specific question was about the number of universities where students would pay more than 50 per cent. The minister has not moved towards that question.

The PRESIDENT: I remind the minister of the question. He has 34 seconds left to answer the question.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:49): What I sought to do was to clarify that the premise of the senator's question is false because they do not pay for their university degrees; they pay afterwards, after they receive a salary of $50,000 per annum.

Senator Moore: Mr President, I rise on a point of order, again, on direct relevance. Allowing for the minister's argument, the question was quite clear about the volume of 50 per
cent. It is not about what the payment is for and it is not about how you define payment; it is about the quantum of 50 per cent.

The PRESIDENT: The question also included how many other universities and that was at the commencement of the question. The minister has 13 seconds left to answer the question. I remind him of the question.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:51): As those opposite should know, universities are still in the process of setting their fees and therefore trying to determine which universities are going to charge how much is not known to anybody, and Senator Carr should know that. (Time expired)

Senator KIM CARR (Victoria) (14:51): Mr President, I ask a further supplementary question. Minister, how many universities will charge students in such a way that they will have to pay more than 50 per cent of their university education, contrary to the Prime Minister's assurance? Is the Prime Minister's assurance just another broken promise being developed by this dishonest government?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:51): The very short answer is no. In relation to the outrageous allegation of dishonesty, all I suggest to Senator Carr is have a look in the mirror and say, 'No carbon tax.'

Aged Care

Senator SESELJA (Australian Capital Territory) (14:52): My question is to the Assistant Minister for Social Services, Senator Fifield. Can the minister update the Senate on development of the replacement scheme for aged care providers who support the small number of people in residential care who have severe behaviours?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:52): I thank Senator Seselja for his question, as always.

The government is very firmly of the view that proper support for Australians with dementia is part of the core business of aged care. Indeed, the government's commitment to Australians with dementia was outlined very well by Minister Nash yesterday in relation to the $200 million that this government is going to dedicate to dementia research. I think colleagues of all sides will remember the sad-and-sorry saga of the previous government's design of the dementia and severe behaviours supplement, which of course saw very significant cost blow-outs. Rather than $11.7 million as allocated last financial year by the previous government, that expenditure was indeed $110 million, and rather than supporting 2,000 people, as the previous government designed, it went to 29,000 people and it was unsustainable. So, we had to take a difficult decision to conclude that supplement.

Nevertheless, the government is committed to designing a replacement for Labor's flawed design. In fact, the government has been meeting with stakeholders, including providers and consumer representatives, to determine the best way to proceed. Indeed, on 11 September the first Ministerial Dementia Forum met in Melbourne. It was tasked by Minister Dutton and me to consider the provision of best-practice dementia care in residential and home settings. There were 70 stakeholders, including consumers, service providers and clinicians, who came
together. The forum was specifically asked to provide advice on what the replacement might be for the supplement for those providers who support the small number of people in residential care who exhibit severe behaviours.

Senator SESELJA (Australian Capital Territory) (14:54): Mr President, I ask a supplementary question. Can the minister inform the Senate of the objectives of holding the ministerial forum for dementia?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:54): The forum was asked to provide advice to the government specifically on three things. Firstly, strategies to improve and promote the wider adoption of better practice care of people with dementia and behavioural and psychological symptoms of dementia who are receiving aged-care services; secondly, the effective models of care for people with behavioural and psychological symptoms of dementia and people with dementia within aged-care services; and thirdly, the timely and cost-effective specialised support for care of dementia clients with complex needs or severe behavioural and psychological symptoms. Advice will cover care provided both in residential settings or at home and within the current funding envelope.

Senator SESELJA (Australian Capital Territory) (14:55): Mr President, I ask a further supplementary question. Can the minister inform the Senate of the next steps regarding a replacement scheme for aged care providers?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:55): I will be receiving a report from the Ministerial Dementia Forum outlining their advice in October. From the advice provided, a replacement scheme for providers who support those people with severe behaviours will be developed within the funding envelope available. We are taking a steady and methodical approach to the development of the replacement, including the sector consultation at the Ministerial Dementia Forum.

Obviously, this is in stark contrast to the approach of the previous administration. I should point out that one aged care publication asked me in an interview why the Australian Labor Party—Senator Polley and Mr Neumann—were not invited to the forum. My answer to that was pretty straightforward, that those opposite have already made their policy clear. That is, they support the reinstatement of the previous flawed arrangements. Given that they have already determined their position and are not interested in contributing positively to a better replacement, there was no point in inviting them. They would rather talk to—(Time expired)

**Budget**

Senator McEWEN (South Australia—Opposition Whip in the Senate) (14:56): My question is also to Senator Fifield, the Minister representing the Minister for Communications. I refer to the Prime Minister's pre-election promise of, 'No cuts to the ABC and no cuts to the SBS.' Given the government has already cut $240 million as a down payment and the minister is searching for further substantial savings, hasn't the Prime Minister broken his promise?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:57): Here we go again. The only difference is it is not the Australian Greens asking the question this time, it is the Australian Labor Party.
The government has been clear all the way through that every Commonwealth government department and agency should be good stewards of taxpayer dollars. The ABC and SBS should not be exempt from that legitimate public expectation that they get good value from each of the hard-earned taxpayer dollars that they render to the Australian government. That was the basis of the efficiency review that was commissioned. You would be aware that the results of that work have been provided to the boards of the ABC and SBS. The government is confident that the work of that review can be implemented by the ABC, can be taken into account by the ABC board without—

Senator Cameron: That is just another Liberal lie. Add it to the pile!

The PRESIDENT: Senator Cameron!

Senator Moore: Mr President, I rise on a point of order—as always, it goes to direct relevance to the question. The specific question was about the promise about no cuts to the ABC or SBS.

The PRESIDENT: There is no point of order. The question cannot be taken in isolation when it has the preamble that Senator McEwan gave to the question. The minister is addressing the question.

Senator FIFIELD: As I was saying, the government is confident that the boards of the ABC and SBS can find efficiencies without affecting production and without affecting content over the various platforms of the two organisations—that there are savings that can be made in the back of house.

The proposition of those opposite is actually quite absurd. What we are saying—and I think what the Australian public expects—is that organisations should be as efficient as they can be. The alternative to that is that organisations should be needlessly inefficient. That is not a proposition that we can support. In relation to the dollar figure that was cited, that relates to a contract which the foreign affairs portfolio had with the ABC, which has now been concluded by this government.

Senator McEWEN (South Australia—Opposition Whip in the Senate) (15:00): Mr President, I ask a supplementary question. Is the minister aware that 150 jobs at the ABC in South Australia are already at risk as a result of this government's budget cuts?

Senator Wong: 'No cuts to the ABC.' Was that a lie?

Government senators interjecting—

The PRESIDENT: Order! Senator McEwen, I am going to ask you to repeat the question. I could not hear the question.

Senator McEWEN: Thank you, Mr President. Is the minister aware that 150 jobs at the ABC in South Australia are already at risk as a result of this government's budget cuts. How many jobs and how many South Australian ABC programs will be cut as a result of the Prime Minister's broken promise?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:01): I should indicate at the outset that I do not accept at face value any proposition put forward by those opposite.

Senator Wong: Was it a promise or was it a lie?

Senator Ian Macdonald interjecting—
Senator Conroy interjecting—

The PRESIDENT: Order! Senator Macdonald and Senator Conroy.

Senator Wong interjecting—

Senator Kim Carr interjecting—

Senator FIFIELD: I am talking about her comments in relation to South Australia. As I said, I do not accept at face value propositions put forward by those opposite in relation to operational matters of the ABC. How the board of the ABC responds to, and decides to implement, efficiencies is a matter for the board of the ABC. The decisions that the ABC will take are a matter for the board and the management.

Again, I come back to the proposition: are those opposite seriously suggesting that the ABC should be less efficient than they are able to be?

Senator McEWEN (South Australia—Opposition Whip in the Senate) (15:02): Mr President, I ask a further supplementary question. I refer to the departure of ABC journalists Karen Barlow, Jim Middleton and Sean Dorney. How many more journalists will be lost to the national broadcaster as a result of these additional cuts to the ABC?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:03): As I have already intimated in my previous answers, operational matters, including staffing matters, at the ABC are matters for the ABC and management. I have said it before and I will say it again: we on this side of the chamber make absolutely no apology for wanting all Australian government departments and agencies to be good stewards of taxpayer dollars. That is the purpose of the efficiency review for the ABC and SBS: to provide assistance to the board and management of the ABC and SBS to be the best managers they can be of scarce taxpayer resources.

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Workplace Relations

Senator CAMERON (New South Wales) (15:04): I move:

That the Senate take note of the answer given by the Minister for Employment (Senator Abetz) to a question without notice asked by Senator Cameron today relating to the Fair Entitlements Guarantee.

Senator Abetz today spoke about a 'time machine'. Listening to Senator Abetz today took me back to 2001, and statements by the then federal president of the Liberal Party; he described the Liberal Party as 'mean, tricky and nasty'. If there ever was an example of meanness, trickiness and nastiness, it was the Leader of the Government in the Senate today.

It also took me back to some critiques that were made by another federal president of the Liberal Party, Mr Brian Loughnane, when he said the Liberal Party should 'stop being ideological'. He said they were ideological. There is one area where this government is completely ideological: when it comes to working people. They want to rip away the rights of working people. They want to get rid of penalty rates. They talk about flexibility; and flexibility for the coalition simply means reducing wages, reducing conditions and forcing workers to have one-on-one negotiations with their employer.
Senator Abetz today spoke about my questions being 'silly, stupid and dumb'. Let me say this: I do not think it is silly to bring to the attention of the Senate that an Australian citizen was misled by a letter written personally to that citizen. I do not think it is stupid to defend the rights of an individual Australian citizen to take at face value a written reply to a question that they asked of a senior government figure. It is certainly not dumb to hold Senator Abetz to account for writing a letter to an individual worker who was concerned about ensuring that—if he was made redundant and if his company went bust—his family would get some support from the government.

What did Senator Abetz do? He wrote back to Mr Pierre Rault on 17 July—a pretty quick response for some politicians. He must have gone, 'I have got to stop this,' because he said, 'You have been somehow misled to believe that we are going to abolish the entitlements guarantee.' They are not going to abolish it. But then what did he do? He said, 'You can be assured that the coalition would not seek to do anything that would water-down these important protections for Australian workers.' Well not only are they watering them down but they are cutting them back to the core. Many workers in this country have agreements where they have negotiated redundancy entitlements with their employer of x amount of weeks per year. The maximum these workers will get under this government's proposal—as based on a lie to these workers—would be 16 weeks. I have to say to you that Senator Abetz went on to say, 'We were explicit in the policy. But for the changes proposed in that document, we would not make any other changes. We have not flagged any changes to the slightly modified entitlements guarantee that currently exists.'

This is a misrepresentation to that worker. It is a lie to that worker. And no matter how Senator Abetz tries to employ his legal training to be tricky in his responses, to talk about no retrospectivity, this is nothing more than a deception and a lie in writing to an Australian worker that was worried about his rights and his family's future. It is absolutely reprehensible that Senator Abetz would get up here and try and dodge his way around what is a clear and specific commitment. How can you trust this government with anything it says? And now the public know this government cannot be trusted; it is a government that was elected on lies.

(Time expired)

Senator SMITH (Western Australia) (15:09): We just heard from Senator Cameron his attempt to fly through a time machine back to 2001. So let me take a trip back in time to last night or even to a few nights ago. Yes, it was tedious hearing the former Prime Minister talk about her hair, hearing the former Prime Minister talk about her make-up. But what did she say, Senator Cameron, that you might find very revealing? In fact, I correct myself. You will not be surprised to hear this. What did the former Prime Minister say in regards to her conversation with the former Prime Minister Kevin Rudd? Guess what she said? 'A conversation went too long. I certainly fed hope. I should not have done that.' What we saw was a glimpse into Labor's DNA.

Senator Cameron: Mr Acting Deputy President, I rise on a point of order: relevance. It is quite clear that when we are debating, we are debating about Senator Abetz's response on specific issue. I understand that we can range widely but this is far far away from the issue before the chair.
The DEPUTY PRESIDENT: Senator Smith, I do remind you of the question before the chair, which is taking note of the answer given by Senator Abetz to Senator Cameron's question.

Senator SMITH: Thank you, Mr Acting Deputy President. For those listening and for those in the audience, that was a point of order and a distraction because Senator Cameron does not want to hear. He does not want to go back one day in his time machine; he has to go back years in his time machine. Let me just repeat the quote and move quickly to the issue of industrial relations and of feeding false hope, indeed, feeding fear. What was that quote?

Senator Bilyk: Mr Acting Deputy President, I rise on a point of order: relevance. Senator Smith has been spoken to in this matter and he is still digressing. The issue has got nothing to do with industrial relations and the question from Senator Cameron to Senator Abetz.

The DEPUTY PRESIDENT: I have reminded Senator Smith of the question before the chair. He has just informed me that he intends to very quickly come back to the question before the chair, and I hope that he would do so.

Senator SMITH: I wish take note went for 20 minutes because I would talk about the budget and about Labor feeding fear. But let me talk about industrial relations because we have heard it twice. We heard it yesterday and we have heard it today. Let us just reflect. What is that feeding false hope? What is that feeding fear in the context of industrial relations? We know the coalition has a plan when it comes to industrial relations reform. Let us reflect. I am going to do this in two parts. I am going to talk briefly about the coalition's plan and then I am going to talk about what Labor does not say.

The coalition has a reform plan to address greenfield agreements, which will stop rogue unions extorting unfair deals from employers. We have a plan that will close Labor's strike-first-talk-later loophole in the bargaining laws—laws that Labor refused to fix and that we had promised would never occur—and our plan will clarify individual flexibility arrangements confirming the way Labor promised they would operate under the Fair Work Act so that employees can only trade up, must genuinely agree to the arrangements and be better off overall.

Let us reflect, what does Labor not say? It does not say that those coalition industrial relations reform measures are endorsed by some people in Labor. You are feeding fear where there is no fear to be found. What did Paul Howes, former national secretary of the Australian Workers Union, say? He said: 'I, Paul Howes, have no issue with coalition policy. There should be zero tolerance of any criminal activity.' That was an endorsement from Paul Howes about the coalition's industrial relations policy. Let us have a look at what Martin Ferguson, former ACTU president and former Labor cabinet minister no less, said. He said:

It should be seen for what it was: a mechanism that holds both sides to account and which can help deliver projects on time and on budget.

With regard to the Fair Work Bill, Mr Ferguson also said that:

… the changes are a step in the right direction, they are really quite modest.

What we have had the last few nights is an insight into Labor's DNA when the former Prime Minister said with regard to her conversation with Kevin Rudd that it was:

… a conversation went too long, I certainly fed hope. I shouldn't have done that.
We had a contribution from Senator Cameron today feeding fear where there is no fear to be found with regard to industrial relations reform. We had Labor trying to feed fear into South Australia and the submarine program where there is no fear to be seen.

Shamefully, we had Labor trying to feed fear into Australia's Indigenous communities where there is no fear to be had. What we have had is a glimpse into Labor's DNA, not from a Labor party member but from a former Labor Prime Minister. Shameful. Shameful. Shameful. (Time expired)

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (15:16): I rise to also take note of answers from the Minister for Employment to questions from Senator Cameron on the Fair Entitlements Guarantee and the government's election promise that Work Choices was dead, buried and cremated.

Firstly, on the Fair Entitlements Guarantee: I want to begin with an endorsement of the current system, an endorsement by none other than the federal Liberal member for Braddon, Mr Whiteley, in the other place. In June this year when a large Tasmanian electrical company went into administration and around 100 Tasmanians lost their jobs, the Liberal member for Braddon said of the current Fair Entitlements Guarantee that it is 'a comprehensive government support system'.

You know what? He is actually correct, but I want to add one qualification—that is, that it is currently a comprehensive government support system. The proposals that Minister Abetz has released will leave the FEG as a shell of its former self. And why? Because Minister Abetz seeks to follow the Commission of Audit's recommendation and cap the maximum redundancy payment at four weeks pay per year for a maximum of four years—that is 16 weeks pay—when a worker may have worked at a company for a very long time.

Everything this government does is attack workers, conditions and productivity. Indeed, even as late as July last year, Minister Abetz had been assuring hardworking Australians that 'you can be satisfied that there is no risk to your entitlements'. As it predictably turns out, Minister Abetz was not being truthful in his letter to Mr Rout, an autoworker from Victoria. Minister Abetz noted in the letter that it was the Howard government that introduced the previous General Employees Entitlement Redundancy Scheme.

I want to remind those opposite that it was the closure of National Textiles, a company whose chairman was the brother of the Prime Minister, that triggered the previous GEERS system—hardly pure motives. The GEERS scheme was always insufficient, and I was proud to be part of the Labor government that enshrined the protection in legislation and enhanced that scheme. The initial scheme only guaranteed redundancy payments up to eight weeks pay, depending on an employee's length of service. This was despite many jointly negotiated workplace agreements that outlined redundancy payments well in excess of that.

Importantly, the average span of unemployment after a redundancy is much higher than two or four months. Many retrenched workers end up as long-term unemployed. I note that Minister Abetz's flagship program in our home state of Tasmania for long-term unemployed, the Tasmanian Jobs Program, has been an absolute failure. The latest figures released in August show that only 80 jobs have been created by this program. This is despite the minister announcing in December last year that the Tasmanian Jobs Program would create 2,000 jobs
within two years. Eighty jobs in eight months is an abject failure and I note that, at this rate, it will take over a decade to reach the 2,000 jobs promised.

It is clear that instead of demonising hardworking Australian workers and breaking personal commitments, the Abbott government should be getting on with articulating a plan for creating jobs, because the current programs of this government are not working. Before too long, this government will heed the calls of it backbench. It will heed the calls of some in the business community and seek to bring us back down the road of Work Choices.

Every time we mention Work Choices, Minister Abetz tries to claim that the concept is dead, buried and cremated. Despite the obvious logical flaws in something being dead, buried and cremated, the public just aren't buying it. The public remember the horrors of individual contracts that wreaked havoc across this country from small towns to the big city—individual contracts ripped away hard-won and fair workplace entitlements and were an ideological pursuit to lower costs for business masquerading as productivity improvement.

Of course productivity is improved by achieving more with what you have got. It is not a concept that is necessarily related to cost. Workers are more productive when they receive quality training, when they are supported at work and when they receive adequate remuneration for their efforts. In some respects, Work Choices is the opposite of a productivity improving reform, because driving down wages and conditions only drives down effort and equality.

Australian workers are often the first to suggest productivity enhancing innovations in their workplace and they deserve a government that will look after their entitlements, if their company goes under, not a government that wants to pursue a race to the bottom. *(Time expired)*

**Senator SESELJA** (Australian Capital Territory) (15:21): I wanted to pick up perhaps from where Senator Urquhart left off but I have to go back to Senator Cameron's contribution first, because he reminded us of time machines. I think Senator Cameron is a little bit like a time machine. He reminds us of another time. He reminds us of a time when union leaders felt they ran this country—perhaps they felt they ran other countries as well. He reminds us of a time when unions used to dominate. That wasn't a good outcome for workers. It wasn't a good outcome for our economy. It wasn't a good outcome for wages growth.

Senator Urquhart just talked about driving down wages. What we saw under the last coalition government, in those 11 years, was wages continually rising strongly above inflation. We saw real wages growth.

**Senator Lines:** That's not true!

**Senator SESELJA:** Yes, it absolutely is true. We saw real wages growth. Senator Lines, who yaps away at the back always and has nothing constructive to say, is again trying to mislead with her interjections. She is trying to say there was not real wages growth under the Howard government.

**Senator Lines:** There wasn't.

**Senator SESELJA:** There was. Have a look at the figures. In fact, I am reminded of a recent committee inquiry that we had about income inequality in this country. We were looking at the OECD numbers around real wages growth between 1995 and 2008. Guess who was in charge for almost all of that time? It was the Howard government, from 1996 to 2007.
If you look at the table as to how Australia compares, we saw real wages growth across the income spectrum—far higher than virtually all of the OECD. We saw it for the bottom 10 per cent of income earners, we saw it in the middle and we saw it at the top. Shouldn't we be celebrating that, Senator Lines, rather than denying that it happened?

*Senator Lines interjecting—*

**Senator SESELJA:** It did happen. Those are the kinds of policies that the coalition pursues and implements. Those are the results. But Senator Cameron and the Labor Party would like to take us back to a different place. They would like to take us back to a time when we saw real wages stagnate, when we saw soaring unemployment, when we saw low productivity, when we saw more and more days lost to industrial disputes. That was the former model. That is the time machine model. That is the Doug Cameron model where the unions are in charge. We reject that model absolutely, because we want to see growth in our employment and we want to see growth in our economy.

I think it is important in this debate to look at the comments of people like Martin Ferguson, because the comments of Martin Ferguson expose just how far back in time the current Labor opposition has gone and just how far back in time they would like to take this country. They would like to take us back to the time before the likes of Martin Ferguson, Bob Hawke and others were implementing changes that would help change our economy—which were supported and built upon by the coalition—but Doug Cameron would like to take us back before that. We are reminded by Martin Ferguson, who said:

> It is time that some in today's union leadership recognised that their members' long-term interests are aligned with their long-term job security …

If the likes of Senator Cameron were to take more advice from wise elders within the Labor movement, such as Martin Ferguson—

*Senator Bilyk interjecting—*

**Senator SESELJA:** What is it about Martin Ferguson that the Labor Party so despises? Why do they despise him? He was a senior union leader and head of the ACTU. He served loyally and faithfully as a cabinet minister in the Labor government, and now he is giving some advice which the Labor Party rejects. That shows the time machine that Doug Cameron is in. That shows where Doug Cameron and the modern Labor Party would like to take us. They would like to take us back to the pre-1980s industrial relations system. That is not the way to see wages growth and prosperity in this country. *(Time expired)*

**Senator LINES** (Western Australia) *(15:26)*: I rise to take note of answers given today by Senator Abetz on behalf of the Abbott government. I have got to say that Australian workers are not fooled by the lies of the Abbott government. They are not fooled.

I want to look at the guarantees that the Abbott government gave to Australian workers—both in their platform and in the particular guarantee that Senator Abetz gave to a worker who took the time and the trouble to write to him. I have to say that I was really disgusted today to hear the disrespectful way that Senator Abetz treated the questions from Labor on behalf of that worker. It showed the government's real, true colours in that they do not really respect Australian workers and they clearly do not respect the role of trade unions.

Let me go to the Abbott government's policy document. When in opposition the coalition put out the coalition's policy to improve the Fair Work laws. There are no changes to the Fair
Entitlements Guarantee anywhere in that policy document. In fact, I will quote from page 11 of that document. It says:

The details of the Coalition’s Policy to Improve the Fair Work Laws are spelled out clearly in this document. Based on the laws as they stand now, the Coalition has no plans to make any other changes to the Fair Work laws.

That is their policy document. I think Australians, when they consider who they are voting for, have got a right to expect that a policy document of an opposition who wishes to be a government can be taken at face value—that what it says will actually be the truth. But, because we know Australian workers do not trust the Abbott government, one of the workers—Mr Pierre Raoul—was referred to today—took it upon himself to write to Senator Abetz personally to seek his own clarification. Senator Abetz, in response to the letter from Mr Raoul, said, 'You can be assured that the coalition would not seek to do anything that would water down these important protections for Australian workers.' Yet we see a watering-down of the Fair Entitlements Guarantee Bill—a watering-down of an uncapped redundancy to a redundancy capped at 16 weeks. That is a broken promise, it is watering down, and it is a lie given to the Australian public by the Abbott government. It is a lie. It is worse than a broken promise; it is a lie. You cannot say one thing in your policy documents and in personal letters to constituents when they write to you and then completely ignore that. So it is a lie by the Abbott government.

Senator Abetz went further. He said to Mr Pierre Raoul, 'We were explicit in the policy'—and I have just clarified that and read that into the Hansard; that is absolutely correct—and 'but for the changes proposed in that document, we would not make any other changes.' That is the guarantee Senator Abetz gave. For the Abbott government to move away from that today is a lie. It is a betrayal of trust. But Senator Abetz went further; he said, 'Accordingly, you can be satisfied that there is no risk to your entitlements.' Senator Abetz can be as cute and as clever as he likes, but this particular worker had genuine concerns about his entitlements.

Senator Abetz can say what he likes today, but the reality is that if the government is successful in prosecuting its changes to the fair entitlements guarantee and this worker's company goes belly-up next year and this worker has a redundancy expectation of greater than 16 weeks, guess what? He will not be getting them. It does not matter how Senator Abetz and the Abbott government want to lie, that is the truth.

Last week at the inquiry we heard evidence about all sorts of things the government is trying to carry on about. The reality is that the idea to reduce the entitlements came from their mates at the National Commission of Audit. We currently have a scheme which guarantees entitlements. It is not a welfare scheme. It is not a minimum scheme. It is a scheme which guarantees entitlements. The Abbott government needs to hold firm to its commitments.

(Time expired)

Question agreed to.

National Security

Senator WRIGHT (South Australia) (15:31): I move:

That the Senate take note of the answer given by the Attorney-General (Senator Brandis) to a question without notice asked by Senator Wright today relating to anti-terrorism laws.
Today we have been debating the National Security Legislation Amendment Bill (No. 1) 2014, which is the first tranche of significant national security legislation, and this afternoon we anticipate the introduction of the second tranche, known as the foreign fighters bill. Both of these bills contain significant and far-reaching changes that will fundamentally affect some long-held values of our justice system and the civil liberties of every Australian.

The Australian Greens are committed to protecting Australians from terrorism—of course we are; we live in and of this community; our family and our friends live in this community—but we are also committed to safeguarding the rights of innocent Australians and ensuring that we do not, in the end, give up the very freedoms that we actually want to protect from terrorism. Make no mistake: public safety is paramount. So a fundamental question has to be: Will these laws really make us safer? To start with, the greatest threat to Australia's security is heading into an unwinnable war in the Middle East. The best way to make us safer in Australia is to bring people together and not to have division, suspicion, mistrust and violence. The Australian Greens support the intention of the government to prevent terrorism, but we are very concerned that these extensive and extended laws will be rushed through without sufficient scrutiny or input from those in the Australian community who are most affected.

Australia's counter-terrorism organisations already have very extensive powers. At times of heightened fear, suspicion and threat—the sorts of times that we are living in in Australia at the moment—civil liberties and established legal rights are more vital than ever. The foreign fighters bill includes an extension of preventative detention orders for a further 10 years. This is despite the COAG review of counter-terrorism laws recommending that they be repealed. It is also despite reports by the Independent National Security Legislation Monitor that preventative detention orders are not effective, not appropriate and not necessary. In fact, the INSLM said that they should be abolished because they are worse than useless.

Indeed, today in the Guardian Mr Bret Walker SC, the former INSLM, was reported as saying that he did not understand why control orders and preventative detention orders were necessary given the powers already available to police and intelligence agencies. Mr Walker said:

The problem is that people think that passing laws makes us safer. Well not unless the laws are necessary because we lacked powers to keep us safe. The existing laws should be properly implemented.

In his response to my question today, the Attorney-General acknowledged that the national security legislation contains unusual and far-reaching powers. He also waxed lyrical about the coalition's role in the creation of the INSLM as a watchdog. Mr Walker's term expired in April. The government planned to abolish the position and presented a bill to abolish the INSLM in May. The government changed its mind in July but the position remains vacant to date and there has been no funding and no announcement as to funding. At a time when these extensive changes are being brought in, the Attorney-General has not been willing today to inform the Senate as to when the INSLM will be appointed—merely remaining coy about that and using a very ambiguous word like 'soon'. What does that mean? He did not answer the question about funding of the INSLM at all.

These laws come on the back of already extensive national security laws that we introduced in 2005. They contain restrictions and will have consequences that have the potential to affect
every Australian—us, our children and our neighbours. Let's be clear: it is not the guilty we want to protect but the innocent—those who get caught up inadvertently and end up suffering from the curtailment of freedoms that these laws may usher. It is for that reason that we need properly considered and scrutinised legislation. We need an independent committee to look at these laws because, once they are on the books, they can be very hard to shift and what may be an initial and hurried response could change the landscape in Australia forever.

Question agreed to.

PETITIONS

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

Foreign Investment

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

We the undersigned believe Australia is a country with extraordinary capability and believe that our land and its produce is an important part of our understanding of ourselves as a nation. We are a strong, smart, innovative and capable people who have the right to continue to own our land and farm it.

We the undersigned believe that overinflated land sales by foreign investment have resulted in farming land becoming increasingly too expensive for the average Australian farming family to purchase and is fast becoming out of reach. Australian farmers should not be disadvantaged in their pursuit to continue farming and producing goods which earn them a decent living in this country.

We the undersigned recognise that the continued sale of land to foreign entities will undermine the Australian farmers’ capability to grow primary produce which benefits the Australian people through food, manufacturing and taxes.

• Australian Bureau of Statistic figures suggest that approximately four times the area of Tasmania is either partially or wholly foreign owned in Australia.

• Foreign owned land will be difficult to reclaim by future generations.

• Allowing foreign State ownership of our land increases the risk of diplomatic issues should we or future generations wish to change current trade agreements.

We the petitioners therefore ask the Parliament to work with the Government to:

• Ensure foreign investors are not able to purchase Australian agricultural land.

• Modify the mandate of the Foreign Investment Review Board to allow foreign investors to purchase up to 25 year lease agreements for agricultural land.

• To enforce a $15 million threshold on foreign investment of agricultural land.

From Senator Madigan (from 3,468 citizens)

NOTICES

Presentation

Senator Edwards to move:

That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 2 October 2014, from 9.30 am to noon, to take evidence for the committee’s inquiry into the Competition and Consumer Amendment (Misuse of Market Power) Bill 2014.

Senator Gallacher to move:

That the Foreign Affairs, Defence and Trade References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 30 September 2014.
Senator Dastyari to move:
That the Economics References Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 30 September 2014, from 4 pm to 10 pm, to take evidence for the committee’s inquiry into Australia’s naval ship building industry.

Senator O’Neill to move:
That the Select Committee on Health be authorised to hold public meetings during the sittings of the Senate, as follows:
(a) Tuesday, 30 September 2014, from 4.30 pm to 6 pm;
(b) Wednesday, 1 October 2014, from 12.45 pm to 2 pm, and from 4.30 pm to 7 pm; and
(c) Thursday, 2 October 2014, from 9 am to 12.30 pm, and from 3 pm to 5.30 pm.

Senator Williams to move:
That the Corporations Amendment (Streamlining Future of Financial Advice) Regulation 2014, as contained in Select Legislative Instrument 2014 No. 102 and made under the Corporations Act 2001, be disallowed.

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

Senator Milne to move:
That the Senate—
(a) notes:
(i) the dangerous spread of the Ebola virus in parts of West Africa, that has infected more than 5 500 people, and caused the deaths of more than 2 600, and
(ii) the major threat that this outbreak poses to international peace and security;
(b) applauds the efforts of countries, including the United States, the United Kingdom, China and Cuba, all of which have provided medical teams and aid to help combat the disease;
(c) raises concern that the Australian Government has ignored calls from Médecins Sans Frontières for countries, including Australia, to evaluate their emergency medical and logistics capacity and make a contribution beyond financial support; and
(d) urges the Australian Government to contribute to the fight against Ebola on the ground through the provision and support of scientific, medical and humanitarian personnel.

Senator Milne to move:
That the Senate calls on the Government to establish a National Independent Commission Against Corruption, delivered through an integrity commissioner, to ensure Australia is equipped with a national framework for the comprehensive prevention of corruption and misconduct, and to restore faith of the Australian people in the integrity of our democracy.

Senator Birmingham to move:

Senators Day, Bernardi and Leyonhjelm to move:
That the following bill be introduced: A Bill for an Act to amend the Racial Discrimination Act 1975, and for related purposes. Racial Discrimination Amendment Bill 2014.

Senator Lazarus to move:
That the Senate—
(a) notes the allegations by a former Queensland treasury official aired in *The Courier-Mail* concerning the possible manipulation of data by the Queensland State Government-owned company Energex to drive up the price of electricity paid by Queenslanders;

(b) calls on Energex and the Queensland Government to provide an explanation of how it has calculated the Weighted Average Cost of Capital, and how this measure has changed over time;

(c) expresses its concern about the impact of the profit margins of electricity companies on electricity prices; and

(d) calls for a Federal Government inquiry into the allegations.

**Senator Siewert** to move:

That the Senate—

(a) acknowledges:

(i) the 10th anniversary of Western Desert Nganampa Walytja Palyantjaku Tjutaku Aboriginal Corporation (the Corporation), known as the Purple House,

(ii) that over the past decade the Corporation has provided strong, holistic community-controlled health services to people with end stage renal failure,

(iii) the Corporation has been providing high quality continuous dialysis services in Alice Springs and Kintore and has established 16 dialysis machines in eight locations, helping people remain on country and in their communities while they receive vital medical care, and

(iv) the advantages to individuals, families and communities of people being back on country while receiving medical care; and

(b) urges the federal, state and territory governments to support community-controlled health service delivery models for renal patients.

**Senator Milne** to move:

That the Senate—

(a) congratulates United Nations (UN) Secretary-General Ban Ki-Moon on inviting world leaders from government, business and civil society to the Climate Summit on 23 September 2014 to ensure a global response to our shared responsibility in limiting global warming to less than two degrees;

(b) acknowledges that the UN Climate Summit was another step in the right direction of transitioning away from fossil fuels towards a shared, low-carbon future;

(c) recognises the 700,000 people around the world who took part in the People’s Climate March rallies on the weekend of 20 September and 21 September 2014 to inspire parties to set ambitious greenhouse emission reduction targets for beyond 2020; and

(d) requests that the Government immediately outline its plan on how it will ensure Australia contributes its fair share to the global effort, based on the recommendations of the Climate Change Authority, well in advance of the Paris Conference of the Parties.

**Senator Waters** to move:

That the Senate—

(a) notes that:

(i) the Queensland Government has announced that it will use Queensland taxpayer funds to pay resource companies and port developers to dump dredge spoil in an area which would affect the nationally significant Caley Valley wetlands near Abbot Point,

(ii) this proposal would shift the costs of building the world’s largest coal port in the middle of the Great Barrier Reef World Heritage Area from multinational mining companies and port developers to Queensland taxpayers, and
(iii) the Queensland Government has indicated that it will ask the Federal Government to contribute to the cost of paying resource companies and port developers; and
(b) calls on the Federal Government to rule out allowing federal taxpayer funds to be used to pay resource companies or port developers to meet their obligations under environmental approvals, including at Abbot Point.

Senator Rice to move:

That there be laid on the table by the Minister representing the Minister for Infrastructure and Regional Development, no later than 4 pm on 2 October 2014, the following documents held or prepared by Infrastructure Australia:
(a) any business case presented by the Victorian Government for the East West Link project;
(b) any other documents in relation to the East West Link project provided to Infrastructure Australia by the Victorian Government; and
(c) any assessment of the proposed East West Link undertaken by Infrastructure Australia, including the priority of this project as compared to other projects.

Senator Brandis to move:

That—

(a) if by 2 pm on Thursday, 25 September 2014, the National Security Legislation Amendment Bill (No. 1) 2014 has not been finally considered the Senate shall not adjourn, the routine of business from not later than 8 pm shall be government business only, and the Senate shall continue to sit until 10 pm; and
(b) divisions may take place after 4.30 pm.

Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 6 standing in the name of Senator Dastyari for today, proposing the disallowance of items 1 to 27 inclusive and item 30 of the Corporations Amendment (Streamlining Future of Financial Advice) Regulation 2014, postponed till 25 September 2014.

Question agreed to.

Withdrawal

Senator LEYONHJELM (New South Wales) (15:37): Pursuant to notice of intention given yesterday, I withdraw business of the Senate notices of motion Nos 1 to 3 standing in my name for today.

BUSINESS

Rearrangement

Clerk: A postponement notification has been lodged in respect of business of the Senate notice No. 6 to 25 September.

BILLS

Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014

First Reading

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:38): I move:
That the following bill be introduced: A Bill for an Act to amend the law relating to counter-terrorism and other matters, and for related purposes.

Question agreed to.

Senator BRANDIS: I present the bill and move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:39): I table the explanatory memorandum relating to the bill and 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—

The Government is pleased to introduce the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014. The Bill amends several Acts and provides a number of important measures that will enhance the capability of Australia's law enforcement, intelligence and border protection agencies to protect Australian communities from the threat posed by returning foreign fighters and those individuals within Australia supporting foreign conflicts.

As the Prime Minister remarked in his national security statement on 22 September 2014, "protecting our people is the first duty of government". The rapid resurgence in violent extremism and the participation in overseas conflicts by some Australians present new and complex security challenges for our nation. The ongoing conflicts in Syria and Iraq are adding to this challenge and the number of Australians who have sought to take part, either by directly participating in these conflicts or providing support for extremists fighting there, is unprecedented.

Australia is well served by its law enforcement, intelligence and border security agencies. However, we must not become complacent. The recent increase in the terrorism threat level from Medium to High by the Director-General of ASIO, the first time the threat level has ever been increased to this level, only serves to remind us that the threat of a domestic terrorist attack remains real.

The risk posed by returning foreign fighters is one of the most significant threats to Australia's national security in recent years. Our security agencies have assessed that around 160 Australians have become involved with extremist groups in Syria and Iraq by travelling to the region, attempting to travel or supporting groups operating there from Australia. While this is not the first time Australians have been involved in overseas conflicts, the scale and scope of the conflicts in Syria and Iraq, and the number of Australians presently involved, is unparalleled and demands specific and targeted measures to mitigate this threat.

Recent operational activity in NSW and Queensland has demonstrated the professionalism of our Federal and State security and law enforcement agencies. However, such operational activity and the Government's comprehensive examination of Australia's counter-terrorism legislation have identified a number of measures necessary to provide security and law enforcement agencies with the powers they need to respond to the emerging security threats, both globally and domestically. This package of reforms contains several amendments to Part 5.3 of the Criminal Code. The Government appreciates...
the support of state and territory First Ministers, which has enabled the introduction of these amendments.

The Government would also like to acknowledge senior Muslim leaders and their representatives from around Australia for their cooperation and advice during the development of this Bill. The Government has undertaken extensive consultation with the community, including in Sydney, Melbourne, Brisbane and Canberra on the current security environment, ways to counter violent extremism and some of the key measures in this Bill. This consultation, which is in addition to the normal parliamentary processes, has had a direct influence on the Bill. In particular, the new offence of designated zones was enhanced by taking into account legitimate purposes for traveling, while a clear message was provided that sunsetting of key measures should be extended rather than repealed.

The Government is undertaking comprehensive reform of national security to fulfil our commitment to respond to the recommendations of several recent reviews of national security and counter-terrorism legislation. The measures in the Bill are a large part of that response.

Against this background, the Bill enhances the capability of our security agencies and strengthens Australia’s already robust counter-terrorism laws in several key areas.

Outline of measures in the Bill

(1) Broaden the criteria and streamline the process for the listing of terrorist organisations and clarify associated offences

As part of an effective counter-terrorism regime, it is vital that our laws target not only terrorist acts, but also the organisations that plan, finance and carry out such acts. Nineteen organisations are currently listed as terrorist organisations under the regime enacted in the Criminal Code. Measures in the Bill will improve this regime by clarifying what is meant by ‘advocating a terrorist act’. This updated definition will cover circumstances where an organisation directly or indirectly promotes or encourages the doing of a terrorist act. The amendments will also clarify that whether the terrorist act referred to is a single terrorist act or multiple terrorist acts, or whether a terrorist act does or does not occur is not necessarily relevant to the listing process.

Amending the terrorist organisation training offences will also enable prosecutions in circumstances where there are no formally defined teaching and learning roles in a training session.

(2) Preserve and enhance key counter-terrorism measures due to expire

In the current heightened threat environment, it is vital our law enforcement and security agencies have effective mechanisms to manage emerging threats. The Bill will provide for the continuation and enhancement of a number of key counter terrorism measures including control orders, preventative detention orders, police stop, search and seizure powers and ASIO questioning and detention powers so that these powers will continue to be available to relevant authorities. This Bill will see them extended for a further ten years.

Further enhancements included in the Bill will see the control order regime tailored to address the issue of returning foreign fighters and address the recommendation of the Independent National Security Legislation Monitor to extend the regime to those convicted of terrorism offences where it would substantially assist in preventing a terrorist attack. This will better enable the AFP to mitigate the threat posed by individuals who have engaged in hostile activities overseas or otherwise demonstrated their commitment to a terrorist cause.

(3) Provide certain law enforcement agencies with the tools needed to investigate, arrest and prosecute those supporting foreign conflicts

Delayed notification search warrants

Enhancing the capacity of law enforcement and security agencies to monitor and investigate individuals of security concern is essential to combat the foreign fighter threat. Currently, if the AFP
wishes to search a premise they are required to notify the occupant at the time the warrant is executed and must allow the occupant to observe the search. This immediately notifies suspects of police interest in their activities, allowing a person to change their plans to avoid further detection, relocate their operations, or conceal or destroy evidence. It also provides a suspect with the opportunity to notify their associates, who may not yet be known to police, allowing the associates to cease their involvement with the known suspect, destroy evidence, expedite their plans or avoid detection in other ways.

A delayed notification search warrant scheme will overcome these risks by allowing the AFP to covertly enter and search premises without the knowledge of the occupier of the premises, and then provide notification at a later date. By delaying notification of the execution of the warrant, the AFP will have the significant tactical advantage of allowing an investigation to remain confidential. An application for a delayed notification search warrant will be subject to multiple levels of scrutiny and authorisation. Extensive safeguards will ensure that the Bill balances the legitimate interests of the Commonwealth in preventing serious terrorism offences with the need to protect important human rights.

Lowering the threshold for arrest without warrant for terrorism offences

The Bill is amending the arrest threshold for foreign incursion and terrorism offences to allow the police to arrest individuals on reasonable suspicion, rather than reasonable belief. This amendment will bring the Criminal Code into line with a majority of state and territory laws. Amending the threshold in this way will enable police to take rapid action to prevent individuals boarding a plane to travel overseas in circumstances where there may not be sufficient time to gather evidence to achieve the current threshold of reasonable belief. This will enable law enforcement agencies to disrupt terrorist activity at an earlier stage.

Improving the collection and admissibility of evidence collected overseas

The successful prosecution of terrorism-related offences often relies on evidence obtained from outside Australia, where the majority of the alleged offending often occurs. The Independent National Security Legislation Monitor's fourth annual report in March 2014 highlighted obstacles in relation to the collection and admissibility of foreign evidence in terrorism proceedings. The proposed amendments to the Foreign Evidence Act 1994 seek to provide Australian judicial officers with greater discretion in deciding whether to admit foreign material in terrorism-related proceedings, while still providing the appropriate judicial protection of the rights of the defendant. That is, judicial officers will consider the evidentiary value of the foreign material and whether the admission of the material would have a significant adverse impact on the right of the defendant to a fair trial.

(4) Update the available criminal offences so they are relevant and address the modern foreign fighter threat

New advocating terrorism offence

The Bill will introduce a new offence of 'advocating terrorism'. Currently an organisation can be listed as a terrorist organisation if it directly or indirectly counsels or urges the doing of a terrorist act, directly or indirectly provides instruction on the doing of a terrorist act, or directly praises the doing of a terrorist act. However, there is a current gap in the law around individuals promoting terrorism. To address this issue, a person will commit an offence if they intentionally counsel, promote, encourage or urge the doing of a terrorist act or the commission of a terrorism offence. The offence carries a maximum penalty of 5 years imprisonment. Significantly, there does not have to be a direct link to an actual act of terrorism or violence being carried out. That is, this offence will apply to those who advocate terrorism regardless of whether terrorism or a terrorist act occurs.

New 'declared area' offence

The Bill will create a new offence of entering a declared area overseas where terrorist organisations are active. This will enable law enforcement agencies to bring to justice those Australians who have
committed serious offences, including associating with, and fighting for, terrorist organisations overseas.

It would not prevent a person from travelling overseas, including to a declared area, for a legitimate purpose. However, an individual suspected of entering a declared area to fight would have to point to evidence of their legitimate reason for travelling to the area. It is my expectation that this offence will only be enlivened in exceptional circumstances, where terrorist organisations are active and effectively exercising control over a particular region. In those circumstances, a declaration by government would have the dual benefit of warning people about the dangers associated with travelling to that area and creating an offence for those who, regardless of those warnings, choose to travel to the area without legitimate reason. Importantly, a 10 year sunset clause will be attached to this offence.

(5) Strengthen protections at Australia's borders

Expand existing Customs' detention powers

The Bill will expand on existing Customs detention powers to further ensure that Australia's borders remain safe and secure. These amendments will allow Customs officers to detain a person where the officer has reasonable grounds to suspect that the person is intending to commit a Commonwealth offence, or is a threat to national security or the security of a foreign country. Once detained by a Customs officer, the individual will be made available to the appropriate law enforcement agency as soon as practicable. These amendments play a crucial role in Australia's defence against foreign fighters, as they prevent individuals from travelling outside of Australia where their intention is to commit acts of violence. This not only assists in the prevention of terrorist acts offshore, but also prevents these individuals from returning to Australia with greater capacity to carry out terrorist attacks on Australian soil.

Expand the collection and use of personal identifiers of citizens and non-citizens both arriving and departing from Australia

Currently, the Department of Immigration and Border Protection and the Australian Customs and Border Protection Service are only aware that a person is intending to depart Australia when the traveller presents for check-in and boarding. This provides a short timeframe to assess any potential alerts or threats. Amendments in the Bill will expand the existing Advance Passenger Processing system, requiring airlines and maritime vessels to report on persons who are expected to be on a departing flight or voyage. This will enhance border protection agencies to conduct meaningful cross-checking with relevant databases and respond any potential alerts or threats.

The Bill also includes measures which will allow the Department of Immigration and Border Protection to collect, access, use and disclose personal identifiers for purposes of identification of persons who may be a security concern to Australia or foreign country. These amendments will allow for an authorised system, such as eGate, to perform accurate biometric identification almost instantaneously, and will contribute to strengthening Australia's borders.

Enable ASIO to recommend visa cancellation of a person who is offshore, who ASIO suspects might be a risk to security.

The Bill will enable the Minister for Immigration to cancel the visa of a person who is offshore where ASIO suspects that the person might be a risk to security. This amendment will provide ASIO with 28 days to conduct further investigation and issue an assessment that the former visa holder is a direct or indirect risk to security, and recommend their visa should remain cancelled. If ASIO do not furnish such an assessment within 28 days, the Minister for Immigration must revoke the visa cancellation, and the person's visa will be re-instated. This emergency visa cancellation provision will better enable the Australian Government to ensure that non-citizens who might be a threat to security are not able to return to Australia whilst further ASIO investigations remain ongoing.

(6) Limiting the means of travel for foreign fighting or support for foreign fighters
Enable ASIO to request suspension of Australian passports and seize foreign passports

An Australian passport is a privilege of Australian citizenship. The Bill will enable the Minister for Foreign Affairs to temporarily suspend a passport to prevent a person who is onshore in Australia from travelling overseas where ASIO has unresolved security concerns about them. This amendment will provide ASIO with the capacity to prevent and disrupt individuals of security concern, at short notice, from going overseas to participate unlawfully in foreign conflicts.

Welfare cancellation

Finally, the Bill will amend a number of laws to provide for the cancellation of welfare payments for individuals of security concern. This important measure will ensure that the Government does not inadvertently support individuals engaged in conduct that is considered prejudicial to Australia’s national security. Like the new declared area offence, my expectation is that this new power will only be used in exceptional circumstances where welfare payments are assisting or supporting criminal activity.

Concluding remarks

The Australian Government is committed to fulfilling its most important responsibility—to protect Australia, its people and its interests—and will do so while instilling confidence that our national security and counter-terrorism laws will be exercised in a just and accountable way. This Bill is an important step in the Government’s continuing efforts to strengthen Australia’s robust national security laws to proactively and effectively address the threat posed by returning foreign fighters.

The Government thanks the Opposition for its continued bipartisanship on the issue of national security and urge all members to support this Bill and implement this necessary reform.

The PRESIDENT: In accordance with standing order 111, further consideration of this bill is now adjourned until 27 October 2014.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:39): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for three minutes.

Senator BRANDIS: I today referred this bill to the Parliamentary Joint Committee on Intelligence and Security and requested that the committee report by Friday, 17 October. That will enable the bill to be debated in this chamber in the week commencing Monday, 27 October. I understand that this is a relatively expedited consideration of the bill by the committee. However, the government has today met with the Leader of the Opposition and the shadow Attorney-General. I am able to inform the chamber that the Leader of the Opposition has been good enough to write to the Prime Minister to assure him that the opposition will do all in its power to facilitate the effective and expeditious passage of the bill through the parliament by the end of October. I am assured by the chair of the Parliamentary Joint Committee on Intelligence and Security, Mr Tehan, the member for Wannon, that the bill can be considered by the committee in particular in the two non-sitting weeks between Monday, 6 October and Friday, 17 October. In order to assist the committee with expediting its scrutiny of the bill, I have indicated to the chair of the committee that I am prepared to make available to the committee officers of the Attorney-General’s Department.

Senator JACINTA COLLINS (Victoria) (15:41): Mr President, I seek leave to make a brief statement.

Leave granted.
Senator JACINTA COLLINS: I thank the Attorney-General for his statement on the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014. The bill is designed to implement measures to address the emerging threat of Australians seeking to travel overseas to fight with terrorist organisations—so-called foreign fighters—and to protect Australians from threats posed by such fighters on their return home. The bill will also amend a range of other national security laws with the intention of strengthening the ability of law enforcement and security agencies to address the current terrorist threat. National security should always be above politics. When it comes to keeping Australians safe from the threat of terrorism, we are all in this together. We will work constructively with the government to consider national security law reform proposals and ensure their efficient passage through the parliament, including this bill.

I thank the government for engaging constructively with the opposition on the first tranche of national security law reform, which is being considered in the Senate today. I look forward to this constructive engagement continuing as we work our way through the foreign fighters bill and the metadata bill, which is expected to come before the Senate before the end of the year. Labor believes that our security agencies should have all the powers they need to keep Australians safe from harm. Labor also strongly believes in the importance of protecting fundamental democratic freedoms. As we work our way through these proposals, Labor will ensure that national security considerations are balanced against the importance of upholding the democratic freedoms that underpin the Australian way of life. We must ensure that, in legislating to protect ourselves against the terrorist threat, we do not ourselves destroy the very freedoms we seek to defend. Parliamentary scrutiny will be our first line of defence.

Labor looks forward to the Parliamentary Joint Committee on Intelligence and Security undertaking an open and transparent inquiry into this bill. I take this opportunity to thank the committee for its important work on the first tranche of national security law reform. The 17 recommendations to improve that bill are testament to the value of parliamentary scrutiny. We await the government's advice on timing and conduct, although I note that Senator Brandis has provided some of that detail into the foreign fighters bill. I thank the Senate.

Senator WRIGHT (South Australia) (15:43): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for three minutes.

Senator WRIGHT: This legislation contains substantive changes to the current system in Australia—some long-held legal values and some liberties. It is interesting. I certainly agree that there needs to be consideration about the balance to be struck between national security and protecting Australia’s citizens from threat, including terrorism, and the fundamental freedoms and the very nature of our democratic society. That should be above politics. It is a balance that needs to be struck very carefully. Unfortunately, referring this matter to the Parliamentary Joint Committee on Intelligence and Security will mean that members of this parliament will be excluded from being able to participate in that inquiry. It is obviously very important that the implications and consequences of this legislation are thoroughly scrutinised and that there is opportunity—not only for the community, which will be affected by these legal changes, to have input but also representatives of the community in this parliament need to participate and be represented in the inquiry.
Of course, at the moment the PJCIS has only members of the government and the opposition on it. There are no representatives of the Australian Greens, there are no representatives of crossbenches or of other political parties. So, it is extremely disappointing that, unlike having a referral to a committee whereby all senators can participate and can look at the legislation, ask questions and satisfy themselves that this balance that is so important for Australian democracy is being appropriately struck, they will not be able to have input and participate in this inquiry. So it is absolutely crucial that the legislation is thoroughly scrutinised and is not rushed through with undue haste, and certainly that legal commentators, who understand the implications of these changes, have the ability to have adequate input as well.

BUSINESS

Fair Work Amendment (Protected Industrial Action) Regulation 2014

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:46): I move:

That—

(a) so much of the standing orders be suspended as would prevent the succeeding provisions of this resolution having effect;

(b) on Wednesday, 24 September 2014, the business of the Senate notice of motion proposing the disallowance of the Fair Work Amendment (Protected Industrial Action) Regulation, standing in the name of Senator Rice, for that day be called on no later than 6.15 pm; and

(c) if consideration of the motion listed in paragraph (b) is not concluded at 6.30 pm, the questions on the unresolved motion shall then be put.

Question agreed to.

Senate Temporary Orders

Senator MARSHALL (Victoria—Deputy President of the Senate and Chair of Committees) (15:46): Mr President, I have three motions of the Procedures Committee to deal with. I seek leave to make a very short statement in relation to the three of them before I seek to formally move them.

Leave granted.

Senator MARSHALL: Thank you, Mr President. Decisions of the Procedure Committee are a very serious business. It is the internal procedures of the Senate that enable senators to actively involve themselves appropriately in the debates in this chamber and give them the protections and the opportunity to do so. When the Procedure Committee recommends change it is generally after long and lengthy consultation and consideration. The Procedure Committee is of the view that these changes, which I will move shortly, will streamline a number of the internal procedures in the chamber and ultimately will allow more time for senators to participate in debate. As I said, it takes a long time to consult and to negotiate with senators from different parties and on the crossbench to get to a broadly agreed position, and I am happy to say that that is the point where we are at.

I have only been the chair of the committee since 7 July, so I particularly wanted to recognise you, Mr President, Senator Parry, for the work that you did over the last two years
in bringing these changes together and going through that very tedious time-consuming but absolutely necessary process. On behalf of the Procedure Committee we thank you and I am here to take the glory, so to speak, by moving the motions.

The last point I will make is that we do intend to have these as a trial basis, after which senators can consider the results of the changes to the procedures. The Procedure Committee will then review the feedback from senators and make further recommendations to the Senate about the appropriateness to continue with those procedures.

I move:

That the proposed amendments of standing orders contained in Appendix 1 of the Procedure Committee's Third report of 2014 in relation to the following matters:
(a) consolidation of opportunities for tabling and considering documents;
(b) consolidation of opportunities for tabling and considering committee reports;
(c) streamlined procedures for routine extensions of time for committees to report;
(d) streamlined procedures for authorising committees to meet during the sitting of the Senate;
(e) proposals under standing order 75 on Thursdays;
(f) changes to the adjournment debate; and
(g) Senators' statements on Wednesdays at 12.45 pm;
operate as temporary orders until 30 June 2015, with effect from 30 September 2014:

Proposed amendments of standing orders contained in Appendix 1 of the Procedure Committee's Third report of 2014

(1) Consolidation of opportunities for tabling and considering documents – standing order 61
Omit paragraph (1), substitute:

(1) (a) On Monday, Tuesday and Wednesday, documents presented by the President or by a minister shall be considered pursuant to this standing order at the time provided.

(b) Immediately after prayers on any day when consideration of documents occurs, the President or a minister may present documents by handing them to the Clerk without any announcement to the Senate, and the presentation of such documents shall be reported to the Senate by the President when the consideration of documents is called on under this standing order.

(c) Documents presented on Monday and not called on on Monday may be considered on Tuesday after the documents presented on that day, and documents presented on Monday and Tuesday and not called on on either day may be considered on Wednesday after documents presented on that day.

(2) Consolidation of opportunities for tabling and considering committee reports – standing order 62 and 38
Standing order 62, omit paragraph (4), substitute:

(4) (a) If a committee report or government response to a report is presented at the time provided on Tuesday, Wednesday or Thursday, a motion may be moved relating to the report or response.

(b) A senator speaking to such a motion shall not speak for more than 10 minutes, and debate on all such motions shall not exceed 60 minutes.

(c) If a debate is not concluded at the expiration of that time the debate shall be made an order of the day for Thursday at the time for consideration of committee reports and government responses.

Standing order 38, omit paragraph (7), substitute:

(7) If the Senate is not sitting when a committee has prepared a report for presentation, the committee may provide the report to the President or, if the President is unable to act, to the Deputy
President, or, if the Deputy President is unavailable, to any one of the Temporary Chairs of Committees, and, on the provision of the report:

(a) the report shall be deemed to have been presented to the Senate;
(b) the publication of the report is authorised by this standing order;
(c) the President, the Deputy President, or the Temporary Chair of Committees, as the case may be, may give directions for the printing and circulation of the report; and
(d) the presentation of the report shall be recorded in the Journals of the Senate for the next sitting; and
(e) the report may be considered under standing order 62(4) at the next available opportunity after any reports presented that day.

(3) Consequential amendments in relation to documents and committee reports

(a) Standing order 57(1), in relation to documents

On Monday, Tuesday and Wednesday, after Any proposal to debate a matter of public importance or urgency, insert:
Consideration of documents under standing order 61 for up to 30 minutes

On Tuesday and Wednesday, omit:
At 6.50 pm, consideration of government documents for up to 30 minutes under standing order 61.

(b) Standing order 57(1), in relation to committee reports

On Tuesday, after Consideration of documents under standing order 61 for up to 30 minutes, insert:
Consideration of committee reports under standing order 62(4) for up to 60 minutes

On Thursday, after Discovery of formal business, omit:
Consideration of committee reports under standing order 62(4)

On Thursday, after Motions to take note of answers, insert:
Consideration of committee reports under standing order 62(4) for up to 60 minutes

(c) Standing order 169, in relation to motions after tabling

Omit paragraph (2), substitute:

(2) Where a motion is moved by leave in relation to a document or committee report presented to the Senate, including a document or committee report presented to the President when the Senate is not sitting, a senator speaking to such a motion shall not speak for more than the time provided for a document or committee report under standing order 61 or 62, as the case requires, and debate on the motion shall not exceed a multiple of three times the applicable speaking time limit; where 2 or more such motions are moved in succession, debate on all motions shall not exceed a multiple of six times the applicable speaking time limit.

(4) Streamlined procedure for routine extension of time for a committee to report – standing order 67

Omit the standing order, substitute:

A senator, including a committee chair, who wishes to postpone a notice or order of the day of which the senator (or the committee) is in charge shall, before the time for postponement of business, deliver to the Clerk written notification of the postponement. At that time the Clerk shall read a list of such items, and they shall then be taken to be postponed accordingly, but, at the request of any senator, the question for the postponement of an item shall be put to the Senate for determination without amendment or debate.

This standing order does not apply to an order of the day for the presentation of a report of a select committee.
(5) Streamlined procedure for authorising committees to meet during the sitting of the Senate – standing order 33

At the end of standing order 33, add:

(5) For the purpose of paragraph (3), a committee that seeks to meet contrary to this standing order may deliver a notice in writing to the Clerk, signed by the chair of the committee, setting out the particulars of the meeting proposed to be held. Immediately after prayers on any day, the Clerk shall read a list of such proposals and they shall be taken to be approved accordingly but, at the request of any senator, the question for authorisation of a particular meeting contrary to this standing order shall be put to the Senate for determination without amendment or debate.

(6) MPI on Thursday – standing order 57

Standing order 57(1), Thursday, omit "Any proposal to debate a matter of public importance or urgency".

(7) Adjournment – standing order 54

Omit paragraphs (5) and (6), substitute:

(5) On Monday and Wednesday debate on the question for the adjournment shall not exceed 40 minutes, and a senator shall not speak to that question for more than 10 minutes. On Tuesday at the expiration of 2 hours and 10 minutes, on Thursday at the conclusion of debate, and on other days at the expiration of 40 minutes, at the conclusion of debate, or at the time specified for adjournment, whichever is the earlier, or if there is no debate, the President shall adjourn the Senate without putting the question.

(5A) On the question for the adjournment of the Senate on Tuesday, a senator shall speak to that question for not more than 5 minutes, but if no other senator wishes to speak for up to 5 minutes, a senator who has not already spoken may speak for up to 10 minutes.

(6) On the question for the adjournment of the Senate on Thursday, a senator shall speak to that question for not more than 5 minutes, except in accordance with the following paragraphs:

(a) if no other senator wishes to speak for up to 5 minutes, a senator who has not already spoken may speak for up to 10 minutes; and

(b) if no other senator wishes to speak under paragraph (a), a senator who has not already spoken may speak for up to 20 minutes.

(8) Consequential amendments in relation to the adjournment

(a) Standing order 55

Omit paragraph (1), substitute:

(1) The days and times of meeting of the Senate in each sitting week shall be:

Monday 12.30 pm* – 6.30 pm, 7.30 pm – 10.30 pm
Tuesday 12.30 pm – 9.30 pm
Wednesday 9.30 am – 8 pm
Thursday 9.30 am – adjournment.

(*note that under another temporary order, this time has been changed to 10 am)

(b) Standing order 57(1)

On Tuesday, insert "At 9.30 pm," before "adjournment".
On Thursday, omit "At 8.40 pm, adjournment", substitute "Adjournment".

(9) Senators' statements – standing order 57

Omit paragraph (2), substitute:
(2) On Wednesday, at 12.45 pm till 2 pm senators may make statements without any question before the chair, provided that a senator shall not speak for more than 10 minutes, and if a division is called for, the division shall be taken at a later hour of the day, not being earlier than 2 pm.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (15:49): I seek leave to make a short statement on this motion.

The PRESIDENT: Leave is granted for two minutes.

Senator CONROY: Thank you very much. I appreciate the indulgence of the chamber. I wanted to rise to oppose this particular tranche of changes, particularly subparagraph (f) on the issue of Tuesday nights open-ended adjournment. I think it is a very valuable, and has proven to be a valuable, outlet for senators to express their views on a whole range of issues. I am very disappointed to hear that it is being pushed through over a long period of time. I think it is fundamentally against the interests of the chamber to adopt this. Senators should have the opportunity to speak on adjournment. I think it is a joke to suggest that we have an open-ended adjournment on a Thursday night that is the equal. Many of us have families that we have to return to, and catch planes on a Thursday night. The whole point of Tuesday night is to allow us all to have an equal opportunity. I rarely take the opportunity to speak on adjournment but I actually believe that senators are entitled. We have one opportunity on a Tuesday evening, traditionally.

Senator Ian Macdonald: What about Thursday?

Senator CONROY: I have just said—many of us have young families that we have to return to. So, it is a joke to suggest that this is an equivalent outcome to what was happening previously. I think the Senate is turning its back on accountability and scrutiny, and I would urge the Procedure Committee to reconsider this when the trial is completed and to return to the original process that we have now.

Question agreed to.

MOTIONS

Photographs in the Senate

Senator MARSHALL (Victoria—Deputy President of the Senate and Chair of Committees) (15:52): I move:

That the order of the Senate of 21 March 2002 relating to photographs in the Senate chamber cease to have effect on and from 30 September 2014.

Senator LEYONHJELM (New South Wales) (15:52): Mr President, I seek leave to make a statement.

The PRESIDENT: Leave is granted for one minute.

Senator LEYONHJELM: I understand that the outcome of this motion, if implemented, would allow the cameras and the media to take photographs of us sitting in the chamber at any time. I am very uncomfortable about that. If I rest my eyelids, I do not want that to be interpreted that I am sleeping. That will be the outcome of this change in the rules. I would like to think that the business of the Senate can proceed without us being forced to sit up and pretend that we are paying attention and looking alert, to the satisfaction of the media.

Senator IAN MACDONALD (Queensland) (15:53): Mr President, can I move that this motion be postponed until tomorrow?
The PRESIDENT: Senator Macdonald, you would not be able to move that. You would have to seek leave of the chamber to do that.

Senator IAN MACDONALD: Mr President, could I seek leave to make a statement for less than one minute?

The PRESIDENT: Leave is granted for one minute.

Senator IAN MACDONALD: Mr President, as you know—and congratulations on the work you have done—I have been following these changes quite closely. I must say that if Senator Leyonhjelm is correct then I have misunderstood the full import of this particular motion. I think I understand the other two. But I am always bright and alert and, unlike Senator Leyonhjelm, I always have my hair nicely done! If Senator Leyonhjelm is correct, perhaps it is something we all do need to have another think about.

The PRESIDENT: Senator Macdonald, I will just take the opportunity to make a brief explanation in relation to what this motion is allowing. This motion is allowing photography in the chamber to coincide with exactly what is happening in the House of Representatives. We have had a slightly more stringent photographic policy in this chamber. There have been numerous requests over a long period for that to change and revert to what happens in the House of Representatives. The Procedure Committee considered that and the Procedure Committee thought it appropriate after consultation. That is the basis of the motion. The motion does not allow certain types of photography, but we are in a public place and the public can see us at all times.

Senator IAN MACDONALD: Mr President, I seek leave to move that this motion be adjourned until a week's time.

The PRESIDENT: That is fine.

Senator MARSHALL (Victoria—Deputy President of the Senate and Chair of Committees) (15:55): Mr President, if I could just say, as Chair of the Procedure Committee, I do not have an objection to this particular motion being put off for a week. The committee can go ahead with the other changes without that particular issue. If there are some concerns, I think it is in the spirit of the Procedure Committee that we try to get broad agreement before we proceed with any changes. Can I seek leave to withdraw that motion?

Leave granted.

The PRESIDENT: We will not proceed with this motion.

NOTICES
Postponement

Senator MARSHALL (Victoria—Deputy President of the Senate and Chair of Committees) (15:56): by leave—I move:

That general business notice of motion No. 434 be postponed to Wednesday, 1 October 2014.

Question agreed to.

MOTIONS
Seating

Senator MARSHALL (Victoria—Deputy President of the Senate and Chair of Committees) (15:56): I move:
That paragraph (1) of the order of the Senate of 18 May 1993 relating to the provision of seating on the floor of the Senate for members of the House of Representatives be amended by omitting, "in front of the broadcasting booth".

Question agreed to.

**Whaling**

Senator WHISH-WILSON (Tasmania) (15:57): I move:

That the Senate—

(a) notes:

(i) the recent International Whaling Commission (IWC) meeting passed a resolution instructing members to have their future scientific whaling programs assessed by the Commission, and

(ii) the Japanese Government has indicated it will ignore this resolution and recommence a lethal 'scientific' whaling program in the Southern Ocean in 2015; and

(b) calls on the Japanese Government to:

(i) respect the IWC motion and not to recommence a lethal 'scientific' whaling program in the Southern Ocean in 2015, and

(ii) join the Southern Ocean Research Partnership, a ten nation Southern Ocean non-lethal whale research program.

Question agreed to.

**Education Funding**

Senator WRIGHT (South Australia) (15:57): I move:

That the Senate—

(a) notes recent analysis by Mr Chris Bonnor and Mr Bernie Shepherd, which demonstrated that inequality between the most advantaged and disadvantaged schools has grown since the Gonski Review was completed in 2011;

(b) recognises the Commonwealth Government's decision to proceed with only the first 4 years of the Gonski school funding arrangements falls far short of the investment needed to reverse systemic disadvantage and deepening inequality; and

(c) calls on the Government to prioritise the reduction of inequality in Australian schools.

Question agreed to.

**East West Link**

Senator RICE (Victoria) (15:58): I move:

That the Senate—

(a) notes:

(i) the recent release of the G20 finance ministers report on leading practices to promote and prioritise quality investment, particularly in infrastructure,

(ii) the emphasis this report places on rigorous, transparent and consistent infrastructure project preparation,

(iii) that this reflects priorities set out in the 2013 National Infrastructure Plan, which promotes public investment in public transport, and

(iv) that this raises concern that the $3 billion in federal funding committed toward the proposed East West Link project does not uphold the principles set out in these reports; and
(b) calls on the Government to redirect the $3 billion of Commonwealth funds allocated for the proposed East West Link to public transport in Victoria.

The PRESIDENT: The question is that notice of motion No. 441 standing in the name of Senate Rice be agreed to.

The Senate divided. [16:03]

(The President—Senator Parry)

Ayes ......................10
Noes ......................40
Majority ................30

AYES
Di Natale, R
Ludlam, S
Rhiannon, L
Siewert, R (teller)
Whish-Wilson, PS

NOES
Bernardi, C
Bilsky, CL
Bullock, J.W.
Bushby, DC
Cameron, DN
Canavan, M.J.
Carr, KJ
Cash, MC
Conroy, SM
Dastyari, S
Day, R.J.
Edwards, S
Fawcett, DJ
Fifield, MP
Gallacher, AM
Ketter, CR
Lambie, J
Lazarus, GP
Leyonhjelm, DE
Ludwig, JW
Lundy, KA
Macdonald, ID
Marshall, GM
Mason, B
McEwen, A (teller)
McGrath, J
McKenzie, B
McLucas, J
Moore, CM
Muir, R
Nash, F
O'Neil, DM
O'Sullivan, B
Parry, S
Reynolds, L
Ruston, A
Sindelinos, A
Smith, D
Wang, Z
Waters, LJ
Whish-Wilson, PS
Wright, PL

Question negatived.

Senator MOORE (Queensland) (16:05): Mr President, I seek leave to make a short statement on notice of motion No. 441.

The PRESIDENT: Leave granted for one minute.

Senator MOORE: Thank you. Labor opposes the motion. Its sentiments are worthy; however, the whole thrust of Labor's policy—and we thought of the Greens policy—around infrastructure was to leave decisions about the best solution to congestion problems to the infrastructure, transport and planning specialists. Labor has been critical of the coalition for
its fixation on roads being the solution to every problem. Similarly, the view that public transport is always the answer makes another error.

The former federal Labor government allocated $3 billion to Melbourne's Metro Rail project, and we believe that that project is worthy and greatly needed with an Infrastructure Australia assessed BCR of 1.2. It is outrageous that the federal coalition has cut this project and shifted the money to the East West Link, which so far has not generated a verified BCR of greater than 0.8. This motion fails to condemn the federal coalition for already paying $1.5 billion to its mates in the shambolic Victorian coalition government two financial years before construction will commence. *(Time expired)*

**Senator RICE** (Victoria) (16:06): Mr President, I seek leave to make a short statement on my notice of motion No. 441.

The PRESIDENT: Leave is granted for one minute.

**Senator RICE:** I brought this motion to the chamber today in the context of the G20 statement on infrastructure, which set out a set of leading practices about good transport planning that the government's allocation of $3 billion to the East West Link clearly did not meet. These leading practices state that we need to have a national infrastructure plan. Because of Infrastructure Australia, in fact we do have a national infrastructure plan that very clearly states that, in urban areas, public funding should be allocated primarily towards public transport. So, in moving this motion today, we felt that it was quite appropriate, giving those leading practices, and timely to point out that here we have a national infrastructure plan, we have leading practices that have been acknowledged in the G20 meeting, and yet it is still being proposed to allocate $3 billion towards the East West Link.

**Middle East**

**Senator HANSON-YOUNG** (South Australia) (16:08): I move:

That the Senate calls on the Government to heed the request of the United Nations and provide increased humanitarian assistance in the Middle East by offering and preserving asylum space for Syrians and Iraqis and supporting the neighbouring countries hosting them.

**Senator CASH** (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (16:08): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

**Senator CASH:** Those impacted by the crises in Iraq and Syria will be the main beneficiaries of the success of the government's strong border protection policies, with 4,400 resettlement places set aside in the Australian government's 2014-15 refugee and humanitarian program. A minimum of 2,200 places will be provided for Iraqis, including ethnic and religious minorities fleeing from the violence in northern Iraq to neighbouring countries. The government has also committed a minimum of 2,200 places for Syrians, including those now living in desperate conditions in countries such as Lebanon. The government has committed $30 million in humanitarian assistance this year for people affected by the violence in Syria. The government has also contributed $7 million for the UN's humanitarian response in Iraq. We have used our seat on the UN Security Council to co-author two UN security resolutions to get better access for humanitarian efforts inside Syria.
Australia will continue to work with our neighbours in the region to help stabilise displaced populations and find appropriate solutions for their protection.

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

Defence Procurement

The ACTING DEPUTY PRESIDENT (Senator Williams) (16:10): The President has received the following letter from Senator Moore:

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

The need for the Abbott Government to:

- keep its election promise to build Australia's future submarines in Adelaide;
- support Australia's strategically-vital submarine and ship building industry;
- ensure that Australia's future submarines are designed to meet Australia's unique needs for range, endurance and capability and;
- undertake an open and transparent tender process or a funded design study for Australia's future submarines.

Is the proposal supported?

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

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

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (16:11): I rise today to speak on this matter of public importance. Let me remind the Senate of the coalition's promise to build 12 submarines in Adelaide. In May last year, the now defence minister stood outside the ASC in Adelaide and said:

... I want to confirm that the 12 submarines as set out in the 2009 Defence White Paper and then again in last Friday’s Defence White Paper are what the Coalition accepts and will deliver.

We will deliver those submarines from right here at ASC in South Australia.

You could not be more unambiguous than that, Mr Acting Deputy President Williams. You could not be more unambiguous than that, other than us noting that you are a Swans fan barracking this weekend. It is clear cut. The South Australian Liberal leader was standing next to Senator Johnston at the time, and this is what he had to say. He said that the state Liberals welcomed the coalition's confirmation that 12 submarines would be built in Adelaide under a coalition government. Confirmation—again, no mis-statements; no confusion; there was confirmation that 12 submarines would be built in Adelaide. No-one is under any illusions about the promise that the coalition made. And no-one is under any illusions that this government is about to break that promise by buying our submarines from overseas.

This puts at risk thousands of jobs in South Australia and across the whole country. It also puts at risk our strategically vital submarine and shipbuilding industry.

But it is not just Labor that has warned about the dangers of this broken promise. Instead of supporting the shipbuilding industry, the minister has spent his time since coming to government trashing it. Quite frankly his behaviour has been disgraceful. He has insulted our shipbuilders, calling the air warfare destroyer, 'a disgraceful mess' of a program and 'a bit of a
skunk'. He has also claimed that, when he directed work for two new Navy supply ships overseas, he did not allow an Australian company to even bid for these two supply ships. This is what he said: 'It was beyond the capacity of Australia to produce.' This is a minister and a government that have not seen an Australian shipbuilding job that they do not want to send overseas. On those two supply ships, he said, 'Only the Spanish or only the South Koreans can bid'—no Australians are allowed to bid.

What is the industry view? What is the broader defence view? This is not, as some seek to portray it, industry protectionism; this is about defence capability. There is growing speculation that the government will buy submarines from Japan. Labor are concerned that these submarines are not designed to meet Australia's unique needs for range, endurance and capability. Again, Labor are not the only ones who think this. Retired Rear Admiral Peter Briggs and retired Commodore Terence Roach recently warned the following:

Submarines are not cars—you cannot simply switch to another like disposing of a Holden to buy a Mitsubishi …

They are designed for a specific purpose and unfortunately big compromises would have to be accepted if Australia is to buy Japanese without serious design modifications, incurring further time delays, high cost and risk.

These are serious, serious concerns raised by former senior figures in the defence industry. But it is not just Australian submarine experts warning the government.

*Senator O'Sullivan interjecting—*

*Senator Edwards interjecting—*

**Senator CONROY:** Let me be clear for those opposite who are interjecting. Labor spent $220 million selecting a process for the new submarines. Japanese submarine experts are issuing warnings also—it is not just Australian submariner experts; it is Japanese.

In question time today, Senator Wong asked a question about comments made by Senator Fawcett in the party room earlier this week that was reported in today's *The Advertiser*. Senator Fawcett and, it appears, other South Australian senators about to make a contribution claimed that they are going to be happy if Adelaide is able to secure the maintenance work on Australian future submarines, abandoning hope that they will be built in Australia. Those opposite from South Australia have rolled over and given up on the election promise they so cynically made to confuse and mislead voters in South Australia. The very people who voted for South Australian senators were misled before the election.

Senator Wong asked Senator Abetz whether or not this was just the softening up process. We saw it yesterday, we saw it today and we are about to see it again. The coalition are going to abandon South Australian workers. South Australian people are going to be abandoned by this government. This will show a lack of conviction from South Australian senators on this issue and it is very disappointing to watch the South Australian Liberal senators just roll over and go along with breaking a solemn promise.

Those opposite made a big thing about this. They talk about breaching trust. They said: 'We will not tell lies. We'll keep our promises.' That is what they said before the election. Not that long ago South Australia had senators who would stand up for their state, who would stand up for jobs and industry. But it seems those days are over. They could be taking lessons from the National Party in this chamber. But Senator Fawcett's statement reminds us that all South
Australian Liberal senators have abandoned their state. I notice that Senator Birmingham was listed to speak on this motion. I do not see him in the chamber; maybe he has been subbed out—no pun intended. I hope that he uses the opportunity, or any replacement for him, to call on this government to keep its promise. That is all we are asking in this chamber—keep your promise that you made to build 12 new submarines in South Australia.

When it comes to the price of Australia's future submarines, there is no doubt that it will be substantial. That is why it is essential we get it right. But all we have at the moment is wild speculation, rumour and innuendo from those opposite. One report the government like to toss around is that it will cost $80 billion. This is a ludicrous figure put out by the government to try to justify why they want to break their promise. So when we are talking about a 40- to 50-year project, and that is what these submarines will entail, we have to get it right. Why can't we just have a fair, open tender process? Anyone can bid. In an open tender process, we get the best price. All of a sudden, those opposite do not want the best price. So I urge those opposite to rise up and stand up for your state. (Time expired)

Senator EDWARDS (South Australia) (16:21): I rise on this matter of public importance. The future submarine project is certainly a significant matter for South Australia and for all Australians. I have given up some of my time—Senator Conroy, you might want to come back to the chamber to hear from Senator Fawcett, who put it out there quite publicly this morning that he has been misquoted in The Advertiser. It cannot get any plainer that. He is an honourable fellow, as we all know.

He is not one of these fly-by-nighters that you see come and go from over the other side on some union deal. He will defend himself, of course, in his time.

That takes me to a significant new dimension in the Labor leadership after the opposition leader's now notorious address to his union support base from the back of a truck. You were there on the back of the truck, Senator McEwen, through you Mr Acting Deputy President. I cannot remember seeing Senator Gallacher over there, but I guess he was there somewhere, trying to duck.

Senator McEwen: He was here doing an inquiry, idiot!

Senator EDWARDS: The alternative Prime Minister to this country revealed a number of things during his moment. He revealed where his heart remains—

The ACTING DEPUTY PRESIDENT (Senator Williams): Order! Senator Edwards resume your seat. Senator McEwen, that is unparliamentary. I ask you to withdraw.

Senator Gallacher: I was at a Senate inquiry in Canberra, not trying to duck—

The ACTING DEPUTY PRESIDENT: I am addressing Senator McEwen. Do you not think you should withdraw that?

Senator McEwen: I withdraw.

Senator EDWARDS: I will have to ask you what I was accused of afterwards. The opposition leader, far from growing in his new job as opposition leader, revealed that he remains the picket line performer that he always was. If we are going to point back to a time in the career of the opposition leader, we will put that as a high-water mark, I suspect. It has been reported in newspapers, and I fully concur, that Mr Shorten's roused his flag-waving
union audiences with references to race, fear and protectionism. Really? Has Australian politics got to that in 2014? This is something out of a 1950s black and white movie.

**Senator Brandis:** Back to Arthur Calwell.

**Senator EDWARDS:** Yes. Mr Shorten's rant painted Japan as a war-time enemy of Australia rather than as an economic partner of such vital significance as it is today. This flippant rhetoric is not just reckless; it is how diplomatic incidents take place and it is how they take flight. This how you fuel the very insecurities in a nation. I do not know what on earth he was thinking that day. Perhaps Senator Gallacher might have been there to pull him off the back of the truck to stop him from making a fool of himself. Where was the outrage from all those South Australians in the federal Labor government back then? Why was it that you oversaw the systematic demise of the defence-spending budget over the six years in your government? Why did you have Defence white paper after Defence white paper? You delayed 119 defence projects, 43 were reduced in scale and eight projects were cancelled altogether. Under Labor, the Australian defence industry lost more than 10 per cent of its workforce. The bottom line about Labor and defence is that they declared submarines a priority in 2007 but had done no work on them by the time they left office. This is why we find ourselves in the position we are in today. You are reckless, you are careless and you are playing around with the nation's sovereignty. *(Time expired)*

**Senator XENOPHON** (South Australia) (16:25): The time is fast approaching when the government will decide Australia's future submarine fleet. In that time it is important to build the case for a sensible, low-cost and methodical approach to that procurement, which will shape the future of the Australian Navy, as well as naval shipbuilding in this country.

That the coalition promised before the last election to build Australia's next submarine fleet in Adelaide is not in question. I have here a list of 16 separate public statements by Mr Abbott as opposition leader and by Senator Johnston as the then shadow defence minister made from September 2012 to September 2013 about building submarines in Adelaide. But since June of this year we have seen the government walking back from its commitments in relation to naval shipbuilding in Australia in general and a future submission project in particular. As John F Kennedy aptly put it, 'Sincerity is always subject to proof'. This government's sincerity in relation to its submarine promise is being stretched to breaking point. But there is still hope that common sense will prevail and the competitive processes followed that pit the best of submarine designers around the world to build them here in Australia.

The government should not be afraid of such competition. Indeed, it is standard practice in defence, when large and expensive defence capabilities are being sought. Competition will tease out the best all-round package for the Royal Australian Navy, for Australian industry and for the taxpayer. Can we all just take a deep breath here. The cost of building submarines is cited to be up to $80 billion by some, but the German sub designer TKMS has quoted a price of 12 submarines being built in Australia, by Australians, in Adelaide at well less than $20 billion.

Since the latest round of speculation about Australia outsourcing its submarine build to Japan, experts in both countries have raised serious concerns with such a course of action. When it comes to capability, sole-sourcing Japanese subs will deny the Australian Defence Force of its stated capability requirements. Publicly available figures reveal that the Soryu has less range than even the smaller European subs available off the shelf and far less range than...
our existing Collins class submarines. Procuring a Japanese submarine would also likely complicate their ongoing sustainment here in Australia. Japan run their submarines for only about 20 years before replacing them. Our Navy runs their boats for 30 to 40 years. In the latter years of their service, when wear-out failures start to manifest themselves, we may find ourselves with an orphaned class of submarine.

Outsourcing to Japan would mean Australia would miss out on the experience and know-how which comes from the building of submarines, the experience and know-how which can be used to advantage when delivering through-life support to the subs. Off-shoring submarines to Japan will have a massive negative flow-on effect to Australian workers in the naval shipbuilding sector they support and to the economy in general. The Australian economy and industry will miss out on the benefits of technology transfer, innovation, workforce training and skills associated with building submarines and the massive multiplier effect to our economy.

Western governments, including Australia, have always viewed their defence industries as an input to overall defence capability. A strong defence industry is a precondition for a strong defence force. And finally, this decision will have disastrous impacts on my home state of South Australia. I do not want to see my state being de-industrialised through foolish, reckless, federal government policies. We have already seen it with the automotive sector. We may well see it when it comes to naval shipbuilding. We must get the right result here. It is in the national interest to build those submarines right here in Australia, with South Australia playing a key role. Otherwise, we will be looking at massive job losses. We will be looking at outsourcing billions of dollars worth of jobs overseas. That is reckless and must be avoided at all costs.

Senator GALLACHER (South Australia) (16:29): I commend Senator Xenophon for his articulate contribution with respect to the economic and technological benefits—and other benefits—to South Australia. But I do have to take issue with Senator Edwards's contribution. Basically I have said here before that he is bereft of knowledge outside of the wine industry, and I think I am getting further and better particulars and evidence about that every time he contributes.

This is so far off the planet from Senator Edwards. Jobs—and union jobs—highly paid, highly skilled jobs involve employers. They involve businesses; they involve technology; they involve technology parks; they involve very successful enterprises. And I would have thought they would be the natural constituency of someone purporting to be a Liberal.

His contribution repeatedly ignores the value of the defence industry to South Australia. To throw in the odd interjection of 'Where's the money?' or 'The NBN!' is not serving South Australia's interests well. That is what he is elected to do. He is elected as a senator for South Australia to serve South Australia's interests. That includes the interests of all South Australians. He may be more partial to employers; I do not have a problem with that, because employers employ workers; they provide opportunity for advancement.

There is another former Liberal in South Australia; he was the leader of the Liberal Party in South Australia and is now the Minister for Investment and Trade, the Minister for Defence Industries and the Minister for Veterans’ Affairs—Mr Martin Hamilton-Smith. He has an outstanding Liberal pedigree, but he could not stomach the position of the other side and he joined the South Australian government. Have a listen to some of the things that he said:
It beggars belief that any federal government would seriously consider spending up to $250 billion of Australian tax payers' money on buying naval ships from overseas to create jobs and enterprise in someone else's land ahead of ours.

He has obviously caused a lump in all of the spend on defence shipbuilding and submarines over the life of those things. That is the important thing that Senator Xenophon is homing in on. This is a spend over decades—a spend over thirty years—and it is a spend that we have had a high level of investment in. With the Collins class, we have finally got it right. And the Minister for Defence has confirmed that; the problems with the Collins class are gone.

What has really distorted this debate is that it is viewed in a prism of economic terms, in the view of one budget or two budgets. What we should be looking at is economic benefit and economic cost over 30 years. We should be looking at our capability to build submarines in this country and to guarantee we can sustain it during conflict and peace. 'During conflict and peace' is a very important point. The technology that is fitted to submarines or aircraft or air warfare destroyers often comes from another provider—the United States is the most obvious example. They have stringent requirements on those add-ons, if you like, that make the capabilities efficient. We need to be cognisant of that.

I do not think anybody is seriously suggesting the we simply go out and buy a submarine off the shelf and hope we can get the mileage right and the range right and the capabilities right. The most obvious people to buy submarines off if you are just going to do that is the Chinese; they have 60 of them. If you are just going to go to a discount warehouse and say, 'Who has the cheapest submarines and warships?', and buy them, you ought to come out and tell the South Australian electorate that.

They ought not to stand up and say, as has repeatedly been said in this chamber: 'We will deliver the submarines from right here in ASC in South Australia. The coalition today is committed to building 12 new submarines here in Adelaide.' That is on the public record repeatedly. It is built on the investment of previous Liberal governments and Labor governments. Sure, it has not been a great, 100 per cent, resounding success, but tell me anywhere in the world where this capability has been developed without problems, where designs have translated to a build of a specced-out vessel that performs absolutely as it should.

A lot of these things, the capabilities that we require, are not what the warship or the submarine were originally designed for. I cannot go anywhere in Adelaide without being asked: 'What are we doing about the submarines?' You will meet people who say: 'Economically we probably can't afford them today in this light'—if they think the budget is in a bad state—'Nevertheless, we should do it, because it's the right thing for this country. It's the right thing for those kids who are seeking apprenticeships. It's right for the small and medium enterprises who are seeking to sustain their 25 to 30 workers. It's the right thing for those transport companies that deliver the wherewithal that keeps those businesses going. It's the right thing for those smoko vans that sell their wares around the place. It's the right thing for the service stations where workers come and go and fuel up from.' If we are to take Holden out and if we are to diminish our manufacturing capacity any more in South Australia, we are really going to face huge challenges, not small challenges.

We have a really good defence industry; up to 27,000 people are sustained by it. It is not a static industry; it is an industry that trains people. The industry gets apprentices in—and they
may well do their apprenticeship and go and work in the mines or in some other section of the economy. Take that all away, and what is South Australia going to be left with? Well, Senator Edwards will be all right because he will be still growing his grapes. What are we to be left with? Where is the opportunity for people who go to TAFE, who get an education as an electrician or a fitter and turner? What will we be left with? Very little. This is a fundamental decision which should be viewed over the long term.

David Johnston stood there and said we will do it. The Prime Minister is backing away from it. We, the South Australian senators in this chamber, should be as one on this issue. Every Liberal and every Labor senator should be standing up for this capability to be maintained, improved and sustained in South Australia. What hinges on this decision are 27,000 Defence jobs in this state, about 3,000 jobs in shipbuilding and industry activity worth hundreds of billions of dollars over the 30- to 40-year horizon. And it is a really widely held, deeply felt issue in the whole of South Australia.

I have heard cynics say that the Liberal Party thinks it is at risk in one seat in South Australia. I will make a bold prediction here: if they go down this path and they shut down this section of manufacturing on top of Holden, they are at risk in more than one seat. It is such a widely held and deeply felt issue that they will be closing down the manufacturing in our state, which was probably created by Playford. Playford was the one—people can go back a bit further than me and argue there was Labor involvement in that—who thought that manufacturing and South Australia were a good fit. And for a very long period of time we have had automotive manufacturing and it has been a very good fit.

I have been involved in trouble-free deals with the automotive industry, guaranteeing supply for the export of cars with no industrial disputation. The unions in South Australia have always worked collegially and collectively on all of these manufacturing projects not to have disputation but to have no disputation in order to secure the jobs, to secure the investment and to sustain a place where kids can go and learn a trade, have a good life, earn decent money and get a highly skilled well-paid job. It will be an awful day if this Liberal coalition government takes that opportunity away from hundreds of thousands of South Australians.

Senator BACK (Western Australia) (16:39): I am incredulous that the Labor opposition would want to give the coalition the opportunity to ventilate their failure when in government on issues associated with the shipbuilding industry, the submarines in Adelaide, the defence industry in general and the future submarines designed to meet Australia's unique needs for range, endurance and capability. I am reading now from what was the actual letter from Senator Moore to the President calling on the government to undertake an open and transparent tender process or a funded design study. This was from a government which demonstrated its gross failure in leadership, in management, in vision and in economic control of this nation.

Let me start by telling you what a mature, measured, rational coalition government will not do. The first thing we will not do is fail the Australian people by failing to provide adequate funding and adequate capability for Defence whether that is Defence personnel, whether it is materiel or whether it is other assets in the defence sector. Secondly, this government will not needlessly waste taxpayers' money on poorly conceived, poorly designed, poorly executed Defence projects and then desert the participants. Thirdly, this government will not, to the
South Australian shipbuilding workers or the industry, fail to plan, to invest, to communicate and to demonstrate a viable direction for Defence acquisition and for the maintenance and support of Defence assets, many of which are developed in South Australia.

This mature, sensible government will not leave a future government, a future parliament or the people of Australia with a shipwreck of an economy. That of course was visited upon the people of Australia by the outgoing Labor government in 2013. That government inherited no net debt and actually had some $20 billion in cash, earning interest. Only now of course we see that we are paying $1 billion every 30 days on interest. That is not repaying this Labor debt. We are paying $33 million a day interest and we are borrowing from overseas to do it. Finally, this government will not leave a Defence Force, which is now so under resourced, overstretched and exhausted and up until September 2013 with the lowest morale it had had in many years as a result of that Labor government.

Let me, if I may, go back to a statement by the then opposition leader, Mr Kevin Rudd, on 31 October 2007. I quote from his statement:

A Labor government would … ensure the submarines were built by ASC at its Port Adelaide site, with construction to begin in about 2017.

He went on to say—

\_Senator Cameron interjecting—\_

**The ACTING DEPUTY PRESIDENT (Senator Williams):** Order! Senator Cameron.

**Senator BACK:** it is a shame Senator Cameron is not listening; he might learn something.

He went on to say:

… $6 billion air warfare destroyer project in Adelaide at that time would be tapering off.

Mr Rudd, in opposition, went on to tell the shipbuilding industry, tell the workers of South Australia:

Starting the process this year will guarantee continuity of work for South Australia's defence industry and those employed in the sector.

What did we see in government? The first thing we saw was deferring the critical strategic decision on the submarines. The second thing we saw was deferring the critical strategic decision on the Navy tanker ships.

**The ACTING DEPUTY PRESIDENT:** Senator Cameron, I will not ask you again.

**Senator BACK:** So what did we see? We saw an empty promise; we saw no delivery. We saw a Rudd-Gillard-Rudd government cut $20,000 million, $20 billion, not out of defence in general—I will get to that. This was just the submarine program. This was after the promises of October 2007—only a couple of weeks before the election, as I remember. It cut out $20 billion, and you would not believe it, with the compliance of the then state Labor government. Where were they all at that time? Where were the fine words? I accept Senator Gallagher's concerns, because I agree with them.

This was the Labor government who appointed then Minister Stephen Smith who made it very plain to everyone, particularly to the defence community, that he did not want to be the defence minister; he wanted to be the Foreign Affairs minister but then Prime Minister
Gillard, by her own statement, actually had an even worse person than him—and that was Mr Carr—to come in and do that job.

So what did then defence Minister Smith allow? He allowed defence spending—this is the great state of South Australia supported by Labor governments—to get down to 1.56 per cent of GDP. Do you know you have to go back to between the two world wars to find the previous time that defence spending got down to that low level? As if that wasn't good enough: under the great leadership of Stephen Smith, they cut yet another $16 billion out of the defence budget leading up to 2016-17.

I have not got the time to devote to the excellence of the now defence Minister Johnston but, as he said, the day he took over as minister, he opened up the box to see where all the forward plans were, to see where the vision was left to him. Do you know what was in the box? It was empty. They did not have one. They were bereft.

We are fortunate in this debate because, of the three colleagues to follow me, Senator Reynolds has had a distinguished career in defence; Senator Fawcett himself has had a distinguished career in defence; and Senator Birmingham's knowledge of the economy of South Australia is very, very solid. I am delighted to hand over to my colleagues to conclude the discussion. My only regret is that I do not have several hours to devote to this topic. I thank Senator Moore for the opportunity.

Senator McEWEN (South Australia—Opposition Whip in the Senate) (16:47): I am very pleased to be able to speak once more on Labor's commitment to the future submarine project, to shipbuilding in Australia and shipbuilding jobs. I would like to acknowledge that today and tomorrow in Canberra we have a number of delegates and workers from the shipbuilding industry and their unions who are lobbying to protect the shipbuilding industry and their jobs—high-tech important jobs for Australia.

Tomorrow they are going to be asking senators and members to come outside and sign a pledge to support those jobs and keep those jobs in Australia. I urge all my senatorial colleagues to get out there and get behind them. I am pretty sure I know which ones will be going out to sign the pledge. I am pretty sure I know which ones won't be going out to sign the pledge, and that will be all of those coalition senators over there and Senator Bob Day, I suspect.

A fortnight ago I joined my fellow South Australian Labor colleagues at Techport at a rally to show our support for the South Australian shipbuilding industry and shipbuilding jobs. If you haven't been, Mr Acting Deputy President Williams, it is well worth a visit. It is a spectacularly efficient workplace. It is an area where some of the best jobs in South Australia are and it produces of course ships. It is where we anticipated, given the promises of the Prime Minister and the Defence minister, the new submarines would be built. But of course we know that there is no commitment now and that promise looks like it is going to be broken. Those future submarines may not be designed and built in South Australia.

I was at that event at Techport with my Labor colleagues, MPs Mark Butler, Nick Champion, Kate Ellis, Tony Zappia and also opposition leader Bill Shorten. He spoke to the workers and promised them that Labor would continue to fight for their jobs, for those 1,500 or so workers who came out that day.
I was able to speak to a number of them and hear their very real concerns about the future of their employment. They weren't just concerned about their own employment; they were really concerned about the future of South Australian jobs and the future of the industry of which they are so proud and in which they do such a good job.

Those workers understand that Australia absolutely needs this new project, the future submarine project, at Techport and they are very concerned about the promises that were made to them before the federal election when the Defence minister stood up and gave them a firm commitment that the 12 new submarines would be built there. They are very concerned that the current government seems to be backflipping on that commitment.

They were also promised by the Prime Minister just before the state election in South Australia that the submarines would be built there. He stood up with Steven Marshall, the state opposition leader, promising that the future submarine project would continue in South Australia. Those workers have been betrayed and are very, very disappointed with the current government. They have been asking us in the Labor Party to do what we can to support them and their jobs, because they understand how important those jobs are to South Australia.

There are other aspects of course to this debate. It is not just about the jobs in Australia and the importance of shipbuilding and the Australian Submarine Corporation to South Australia's economy; it is also to ensure that Australia is in control of its own defence capability.

We have heard from numerous experts in this field saying that Australia runs a very great risk, if it outsources the design and build of its new submarines to another country. We know that this is being looked at very carefully by the coalition government. They will seek to purchase submarines from somewhere else and therefore deny Australia the control that it needs to have over this very, very important defence capability.

I note that experts agree that Australia should maintain this design-and-build capability within Australia, because it ensures that Australia has control of the capability. But it is also very important at this particular time in our history, when we are talking a lot about national security, that we do have control of our own national security. That means that we maintain that capability in our own country, even if it does put a premium on the build of the submarines. I note that the coalition like to make the claim that Australian workers are incompetent when it comes to shipbuilding. Of course, nothing could be further from the truth. We know that Australians can design, build and maintain these submarines, and they should be given the opportunity to do that.

The former Chief of the Defence Force, His Excellency General the Honourable Sir Peter Cosgrove, current Governor-General of Australia, is also very concerned that Australia maintains the capability within Australia to design, build and sustain our submarines. It seems to me entirely hypocritical of this government to even be contemplating design, production and build of the submarines by another country when, at the moment, national security is very high on the agenda.

The economic flow-on from ensuring that the build of the submarines continues in South Australia is without doubt. We know that as well as maintaining the 3,000 actual jobs at the Australian Submarine Corporation there is a big knock-on effect in defence industries in South Australia. More than 25,000 jobs in South Australia are also relying on the defence industries. We need to maintain manufacturing in South Australia so that those jobs are kept
in South Australia. This is a very important industry in South Australia and I am very pleased that Labor senators are fighting to maintain it there. Labor senators will not cede control of our defence capability. We will continue to fight to maintain the industry in South Australia. We ask coalition South Australian senators, in particular, to stand up for their home state and support the workers, support the industry and ensure that shipbuilding continues in South Australia.

Senator REYNOLDS (Western Australia) (16:55): I rise today on this very important matter of public importance. The Abbott government is getting on with the job of ensuring that our Navy has a sustainable and affordable long-term submarine capability. Despite all of the rhetoric this afternoon from Senator Conroy and his colleagues, this is a decision on the future of Australia's submarines and it has not yet been made.

Senator Cameron: Another Liberal lie!

Senator REYNOLDS: In fact, we would not be having this conversation at all, Senator Cameron, if Labor had not abrogated its responsibility to make the decision during its six years of government. Unlike Labor, we will be making the decisions necessary to avoid a capability gap between the Collins class and the future submarine. In doing so, however, the coalition will ensure Australia has the military capabilities to deter threats and project force. But defence acquisitions must always be made on the basis of our national defence requirements. And, when it comes to defence, we cannot be ruled solely by industry policy and protectionism. This is a huge and significant national investment in our defence capability and it is essential that we get it right. But it is a decision the previous government should have taken. They had 4½ years after the release of the 2009 white paper to do so, but they did not. That is a fact. It is not a cheap stunt like those that Senator McEwen was just referring to.

Let us have a look at some other facts. Despite all of the Labor promises, under Labor the share of GDP spent on defence fell to 1.56 per cent—the lowest level since 1938. In fact, in the 2012-13 budget Labor made the biggest single cut to defence since the end of the Korean conflict. They cut 10.5 per cent from the budget.

I experienced firsthand the impact of the broken promises that Labor made in defence. As the director for strategic reform in the Army in 2009 and 2010 I, like many others, took the Labor government at its word and worked hard to implement the strategic reform program—a program the government promised us would reduce costs and allow the resources that were to be freed up to be reinvested into Force 2030. What a demoralising and dispiriting breach of faith that proved to be. Senator Cameron, guess who was the minister during that period, who failed to make the decisions despite promising to deliver the future submarine capability? Any guesses, Senator?

The ACTING DEPUTY PRESIDENT (Senator Williams): Senator Reynolds, direct your remarks through the chair.

Senator REYNOLDS: My apologies, Mr Acting Deputy President. It was Senator Faulkner. In fact, I will quote Senator Faulkner. He said:

This Government is committed to carefully planning for Australia’s next generation of submarines.

The year he made that commitment was 2009. The Labor government spent 4½ years doing so much planning, they did no acting—apart from removing the funding to fund the future submarines.
Let us talk a bit more about facts. Over their six years in government, not only did unemployment increase by over 200,000 jobs but the Australian defence industry shed more than 10 per cent of their workforce because of Labor's budget cuts and project deferrals. So the depth of the opposition's hypocrisy on this is breathtaking. It would be sad if it were not so serious for Australia's defence.

The so-called 'valley of death' that may exist for our defence industries is entirely the making of the Labor Party, who wasted their six years in government. The simple fact is that under the DCP it was never affordable and the capability promises were purely fictitious. Not only does Labor's mismanagement of the defence program mean that defence face a deficit of $12 billion on current plans over the next decade, but an additional $18 billion is required to achieve Force 2030. To put it more simply, as a direct result of Labor's budget cuts and policy inaction, a staggering 119 projects were delayed, 43 projects were reduced and eight were cancelled altogether.

That is what we on this side of the Senate and the defence industry and defence workers inherited from those opposite.

In 2007, Kevin Rudd promised that a Rudd government would make it a priority to ensure that the necessary preliminary work on Australia's next generation of submarines was carried out in time for consideration and approval in 2011. Two years later, Labor promised 12 new submarines but provided no plan and no funding and, as I said, they took $20 billion out of the Future Submarine program—so no plan, no money and no jobs. I have to ask: where was the AMWU then? Where was the South Australian government then?

In stark contrast, we have taken the Future Submarine program out of the too-hard basket and we have announced that, as part of next year's defence white paper, this government will produce a shipbuilding plan. Australian industry will finally have the long-term strategic direction it has lacked over the last six years. We will do it quickly but we will also do it effectively. It has to be done on a credible and sustainable path to achieve our two per cent funding commitment. This means prudent and sustained investment in adaptable and flexible defence capabilities that are best suited to handle strategic risks over the long term, especially as the ships, aircraft and other equipment our Defence Force uses are essential infrastructure that remain in service for decades. We are currently talking to a number of countries to explore the best possible option for Australia to obtain those outcomes. We are also determined to deliver this capability on schedule and on budget. We owe this to hardworking Australian taxpayers.

I remind senators opposite—particularly those from South Australia—that a significant amount of money is already being spent in South Australia and there will be significant future work, regardless of the decisions on the Future Submarine. The amount of defence investment in South Australia is indeed already substantial.

In conclusion, this decision has not yet been made, but this government will deliver an affordable and a realistic plan. We are a government that are making the right decisions for the right reasons. (Time expired)

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (17:02): I too rise to speak on this matter of public importance. Firstly, I would like to thank Senator Edwards for giving up some of his time to give me an opportunity to make some remarks.
Both Senator Wong and Senator Conroy referred to an article in the *Advertiser* today. I would have thought that, after all the time they have had in politics, they would have learnt to not believe everything they read and to check their facts. In actual fact, the journalist, who I have spoken to, is quite apologetic for the way the headline was chosen by the editor. Interestingly, the same source material that was given to *InDaily* in South Australia—if people care to look at that—has delivered quite a different article in the paper, which articulates more closely my view on submarine building.

I encourage people to go and have a look at that or have a look at my website and read and judge for themselves where I stand on this issue. You can also go and look at the speeches I have given in this place on 3 September, 28 August and 17 June around shipbuilding, submarine building, some of the history and some of the facts around decision times and planning times required and why the coalition is taking the approach it is with things like the Future Frigate program.

More importantly, today what I would like to touch on in the one minute and a bit I have left is the future, as I see it, for submarines in Australia. Firstly, as someone who has been a military officer and has operated military equipment, I know that it must be fit for purpose. It must be able to meet the military's operational requirements. At the moment there is nothing off the shelf from any nation that achieves that, which means that any solution the government chooses will have cost and risk considerations that must be made.

As we look around the world, the model which is probably the most effective at reducing risk is one employed by the Germans. I am not necessarily advocating that we buy their submarine, but their model is effective. They work with the customer and the customer's engineers and manufacturing people to evolve the design to meet the customer's requirements. They work with the customer to develop their local supply chain, so that they can feed into the build and sustain it through life of type. They build the first couple of boats in Germany with the customer and the customer's people so that they learn the processes. They then transfer that process to the customer's location and build the rest of the boats, so that local industry and local workers can develop that sovereign capability to maintain the submarines.

That is the lowest-risk way of transferring a suitable design, build and sustainment capability to Australia. If we learnt anything from Collins and from amphibious ships, it is that we need that sustainment. It does not need to cost more. The benefits to through-life support and particularly the spill-over effects from complex defence procurement mean that we can build it in Australia and that can give us the best capability at the best value for money for the taxpayer. They are the decisions that this government is looking at and evaluating in the interests of our national sovereign capability. *(Time expired)*

**Senator BIRMINGHAM** (South Australia—Parliamentary Secretary to the Minister for the Environment) (17:05): It is a pleasure to follow my colleagues Senators Edwards, Back, Reynolds and Fawcett in their contributions to this debate. Each has added a very clear framework as to why the motion put forward by the Labor Party is politically opportunistic, overly simplistic and indeed is foolish when it comes to the approach that we need to be taking on what is a very complex issue. Senator Fawcett's contribution just then is a demonstration of how complex a defence procurement decision of this scale and magnitude it is and how careful we need to be about ensuring that we get it right.
Let me congratulate the Labor Party to the extent that they have managed to some degree to turn this complex debate into one far too simplistic and far too politicised and one that seems to ignore the fact that, in making this decision—a decision involving tens of billions of dollars of taxpayer funds and a decision involving one of the most important capabilities for our defence forces—we must seek to get the best outcomes for defence capability, for the Australian taxpayer and for Australian business and workers. The Labor Party seem hell-bent on turning this discussion and debate into one that is simply about industry or jobs policy and ignoring the fact that it must also be about defence policy and responsible budget management.

The truth is that we must get all three of those components right in the decision we make, and that is absolutely what our government will do. We will work through the proper processes, as we are doing in the development of the defence white paper, to get all three of those components right—to get the right result for the defence industry, to get the right result for our defence forces, to get the right result for taxpayers, to get the right result for Australian workers. The assurance I give the Senate is that we will not take as long as the Labor Party did to make those decisions.

As people have heard in this debate, in 2007 the then opposition leader Kevin Rudd promised that he would kick-start the building of new submarines in Adelaide. He said:

Starting the process this year will guarantee continuity of work for South Australia's defence industry and those employed in the sector ...

He did not start the work in 2007 or 2008 or 2009, and nor did Ms Gillard in 2010 or 2011 or 2012, and nor did either of them in 2013. The entirety of the Rudd-Gillard-Rudd governments failed to do anything of substance during that time. No contracts were entered into and no meaningful work was done to settle on the type of design that would be applied. Instead, unbelievably, the Labor Party removed $20 billion from the forward budgeting for the submarine program, and yet they have the hypocrisy to come in here today and lecture us in the way they have been.

Theirs was the most disastrous management of defence in the nation's history. Despite running record budget deficits and spending at levels never seen before in the country, the share of GDP spent on defence under Labor plummeted to the lowest level since 1938. A whopping 10.5 per cent was cut from the defence budget in 2012-13 alone. So I will not take the lectures that we have had in here and I will not take the hypocrisy from those opposite.

What I want to assure Australians, and particularly South Australians, is that we will make the right decisions for our defence capability, for our budget and for jobs in industry. I want to assure them that, as a South Australian Liberal, I will do all that I can to ensure that as much of the future shipbuilding, submarine building and maintenance work as possible, and as responsibly possible, comes to South Australia, and all of my South Australian Liberal colleagues are working to that outcome. We welcome the fact that the Prime Minister, only within recent weeks, has committed to the fact that there will be more jobs for South Australia as a result of the submarine contracts to be let in future. That is an important commitment. It is a commitment that will reassure, I hope, many South Australians that the future of Osborne, the future of our shipyards and the future of jobs will be secure. But we have to take the right and careful decisions.
As people know, we have had a fraught history with shipbuilding in this country. We have a history of challenges. The Collins class submarines had many challenges. Recently, the Auditor-General had something to say about the work on the air warfare destroyer—cost overruns in excess of $360 million, delays of two years and labour productivity less than half the international benchmark. We will work to fix those problems and we are working to fix those problems, because we want to make sure that the workforce and the businesses there are competitive in future and that they can compete for work like this. We want that work to go in those directions, but we must make sure that it is going to deliver ships and submarines that meet our defence requirements and the costs that taxpayers can reasonably at responsibly bear.

We will not engage in the shrill politics and hysteria of those opposite. We will not engage in the type of xenophobic actions of Mr Shorten, when he goes down there and deeply offends potentially our Japanese friends by trying to create some type of wedge in this type of debate. We will work to make sure we get the right outcomes for our industry; we will work to make sure we get the right outcomes for our defence forces; and, yes, we will work to make sure that we do have an ongoing industry in South Australia that employs South Australians and creates more jobs in the future. That is our commitment.

The ACTING DEPUTY PRESIDENT (Senator Lines): The time for the discussion has expired.

COMMITTEES
Parliamentary Joint Committee on Human Rights
Report
Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (17:12): On behalf of the Parliamentary Joint Committee on Human Rights, I present that 12th report of the 44th Parliament of the committee on the examination of legislation in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011.

Ordered that the report be printed.

Senator RUSTON: I seek leave to incorporate the tabling statement in Hansard.

Leave granted.

The statement read as follows—

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights’ Twelfth Report of the 44th Parliament.

The committee considered 12 bills, all of which were introduced with a statement of compatibility. Of these 12 bills, nine do not require further scrutiny as they do not appear to give rise to human rights concerns. The committee has decided to defer its consideration of one bill.

The committee has identified two bills that it considers require further examination and for which it will seek further information.

Of the bills considered, those which are scheduled for debate during the sitting week commencing 22 September 2014 include:

- Customs Amendment (Korea-Australia Free Trade Agreement Implementation) Bill 2014
- Customs Tariff Amendment (Korea-Australia Free Trade Agreement Implementation) Bill 2014
- Infrastructure Australia Amendment (Cost Benefit Analysis and Other Measures) Bill 2014
Migration Amendment (Protection and Other Measures) Bill 2014
Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill 2014

The report outlines the committee's assessment of the compatibility of these bills with human rights, and I encourage my fellow Senators to look to the committee's report to inform your deliberations on the merits of this proposed legislation.

I would like to draw Senators' attention to one bill in this report which is of particular interest and relevance to the committee's task of assessing legislation for compatibility with human rights.

The Social Services and Other Legislation Amendment (2014 Budget Measures No. 2) Bill 2014 seeks to amend various Acts relating to social security, family assistance, veterans' entitlements and farm household support to make a number of changes to certain Australian Government payments. These include measures to:

- pause indexation for three years of the income free areas and assets value limits for student payments;
- pause indexation for three years of the income and assets test free areas for all pensioners (other than parenting payment single recipients) and the deeming thresholds for all income support payments;
- provide that all pensions are indexed to the Consumer Price Index only by removing both benchmarking to Male Total Average Weekly Earnings and indexation to the Pensioner and Beneficiary Living Cost Index.

The committee previously sought the advice of the minister as to whether the measures are compatible with these rights, noting that the statement of compatibility did not adequately identify and assess how potential limitations on the right to social security, the right to an adequate standard of living and the rights to quality and nondiscrimination would be reasonable, necessary and proportionate in each case.

The further information provided by the minister in this case is an excellent model for the kind of detailed information and analysis required to assist the committee in its assessment of the human rights compatibility of legislation. This further information has allowed the committee to conclude that the measures are largely compatible with the right to social security and the right to an adequate standard of living and the rights to quality and nondiscrimination would be reasonable, necessary and proportionate in pursuit of a legitimate objective. Significantly, out of the twelve matters raised by the committee in relation to measures in the bill, the committee has concluded that ten of these are compatible with human rights.

I would urge ministers and officers of departments and agencies with responsibility for the preparation of statements of compatibility to look at the committee's examination of this bill as a guide to understanding the processes and analytical framework within which the committee works.

With these comments, I commend the committee's Twelfth Report of the 44th Parliament to the Senate.

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:13): I move:
That the Senate take note of the report.

I would like to make some comments on this report. I have not had time to look at it in depth, because it has obviously only just been tabled, but I do want to take note of the committee's comments on the Social Services and Other Legislation Amendment (2014 Budget Measures No. 1) Bill 2014. People in this place will not be surprised that I am taking a deep interest in this matter.
In a previous committee report to the parliament, I raised a number of issues about that particular bill, and this report is looking at the minister's response. I am particularly interested in the committee's view on compatibility, the right to equality and non-discrimination, and the potential indirect discrimination against women. The committee requested that the Minister for Social Services provides advice on the compatibility of each of the schedules on the rights to equality and non-discrimination and, in particular, whether the measures are aimed at achieving a legitimate objective; there is a rational connection between the measures and the objective; and the measures are proportionate to that objective. The minister responded:

The proposed changes affect all recipients, regardless of their gender and are aimed at ensuring that social security is targeted, sustainable and consistent over the long term.

The measures will help ensure ongoing assistance is targeted to those who need it most, and the impacts are sufficiently small as to be proportionate to the objective of preserving access to payments system over the long term.

Furthermore a per child single parent supplement will become available for single parent families … And that is articulated in the bill. The committee thanked the minister for his response but noted:

… that non-discrimination and equality are fundamental components of international human rights law and essential to the exercise and enjoyment of economic, social and cultural rights. In particular, article 2(2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) requires each State party:

… to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

They went on to quote the Committee on Economic, Social and Cultural Rights, which notes:

Non-discrimination is an immediate and cross-cutting obligation in the Covenant. Article 2(2) requires States parties to guarantee nondiscrimination in the exercise of each of the economic, social and cultural rights enshrined in the Covenant and can only be applied in conjunction with these rights. It is to be noted that discrimination constitutes any distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on the prohibited grounds of discrimination and which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of Covenant rights.

The committee went on to say:

1.186 Discrimination may be either direct or indirect. Indirect discrimination may occur when a requirement or condition is neutral on its face but has—

and this is really critical—

a disproportionate or unintended negative impact on particular groups.

1.187 The committee notes the minister's advice that the measures affect all recipients, regardless of their gender. While the measures therefore appear neutral on their face, the committee remains concerned that they may have a greater impact on women than men, as women are more likely to be recipients of social security and, particularly payments provided to the primary caregiver of children.

1.188 Accordingly, the committee seeks the further advice of the minister as to whether the measures in the bill are compatible with the rights to equality and non-discrimination on the basis of gender and family responsibilities.
When you bear in mind that overwhelming single parents are women that will be affected by the measures in this bill, in particular the family tax benefit changes and the fact that it cuts off when a child is six, of course women are going to be disproportionately affected by the legislation that the committee has been considering and that we have spoken about on many occasions.

I hope the Senate takes note of the findings of this report. I look forward to the minister's further response, because, quite frankly, I fail to see how the minister cannot see that this can be indirect discrimination against women in this particular matter. Of course, there are other measures contained in the budget that will also disproportionately impact on women. The accumulation of these impacts will significantly impact on women.

As I said, I look forward to seeing the committee's next report to see what the minister's responsible is and, quite frankly, how the minister can justify in any way at all the impacts that these proposals will have on women, and particularly on single parents when you also consider that they have also had foisted on them the cuts that were made by both the Howard government and the Gillard government by dumping them onto Newstart as single parents. As I have repeatedly said in this place, they are predominantly single mothers that have been adversely affected. This is yet another cut that they will have to bear, and that of course then impacts directly on their children. I look forward to seeing the next report.

Question agreed to.

Public Accounts and Audit Committee

Report

Executive Minutes

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (17:19):
On behalf of the Joint Committee of Public Accounts and Audit, I present the following reports and documents:

  Report No. 444—Annual report 2013-14
  Executive minutes on reports Nos 417, 423, 436, 437 and 439.

Treaties Committee

Report

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (17:20):

Ordered that the report be printed.

Senator FAWCETT: I move:

That the Senate take note of the report.

Today I present the Joint Standing Committee on Treaties' Report 143, containing the committee's views on five treaties tabled on 17 June and 15 July 2014, including an economic cooperation treaty with Papua New Guinea, three treaties amending bilateral treaties for the
protection of migratory water birds, and an amendment to Australia's free trade agreement with New Zealand.

The Treaty on Economic Cooperation between the Government of Australia and the Independent State of Papua New Guinea will change the focus of Australia's relationship with Papua New Guinea from development assistance to trade partnership.

Papua New Guinea has experienced a decade of growth, which is expected to continue, with a significant resource project, the PNG liquefied natural gas project, just getting underway.

Two-way trade between Australia and Papua New Guinea is worth nearly $6 billion a year, and Australian investment is worth more than $19 billion, equal to Australian investment in China.

Under the circumstances, it is not surprising that a recent review of the treaty's predecessor, the Treaty on Development Cooperation between the Government of Australia and the Government of Papua New Guinea, found that our contemporary relationship would be better reflected in a treaty that emphasises economic cooperation, rather than development assistance.

The new treaty sets out a framework for bilateral cooperation in the areas of trade, investment, business relations and development cooperation. Significant provisions include:

- obligations to support bilateral economic relations;
- undertakings to improve trade, investment and business cooperation;
- promoting a favourable environment for trade and other economic linkages;
- providing protection for intellectual property rights;
- improving cooperation and consultation on sanitary measures, phytosanitary measures, and technical barriers to trade; and
- supporting increased business links to encourage investment and private sector interaction.

While the proposed treaty changes the focus of the relationship from development to economic cooperation, it will continue to govern our development relationship and explicitly articulates a shared commitment to the prevention and detection of fraud. The committee is very happy to support this proposed treaty action.

As previously indicated, the report also reviews amendments to three bilateral treaties protecting migratory birds. The treaties with China, Japan and Korea are part of a network of agreements aimed at protecting wetlands that are used by birds that migrate from as far away as Arctic Siberia to Australia and New Zealand. The committee supports the amendments to these treaties.

Finally, the committee reports on a proposed amendment to the Australia-New Zealand Closer Economic Relations Trade Agreement to reflect changes to Australia's media ownership laws concerning foreign investment. The agreement is a comprehensive bilateral free trade agreement covering nearly all goods and services traded between Australia and New Zealand. Both parties to the agreement can nominate exceptions to the requirement for free trade in services by listing those exceptions in an annex to the agreement. One of the exceptions listed by Australia applies the limits on foreign ownership of television and
broadcasting services set out in the Broadcasting Services Act 1992. All limits to the foreign ownership of television and broadcasting services were removed from that act in 2007, making the exception listed in the annex to the agreement superfluous. The amending treaty action will remove the superfluous listing from the agreement. The committee supports this amendment.

Report 143 also contains a statement relating to a minor treaty action. On behalf of the committee, I commend the report to the Senate.

Question agreed to.

**Scrutiny of Bills Committee**

**Report**

**Senator URQUHART** (Tasmania—Deputy Opposition Whip in the Senate) (17:24): On behalf of Senator Polley, Chair of the Senate Standing Committee for the Scrutiny of Bills, I present the 12th report and *Alert Digest* No. 12 of 2014 of the Senate Standing Committee for the Scrutiny of Bills.

Ordered that the report be printed.

**Regulations and Ordinances Committee**

**Delegated Legislation Monitor**

**Senator RUSTON** (South Australia—Deputy Government Whip in the Senate) (17:24): On behalf of the Chair of the Senate Standing Committee on Regulations and Ordinances, I present Delegated Legislation Monitor No. 12 of 2014.

**Environment and Communications Legislation Committee**

**Report**

**Senator RUSTON** (South Australia—Deputy Government Whip in the Senate) (17:24): I present the report of the Senate Environment and Communications Legislation Committee on Australia Post, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**Senator RUSTON:** I move:

That the Senate take note of the report.

As the chair of the committee that held this particularly important inquiry into Australia Post for the last couple of months, it is a great pleasure to hand down the consensus report today. There was absolutely no doubt amongst the people who were involved and who gave evidence—and to the committee at the end of the inquiry—that the Australian postal network now finds itself in a massive state of change. There is certainly no doubt that electronic means for communication is substituting letters, that internet substitution for across counter transactions is significant and that there is an increase in parcel mail due to the online environment. So we see the Australian postal network operating in an extraordinarily changing environment and this is having a major impact on the operations of Australia Post. We have seen a decrease of one billion letters over the last five years. We have seen an explosion in the number of parcels that are delivered by this network.
Unfortunately, in the first half of this calendar year we saw Australia Post post a half-year loss for the first time in its corporate history. What we do need to remember though is that Australia Post is not a private business. Australia Post is a monopoly. It is a monopoly that heads a very complex network of operations that make up the Australian postal network. It is made up of Australia Post, Australia Post post offices, licensed post offices, community post offices and franchisees. It is also very much intrinsically engaged in every way with the Australian public. Therefore, we had to look at this particular issue through the prism that the Australia Post network is such an integrated part of everyday Australian life.

The hearing was instigated initially by a number of licensed post offices, who came to the Senate as a last resort because, no matter how hard they tried, they found that they were just not able to find any reprieve in the market they were operating in. They claimed that Australia Post's behaviour was having a detrimental effect on their profitability. We have to remember that because Australia Post is a monopoly and not a private business it has a number of community service obligations that it has to deliver to the Australian public. For instance, I think all of us know that it has to deliver mail to the majority of Australians on a reasonably regular basis at a reasonably uniform rate. It does this by using this extraordinary network of licensed post offices, corporate post offices and the franchisees. The ability of Australia Post to deliver its community service obligation is predicated on this network. This very network, particularly the licensed post offices and the franchisees, came to us and said that the behaviour and activities of the Australia Post were having such a detrimental impact on their capacity and ability to be financially viable that they were struggling to keep their doors open. This was of extreme concern to the committee.

In summary, the concerns that were put to us were that these licensees and franchisees were struggling to recover the costs that they were incurring to provide the mandated Australia Post services. We have to remember that Australia Post in this space does not operate in a competitive environment. Australia Post, because of its position, does have the capacity, to a large extent, to dictate the prices of these mandated services. As a consequence, the assets of these licensees and franchisees have dropped significantly in value—because, of course, when you attempt to sell any business, the profitability of that business is one of the major factors that you consider as to the value of the business—and that was somewhat exacerbated by the bad publicity that has surrounded this very unfortunate situation that was allowed to occur.

Another concern that was expressed was the lack of consultation being undertaken by Australia Post in this extraordinarily changing environment and the fact that they were taking quite a dictatorial approach to how they drove the changes and the things that were happening, instead of a more consultative approach that allowed the various players to have their say, express their concerns and be listened to in this marketplace.

Another concern that was put on the table was the predatory behaviour of Australia Post, particularly in relation to the marketplace—because, of course, we have Australia Post postal offices as well as licensees and franchisees. Australia Post needs to be very careful, because of its obligations, that it does not actively seek to poach the business of its licensees and its franchisees to the benefit of its post offices—and there was concern that this activity was happening in the marketplace.

Another concern put to us was the fact that Australia Post is obliged to only consult with the Post Office Agents Association in determining the pricing of the activities that the
licensees perform on behalf of Australia Post. The licensees were concerned that they were not being well represented in this space and did not believe that their best interests were being represented by this body in its negotiations with Australia Post.

I would like to quickly mention, specifically about the franchisees, that we have a real concern that Australia Post had provided what we thought was false and misleading information to the franchisees when they negotiated their original agreements to take over the franchises, because Australia Post was in possession of information that it reasonably should have made the potential franchisees aware of. As a result, we saw a much smaller number of franchisees in the marketplace, and this created a much smaller pool of franchises, which, of course, diminished the value of the assets of these franchisees.

The committee heard many concerns raised by a lot of people, so the committee has made a number of very substantial recommendations. We believe that Australia Post and the rest of the postal network, including the licensed post offices, the corporate post offices, the unions and everybody involved in this space, need a networking strategy group put together so that we can manage and inform the changes that need to take place to make the Australian postal network a viable operation into the future. We believe that the dispute resolution mechanism could be significantly improved. We think that there needs to be an audit to determine that the payments being made for these services are fair and reasonable. We believe that Australia Post must be held to account and that its monopoly position cannot be used to abuse its market power. We think that Australia Post must not be able to transfer its liabilities to the licensees and franchisees, because they are in no way able to defend themselves in this space. Most particularly, we believe that all of these things have to happen as a matter of some urgency. These issues have been going on for too long and we need to resolve them as a matter of some urgency so that the people who have entered into these agreements in good faith can get on with their lives.

Finally, I would like to thank the committee secretariat, particularly Christine McDonald. This has been a very long process. It has taken a lot longer than any of us would have imagined it would, but, considering the extraordinary significance and relevance of the information made available to the inquiry, and the fact that so many licensees, so many franchisees and so many people involved in the Australian postal network wanted to have their say at this committee, we made the decision that we would rather hear everybody, get all of the information and try to make sure that this report was absolutely as comprehensive as it possibly could be so that we could reflect the importance and magnitude of the issues brought before us. As you can tell from my comments, we are very concerned that Australia Post needs to play a more proactive role in this space.

In conclusion, the committee recognise the difficulties currently being faced by all stakeholders in the Australia Post network, but we believe that, if we are going to resolve this situation and enable the profitability of all the players in this space into the future, we must have a transparent and consultative approach to move forward. We need a transition plan put in place that everybody takes ownership of—because the future of Australia Post is important not just to the stakeholders but to every single Australian. I commend the report.

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (17:35): I rise to take note of the report of the Senate Environment and Communications Legislation Committee's inquiry into Australia Post and the licensed post office network. The committee
received 213 submissions and 845 letters from licensed post offices. I also received a large amount of correspondence on this inquiry and I thank all those who have taken the time to make a contribution. The inquiry was conducted in a good spirit across party lines both under the previous chair, Senator Williams, and the chair since July, Senator Ruston. I also thank the secretariat, led by Christine McDonald, for their guidance, research and support. It has been a long inquiry, but we have got there. Thanks also to Sophie, Meryl, Ruth and Dianne.

With my colleague Senator Cameron, I have provided some additional comments to the majority report around outsourcing of government services to Australia Post, and I will return to those comments later. However, I want to begin with what we agreed upon. The committee is making 18 recommendations that encompass the future of mail in this country and the impacts on Australia Post employees, contractors and the licensed post offices, community postal agencies and franchised post offices that make up Australia’s postal network. I want to focus my remarks on four of these recommendations.

Recommendation 4 goes to the heart of the future of mail in our country. The committee is recommending that the Commonwealth government immediately commission an independent review of the community service obligations contained in the Australian Postal Corporation Act 1989 and associated regulations.

In doing so, the committee also recommends that the government include an assessment on the future of mail delivery services; an assessment of the number of retail outlets required in the network; an investigation into the effects of any changes to the community-service obligations on Australia Post employees, licensed post offices, community postal agencies, franchisees and mail contractors; and consideration to the needs of remote rural and regional communities, particularly where other service providers have ceased to operate.

The postal environment worldwide is experiencing rapid and significant change. In Australia, the substitution of digital communications for letters is now so pervasive that Australia Post is reporting escalating losses in its letter business. As a result, the future of postal services in Australia is at a crossroads and there are a number of significant far-reaching issues that need to be addressed. These include the type and scale of the postal network that can be sustained into the future, the funding options available to maintain the network and how, and to what extent the current community-service obligations can be preserved.

In this context it must be recognised that Australia Post is not a private business. Its shareholders are the entire Australian community and the postal network is woven through the fabric of Australian life. Further, the most fundamental responsibility of Australia Post is to supply a letter service that is accessible to all people in Australia on an equitable basis, wherever they may reside or operate a business.

Changes to Australia Post and its network will have an impact on our communities and way of life. During the latter stages of the inquiry I was visited by a group representing the printing industry, unions, licensed post offices and community users of postal services. This group was created simultaneously to the inquiry, and the leaders of the group should be commended for bringing together a varied range of groups to talk through the future of mail in Australia.
One of the members of the group, a retired AMWU member from Melbourne, John, came to Canberra to represent pensioners—a section of our communities whose working lives often ended before the widespread use of the internet came to being. John remarked to me that once we lose a government service were never get it back. These ideas to move to mail delivery only three days a week are likely to be just the beginning. Once the infrastructure is gone for delivering daily mail, we will not get it back. This was wise advice from John, who went on to tell the group of the many reductions in services that started out as a small change but ended up being much more drastic than first thought.

It is why recommendation 6 is vital. While recommendation 4 sets out for the government to review the community-service obligations, recommendation 6 requests that the Minister for Communications form a formal postal-network strategy group that engages all stakeholders in the development of a comprehensive strategy to inform changes to the Australia Post network in the face of emerging changes.

This group has already formed itself, separate of government, separate of political parties. It spans the full scope of the printing and postal industry and includes a wide range of consumer groups. This group is the perfect body to be the minister's formal postal-network strategy group. It is also my hope and the committees hope that the minister will instigate a broad community-consultation program because, as the report outlined, Australia Post shareholders are the entire Australian community.

In doing so, it is my hope that Australia Post will do away with some of its glossy brochures and that the government and Australia Post will sit down and have meaningful discussions with people, right across the country, about the future of our mail delivery. Rather than have a predetermined opinion, it is my hope that the government and Australia Post actively engage with the community and work together to determine how the postal network can meet its challenges. It was the committee's consensus view that at present Australia Post is making changes without involving stakeholders and it considers that this has contributed to the growing divide between the various stakeholders and Australia Post.

The evidence presented by the licensed post offices demonstrates that the relationship between Australia Post and its licensees is particularly dysfunctional. LPOs and community postal agencies account for a clear majority of the national postal network and cover nearly all of rural and regional Australia. As senators would be aware, the local post office is often the last institution in many towns across the country. Unfortunately, evidence to the inquiry was quite damning of the conduct and representative skills of the current sole accredited association, the Post Office Agents Association Limited. POAAL is the only association accredited by Australia Post under the Licensed Post Office Agreement. Over the past few years, another organisation has been formed and the evidence presented by the LPO Group to the committee has demonstrated that in its future efforts to be more consultative Australia Post should treat this association on the same terms as POAAL. As such, the committee is recommending that the definition of 'association' in the LPO agreement be amended to include, in addition to POAAL, other licensee-representative groups, but not limited to the LPO Group.

I commend the leadership and tenacity of Angela Cramp and Andrew Hirst, from the LPO Group, who are in the gallery today. Throughout the course of this inquiry they have represented their members with vigour, honesty and consistency. I hope the frustrations you
have outlined to me and the committee over the past year begin to be resolved by the
government and Australia Post.

I finally want to touch on recommendation 17 that the Minister for Communications, as a
matter of urgency, commission an independent audit of the activities undertaken by the
Licensed Post Office network. This independent audit should specifically determine the
validity of claims made by licensees that payments made under the LPO agreement are not
fair or reasonable. Further, it is recommended that where a payment is found to be not fair or
reasonable a study should be conducted to determine what an appropriate payment rate should
be.

The basic problem with the LPO agreement is the indexation of payments to the basic
postal rate. As the basic postal rate has increased at a much slower rate than inflation over the
past 20 years, many LPOs are struggling to keep their businesses afloat. There were many
other claims raised by LPOs that time prevents me from detailing today.

I conclude on the one aspect of the report that Labor senators disagreed on: the assertion in
the majority report that the postal network provides an opportunity for government to deliver
services more efficiently. I note that no evidence was provided to support this claim. The
evidence from Australia Post provided no comfort that it could handle many of the face-to-
face operations of Centrelink and Medicare. Rather, the assertion is simply another attempt by
the Liberal Party to promote its ideological belief that the outsourcing of government services
increases efficiency.

As such, Labor senators strongly recommend that the government does not outsource any
functions of the Department of Human Services, such as Medicare and Centrelink, to
Australia Post.

In conclusion, it is my hope that Australia Post and the government can work with
Australia Post employees, unions, contractors, licensees, the printing industry and the
community to pave a sustainable footing for our postal network. As John said, once we've lost
it, we won't get it back.

Senator WHISH-WILSON (Tasmania) (17:45): The Greens would also like to
acknowledge the LPOG network, especially Angela and Andrew, and all the hard work and
tenacity that they have shown. I think it has been very clear to all members of the committee
that this really is a David and Goliath situation. The committee has had to approach small
businesses, particularly in remote rural and regional areas, which are having to look at the
viability and sustainability of the businesses that they have put their life savings into. Some of
them moved into communities that had not previously been in.

The Greens are very pleased that the report has been done. It has been a long, complicated
process and there has been a lot of hard work done by a large number of people, including
through cross-party support between the minor parties and Labor and Liberal committee
members. We have come together to present this report today.

I would like to say that I am disappointed—I think I probably reflect the disappointment of
some of the other senators right across the political spectrum—that we could not get
recommendation 17 done during the inquiry. There was a genuine attempt by all members of
the committee to get a comprehensive time-and-motion study done. Senator O'Sullivan
particularly led the charge on that. We wanted to get that comprehensive study done by the
Senate so that it was seen to be independent. However, we got a study done by Australia Post by KPMG. I have received information, through the committee, from one LPO in Tasmania that certainly casts doubt on the validity of some of the conclusions of that report.

The really hard work probably starts here now in getting the government to take some action to see out these suggested studies that the Senate committee has so strongly recommended—particularly recommendation 17, as Senator Urquhart outlined, and recommendation 4.

It also is important that, given the proposed changes to the franchising code of conduct—the new powers that the ACCC will shortly get—that the ACCC uses these new audit powers to obtain documents that the franchiser relied upon to support statements. It has new far-reaching powers to have a look at the franchising agreements between the licensed post offices and Australia Post. I think this is going to be quite important. I understand that the committee is considering writing a letter on behalf of the licensed post offices to the ACCC—hopefully, it will—asking them to have a look at this.

Over recent years a number of small licensed post offices and some post office groups have written to the ACCC. It is outlined on page 11 of the report that back in 2004, at a POAAL national conference, the then ACCC commissioner John Martin stated:

Given Australia Post’s dominant position—

with regard to market power—

any allegation of conduct by it which deliberately damages the competitive process would be investigated by the ACCC.

My understanding is that the allegations that have been made to the ACCC have not been investigated. I hope that the committee will be able to write and ask them—particularly after any laws are passed by parliament in relation to the franchising code of conduct—also to do a comprehensive additional study on the issues, which we have spent the last nine months listening to, with respect to agreements that have been in place, in some cases, for over 20 years.

As was quite rightly pointed out by Senator Ruston, over the last couple of decades the whole landscape of the postal industry in this country has changed quite substantially. However, it has become very clear to committee members that the nature of franchise agreements has not changed in line with the changing landscape.

We have seen some very genuine distress in a number of the licensed post office groups, especially in Tasmania. I met with nearly 35 of them. They really are under significant pressure. They are small businesses that provide a vital public good through their community service obligations, particularly in rural and regional areas. They are a huge part of the community. They are pretty much everything we should be supporting and pretty much everything that is good about small businesses in this country.

Unfortunately, I only have a few seconds left but I hope that from here on in we can keep the tri-partisan support that the committee has had to put pressure on the government to make sure these studies get done and that we get you guys in the gallery the result that you need.

Senator O’SULLIVAN (Queensland—Nationals Whip in the Senate) (17:50): I, too, rise to take note of the report. I particularly want to support the comments of the previous speakers in relation to the level of cooperation between all of the parties, including the
Independents in this place, who participated in this inquiry. What bound us all, I think, was a sense of fairness—or lack thereof—with respect to the treatment of so many of these small businesses known as licensed post offices around Australia. I would like to recognise the chairmanship of my colleagues Senator Williams and, later, Senator Ruston. And I would like to compliment the secretariat on a very comprehensive and, I think, excellent report.

I would like to briefly mention, also, retired senator Boswell, who made a big contribution to this in the beginning, and certainly inspired and motivated any number of us to stay the course, as he used to stay, to see that this work was done. I also recognise the work of Angela Cramp and Andrew Hirst and, through them, the dozens and dozens of licensed post offices who went way above the call of duty in making contributions to equipping those of us in this inquiry to remain up to speed with what was happening, and to providing us with data and research. Your contributions are seriously acknowledged, and we thank you on behalf of the entire licensed post office network.

I am going to be brief because a number of people want to speak. I want to put a couple of points on notice. We should never forget in this place or in the House of Representatives that we are the owners of Australia Post. In fact, the minister owner sits with us here today, so he will be able to listen to the recommendations we are making. It is owned by the Minister for Communications and now Minister for Finance. So we do not have to look too far to find out who was responsible for us being in the position that we are in with these licensed post offices. We do not even have to look any further to find where the solutions to these problems exist.

There have been failures on behalf of the Commonwealth owner of Australia Post for literally decades in keeping the principle of using the base postal rate to increase the payments to these post offices for the services that they provide. These are very vital public service commitments that we have made. I am told that delivery of post was one of the first obligations that we made as a nation when we settled here in 1788.

Finally, I want to put Australia Post on notice. These are my words and I do not speak for anyone else in the inquiry. At times I found Australia Post frustrating. I do not think they were as forthcoming as they ought to have been. I found their attitude wanting on occasions when we were looking for their cooperation to work with this investigation to determine the depth and the breadth of the problems within these post offices. So I say to Mr Fahour: it does not end here today with this report; it begins here today and we will be watching. The same collection, the same cohort, of senators from this place who have taken this challenge will be watching.

I urge Mr Fahour and his executive management team to get out in front of our ministers, to get out in front of the owners, and fix these issues over the coming months. These are very seriously urgent issues. There are many people on the breadline. They have been waiting patiently for us to stand up because we are their cul-de-sac. There is nowhere for them to go after they have been to us. We stand between them and viability of their businesses. I say to Mr Fahour: keep an ear to the ground and keep an eye on what is happening because I promise you that that is what I am doing with you, and I am certain that is the case with many of the other senators who make a contribution.

We will see justice done here because we have no other course to take. This is an unusual relationship between this government and these people and we have a responsibility to ensure
that we behave in a proper manner. While ever I am in this place—and I speak for the others in this place—we will see that that outcome is achieved. I thank you for the chance to speak.

Senator XENOPHON (South Australia) (17:55): I concur with the comments made by my colleagues Senators Ruston, Urquhart, Whish-Wilson and O'Sullivan. This is an issue that goes beyond politics. The viability of post offices around this country and, in particular, the viability of almost 3,000 licensed post offices is at stake and, with that, a very key part of community infrastructure. We cannot afford to ignore this issue. Furthermore, the government must act on the recommendations made by this committee. These were non-partisan recommendations. This was a unanimous report. I commend the former chair, Senator Williams, and the current chair, Senator Ruston, who did a terrific job in bringing this together. Senator Urquhart from the opposition, Senator Whish-Wilson and Senator O'Sullivan all played very valuable roles in this inquiry. Again, I thank Bozzie, former senator Ron Boswell, for the driving role he played in this.

The recommendations must be implemented. We have in the chamber the finance minister, Senator Cormann, who is the nominal owner of Australia Post on behalf of the government and a shareholder as finance minister. I urge Senator Cormann to read each and every one of the recommendations and to read this report because, if it is not acted on, we are looking at many licensed post offices around the country falling over the edge. If that happens, it will end up costing Australia Post a hell of a lot more to pick up the pieces. There are so many licensed post offices in this country which have been hanging on, some of them by a thread, waiting for this inquiry's recommendations and to see what action the government will take. We cannot and must not let them down.

Pointedly, many LPO operators tell me that they would be happy to work the long hours they are working if only they got the award rate they were paying their employees, because many of them are living at a subsistence level and too many of them are actually selling their assets and eating into their savings just to stay afloat. That is completely unsatisfactory for such an important community service. That is why we need that audit. That is why we need to ensure that there is fair remuneration for those men and women who run the almost 3,000 post offices around the country.

I think it is fair to say that if we do not fix this up there will be huge implications around Australia, particularly in regional communities. There will be huge implications in respect of the community service obligations of Australia Post. I note that the Australia Post management participated in this inquiry. Mr Fahour comes from a distinguished career in banking. He is a very competent man. It is within his wherewithal to fix this by driving the changes that are required. The additional payments that were made, whilst welcome, were just a drop in the bucket because they are not enough to sustain those post offices in a viable way.

I want to comment on the lack of candour and cooperation of POAAL, the official organisation that represents the post office licensees.

Senator O'Sullivan: It's a disgrace!

Senator XENOPHON: Senator O'Sullivan said, 'It's a disgrace.' He is a very kind man. Mr Ian Kerr, the head of POAAL, was one of the most underwhelming and hapless witnesses I have ever seen in my six years in this Senate. He was hopeless, and I have got to say that he does not reflect well on his organisation. They did not provide documents in response to the
reasonable requests that were driven by Senator O'Sullivan. I would strongly suggest to anyone listening, who is a post office owner or post office licensee and a member of POAAL, to consider seriously leaving that organisation and joining the rival LPO group who do a much better job in advocating for their members. Mr Kerr needs to stand judged for the way that he simply ignored the committee and treated the committee in a way that verged on contempt.

The way Australia Post has treated mail houses is very disturbing, given that direct mail is still a very fine form of marketing. They bumped up the rates without reference to the ACCC as it is no longer required, but it should be required in the future. It does not make sense. Direct mail is still a very good form of marketing and Australia Post seems to be crawling away from one form of mail that is still very viable for them. But mail houses are walking away from Australia Post because of the way they have been treated by them.

The serious and difficult circumstances that so many LPOs and franchisees are facing cannot be understated. They cannot be ignored by this government. Unless there is urgent remedial action, the personal and community consequences will be enormous. The government cannot afford to sit on these recommendations. To do so would be equivalent to that old adage that 'the cheque is in the mail'. This must be fixed as a matter of urgency.

I seek leave to continue my remarks.

Leave granted.

Legal and Constitutional Affairs Legislation Committee
Report

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (18:01): On behalf of the Chair of the Legal and Constitutional Affairs Legislation Committee, Senator Macdonald, I present the report of the committee on the Provisions of the Customs Amendment (Korea-Australia Free Trade Agreement Implementation) Bill 2014 and a related bill, together with submissions.

Ordered that the report be printed.

MINISTERIAL STATEMENTS

Investment

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education) (18:02): On behalf of the Minister for Trade and Investment, Mr Robb, I table a ministerial statement on investment.

DOCUMENTS

Responses to Senate Resolutions

Tabling

The ACTING DEPUTY PRESIDENT (Senator Dastyari) (18:02): I present the following responses to the resolutions of the Senate:

Attorney-General (Senator Brandis)—Marrakesh Treaty (agreed to 23 June 2014)
Minister for Education (Mr Pyne)—Schools funding (agreed to 14 July 2014)
Minister for Industry (Mr Macfarlane)—Commonwealth Scientific and Industrial Research Organisation (agreed to 1 September 2014)
Senator WRIGHT (South Australia) (18:02): I seek leave to take note of the ministerial response on schools funding.

Leave granted.

Senator WRIGHT: I move:

That the Senate take note of the document.

The letter tabled by the Minister for Education, Christopher Pyne, is in response to my motion in support of the New South Wales branch of the National Party, of 14 July this year, in calling for the federal government to honour the full six-year funding agreement made between the Commonwealth and New South Wales governments. I appreciate why it is an awkward issue for Minister Pyne, so I can understand why his letter avoids the substance of my motion.

The Australian Greens recognise that rural schools across Australia will continue to be significantly disadvantaged as a direct result of the Abbott government's broken promises on the Gonski funding scheme. This is not an abstract issue. It is thousands of children who, every year, year-on-year, will fall further and further behind kids in city classrooms because their schools simply do not have enough money. The Australian Greens were very pleased that we were not the only ones concerned about this issue. It was extremely heartening to see that one state branch of the Nationals had the courage to contradict their Liberal Party colleagues in favour of standing up for their constituents. So, you can imagine my dismay when I saw that the federal National MPs in this place would not dare to be so bold. I put the motion, and it was embarrassing that the National senators voted against their own party, but it is shameful that they voted against the interests of their own communities.

The sad fact is that schools in rural and regional areas are amongst the biggest losers as a result of the Abbott government's decision to cut the majority of Gonski funding. Already students in rural and regional areas are as much as two years of schooling behind students in metropolitan schools, and it is only going to get worse. A recent report showed that our education system is now more unequal than when the Gonski review panel handed down its damning assessment three years ago. The gap between advantaged and disadvantaged students in Australia is growing, but what do we get from our education minister? Outrage? A plan? Even mild concern? No, we merely get deliberately-misleading, evidence-dodging slogans about funding not equalling better outcomes.

He has made the same deceptive claim in his letter. He cites slipping PESA results over the last decade and directly correlates them with a 44 per cent increase in education funding. Of course, he does not say where this increase in education funding went, so let me clarify. Under the Howard government, education funding was increased—yes—for the wealthiest in Australia. This money went to the private schooling system, not our public schools which educate the vast majority of disadvantaged students in Australia. Under the broken Howard school-funding model, the discredited Howard school-funding model, more money was spent on the most advantaged students than on any other group. So, what a surprise, giving more to the top end of town has not fixed our education system but has indeed exacerbated the very inequality our rural schools are now suffering from.
The Gonski reforms seek to overcome this inequality by targeting the areas of greatest need to reduce the equity gap and lift educational outcomes across the country. This same Gonski review, which would have delivered a much needed boost for country schools, was branded a failure by New South Wales National Senator Williams in a Senate committee report. Despite what Minister Pyne would like to believe, the Gonski review did not recommend extra funding for rural schools because they thought it would be amusing, they recommended extra funding because the evidence showed them it would work.

School after school that I have heard from, teachers and parents and principals, have told me exactly what their country schools could do with that money: teacher training, professional development and teacher support, which always cost more in terms of time and travel for teachers in rural and regional areas. Also, better IT equipment to connect them with the world, and parental and community engagement. In communities where there is not a lot of employment and not a lot of hope and aspiration for the kids, engaging parents and the community with schools is crucial. These sorts of things require people, resources and money.

It is disappointing that our education minister keeps dodging the truth about the realities of schools in Australia. He needs to get out there and really see them. What is even worse is that the federal National MPs in this place are willing to go along with his deception, even though it means selling out their very own community.

Senator KIM CARR (Victoria) (18:07): I want to comment on Minister Pyne's letter, dated 17 September, in response to the Senate resolution. His response is yet another example of the coalition's deliberate deceptions and misrepresentations. Before the election the then shadow minister for education promised:

You can vote Liberal or Labor and you will get exactly the same amount of funding for your school.

Just two days before the election, Mr Tony Abbott promised that there would be 'No cuts to education, no cuts to health, no change to pensions, no change to the GST and no cuts to the ABC or SBS.' But the deceit and the duplicity have of course all been laid bare. Today we see an ideologically-driven minister saying that black is white and claiming that this government does have a commitment to rural and regional schools. Nothing could be further from the truth.

The government's mendacity is understood even by conservative governments, such as that in New South Wales. The New South Wales education minister, in responding to Mr Abbott breaking his promise to honour the Gonski agreements by cutting $30 billion from school funding, said:

Schools in regional areas, as well as disadvantaged and Aboriginal students, will be the hardest hit.

The recent PISA analysis shows that students in regional areas are up to a year behind their city peers and those in remote areas up to two years behind. This is completely unacceptable for a country which says that the importance of education is a measure of our civilisation.

Country schools are paying the price for the inequality in our school system. And to those in the coalition who say that money does not matter: tell that to the parents of children who go to some of our elite private schools and who are paying over $30,000 a year per child to go to those schools. You tell them that money does not matter! National Party senators in particular ought hang their heads in shame because they are demonstrating just what doormats they are to this government. Clearly, they have no sway whatsoever within the government. Country
schools in fact have the most to gain from the full implementation of the school reforms that the Labor Party introduced when we were in government, which of course means keeping the loadings and the funding for years 5 and 6 of that school reform program.

Instead, what we have seen from the government is $30 billion cut from schools. They are cutting funding from every school in Australia by an average of $3.2 million—that is, $1,000 per student. The minister pretends that, somehow, he should be congratulated for linking school funding to the CPI. Anyone who knows anything about education knows that the ABS Education Price Index increases by 5.1 per cent a year, whereas the budget papers predict a CPI increase of just 2.5 per cent per year. That of course has a significant compounding effect when you look at it in real terms.

This government has been deceptive, dishonest and duplicitous. It is a government that is not able to lie straight in bed politically, because it has a fundamental commitment to misleading the Australian public. The minister himself said—at the time when he was at university—that he was quite happy to tell people what he thought they wanted to hear, not what he actually believed to be the case.

The cuts this government has introduced will have effects in classrooms. Teachers and principals cannot plan for the future, with the biggest cuts to school funding ever seen in the country. Those cuts are hanging over the heads of every school in this nation. The response we have from this minister today is, frankly, embarrassing. It shows a minister who is desperately trying to rewrite the commitments that he made before the election. It shows a minister clinging to false excuses about the funding cuts outside the forward estimates, while his colleagues will be claiming they are committed to infrastructure spending over the next decade. The minister admits here in black and white that school funding has been cut by this government over the next decade.

Finally and tragically, it bells the cat on the government's plan to rip apart the needs-based funding system from 2018, by foreshadowing new negotiations on school funding, negotiations that this government will hope will divide parents and schools as they fight over a shrinking pool of funds. Since the election, this government has abandoned the Gonski school funding reforms; failed to fund years 5 and 6 of the Gonski reforms; cut $30 billion from schools, the biggest cut in this nation's history; and cut indexation for growth funding.

At the next election the government, in a desperate attempt to grab votes, will defraud voters, will deceive Australians and will never have any intention of maintaining a commitment that they make in any election campaign. You simply cannot trust them.

This government is built on lies, dedicated to lies and deceit. We know that, whatever the problems in the education system at the moment, this government has no interest in fixing them. This government is perfidious. It will go down in the history of this nation for its commitment to lying its way into office.

This is a government that at the next election will have to face the public on its record of deceit. It is a government that has failed to meet its commitments in office, a government whose chicanery will be demonstrably clear to parents of this nation, and I have no doubt the public will reject it for its dishonesty. This is a government that ought to be condemned, and I expect that that is exactly what will happen. I am looking forward to the perfidy of this
government being demonstrated, and we will take every opportunity to do exactly that. I seek leave to continue my remarks at a later hour.

Leave granted; debate adjourned.

REGULATIONS AND DETERMINATIONS

Fair Work Amendment (Protected Industrial Action) Regulation 2014

Disallowance

Senator RICE (Victoria) (18:15): I move:

That the Fair Work Amendment (Protected Industrial Action) Regulation 2014, as contained in Select Legislative Instrument 2014 No. 95 and made under the Fair Work Act 2009, be disallowed.

In June this year the minister made a new regulation, the Fair Work Amendment (Protected Industrial Action) Regulation 2014. This regulation is part of the Abbott government's agenda to bring back Work Choices by stealth. It is part of its undeclared crusade, or very poorly disguised crusade, to destroy both the union movement and people's ability to have their rights at work protected by working together using the power of their union. The Greens will always stand up for the rights of working people, and that is why we are seeking to disallow this motion.

The regulation that we are seeking to disallow today amends the Fair Work Regulations 2009, which were made under the Fair Work Act. This amending regulation drastically changes the arrangements by which protected industrial action under the Fair Work Act can be terminated. Currently, only parties to an industrial dispute or the relevant state government can apply to have action terminated that is covered by the Fair Work Act. This regulation will allow third parties to apply for protected industrial action to be terminated and will allow state governments such as Western Australia to intervene in disputes under the Fair Work Act, even though their workers are not subject to the other rights, responsibilities and protections in the act.

The relevant section of the act reads that the people who can apply for an order to suspend or terminate protected industrial action are:

(a) if the industrial action is being engaged in, or is threatened, impending or probable, in a State that is not a referring State … [then] the Minister of the State who has responsibility for workplace relations matters in the State;

(b) an organisation or other person directly affected, or who would be directly affected, by the industrial action other than an employee who will be covered by the agreement.

The effect of subsection (a) will mean that even those state governments that have not referred their industrial relations powers to the Commonwealth will be able to intervene in disputes and will be able to do this even if the industrial action is only deemed to be impending or probable. The effect of subsection (b) of this change will see a ballooning of litigation before the court by third parties to an industrial dispute—third parties whose main aim is to undermine workers' rights to collectively bargain. It is going to be a lawyer's picnic and will undermine the important balance between employers and employees when enterprise bargaining. And it is clearly aimed at strengthening the arm of employer groups who want to undermine union led bargaining.
The government would like to tell you that the Fair Work Act strongly favours workers and needs reform, that the existing Fair Work Act is essentially a return, after Work Choices, to the worker friendly regime that existed under John Howard and Peter Reith. The reality is the existing Fair Work Act already tips the balance in favour of employers. In fact, this attack on workers comes at a time when industrial disputation is at a record low in this country. Last year had the second lowest average level of days lost to industrial disputes since the Bureau of Statistics began collecting data. But for this government those facts do not matter. What matters is ideological warfare against working people led by Senator Abetz. The Greens are not going to stand idly by while this attack on the rights of workers proceeds, which is why we have moved this disallowance motion and why we urge senators to support it.

Senator CAMERON (New South Wales) (18:19): Labor supports this disallowance motion for many of the reasons that have been advanced by my colleague. The regulation is designed to provide the Western Australian Liberal government standing in the Fair Work Commission, despite the fact that the Western Australian Liberal government did not concede its powers when every other state government did. We take the view that to provide the standing for the coalition government in Western Australia to deal with aspects of this act in the way that is proposed would certainly not be in the interests of workers in Western Australia.

I am cognisant of the time that is available for this debate. I would adopt many of the arguments that have been put up by Senator Rice. I would say that this is part of a suite of legislation that is before this parliament that diminishes the rights of workers, diminishes the rights of their trade unions and, as has been identified on many occasions now by both the scrutiny of bills committee and the Joint Committee on Human Rights, are in breach of international conventions, in breach of all of our commitments to international conventions and in breach of human rights. I will leave my comments at that given the time that is available.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (18:21): The government of course fully supports the regulation and therefore will be opposing the disallowance motion. This regulation allows the state government of Western Australia—not the coalition government, as asserted so falsely by Senator Cameron; this is irrespective of its complexion; it might be Labor in the future; it might be Green in the future; no matter what its complexion, it will be entitled—to simply stand before the Fair Work Commission and say something. That is all that we are asking for, in circumstances where 70 per cent of the workers in Western Australia are in fact covered by the Fair Work Act. All we are saying is that this state government, and some other businesses, should be entitled to be able to advocate their position.

Let us be very clear: the state government of Western Australia may well have an interest in seeking to avoid industrial action in circumstances where, as has been suggested—and, indeed, threatened—there might be industrial action by about five dozen highly-paid workers at Port Hedland. By striking for just one day, they would deny revenue of royalties from the minerals to be exported of $7 million. Does anybody believe that a state government facing such a loss should not be entitled simply to argue their case in front of the Fair Work
Commission as established—as stacked and packed—by the previous federal Labor government?

Let us be perfectly clear as to what we are talking about here, because the sort of money that is involved is in fact, for just one day, about what the Western Australian government spends in certain very important social areas in a whole year. That money could be gone just in one day—$7 million; $100 million worth of exports per day going out of Western Australia.

Keep in mind also that, in that circumstance, there are other companies involved that, regrettably, have no say in the matter because the head agreement is with another company, in relation to these tugs of which I speak. That is just one of numerous examples that come to mind of where a company's whole existence could be prejudiced, and another company might not be all that concerned about it. As a result, thousands of workers in Western Australia could lose their jobs.

What does this regulation do? Labor's own legislation said: 'These are the parties that can appear before the Fair Work Commission, plus any others deemed appropriate by regulation from time to time.' So Labor itself acknowledged in its legislation that the regulatory framework was an appropriate mechanism to allow other parties to appear before the Fair Work Commission. Does it change the law? No. Does it change the rules? No. Does it diminish workers' rights? No. All it does is to allow other parties that were, in the past, denied, to actually present their case before the Fair Work commissioners. In a country that believes in free speech, with parties that allegedly believe in transparency and accountability, why would you not allow parties with a genuine and real interest to put their case to the independent umpire to ensure that all the facts are put before the Fair Work commissioner, before he or she needs or they need to make a determination on this very, very important issue—whatever it might be—from time to time?

So let us be very clear: will it change the test in relation to the right of workers to go on strike? No, it will not. Yet Senator Cameron, as is his wont, and others in Labor and the Greens say, 'This is all about diminishing workers' rights.' No, it is not. The rules and laws remain exactly the same. The only thing that changes is that more parties will be allowed to advocate their cause before the Fair Work Commission. Why would you be scared of a democratically elected state government being allowed to go before the Fair Work Commission to advocate the cause of the taxpayers of that state—to say, 'This potential strike could in fact cost us $7 million a day in royalties, which would then impact on our budget and our capacity to secure funding for our schools, for our hospitals, for our police forces, for the disability sector et cetera'? Why shouldn't they be allowed to put that case so that the Fair Work Commission has a full understanding of all the consequences of the proposed industrial action?

Keep in mind, as I said before, that that state government would be representative of the workers in Western Australia, at least 70 per cent of whom are in fact covered by the provisions of the Fair Work Act. And why wouldn't you allow other businesses and other voices that might be adversely impacted to say, 'We might be a victim of this action as well, and you, Fair Work Commission, should be aware of the consequences not only for the two parties involved in the dispute—namely, the union and the one company—but also for others? There might be a lot of other victims that have not been allowed to put their case
before the Fair Work Commission. We are saying: allow the Fair Work Commission to hear all the possible arguments and be made fully aware of all the possible victims—which includes the taxpayers of the state of Western Australia. This attitude of Senator Cameron's is very, very vindictive, and it exposes an ugly part of the Australian Labor Party. If you are a coalition government, you should not be allowed to go to the Fair Work Commission. If you have not signed up to the referral of powers, you should not be allowed to put an argument no matter how strong, no matter how sound. I urge the Senate to support the regulations which will protect the interests of Western Australians in particular and other businesses.

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

The Senate divided. [18:34]
(The President—Senator Parry)

Ayes ......................32
Noes ......................33

Majority ...............1

AYES

Bilyk, CL
Bullock, J.W.
Carr, KJ
Dastyari, S
Faulkner, J
Hanson-Young, SC
Lines, S
Ludwig, JW
Marshall, GM
McLucas, J
Moore, CM
Polley, H
Rice, J
Sterle, G
Waters, LJ
Wright, PL

Browne, CL
Cameron, DN
Collins, JMA
Di Natale, R
Gallacher, AM
Ketter, CR
Ludlam, S
Madigan, JJ
McEwen, A (teller)
Milne, C
O'Neil, DM
Rhiannon, L
Siewert, R
Urquhart, AE
Whish-Wilson, PS
Xenophon, N

NOES

Abetz, E
Birmingham, SJ
Canavan, M.J.
Colbeck, R
Edwards, S
Fierravanti-Wells, C
Heffernan, W
Lazarus, GP
Macdonald, ID
McGrath, J
Muir, R
O'Sullivan, B
Payne, MA
Ruston, A
Scullion, NG

Bernardi, C
Bushby, DC
Cash, MC
Day, R.J.
Fawcett, DJ (teller)
 Fifield, MP
Lambie, J
Leyonhjelm, DE
Mason, B
McKenzie, B
Nash, F
Parry, S
Randalson, M
Ryan, SM
Seselja, Z

CHAMBER
Question negatived

DOCUMENTS
Responses to Senate Resolutions
Tabling

The PRESIDENT (18:37): We will now return to item 14 on today's Order of Business. Senator Carr was seeking the call.

Senator KIM CARR (Victoria) (18:37): I will conclude my remarks on the assumption that I understand other senators want to speak on the schools funding matter. I seek leave to continue my remarks at a later time.

Leave granted.

The PRESIDENT (18:37): We will hold the discussion on the document from the Minister for Education on schools funding until tomorrow. Are there any other documents that senators wish to speak to?

Senator KIM CARR (Victoria) (18:38): I seek leave to take note of the document from Mr Macfarlane in regard to the Commonwealth Scientific and Industrial Research Organisation.

Leave granted.

Senator KIM CARR: I move:

That the Senate take note of the document.

This is not the first time that the minister responsible for science—I cannot claim he is minister for science because this government does not have a minister for science—but this not the first time that Mr Macfarlane has demonstrated a very shaky grasp of science issues that are dealt with by the Department of Industry. In a letter to the President of the Senate, the minister says the government recognises the importance of science and research and he writes that, 'this is why I will be allocating $5.8 billion to science and research across the forward estimates', including the proposition he puts to us of $3 billion for the CSIRO.

These figures are misleading and deceptive because they do not acknowledge that the government has cut some $2 billion from innovation programs. If you look at what is happening across the university science and research programs, a further $7 billion has been cut. For instance, the government is seeking to withdraw some $620 million from the research...
and development budgets. But what the minister has made even worse, though, is his assertion that this new investment of some $65.7 million for CSIRO to operate and maintain the research vessel *Investigator* for 180 days a year.

The truth of the matter is that in this particular area, this is actually a diminishing allocation. This allocation will not fully allow the RV *Investigator* to do the work that it was designed and equipped to do. This is wasting a precious asset and in doing so has become a symbol of the government's lack of regard for the CSIRO and for Australian scientists in general. The reality is that this is a government that has cut $111.4 million from CSIRO's funding. The minister chooses not to acknowledge this cut in his letter to this chamber. But of course, the budget papers do not lie about these questions and make it very clear. They are available to anyone; we are able to read those papers.

The consequence of that cut will see CSIRO having to shed a further 500 jobs. That will be almost 1,000 jobs that CSIRO has lost since this government came to office. These cuts are hardly the actions of the government that recognises, to quote the minister:

...the importance of scientific research...

Research is not one of those optional activities that we can embark upon in a modern society, in an advanced industrial economy. If we do not invest in our intellectual capital or expand our knowledge base, we are not investing in our own future. That is why the story around the RV *Investigator* is so important. This vessel is a crucial piece of the research infrastructure in this country, which has as an enormous maritime responsibility. I want to indicate to the Senate that I am particularly proud of the fact that the Labor government, in which I had the privilege to serve, found the money, made the commitment and got this vessel built. This is despite the procrastination of years under the Howard government with that rust bucket known as the RV *Southern Surveyor*.

It is an extraordinary change in attitude that occurred under the Labor government in terms of the provision of this vessel. Why was it necessary? Australia has the third-largest ocean territory in the world, with unique biodiversity and extraordinarily valuable resources. But the fact is that only 12 per cent of this area has actually been mapped. So there is so much more work that has to be done by our marine scientists to investigate our own ocean territory. That is why, in office, we were able to secure the funding of $120 million from the Education Investment Fund to build the RV *Investigator*. She was not just a replacement for the ageing RV *Southern Surveyor*; she was able to provide accommodation for more researchers and allow voyages of longer duration. In fact, it almost doubled the number of scientists and the amount of time that could be invested in those longer voyages.

CSIRO advised me at the estimates hearing last year that it would cost $26 million a year to operate the RV *Investigator* at full capacity; that is, to keep between 15 and 40 researchers at sea for a total of 300 days per year in an operation that potentially extends our research capacity from the Antarctic to the tropics. But in this budget, the government has only allocated $17.4 million for the first year, $18.1 million in the second year and $20.6 million in the year thereafter. The minister's letter misleads this chamber when it refers to funding of $65 million to operate and maintain the RV *Investigator*. This is a three-year figure, which he does not acknowledge, and it is 80 per cent of the necessary funding, the funding required. The reduction in the allocation for the *Investigator* is a serious blow to the world-class
research scientists and the world-class research facilities at the CSIRO's marine and national facility in Hobart.

This is a blow to the postgraduate students who need to spend time at sea to complete their projects and who need to be able to graduate. It is a blow to the next generation of researchers. It is an incredibly false economy from this government, which seems either not to understand—or, worse still, not to care—that investment in research is actually an investment in the future of this nation.

The future of science under this government is in flux. This is a government that has no science minister, no long-term strategic plan, and no commitment to building the science and research capacity that we need. That is reflected in the fact that the government has cut so much money from the science, research and higher education budgets.

The most shameful example of this is the lack of vision the government is demonstrating by its wilful and vengeful downgrading of CSIRO, which is a great institution. Throughout the country it has been seen as a source of great national pride. CSIRO is one of the top scientific research institutions—ranked in the top one per cent of the world—in 14 of the 22 fields measured by the international citation index. It holds the rights to more than 4,000 patents and designs; it has spun off more than 150 companies; it works with the top scientists from 80 countries across the world.

CSIRO is a hugely important asset for this country. That is why when we were in office we invested a record $3 billion over four years to keep it thriving. We boosted total innovation, science and research funding to $9.6 billion a year. In this budget—in this one year alone; 2014-15—on the Abbott government's watch, the figure has now been reduced to $9.2 billion. In one year, $400 million ripped out of the budget allocations for science, innovation and research.

We put science at the heart of the national agenda, giving our best and brightest the kit that they need to excel. The Abbott government has trashed that agenda. They went to the election with no plan for science and they have booted science out of the cabinet door for the first time in this country since the 1930s. Now we have an embarrassed industry minister, reduced to fudging his figures when he writes to the Senate. It is truly an appalling situation for this country.

Debate adjourned.

AUDITOR-GENERAL’S REPORTS

Australian National Audit Office—Annual Report for 2013-14


COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT: The President has received letters from party leaders requesting changes in the membership of various committees.

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education) (18:48): I move:
That senators be discharged from and appointed to committees as follows:

**Community Affairs Legislation and References Committees—**
- Appointed—Participating member: Senator Lambie

**Health—Select Committee—**
- Appointed—
- Substitute members:
  - Senator Wright to replace Senator Di Natale on 9 October 2014
  - Senator Siewert to replace Senator Di Natale on 10 October 2014
  - Senator Waters to replace Senator Di Natale on 31 October 2014
- Participating member: Senator Di Natale.

Question agreed to.

**ADJOURNMENT**

The **ACTING DEPUTY PRESIDENT** (18:50): Order! I propose the question:

That the Senate do now adjourn.

**Western Australia: Telecommunications**

Senator SMITH (Western Australia) (18:50): I rise this evening to speak about a convergence of two issues that are very close to my heart—regional Western Australia, and communications.

As many senators will be aware, I have a background in telecommunications, having worked in an executive capacity with Singtel Optus over several years before coming to this place, and telecommunications policy is an interest I maintain as Chair of the Government Backbench Committee on Communications. Equally, I am sure senators are aware by now of my extensive interest in regional Western Australia, particularly the development of the more remote parts of my home state's north, around the Pilbara.

The Abbott government, of course, is already committed to the further development of our north, including the north of Western Australia, through both a parliamentary committee process, which I am pleased to be involved with, and also though an ongoing white paper process.

In my contribution tonight, I would like to focus on one particular project that is tremendously exciting for regional Western Australia's communications capacity, and I will come to the specifics of that in a moment.

It goes without saying that the pace at which technology evolves is dramatic. In the past week we have seen thousands and thousands of Australians lining up at stores, camping out overnight to secure the new iPhone on the day it was released.

Communications technology now governs our day-to-day life to an extent that was inconceivable 150 years ago. And that is my starting point this evening. Because it was around 150 years ago that the first undersea cable for communications was established, across the English Channel, followed several years later by the first to cross the Atlantic Ocean. Australia's first undersea cable connection came in 1872, with the Java to Port Darwin link.

These early innovations were technically limited - they were only able to carry telegraph messages. It was not until much later, in 1956, with the development of coaxial cable and in-
cable amplifiers that voice transmissions switched from radio to cable transmission. This was a crucial moment in opening Australia to the world. The rapid technological improvements and increasing affordability were of particular benefit to a remote nation like Australia. It is worth bearing in mind that the cost of using the first transatlantic undersea cable to send telegrams was around $5 per word. When you consider the massive amount of data that now travels to and from Australia along undersea cables every day at the merest fraction of that cost, it is hard not to marvel at so much progress in such a comparatively short time.

However, we are approaching a crucial point. Continued improvement is not a given; it will require sensible investment and cooperation between governments and the private sector. Governments, in particular, are going to have to make the right decisions now, to ensure Australia’s communications infrastructure retains the flexibility to embrace technological advances we cannot conceive of today. For instance, a decade ago, the phrase ‘cloud computing’ would not have meant very much to most of us in this chamber nor did the word ‘Skype’. Today, for most businesses, and especially those operating in regions like the Pilbara region in Western Australia, these technologies are essential features that underpin day-to-day operations. Yet they and most other key functions for businesses in WA rely on the ability to access efficient and reliable communications services.

I suggest it would come as a surprise to most Senators, indeed, it would probably come as a surprise to most Western Australians, that WA is currently relying on a single, 15-year-old undersea cable with an uncertain shelf-life, as its primary communications link to Asia. Just think for a moment about how much technology has evolved since 1999, and how much consumer and business demand for communications capacity has grown in that time. To my mind, relying on a single 15-year-old undersea cable leaves WA open to an unacceptable degree of risk.

We talk a great deal about national security and food security in Australia and deservedly so. Both should be priorities, as the current situation in relation to national security has clearly demonstrated. I also think the time has well and truly come for us to develop just as acute an appreciation for communications security as it relates to the reliability of our communications infrastructure. There is no doubt that Australians want better communications infrastructure. This is most ably demonstrated by the high degree of public support for the NBN. To be frank, I think too much of this public support is based on a 'how many movies can I download' type mindset. We need to look beyond the NBN as merely a consumer product and start focussing more on its capacity as a tool for economic development, most particularly in regional areas such as Pilbara and other parts of Western Australia.

In that connection, I had the privilege of speaking in Perth recently at the Resources ICT Summit, which examined opportunities to improve access to high-quality telecommunications services across the Pilbara, and other parts of WA. A particular focus was the Trident subsea cable project, which proposes building a state-of-the-art fibre optic network linking Perth to the Pilbara and also, importantly, to South East Asia, offering cost-effective, high-speed data services to crucial Pilbara-based resource operations and flow-on benefits that will boost the region's economic capacity.

What is exciting about the Trident project is that it is being driven by the private sector. That is an unambiguously good thing in my view. I have never been of the view that government has a monopoly on wisdom in the telecommunications sector—a view that I am
sure will dismay Senator Conroy and those of his ilk who believe that government is the solution to every problem. I think the Trident project represents an enormously exciting opportunity for Western Australia and the fact that it is being driven by the private sector rather than government is a critical element in its attractiveness and future success.

Western Australia has always had something of the frontier spirit about it. We tend not to wait for others to make decisions for us; we get on with the job. The Trident project very much embodies that spirit, in my view. The realisation of this project will not only be transformational in the communications capacity for the resources and energy sector operating in the Pilbara region—though that is of critical importance but, I think, the fact that the project builds in some communications insurance, if you like, by providing a terrestrial communications link between the North West and Perth is also an enormously important element. As a Senator for Western Australia, it is my primary role to stand up for my state and to get the best possible policy outcomes for WA.

As we all know, ‘productivity’ is a bit of a buzz word in economic debate at present. We all understand that Australia needs to boost its productive capacity. It is an area of broad consensus. Our disagreements in this place are about how we do it for the most part, not whether we need to do it. In my own view, there are three essential requirements for boosting productivity: firstly, by promoting sensible changes to labour market laws, which the government is committed to through its Productivity Commission review; secondly, by cutting the cost of doing business through reducing the red tape burden on business operators, which is something this Government has already demonstrated it is doing; finally, we can boost productivity, most especially in regional communities, by harnessing the capacity of new technologies to improve business efficiency and engage with new customers, particularly overseas markets.

Of these three elements, it is the latter that I believe will be quickest and, politically, the easiest to implement because there is broad consensus across the political divide that technology represents a huge economic opportunity. We should use that broad consensus to drive projects like Trident forward. As the Trident project shows, there is a will in the private sector to help boost telecommunications capacity for our regional communities.

As parliamentarians, we should welcome anything that boosts competition in the telecommunications sector, and, in particular, the productive capacity of the Pilbara, where mining activity remains absolutely critical in underpinning Australia’s export performance and continued economic health.

Aboriginal Deaths in Custody

Senator LINES (Western Australia) (18:59): I rise tonight to pay tribute and respect to a young Western Australian woman whose life was tragically cut short at the age of 22. On August 4 of this year, a young woman, aged 22, died in the Pilbara. Any death at such an age is tragic—a young person, a life cut short—but this death more so, because this young woman died at the hands of the state. The state failed in its duty of care to protect this young woman and to take responsibility for her health and wellbeing. After just three days in police custody, this young woman, aged 22, was dead.
I say this young woman died, because she was an Aboriginal woman and those charged with her safety failed to take the same care and responsibility that would have been afforded to a non-Aboriginal person. I say this, because whatever offence this young woman committed, the magistrate or the judge at the hearing deemed it to be a relatively minor offence—an offence attracting a fine, not a custodial sentence. Yet this woman ends up in custody over this offence and dies at the hands of the state.

Miss D, as I will refer to her, died just short of the 31st anniversary of the death in custody of John Pat. The parallels between Miss D and John Pat are eerie to say the least. Both John Pat and Miss D died in police lockups and both died in the Pilbara in Western Australia. So horrendous was John Pat's death—an unacceptable death, a boy at just 16—that he became the catalyst for the establishment of the Royal Commission into Aboriginal Deaths in Custody, a heart-wrenching royal commission of four years with more than 300 recommendations.

And where are we in Western Australia in 2014? Most recommendations lay unimplemented in the now dusty royal commission report. This is unacceptable and should be unacceptable for every parliamentarian in this place and every politician in the state of Western Australia.

But Miss D's death is not new and, sadly, it is not isolated. It is a far too common occurrence in Western Australia. Towards the end of 2012, a 44-year-old woman died again in a police lockup in Broome. She was arrested for drunkenness and died in the night in an unknown way in a police cell. The local Catholic priest, Matt Digges, who knew this woman all of her adult life, describes her as an intelligent, resourceful and talented artist.

A coronial inquest has been held but has been unable to report after almost two years, because it is still waiting for a mandatory police report. Her family and friends are still waiting for answers, still waiting to find out almost two years after her death what happened on that night in that police cell that caused her to die. I find this completely unacceptable and I urge all parties who have any responsibility in this matter to publish the coronial report as a matter of priority and give some comfort, some answers, to this woman's family.

Last year the WA parliament conducted a specific inquiry into police lockups. It paints a sad and sorry story; in fact, it paints a disgraceful story. Despite WA developing guidelines in line with the royal commission's recommendations, many of WA's 145 lockups do not comply. Many significantly lack vital items such as alarms and resuscitation equipment. They are dirty. Their average age is 45, and police often lack the resources to staff them in a manner acceptable to the committee that conducted the inquiry. There is no independent oversight of WA police lockups.

The government has reported back to the committee on its recommendations, and many have been accepted—some of which, if implemented, may well have prevented the death of Miss D, this young 22-year-old woman in the prime of her life. If the royal commission's recommendations, now many years old, had been implemented, perhaps the death of the woman in Broome and the tragic case of Mr Ward would not have happened.

How many more deaths before Aboriginal people in Western Australia have justice and the confidence that they are not going to die, because the state neglects them? It is a basic human right to be treated fairly with dignity and respect, regardless of who you are and where you
are. It is a basic human right that, if you are incarcerated, you do not die as a result of that incarceration.

How long will Miss D and her family have to wait for justice? Surely, not the two years that the family of the woman who died in custody in Broome have been waiting. There are many unanswered questions. Why a police lockup and not a jail? Why does WA continue with warrants of commitment and make them mandatory? Miss D was there, because she had not paid a fine and she was working out that fine by being in jail, despite the judge or the magistrate at the time of her offence deeming it not to be a custodial sentence.

Why did her pleas for help go unanswered? Why, when she was taken to hospital, was she released twice without medication and why was she issued with a certificate deeming her fit to continue her sentence? Was she seen by a doctor? How long did Miss D sit and wait in hospital? Was she shunted to the back of the queue because she was an Aboriginal woman in custody? Why is it that in Western Australia and not in other states, such as New South Wales, people can serve time to reduce their fines with these so-called warrants of commitment? And why in Western Australia do they continue to be mandatory? Why was Miss D arrested and put in jail for four days?

In Miss D's case it was mandatory incarceration. She did not have a choice—despite the Western Australian courts ruling in the first instance that whatever her crime was it did not warrant incarceration. Why are Aboriginal people continuing to be well and truly overrepresented in prisons in Western Australia? What a statistic to lead the country on—to have the highest levels of incarceration of Aboriginal people in Western Australia.

There is currently a police inquiry underway. We need to ensure that Miss D's family have absolute confidence in that process—that they are kept informed, that they are treated with respect, and that the process is transparent. But, quite frankly, I doubt that that will happen. Miss D will be yet another statistic of Aboriginal people in the state of Western Australia who, quite frankly, no-one cares about. This is a disgrace, and we are all culpable as politicians and parliamentarians if we allow this death to go unacknowledged, unreported and uninvestigated.

Infrastructures

Senator RICE (Victoria) (19:09): I want to talk tonight about what makes a great city. How do we bring people together to work, play, go about their daily lives, have somewhere to call home and be educated efficiently, happily and safely? Cities exist because they are efficient, engaging, exciting and enjoyable places to be. But the downside of cities is that people do not have all the space that they have outside of cities. The cost of land is high because there is a lot of demand for that land and the mass of people who make cities exciting and enjoyable places to be can impact on people's ability to get around. The hustle, bustle and vibrancy can equal noise and congestion. Getting food and goods to people can create further congestion. And dealing with waste from large numbers of people can lead to pollution of our air, water and land.

Ensuring that people have got comfortable and affordable places to live, that they can enjoy clean water, clean air and uncontaminated land, and that they can get to where they need to go efficiently and affordably can be tricky and needs careful planning. And the bigger the city, the more careful the planning needs to be. If there are only limited resources available to
deliver the infrastructure needed to implement these plans, then the planning needs to be even more careful to make sure that the highest priority infrastructure can be built.

I want to talk about transport in our cities in particular—the mix of private cars, motorbikes, public transport, freight vehicles, walking and cycling. They each require different infrastructure. The capital and operating costs are paid for by a mix of private and public funds. Some are low cost and some expensive. They create different amounts of waste and pollution and can facilitate different states of mental and physical health. In Victoria, the Transport Integration Act states that transport systems should provide a means by which people can access social and economic opportunities. They should facilitate economic prosperity, should actively contribute to environmental sustainability and should provide for the effective integration of transport and land use and facilitate access to social and economic opportunities.

I and the Greens are known as great advocates for public transport, walking and cycling. But it is not because we are train nerds, bike nerds and walking fanatics. It is because these types of transport make sense in meeting transport objectives. It is because of this that virtually every transport plan in every state, every region and every local government across the country have objectives that promote walking, cycling and the use of public transport, creating a better balance between transport modes and reducing the use of cars as well as encouraging the use of fuel-efficient vehicles. As a former strategic transport planner for an outer Melbourne municipality, I know that this is indeed the case.

In small cities and across regional Australia, creating a good transport mix is not too hard, because most people have got their own vehicles. They can drive, there is space on the roads and parking is not at too much of a premium. But it can be expensive and inefficient to run frequent public transport, because of low numbers of people spread over large distances. So there are equity issues. Not everyone can drive. It can be expensive for people on low incomes to own a vehicle or to drive the distances they need to. And there are, of course, the environmental issues from the pollution from driving, including its contribution to global warming.

When you get into the bigger cities, things start to get really tricky. Melbourne and Sydney are heading for five million and beyond, and pollution becomes a really big issue. There is a need for better quality public transport on equity grounds, so that everyone can get to where they need to go regardless of disability or income. But the biggest issue in big cities is space and cost. In a city the size of Melbourne, you just cannot have everyone travelling by car if they want to do that for the vast majority of their trips. The space that cars take up in both parking and road space—with, on average, only 1.1 persons per car—amounts to about a third of the land space in a city like Melbourne. That is massive. While we keep on making things easy for people to travel by car and hard to travel by public transport, and while we keep planning for cars, this land take has to continue and the congestion continues. The free-flowing road that may be there when the ribbon is cut on the new freeway very quickly becomes clogged. And shopping centres, residential streets, local roads and arterial roads get congested with massive numbers of cars, and there is no way out but to keep widening the roads, knocking down houses and taking away parkland—and the costs are massive.

You keep building those roads and they are incredibly expensive. Freeways and motorways are extraordinarily expensive. The estimated cost of the East-West Link is $18 billion. That is
$1 billion per kilometre—a million dollars per metre. We need to put that in perspective. In Victoria, the average spend on infrastructure each year is only between $2 billion to $4 billion. Eighteen billion dollars would go a very long way to build virtually every heavy-rail project proposed in Melbourne—airport rail, Doncaster rail, Rowville rail and the metro rail tunnel. Put another way, $18 billion would build 900 new high schools.

We cannot afford to spend such huge amounts of money on roads we do not need and which will not solve our congestion problems. Put simply, if you build the public transport networks so that everyone has the choice to travel by fast, frequent, reliable and affordable public transport people will use it—not everyone, but we do not need everyone to use public transport. There just needs to be a better balance. The bigger equation that the road lobby do not seem to get is that every person on public transport, walking or on their bike means one less car. It helps reduce congestion and the need for new roads. If we had a mix of a third of trips by public transport, a third by walking and cycling and a third by car would not need more road space—even with strong population growth.

Infrastructure Australia know this. Their national infrastructure plan states that ‘public investment in urban transport should focus on public transport’—and this is for all the reasons I have outlined. If you do a full cost-benefit assessment, public transport trumps new motorways every time, particularly when, as in our Australian cities, we currently do not have fast, frequent, affordable and safe public transport that people can rely on to get to where they need to go. We have lots of very low-hanging fruit in terms of public transport projects that can deliver lots of benefits very cost-effectively. That is why Infrastructure Australia recommended that the regional rail link in Melbourne be funded. That is why the metro rail tunnel is on the top of the Infrastructure Australia list.

Evidence based, transparent and accountable processes are key to ensuring that the best decisions are made when it comes to deciding where our money is spent. The G20 finance ministers who met in Cairns this week backed us up. They released a set of leading practices for infrastructure decision making which recommended rigorous, transparent and consistent project preparation; fostering greater knowledge sharing and transparency; and prioritising projects on the basis of cost-benefit analysis, affordability and the need for particular types of infrastructure or projects. That is the type of decision making we need. That is what Infrastructure Australia was set up to do. It is not doing it perfectly but it is on the way to doing that.

That puts the government's allocation of $3 billion towards the East West Link in stark contrast to such evidence based, transparent accountable decision making. Given that $3 billion has been earmarked for the East West Link, we can only surmise as to why the business case that apparently has been done for the East West Link has not been released. The only reason that we can surmise is that the figures do not add up. The figures that we know of that made it into the public realm show a cost-benefit ratio where we get only an 80c return for every dollar spent.

Tomorrow in the Senate I will be asking again for Infrastructure Australia to release the East West Link business case. They now have no excuses to not release the business case. The preferred tender has been chosen, so there are no issues of commercial in confidence. The Deputy Prime Minister noted in the other place today that the business case should be released. I hope that by moving for those documents to be released, we will get them and the
public can have the information that we need to support the community's desire for much better public transport—cleaner, safer, affordable, reliable safe public transport rather than expensive, polluting tollways.

Soccer

Senator DAY (South Australia) (19:19): Australia is a proud sporting nation. We unite together to support our national teams at competitions at home and abroad, across a wide range of sporting pursuits. However, there is possibly no other game that unites nations across the world like soccer—or football as it is called everywhere in the world except Australia and the United States. A number of superlatives were used to describe the efforts of our Socceroos at the recent World Cup in Brazil—and I must say that I was very disappointed not to have been able to attend. For those who have not been to a World Cup soccer final, you do not know what you are missing!

I was supposed to have been there this year with my family. Following the federal election last year, I made enquiries about Senate sittings and was told it was most unlikely that the Senate would sit in early July when the World Cup final was on. So my family and I went ahead and booked. Sure enough, the Senate sat in early July and I missed out, but my family went. My family assured me that it was a great event—which was not much consolation. One word possibly used more than many others to describe Australia's Socceroos at that World Cup final was 'courageous'—and I agree. They displayed enormous amounts of courage during each one of their games—never giving up, often to their more fancied opponents, believing anything was possible.

But back to Australia, to 18 of our own local communities—from Townsville to Hobart, Bunbury to Parramatta and many places in between. It is in these communities, week in week out, that we see some of the most courageous football, or soccer, being played. No, it is not Tim Cahill or Mark Bresciano; it is Roy, Sean, Geoff and De, along with over 5,000 homeless and disadvantaged Australians, who, since 2007 have turned up week in and week out to participate in the Big Issue's Community Street Soccer Program.

Speaking of courageous let me tell you a little more about Geoff. Three years ago Geoff was homeless, sleeping rough and suffering from severe depression when he turned up one week to the Adelaide Street Soccer Program. Geoff attributes his attendance at this weekly program to completely turning his life around. Quite simply, in his own words, 'It got my confidence back and it got me talking to people again.

Now in permanent housing, Geoff has become a mentor and role model to other soccer players and received the thrill of his lifetime when he was selected to represent Australia last year at the Homeless World Cup in Poland.

Then there is Tony, who suffers from severe schizophrenia and has been coming to the Ballarat Street Soccer Program for nearly six years. Despite an extremely difficult and abusive childhood, Tony's remarkable strength of character shines through during the weekly sessions. Unfortunately, last year Tony was critically injured following a hit-and-run accident and spent the next six months undergoing countless surgeries, resulting in him needing to learn to walk again. His fellow players and support staff visited him each week after their training session, and as soon as he was able to leave hospital he was back at Street Soccer with his teammates, crutches in tow.
Operated by The Big Issue, Street Soccer uses the power of sport to re-engage those who are marginalised and disadvantaged—people who have often slipped through the cracks of traditional welfare systems, including those suffering from mental illness and substance abuse, the homeless, refugees and Indigenous Australians. The results Street Soccer delivers extend way beyond the social. Studies have shown that for every $1 invested in the program a return of over $4 is generated through savings, due to the participants reducing their demand on government crisis services. This remarkable program has been proudly supported by the federal government since 2007. However, it is with much disappointment that, despite the many hundreds of stories like Geoff's and Tony's and all the additional economic benefits, it has not been refunded this year. Without this funding, many of these programs will simply have to close.

As a soccer fan, I naturally welcome the staging of the Asian Football Cup next January and the chance for us to host the best footballers from our neighbouring countries. I urge the government to reconsider the important role that grassroots sporting programs like the Community Street Soccer Program play in fostering a more inclusive Australia. One only needs to wander down to Jubilee Park in Parramatta on any Thursday afternoon to see participants from Afghanistan, Sudan, Iran, Nigeria, Ethiopia and Egypt coming together over their shared love of soccer and, in doing so, improving their lives one kick at a time. I trust the government can find a way to continue to support the sporting dreams of Australians from all walks of life, because it is no exaggeration to say that people's lives depend upon it.

Senate adjourned at 19:25

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Législativé instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]


Broadcasting Services Act 1992—


Civil Aviation Act 1988—

Civil Aviation Legislation Amendment (Part 175) Regulation 2014—Select Legislative Instrument 2014 No. 135 [F2014L01261].

Civil Aviation Safety Regulations 1998—


Repeal of Airworthiness Directives—CASA ADCX 017/14 [F2014L01262].

Competition and Consumer Act 2010—
Indexed Lists of Departmental and Agency Files

Order for the Production of Documents

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2014—Statements of compliance—
Communications portfolio.
Industry portfolio.