INTERNET
The *Journals of the Senate* are available at

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

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

SITTING DAYS—2016

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
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<tbody>
<tr>
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<tr>
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<td>1, 2, 3, 15, 16, 17</td>
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<tr>
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<td>June</td>
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<tr>
<td>September</td>
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<td>October</td>
<td>10, 11, 12, 13</td>
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<td>November</td>
<td>7, 8, 9, 10, 21, 22, 23, 24, 28, 29, 30</td>
</tr>
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<td>December</td>
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RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on ABC NewsRadio in the capital cities on:

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

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

Senate Office Holders
President—Senator Hon. Stephen Parry
Deputy President and Chair of Committees—Senator Gavin Mark Marshall
Temporary Chairs of Committees—Senators Christopher John Back, Cory Bernardi, Sam Dastyari, Sean Edwards, Alexander McEachian Gallacher, Susan Lines, Deborah Mary O'Neill, Nova Maree Peris OAM, Dean Anthony Smith, Zdenko Matthew Seselja, Glenn Sterle, Peter Stuart Whish-Wilson and John Reginald Williams
Leader of the Government in the Senate—Senator Hon. George Henry Brandis QC
Deputy Leader of the Government in the Senate—Senator Hon. Mathias Cormann
Leader of the Opposition in the Senate—Senator Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator Hon. 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. George Henry Brandis QC
Deputy Leader of the Liberal Party in the Senate—Senator Hon. Mathias Cormann
Leader of The Nationals in the Senate—Senator Hon. Nigel Scullion
Deputy Leader of The Nationals in the Senate—Senator Hon. Fiona Nash
Leader of the Opposition in the Senate—Senator Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator Hon. Stephen Conroy
Leader of the Australian Greens—Senator Richard Di Natale
Co-deputy Leaders of the Australian Greens in the Senate—Senators Scott Ludlam and Larissa Joy Waters
Chief Government Whip—Senator David Christopher Bushby
Deputy Government Whips—Senators David Julian Fawcett and Dean Anthony Smith
The Nationals Whip—Senator Matthew James Canavan
Chief Opposition Whip—Senator Anne McEwen
Deputy Opposition Whips—Senators Catryna Louise Bilyk and Anne Elizabeth Urquhart
Australian Greens Whip—Senator Rachel Siewert

Printed by authority of the Senate
## Members of the Senate

<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>LP</td>
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<tr>
<td>Back, Christopher John</td>
<td>WA</td>
<td>30.6.2017</td>
<td>LP</td>
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<tr>
<td>Bernardi, Cory</td>
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<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Bilyk, Catryna Louise</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>ALP</td>
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<tr>
<td>Birmingham, Hon. Simon John</td>
<td>SA</td>
<td>30.6.2020</td>
<td>LP</td>
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<tr>
<td>Brandis, Hon. George Henry, QC</td>
<td>QLD</td>
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<td>LP</td>
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<tr>
<td>Brown, Carol Louise</td>
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<tr>
<td>Bullock, Joseph Warrington</td>
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<tr>
<td>Bushby, David Christopher</td>
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<tr>
<td>Cameron, Hon. Douglas Niven</td>
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<td>ALP</td>
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<tr>
<td>Canavan, Matthew James</td>
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<td>30.6.2020</td>
<td>LNP</td>
</tr>
<tr>
<td>Carr, Hon. Kim John</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>ALP</td>
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<tr>
<td>Cash, Hon. Michaela Clare</td>
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<td>30.6.2020</td>
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<tr>
<td>Colbeck, Hon. Richard Mansell</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Collins, Hon. Jacinta Mary Ann</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Conroy, Hon. Stephen Michael</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>ALP</td>
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<tr>
<td>Cormann, Hon. Mathias Hubert Paul</td>
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<td>30.6.2017</td>
<td>LP</td>
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<tr>
<td>Dastyari, Sam</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>ALP</td>
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<tr>
<td>Day, Robert John</td>
<td>SA</td>
<td>30.6.2020</td>
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<tr>
<td>Di Natale, Richard</td>
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<td>Fawcett, David Julian</td>
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<tr>
<td>Fierravanti-Wells, Hon. Concetta Anna</td>
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<tr>
<td>Fifield, Hon. Mitchell Peter</td>
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<td>Gallacher, Alexander McEachian</td>
<td>SA</td>
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<tr>
<td>Gallagher, Katherine Ruth(3)</td>
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<td>Hanson-Young, Sarah Coral</td>
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<td>Heffernan, Hon. William Daniel</td>
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<td>Johnston, Hon. David Albert Lloyd</td>
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<td>Ketter, Christopher Ronald</td>
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<td>Lambie, Jacqui</td>
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<td>30.6.2020</td>
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<tr>
<td>Lazarus, Glenn Patrick</td>
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<tr>
<td>Leyonhjelm, David Ean</td>
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<td>30.6.2020</td>
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<tr>
<td>Lines, Susan</td>
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<tr>
<td>Lindgren, Joanna Maria(4)</td>
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<td>Ludlam, Scott</td>
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<tr>
<td>Macdonald, Hon. Ian Douglas</td>
<td>QLD</td>
<td>30.6.2020</td>
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<td>Magdigan, John Joseph</td>
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<td>Marshall, Gavin Mark</td>
<td>VIC</td>
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<td>McAllister, Jennifer(2)</td>
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<td>McEwen, Anne</td>
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<td>McGrath, James</td>
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<td>McKenzie, Bridget</td>
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<tr>
<td>McKim, Nicholas James(5)</td>
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<tr>
<td>McLucas, Hon. Jan Elizabeth</td>
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<tr>
<td>Moore, Claire Mary</td>
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<tr>
<td>Muir, Ricky Lee</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>AMEP</td>
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<tr>
<td>Nash, Hon. Fiona Joy</td>
<td>NSW</td>
<td>30.6.2017</td>
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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:

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

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

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

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

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

(5) Chosen by the Parliament of Tasmania to fill a casual vacancy (vice C. Milne), pursuant to section 15 of the Constitution.

(6) Chosen by the Parliament of South Australia to fill a casual vacancy (vice P Wright), pursuant to section 15 of the Constitution.
PARTY ABBREVIATIONS
AG—Australian Greens; ALP—Australian Labor Party;
AMEP—Australian Motoring Enthusiast Party; CLP—Country Liberal Party;
FFP—Family First Party; IND—Independent; LDP—Liberal Democratic Party;
LNP—Liberal National Party; LP—Liberal Party of Australia;
NATS—The Nationals; PUP—Palmer United Party

Heads of Parliamentary Departments
Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services—R Stefanic
Parliamentary Budget Officer—P Bowen
<table>
<thead>
<tr>
<th>Title</th>
<th>Minister</th>
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</thead>
<tbody>
<tr>
<td>Prime Minister</td>
<td>The Hon Malcolm Turnbull MP</td>
</tr>
<tr>
<td>Minister for Indigenous Affairs</td>
<td>Senator the Hon Nigel Scullion</td>
</tr>
<tr>
<td>Minister for Women</td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td>Cabinet Secretary</td>
<td>Senator the Hon Arthur Sinodinos AO</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for the Public Service</td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for Counter-Terrorism</td>
<td>The Hon Michael Keenan MP</td>
</tr>
<tr>
<td>Assistant Minister to the Prime Minister</td>
<td>Senator the Hon James McGrath</td>
</tr>
<tr>
<td>Assistant Minister for Cities and Digital Transformation</td>
<td>The Hon Angus Taylor MP</td>
</tr>
<tr>
<td>Assistant Cabinet Secretary</td>
<td>The Hon Dr Peter Hendy MP</td>
</tr>
<tr>
<td>Deputy Prime Minister and Minister for Agriculture and Water Resources</td>
<td>The Hon Barnaby Joyce MP</td>
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<tr>
<td>Assistant Minister for Agriculture and Water Resources</td>
<td>Senator the Hon Anne Ruston</td>
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<tr>
<td>Assistant Minister to the Deputy Prime Minister</td>
<td>The Hon Keith Pitt MP</td>
</tr>
<tr>
<td>Minister for Foreign Affairs</td>
<td>The Hon Julie Bishop MP</td>
</tr>
<tr>
<td>Minister for Trade and Investment</td>
<td>The Hon Steve Ciobo MP</td>
</tr>
<tr>
<td>Minister for International Development and the Pacific</td>
<td>Senator the Hon Concetta Fierravanti-Wells</td>
</tr>
<tr>
<td>Minister for Tourism and International Education</td>
<td>Senator the Hon Richard Colbeck</td>
</tr>
<tr>
<td>Assistant Minister Assisting the Minister for Trade and Investment</td>
<td>Senator the Hon Richard Colbeck</td>
</tr>
<tr>
<td>Attorney-General</td>
<td>Senator the Hon George Brandis QC</td>
</tr>
<tr>
<td>(Vice-President of the Executive Council)</td>
<td>The Hon Michael Keenan MP</td>
</tr>
<tr>
<td>(Leader of the Government in the Senate)</td>
<td></td>
</tr>
<tr>
<td>Minister for Justice</td>
<td></td>
</tr>
<tr>
<td>Treasurer</td>
<td></td>
</tr>
<tr>
<td>Minister for Small Business</td>
<td>The Hon Scott Morrison MP</td>
</tr>
<tr>
<td>Assistant Treasurer</td>
<td>The Hon Kelly O’Dwyer MP</td>
</tr>
<tr>
<td>Assistant Minister to the Treasurer</td>
<td>The Hon Kelly O’Dwyer MP</td>
</tr>
<tr>
<td>Minister for Finance</td>
<td>The Hon Alex Hawke MP</td>
</tr>
<tr>
<td>(Deputy Leader of Government in the Senate)</td>
<td></td>
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<tr>
<td>Special Minister of State</td>
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<tr>
<td>Assistant Minister for Finance</td>
<td>Senator the Hon Mathias Cormann</td>
</tr>
<tr>
<td>Minister for Regional Development</td>
<td>The Hon Fiona Nash</td>
</tr>
<tr>
<td>Minister for Infrastructure and Transport</td>
<td>The Hon Darren Chester MP</td>
</tr>
<tr>
<td>(Deputy Leader of the House)</td>
<td></td>
</tr>
<tr>
<td>Minister for Major Projects, Territorial and Local Government</td>
<td>The Hon Paul Fletcher MP</td>
</tr>
<tr>
<td>Minister for Industry, Innovation and Science</td>
<td>The Hon Christopher Pyne MP</td>
</tr>
<tr>
<td>(Leader of the House)</td>
<td></td>
</tr>
<tr>
<td>Minister for Resources, Energy and Northern Australia</td>
<td>The Hon Josh Frydenberg MP</td>
</tr>
<tr>
<td>Minister for Northern Australia</td>
<td>Senator the Hon Matt Canavan</td>
</tr>
<tr>
<td>Assistant Minister for Science</td>
<td>The Hon Karen Andrews MP</td>
</tr>
<tr>
<td>Assistant Minister for Innovation</td>
<td>The Hon Wyatt Roy MP</td>
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<tr>
<td>Minister for Immigration and Border Protection</td>
<td>The Hon Peter Dutton MP</td>
</tr>
<tr>
<td>Assistant Minister for Immigration</td>
<td>Senator the Hon James McGrath</td>
</tr>
<tr>
<td>Minister for the Environment</td>
<td>The Hon Greg Hunt MP</td>
</tr>
<tr>
<td>Minister for Health</td>
<td>The Hon Sussan Ley MP</td>
</tr>
<tr>
<td>Minister for Aged Care</td>
<td>The Hon Sussan Ley MP</td>
</tr>
<tr>
<td>Title</td>
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<td>--------------------------------------------</td>
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<tr>
<td><strong>Minister for Sport</strong></td>
<td>The Hon Sussan Ley MP</td>
</tr>
<tr>
<td><strong>Minister for Rural Health</strong></td>
<td>Senator the Hon Fiona Nash</td>
</tr>
<tr>
<td><strong>Assistant Minister for Health and Aged Care</strong></td>
<td>The Hon Ken Wyatt AM MP</td>
</tr>
<tr>
<td><strong>Minister for Defence</strong></td>
<td>Senator the Hon Marise Payne</td>
</tr>
<tr>
<td><strong>Minister for Veterans’ Affairs</strong></td>
<td>The Hon Dan Tehan MP</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for the Centenary of ANZAC</em></td>
<td>The Hon Dan Tehan MP</td>
</tr>
<tr>
<td><strong>Minister for Defence Materiel</strong></td>
<td>The Hon Dan Tehan MP</td>
</tr>
<tr>
<td><strong>Assistant Minister for Defence</strong></td>
<td>The Hon Michael McCormack MP</td>
</tr>
<tr>
<td><strong>Minister for Communications</strong></td>
<td>Senator the Hon Mitch Fifield</td>
</tr>
<tr>
<td><strong>Minister for the Arts</strong></td>
<td>Senator the Hon Mitch Fifield</td>
</tr>
<tr>
<td>(Manager of Government Business in the Senate)</td>
<td></td>
</tr>
<tr>
<td><strong>Minister for Regional Communications</strong></td>
<td>Senator the Hon Fiona Nash</td>
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<tr>
<td><strong>Minister for Employment</strong></td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td><strong>Minister for Social Services</strong></td>
<td>The Hon Christian Porter MP</td>
</tr>
<tr>
<td><strong>Minister for Human Services</strong></td>
<td>The Hon Alan Tudge MP</td>
</tr>
<tr>
<td><strong>Assistant Minister for Disability Services</strong></td>
<td>The Hon Jane Prentice MP</td>
</tr>
<tr>
<td><strong>Assistant Minister for Multicultural Affairs</strong></td>
<td>The Hon Craig Laundy MP</td>
</tr>
<tr>
<td><strong>Minister for Education and Training</strong></td>
<td>Senator the Hon Simon Birmingham</td>
</tr>
<tr>
<td><strong>Minister for Vocational Education and Skills</strong></td>
<td>Senator the Hon Scott Ryan</td>
</tr>
<tr>
<td><strong>Minister for Tourism and International Education</strong></td>
<td>Senator the Hon Richard Colbeck</td>
</tr>
</tbody>
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Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Human Services in the Social Services portfolio and a Department of Veterans’ Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases. Assistant Ministers in italics are designated as Parliamentary Secretaries under the *Ministers of State Act 1952*. 
<table>
<thead>
<tr>
<th>TITLE</th>
<th>SHADOW MINISTER</th>
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<tbody>
<tr>
<td>Leader of the Opposition</td>
<td>Hon. Bill Shorten MP</td>
</tr>
<tr>
<td>Shadow Minister Assisting the Leader for Science</td>
<td>Senator the Hon. Kim Carr</td>
</tr>
<tr>
<td>Shadow Minister Assisting the Leader on State and Territory Relations</td>
<td>Senator Katy Gallagher*</td>
</tr>
<tr>
<td>Shadow Minister for Women</td>
<td>Senator Claire Gallagher*</td>
</tr>
<tr>
<td>Manager of Opposition Business (Senate)</td>
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<tr>
<td>Shadow Cabinet Secretary</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
<td>Hon. Michael Danby MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
<td>Hon. Ed Husic MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary Assisting with Digital Innovation and Startups</td>
<td></td>
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<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
<td></td>
</tr>
<tr>
<td>Deputy Manager of Opposition Business (Senate)</td>
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<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
<td>Terri Butler MP</td>
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<tr>
<td>Deputy Leader of the Opposition</td>
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<tr>
<td>Shadow Minister for Foreign Affairs and International Development</td>
<td>Hon. Tanya Plibersek MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Foreign Affairs</td>
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<td>Shadow Minister for Employment Services</td>
<td>Hon. Julie Collins MP</td>
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Shadow Cabinet Ministers are shown in bold type.

* Senator Katy Gallagher’s appointment to the Shadow Ministry is effective from 1 November 2015. Senator the Hon. Jan McLucas will serve as Shadow Minister for Housing and Homelessness and Shadow Minister for Mental Health, and represent the Shadow Minister for Northern Australia, the Shadow Minister for Health, the Shadow Assistant Minister for Health, the Shadow Minister for Sport and the Shadow Minister for Indigenous Affairs in the Senate until 31 October 2015.
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Monday, 22 February 2016

The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 10:00, read prayers and made an acknowledgement of country.

DOCUMENTS

Tabling

The Clerk: Documents are tabled pursuant to statute. Details will be recorded in the Journals of the Senate and on the Dynamic Red.

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

COMMITTEES

Finance and Public Administration Legislation Committee

Joint Standing Committee on Foreign Affairs, Defence and Trade

Meeting

The Clerk: Proposals to meet have been lodged as follows: by the Finance and Public Administration Legislation Committee for a public meeting today from 10 am; by the Foreign Affairs, Defence and Trade Legislation Committee for a public meeting on 25 February from 3.30 pm; and by the Joint Standing Committee on Foreign Affairs, Defence and Trade for a public meeting today and 29 February from 5 pm.

The PRESIDENT (10:01): Does any senator wish to have the question put on any of those motions? There being none, we will proceed.

Environment and Communications References Committee

Reference

The PRESIDENT (10:01): The question is that the motion moved by Senators Simms and Xenophon on 4 February to refer a matter to the Environment and Communications References Committee be agreed to.

The Senate divided. [10:06]

(The President—Senator Parry)

Ayes ......................32
Noes ......................31
Majority .................1

AYES

Bilyk, CL
Bullock, JW
Collins, JMA
Dastyari, S
Gallacher, AM
Hanson-Young, SC
Lambie, J
Lines, S
Ludwig, JW
McEwen, A (teller)
Moore, CM

Brown, CL
Cameron, DN
Conroy, SM
Di Natale, R
Gallagher, KR
Ketter, CR
Lazarus, GP
Ludlam, S
Marshall, GM
McKim, NJ
O’Neill, DM
AYES
Rhiannon, L
Siewert, R
Singh, LM
Waters, LJ
Wong, P

Rice, J
Simms, RA
Urquhart, AE
Whish-Wilson, PS
Xenophon, N

NOES
Back, CJ
Birmingham, SJ
Brandis, GH
Bushby, DC (teller)
Canavan, MJ
Day, RJ
Edwards, S
Fawcett, DJ
Fierravanti-Wells, C
Fifield, MP
Heffernan, W
Johnston, D
Leyonhjelm, DE
Lindgren, JM
Macdonald, ID
Madigan, JJ
McKenzie, B
Muir, R
Nash, F
O'Sullivan, B
Parry, S
Payne, MA
Reynolds, L
Ronaldson, M
Ruston, A
Ryan, SM
Scullion, NG
Seselja, M
Sinodinos, A
Smith, D
Williams, JR

PAIRS
Carr, KJ
Colbeck, R
McAllister, J
Cash, MC
McLucas, J
Abetz, E
Peris, N
Cormann, M
Polley, H
McGrath, J
Sterle, G
Bernardi, C

Question agreed to.

BILLS
Tax and Superannuation Laws Amendment (2015 Measures No. 6) Bill 2015
Second Reading

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

Senator DASTYARI (New South Wales) (10:08): I rise to speak on the Tax and Superannuation Laws Amendment (2015 Measures No. 6) Bill 2015. Labor will be supporting this bill. This bill seeks to enact two tax changes announced by the former Labor government, and Labor, as we have said throughout this entire process and for the past few years, are always supportive of sensible measures which tighten the country's tax net without harming vulnerable Australians.

In government Labor pursued significant changes to Australia's tax laws to reduce regulatory burden, ensure the tax system is keeping pace with the increasingly global nature
of business and ensure that everyone pays their fair share. First we had the Abbott government, and now the Turnbull government—there has been a lot of talk around tax reform, there has been a lot of debate, there has been a lot of discussion, but there have not been any real concrete proposals for us to be able to debate and for us to be able to explore. What we have actually had in the space of a proper tax debate in this country has been a lot of rhetoric. Most recently, we saw a situation where the Treasurer, Scott Morrison, had everything on the table, but now, increasingly, things are being taken off the table. Where there was a lot of discussion around whether or not there was going to be some kind of GST or some kind of major piece of tax reform, that appears to not be happening. There was talk about the tax white paper—a whole lot of effort, a whole lot of work, a whole lot of money went into the production of that, and that is now off the table. Instead, when we talk about tax reform in this country we have the legacy of these bills that are measures that were discussed and raised by the last Labor government first.

There are two parts to this bill, and I want to touch on them very briefly. Schedule 1 amends the treatment of earnout rights associated with the sale of a business to allow the holder to defer their capital gains tax liability until the accurate financial value of those rights are known. Again, this measure was announced in the 2010-11 budget. An earnout arrangement is a sale or purchase of an asset where the consideration includes a right to future financial benefits linked to the performance of the asset. For example, a standard earnout may involve an upfront payment for the sale, with the seller having a right to future payments that are contingent on the business's performance. Earnout arrangements are a legitimate and efficient way of structuring the sale of a business or business assets to deal with uncertainty about its value.

Under the ATO's current administration of the law, each earnout right is a separate and distinct asset from the underlying business and its market value must be estimated for CGT purposes. The complexity involved in this system affects the ability of businesses to efficiently price their business assets. This bill will result in any payments made under the earnout right being added to the capital proceeds, or the cost base of the original sale, through amendments to the taxpayer's tax return at that time.

Schedule 2 introduces a new withholding tax requirement for those purchasing Australian property from foreign residents. Purchasers will be required to withhold 10 per cent of the purchase price and pay this to the Commissioner of Taxation to assist in meeting the foreign resident's capital gains tax obligation. Foreign residents are liable to pay tax on capital gains when they dispose of certain Australian assets—broadly direct and indirect interests in real property. The ATO has indicated that voluntary compliance with Australia's foreign resident CGT regime is poor.

Under this measure, from 1 July 2016, where the seller of certain Australian assets is a foreign resident, the buyer will be required to withhold and pay to the ATO 10 per cent of the purchase price. The amount collected is an estimate of the vendor's final income tax liability. The vendor is still required to lodge an income tax return and pay any outstanding debt. They may claim a credit for the amount of tax withheld in the income tax return at this time. In this way, the withholding measure also encourages participation and engagement by foreign residents with the ATO. To ensure that this measure is appropriately targeted at those areas
where revenue is at greatest risk, and minimises the impact on other property transactions, the measure does not apply to direct real property transactions below $2 million.

As I said earlier, this is a piece of legislation that Labor intends to support. It relates to measures and budget measures that were raised and introduced and discussed by the previous government. I think it is disappointing that when it comes to tax reform and tax debate in this country, into the third year of the Abbott-Turnbull government, we are still only dealing with a handful of legacy items and tax reform proposals that were presented by the former Labor government. That being said, on its merits, this is a bill that warrants our support and Labor will be supporting it.

Senator LEYONHJELM (New South Wales) (10:14): When we debated the fifth tax bill of 2015 last December, I sang about the five tax bills of Christmas my Treasurer sent to me. If you recall, the five bills delivered more FBT, more CGT, seafarer's tax, slower deductions and a tax on the elderly. Well today we are debating the sixth tax bill of 2015, which suggests I should sing something that sounds like 'six geese a laying'. But I cannot, because with this bill the government is killing the golden goose.

Australia's prosperity is built on foreign investment, but with this bill the government makes it abundantly clear that foreign investment is no longer welcome in this country. The bill imposes a tax on Australians who purchase Australian land, plant and equipment from foreigners unless those foreigners have obtained a certificate from the tax office. It is like requiring a note from the headmaster. This will have the obvious effect of discouraging foreigners from purchasing Australian land, plant and equipment in the first place.

The government justifies its new tax by complaining that it is difficult to get foreigners to pay capital gains tax when they sell Australian land, plant and equipment. But foreigners are already exempt from capital gains tax when they sell other Australian assets, like shares. And such exemptions help Australians. If you tax the returns of foreign investors you simply drive up the returns that foreign investors demand when they invest in Australia. Australian businesses face a higher cost of capital as a result, and business expansion is stifled. It is for this reason that successive governments have reduced taxes on interest and dividend payments to foreign investors. But now we see a new tax on payments to foreign investors—a tax that pleases the xenophobes, but hurts Australians. And a tax that sets out to rake in the revenue when the Treasurer says he is focused on cutting spending.

The solution is the exact opposite of what this bill aims to achieve. The solution is to exempt foreigners from capital gains tax when they sell Australian land, plant and equipment. The art of taxation is said to consist of plucking the goose to obtain the maximum amount of feathers with the smallest amount of hissing. But we are not plucking the goose; we are strangling it because it flew in from overseas.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (10:17): I thank colleagues for their contribution to the Tax and Superannuation Laws Amendment (2015 Measures No. 6) Bill debate. As has been canvassed, the bill does make two important changes to improve the operation of Australia's capital gains tax regime. Schedule 1 to the bill clarifies the treatment of earnout arrangements by making any payments under the arrangement part of the original value of the business or
business asset for capital gains tax purposes in lieu of applying capital gains tax to the right itself—try saying that three times quickly, Mr President!

An earnout arrangement involves a sale or purchase of an asset with a right to future financial benefits linked to the performance of the asset. Earnout arrangements create flexibility for purchasers and sellers of business assets, especially where the value of the underlying asset is uncertain; however, the current system has significant complexities which affect the ability of businesses to efficiently price their business assets. This measure will result in any payments made under the earnout right being added to the capital proceeds or the cost base of the original sale through amendments to the taxpayers’ tax return for that period.

Generally, taxpayers and the commissioner will not be liable for interest on, respectively, any shortfall and overpayment as a result of any amendment to a tax return made as a consequence of these earnout changes. This bill will not only help provide certainty for businesses entering into earnout arrangements but will also protect any entitlement they have to small business capital gains tax concessions. On 14 December 2013, the government announced that it would proceed with a measure to provide CGT look-through treatment to earnout arrangements, which have been announced but ‘unenacted’ by the previous government as part of their 2010-11 budget. This bill will apply to all earnout arrangements entered into after 23 April 2015. In addition, in some cases the bill also includes protections to preserve taxpayers’ current tax outcomes without requiring amendments. These protections are available where taxpayers have reasonably and in good faith anticipated changes to the tax law in this area as a result of the May 2010 announcement by the previous government.

Schedule 2 to this bill amends the taxation laws to improve the integrity of Australia’s foreign resident capital gains tax regime. In doing so, it is consistent with the government’s broader efforts to ensure that foreign investors into Australian real property comply with their Australian legal obligations. Foreign residents are liable to pay tax on capital gains when they dispose of certain Australian assets; broadly, direct and indirect interests in real property. The ATO has indicated that voluntary compliance with Australia’s foreign residents CGT regime is low. In addition, there are difficulties with the ATO undertaking effective compliance activity after a transaction takes place.

To address this, this bill introduces a withholding measure which will impose an obligation on a purchaser to withhold 10 per cent of the proceeds, and to pay that amount to the ATO at the time that they acquire certain taxable property from a foreign resident vendor. In doing so, the measure will improve compliance by foreign residents with Australia’s CGT obligations, and with the tax system more broadly, by encouraging appropriate interaction with the ATO where necessary. The measure does not apply to direct real property transactions valued at under $2 million. This ensures that the measures are properly targeted at those areas where revenue is at greatest risk, and minimises the impact on other property transactions. The measure has undergone extensive consultation to ensure that it achieves a high level of integrity, whilst balancing administrative considerations including increased certainty around its application. On behalf of the Minister for Finance and on behalf of the Treasurer, I commend the bill to the Senate.

Question agreed to.

Bill read a second time.
Third Reading

The PRESIDENT (10:21): As there have been no amendments circulated, unless any senator requires a committee stage, I propose to call the minister for the third reading.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (10:21): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Competition and Consumer Amendment (Payment Surcharges) Bill 2015

Second Reading

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

Senator DASTYARI (New South Wales) (10:22): Mr President, the Competition and Consumer Amendment (Payment Surcharges) Bill 2015 will be supported by the opposition. It is an important bill. It arises out of a recommendation of the Financial System Inquiry, commonly known as the Murray report, which recommended this action—that surcharging in relation to credit cards be closely regulated and that, in effect, overcharging not be allowed. This is an important matter because, frankly, consumers are being ripped off as we speak. It is interesting that of all the issues which were given attention during the Murray inquiry process, none received anywhere near as many submissions from the public as this particular matter. It is quite understandable that this was the case, because consumers have every right to be angry when they are ripped off in this fashion. I am pleased to note that consumer advocate, Choice, supports the bill in its current form. I also want to note—and I will touch on this in a bit more detail later—the role of and the work done by the Senate Economics References Committee on this issue of surcharging and credit card use.

It is right and appropriate that retailers be able to pass on the costs of using a credit card for transactions. They add up. It is a substantial cost. It is fair to say that nobody reasonable in the debate objects to retailers being able to pass on reasonable costs. That is appropriate and it is protected under this bill. What is not appropriate is excessive surcharging. In many cases, people have very little choice as to how they pay, but the costs are more than passed on and retailers make profits out of what is meant to be a user charge. When surcharging was first allowed for the cost of credit card transactions, it was envisaged by the Reserve Bank of Australia—which allowed this to occur—that it would be to recoup reasonable costs. As we speak today, the Reserve Bank estimates it will cost a merchant an average of 0.82 cents per transaction to accept the normal and most utilised cards, which are MasterCard and Visa. Of course, 0.82 is a low figure compared to what people charge in the vast majority of instances; charges of two per cent, three per cent or more are quite common.

This legislation is appropriate and will be strongly supported by the opposition. In fact, the shadow treasurer, Mr Bowen, indicated support for this action on behalf of the Labor Party when the Murray report was first released in 2014. Here we are in 2016 and we are only now legislating—if anything, it is perplexing that it has taken so long to reach this point. The
Labor Party would have supported this legislation and facilitated this package much earlier than we are doing today.

We are relieved to say that this legislation and explanatory memorandum make much more sense than the Treasurer's explanation of it at the time. The Treasurer has had some very ordinary interviews in his so far brief tenure as Treasurer, but one was particularly special. He was asked on the Today show how this legislation would work. Karl Stefanovic asked him about a surcharge for a well-known airline, which might be able to charge you when taking credit card payments. The Treasurer responded, not confidently; indeed, he was very vague. It was quite clear he had no idea what he was talking about. He had no idea how this legislation would work. He had absolutely no idea of the detail. But the opposition has looked at the legislation and the explanatory memorandum, and thankfully we have found them to be much clearer. Clearly the government's legislative drafters have gone to work, and this is a good piece of legislation.

This bill is important not only as a matter of fairness but also because electronic payments are, of course, more and more a part of our economy and they are, by and large, efficient. There is no reason to discourage them; in fact, they can be and should be encouraged. Allowing the use of electronic payments through credit cards without excessive surcharging is good policy, as well as being fair. It is appropriate that the Australian Competition and Consumer Commission—the ACCC—be established as the body responsible for enforcing the legislation. The ACCC has experience and expertise in this field, and we would certainly endorse the mandating of the ACCC to ensure that this law is implemented as effective.

The legislation will clarify the regulation and enhance competitive neutrality between systems providers. At the moment there is a process of blending, which is charging one surcharge regardless of the credit card used—although some credit cards have considerably more costs. This has caused some angst to some credit card providers, for understandable reasons. For example, American Express is generally more expensive for a merchant. That is a matter of choice. If there is a higher charge to use an American Express card, customers of Visa and MasterCard, should not be penalised for doing so. It should be the case that the blending process is, in effect, unfair and is, in effect, a surcharge. Of course, the charge which dominates is the higher charge. For example, a charge for American Express would dominate the blending process and people using Visa or MasterCard would be charged more than they otherwise should be.

It will of course also improve the efficiency and effectiveness of price signals—that is, it would encourage credit card providers to even more increased efficiency and drive down their processing costs. It will make their product more attractive to consumers if consumers know that they are only going to be charged for the cost, and the cost to the credit card becomes more relevant. At the moment it is frankly irrelevant because the consumer is going to be charged more than that in any event. It has the potential to reduce cross-subsidisation, as was outlined, between customer groups and merchant groups through that blending process.

The bill amends the act not only to include a ban on surcharging but also to allow the ACCC to take actions against corporations that are involved in excessive surcharging. As I said, that is something the opposition supports. The surcharge will be excessive if that surcharge exceeds the level for surcharging permitted under the Reserve Bank standard, which covers the kind of payment and sets out the regulations. The Reserve Bank has
considerable expertise that it has built up since having responsibility for payment systems through the Payments System Board and it is appropriate that the Reserve Bank has that authority under this bill.

The opposition trusts that some sensible definitions of what is to be considered excessive will be created as part of the process in this bill. I support the bill on the basis that those definitions will not inhibit competition between retailers on surcharge levies, because that again is something which would provide competition to encourage not only credit card providers but also retailers to make sure that their offering is as sharp as possible and that only the relevant charges are being passed on, and consumers, at the end of the day, will benefit. This is a pro-consumer piece of legislation, it is a pro-competition piece of legislation and it is a sensible piece of legislation. The Labor Party will facilitate its passage through the Senate, as we did in the other place, so that it becomes the law as quickly as possible. It is disappointing it has taken this long to get it to this point. It is something which could have been dealt with very easily last year. Obviously, the government had other things on its agenda, but, nevertheless, now that it is before the Senate we will facilitate its passage with our support.

I also want to touch on the work that has been done in this area by the Senate Economics References Committee, and more recently a report that was done on the issue of credit cards. This piece of legislation is important and it deserves to be supported, but it addresses only one issue; it does not address some of the other fundamental issues regarding credit cards and credit competition within the credit card market. While this goes a step in the right direction in addressing some of the issues that deserve to be addressed, there is a whole series of other issues relating to credit card competition, relating to the market, relating to making sure you have a competitive environment, relating to internal and hidden payments that also exist, which I believe the Senate Economics References Committee has done an exceedingly large amount of work on. In the committee's report that came down last year there was a series of other practical, sensible measures.

I think consumers have a right to be very angry and frustrated when they see credit card interest rates as high as 20 per cent while the cash rate has fallen to around two per cent. I think a lot of consumers feel that they are getting a raw deal—and they are. Some of that can easily be overcome by shopping around; by looking for a better deal. There are deals out there where people can get credit card deals at eight or nine per cent, but what we tend to find is that they are not the ones being advertised, and that people are being drawn in with offers of 20 per cent, not realising that a lot of this is a trap.

On top of that, there is the whole complicated area of credit card debt limit transfers which allow people to completely move their transfers over to another credit card provider. While on the face of it this all seems like a very positive development, unfortunately it ends up meaning that, for example, someone will have $10,000 of credit card debt, they will take their credit card over to another supplier, and they will have that account cleared—but rather than being forced to actually close it, what ends up happening is that they have another limit of $10,000, and it just builds up again. On top of that, the difficulty and the challenges with closing credit card accounts and cancelling credit cards is at odds with how easy it is to actually obtain them. There is not a single major credit card provider in this country that will allow you to cancel your credit card online. You have to phone up, you have to go in, or you
have to do it all via written letters—and yet you can actually apply for and get a full credit card online. These are simple, practical steps.

The Senate Economics Committee tried to take the politics out of the issue and find half a dozen examples of some fairly simple, practical reforms could be done to improve credit card use without really affecting competition—or while enhancing competition. That being said, this proposal from the government which comes from the Murray report is a step in the right direction. I believe there are other practical steps that can also be taken.

Senator WHISH-WILSON (Tasmania) (10:32): I rise to speak on the Competition and Consumer Amendment (Payment Surcharges) Bill 2015 on behalf of the Greens. The Greens have long been campaigning about and pointing to the exorbitant amounts being made by banks and credit card companies when people do little more than use their own money, often in situations where they have no choice other than to use a card or have their transaction processed electronically. The kind of reform that we are seeing today has come through the Financial System Inquiry. A large number of submissions were made to the Murray inquiry that this overcharging—unnecessary overcharging, with no justification—be reformed. It is especially important in light of the fact that, in the future, it is very likely that we will face a cashless economy, and so these kinds of electronic transactions and how they are priced—and whether those transactions are priced fairly—in terms of the cost of the provision of these services, need to be taken into account. We welcome the legislation before us today. The Greens will be supporting this bill.

However, we do not believe that this bill goes far enough. The Greens have always campaigned for fees at automatic teller machines to be regulated also, given that the cost of provision of those machines allows the banks to make significant profits. There is some evidence that this is perhaps less true for some of the private ATM providers but, certainly in the case of the big banks, the evidence before us suggests that the banks make significant profits on the use of ATM machines, especially from customers who use other banks' machines and infrastructure that is in place. If we are going to put caps on surcharges on credit cards, why aren't we doing it when those same credit cards are put in an ATM machine to withdraw money or, in some cases, even to get an account balance? The Greens would point to Reserve Bank figures that, on average, it costs the bank 77 cents when you put your card into an ATM, and that fee covers the transaction. The same applies when you request your account balance, or get money out and have it processed. But the people we know from personal experience are being charged two dollars, $2.50, and sometimes three dollars for the privilege of accessing their own money. These fees are not only unfair, but regressive, because they hit people who are taking out smaller amounts or who have smaller balances.

I remember speaking to my students when I was teaching finance at university and I gave them an example. I asked them, 'What is the average amount of money you take out of an ATM?' It varied, but some of them would take out as much as $20—every time they went to the ATM, they would take out $20. I said to them: 'Let's have a look at the real fee that you are paying on $20. If it is a $2 fee and you are getting out $20, you have paid a 10 per cent fee to access your money.' My conclusion was that you are better off taking out a large amount of cash, if you have to do it—and to spend that wisely—but that every time you go to the machine it is going to cost you up to 10 per cent, depending on how much money take out. It is quite a ridiculous situation to be in, especially if you do not have much money in the bank.
and you are still getting slugged the same fee as other people who have much larger cash balances.

To give you another example, $2.50 means a lot more to someone with $50 in their account than to someone who might be able to access $1,000 in their account. We know that many have changed their behaviour and try to withdraw cash from their own ATMs as much as possible, but, as many of us know, there are times when this is just not possible. For example, when you need cash, there are many times when you have to go as close as possible and use whatever ATM is available, and, of course, in rural and regional areas you have much less chance of finding the ATM for your own bank.

The Greens believe that banks should not be able to make huge profits out of their ATMs. If you are going to another bank or to your own bank, maybe the bank can charge you the cost of recovering that—that is fair enough. That is actually what we are seeing in this legislation anyway, for other credit card payments. There is a stipulation there that they can cover the costs of provision of these services without gouging profits. The committee has heard some really stark evidence of some of that overcharging in relation to this legislation. In the case of banks, why not have the same principle apply—that we have a fair fee to cover the provision of that service which does not allow the large financial services companies to gouge profits from the Australian people. There is no reason for that with credit cards; there is no reason this should be any different.

In terms of the profits that the banks make, let's be honest: the bank business model in recent years, especially in the last decade, has moved toward making profits from fees rather than from the net margins they make on their deposits and loans. Credit cards are significant contributors, contributing profits in the billions of dollars to these banks. That is money that is coming out of the pockets of people who use the infrastructure to access their money, which the banks are holding for them.

It is worth remembering that the big four banks alone make up to $30 billion profit every year. Some of this is coming from us from paying our $2, $2.50 or $3 when accessing an ATM. Remember, it is a fee that the Reserve Bank itself says cost the banks about 77 cents. Also, according to the RBA, there are now more than 31,000 cash machines around the country, which the RBA says is high, relative to Australia's population, when you look overseas. Fifty-five per cent of the ATMs in Australia are owned by specialist ATM companies—this is some of the evidence that the economics committee received—they are the ones you find in a restaurant or a pub or somewhere else. Banks and other financial institutions own the rest; in other words, they own just under half of the ATMs around the country.

While it may be difficult, we accept, to limit fees that private operators are charging, we can take some steps towards regulating what the banks charge. The banks enjoy significant support from the Australian public, especially the big four, because we know they are too big to fail and the government will step in to help them if they ever get into trouble—the lessons of the GFC were very clear. Perhaps it was much more stark in the US, but we know that your government, Mr Acting Deputy President, stepped in to guarantee deposits, which, in hindsight, was a very important thing to have done, given the potential for contagion and other issues, when financial markets are collapsing. The wholesale funding advantage of that levy—and there has been no levy forthcoming to recover that for the Australian people—is
still a problem for my party. We would still like to see the advantage that the big banks have received from the deposit guarantee levy paid back to the Australian people, but that is a matter for another day.

Given the support that the banks receive from the government, these are the kinds of reforms we would also like to see with this legislation. When we get to the committee stage I will be moving amendments that would prevent banks charging ATM fees that are excessive—and the definition of the word 'excessive' here is the same definition we would apply to what is currently in the bill in relation to credit card surcharges—and require the fees to reflect the reasonable cost of allowing a person to make an ATM transaction.

For the benefit of the Senate I will outline some of the amendments now. The amendments would create a new part of the act, Part 4D—ATM transactions, and a new section, around section 55N, which sets out the object of the part. The object of the part is to ensure that account holders are not charged for ATM transactions made using automatic teller machines owned or leased by the persons with whom their accounts are held, and that amounts charged for other ATM transactions are not excessive and reflect the reasonable costs of allowing a person to make an ATM transaction.

It did surprise me that some banks actually charge their own customers to access ATM machines. Bendigo and Adelaide Bank’s unique policy of charging its own customers to withdraw cash has faced a consumer backlash. You have to ask yourself: when one or two banks move in this direction, where they are charging their own customers to access ATM machines, how long will it be until the other banks do this as well? We know that these are significant profit sources for the banks. If a couple of banks do it, it is very likely that other banks will follow suit and start charging some kind of fee with which they can gouge customers and make profits for their shareholders.

In a nutshell, the Australian Greens support this bill because it says credit card fees should not be in place where intermediaries or the end-users are able to make a profit out of you for simply using your credit card. This will be a much bigger issue in the future as we move to a cashless economy. It is fair enough that banks and other financial service providers should charge a fee to cover the provision of their services—otherwise they would be making losses on things such as ATM machines and networks—but excessive profits: no way. I think I speak on behalf of most Australians when I say I would like to see ATM fees in line with the cost of service provision and not see banks gouging the Australian public for using a machine that simply allows them access to their own money.

We feel this bill is a good start. It has been supported by stakeholders such as Choice, which of course is important given that Choice speaks on behalf of many consumers in this country, but let’s extend it to ATM fees and make sure that banks, which every year make record profits, are not able to make a profit out of you accessing your own money. Let’s end these fees of $2, $2.50 and $3 that banks sometimes charge. Let’s limit them to what it actually costs the bank, which we know is closer to 77c. Let’s ensure that the good principle in this bill is extended and that banks are prohibited from using, as a way of making money out of people, the fact that in this day and age everyone is required to have an electronic bank account. We support the bill, and I hope that the government, because they support the principle of this bill, will also support extending it to ATM machines. I look forward to
hearing from the minister in committee as to why that would or would not be the case and I will recommend our amendments to the Senate when we get to the committee stage.

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (10:44): I thank senators for their contributions to this debate and the wide-ranging support that the bill has. In particular I extend the thanks of the Minister for Finance in that regard.

More and more consumers in Australia are using credit cards to pay for their purchases, whether online or in retail stores. There are many benefits to the use of cards for both consumers and businesses who accept payment by card. While both sides enjoy benefits, there are costs associated with card use, and it is important that these be fairly distributed.

If merchants use cost-recovery as a cover for squeezing higher profits from consumers who choose to pay by card, that is simply unfair and that is what we attempted to address through this legislation. Currently the only restrictions on merchants’ surcharging come from the rules of card schemes. These usually allow the merchant to recover its reasonable cost of card acceptance. This includes, but is not limited to, the merchant service fee that the merchant pays to its financial institution.

Most merchants, it should be noted, act fairly by choosing either not to surcharge at all or to limit surcharging to the recovery of their genuine costs. However, this is not always the case. Excessive surcharges, at times up to 10 per cent or more, sometimes occur. This has generated substantial angst in the community. Misleading consumers on the true cost of payments erodes the efficiency of and confidence in our payment system. Today, this government is responding to the significant community concern about excessive surcharging, and I welcome the fact that the Senate looks like supporting those measures.

Under this new framework, excessive surcharging by merchants, where the cost added on is above the merchant's cost of accepting the payment, will be banned. This will not stop merchants from recovering their own costs of accepting cards. Fair and reasonable surcharges help to send a price signal to the community about the real cost of payments. Profiteering by merchants, however, under the guise of cost recovery will not be allowed. Given the large volume of card payments made—up to $45 billion each and every month—this measure will likely provide considerable savings to everyday Australians. To ensure that merchants react promptly to these changes, the Australian Competition and Consumer Commission, as the enforcement agency, will be given powers, including powers to issue infringement notices to merchants who continue to do the wrong thing by consumers. Penalties of up to $108,000 for each offence by listed companies will incentivise merchants to do the right thing—that is, to do the fair thing by consumers.

This demonstrates our government's commitment to addressing consumer concerns. The amendments contained in this bill will improve transparency for consumers and facilitate improved price signals about the real cost of payments. This, backed up by the Australian Competition and Consumer Commission being on the beat, should drastically reduce the chance that merchants will seek to surcharge excessively and profiteer from ordinary Australians.

On behalf of the government I thank all those who have had input into the development of these reforms. I note in particular the statement by Senator Dastyari that this is a good piece of legislation. I welcome that. I acknowledge the support of others and the input of many
others into this legislation, which is an important consumer reform. In the committee stage, I am sure we will touch upon and I will respond to Senator Whish-Wilson’s amendments. I commend the bill to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Sterle): The question is that the bill be now read a second time.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator WHISH-WILSON (Tasmania) (10:48): I wish to move amendments, but I actually seek clarification from the Clerk as to exactly how I move these, because I still do not have a schedule in front of me.

The TEMPORARY CHAIRMAN (Senator Sterle): I advise that there is not a running sheet. You can by leave move all your amendments together.

Senator WHISH-WILSON (Tasmania) (10:49): by leave—I move all Greens amendments on sheet 7841 together:

(1) Schedule 1, item 2, page 3 (after line 27), after subsection (2F), insert:

(2G) In addition to the effect that this Act (other than Parts IIIA, VIIA and X) has as provided by another subsection of this section, this Act (other than Parts IIIA, VIIA and X) has, by force of this subsection, the effect it would have if:

(a) each reference in Part IVD to an ATM transaction were a reference to an ATM transaction that occurs:

(i) by means of a postal, telegraphic, telephonic, or other like service (including electronic communication); or

(ii) by means of an automatic teller machine provided by a bank (other than a State bank), or any other institution engaged in banking, in the course of banking (within the meaning of section 51(xiii) of the Constitution); and

(b) each reference to a corporation included a reference to a person not being a corporation.

(2) Schedule 1, item 3, page 10 (after line 32), after Part IVC, insert:

Part IVD—ATM transactions

Division 1—Preliminary

55P Object of this Part

The object of this Part is to ensure that:

(a) account holders are not charged for ATM transactions made using automatic teller machines owned or leased by the persons with whom their accounts are held; and

(b) amounts charged for other ATM transactions:

(i) are not excessive; and

(ii) reflect the reasonable costs of allowing a person to make an ATM transaction.

55Q Definitions

In this Part:
**ATM transaction** means a cash deposit to, a cash withdrawal from, or an enquiry about the balance of, an account that is made by means of an automatic teller machine.

**55R Part not to apply to State banking**

This Part does not apply with respect to State banking that does not extend beyond the limits of the State concerned.

**Division 2—Limit on charges for ATM transactions**

**55S Limit on charges for ATM transactions**

*No charges for ATM transactions made using own-branded ATMs*

(1) A corporation must not, in trade or commerce, charge a person an amount (however described) for making an ATM transaction if:

(a) the corporation is an ADI (authorised deposit-taking institution) for the purposes of the *Banking Act 1959*; and

(b) the transaction relates to an account held by the person with the corporation; and

(c) the automatic teller machine used to make the transaction is owned or leased by the corporation.

*ATM transactions made using foreign ATMs must not be excessive*

(2) A corporation must not, in trade or commerce, charge a person an amount (however described) for making an ATM transaction that is excessive (see subsection (3)) if:

(a) the corporation is an ADI (authorised deposit-taking institution) for the purposes of the *Banking Act 1959*; and

(b) the transaction relates to an account held by the person with the corporation; and

(c) the automatic teller machine used to make the transaction is not owned or leased by the corporation.

(3) For the purposes of subsection (2), an amount charged for making an ATM transaction is **excessive** if the amount exceeds the amount permitted by a standard determined under section 18 of the *Payment Systems (Regulation) Act 1998*.

(4) For the purposes of subsection (3):

(a) the Reserve Bank of Australia must ensure that there are at all times in force standards under section 18 of the *Payment Systems (Regulation) Act 1998* permitting amounts for the purposes of subsection (3); and

(b) the making of such standards is taken to be in the public interest; and

(c) an amount permitted for an ATM transaction must reflect the reasonable costs of allowing the person to make the transaction.

**55T Acquisition of property**

*Scope*

(1) This section applies to the following provisions of this Act:

(a) section 55S;

(b) any other provision to the extent to which it relates to section 55S.

*Effect of provision*

(2) The provision has no effect to the extent (if any) to which its operation would result in the acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) otherwise than on just terms (within the meaning of that paragraph).

Schedule 1, item 4, page 11 (line 2), after "55B,", insert "55S.".
Schedule 1, item 5, page 11 (after line 5), after subparagraph (ia), insert:
   (ib) section 55S;
Schedule 1, item 6, page 11 (line 7), after "55B," insert "55S."
Schedule 1, item 7, page 11 (after "55B," insert "55S."
Schedule 1, item 8, page 11 (after line 12), after subparagraph (iia), insert:
   (iib) section 55S;
Schedule 1, item 9, page 11 (line 14), after "55B," insert "55S."
Schedule 1, item 10, page 11 (line 16), after "55B," insert "55S."
Schedule 1, item 11, page 11 (line 18), after "55B," insert "or 55S".
Schedule 1, item 12, page 11 (line 20), after "55B," insert "or 55S".
Schedule 1, item 13, page 11 (line 22), after "55B," insert "or 55S".
Schedule 1, item 14, page 11 (line 24), after "55B," insert "or 55S".
Schedule 1, item 15, page 12 (line 3), after "55B," insert "55S."
Schedule 1, item 16, page 12 (line 5), after "55B," insert "55S."
Schedule 1, item 17, page 12 (line 12), after "55B," insert "or 55S".
Schedule 1, item 18, page 12 (line 19), after "55B," insert "or 55S".

As I made clear during our speech on the second reading, we support in every sense of the word the motivation behind this bill—the response to the public outcry over excessive fees being charged when using credit cards for a range of different services. I raised with the minister the issue that banks are making around $600 million a year in profits from ATM fees. If credit card operators are not allowed to make a profit from the use of the card, neither should banks. Does the minister agree with that in terms of ATMs? We use credit cards for ATMS.

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (10:50): I will attempt to deal with the overall issues that are raised in relation to the amendments that Senator Whish-Wilson is proposing, to put the remarks on the record and in context. Then we can deal with any other specific issues if need be.

It is important to note a little bit of background. In 2009 the Reserve Bank of Australia led reforms to ensure there was transparency in ATM fees. Prior to those reforms there was no transparency around ATM fees. It is important to distinguish what ATM fees are as distinct from the practice we have seen in relation to merchant fees that have been passed on. The fee for ATM use is a fee for service. Before someone withdraws money from an ATM they have the choice to pay the fee for that service or find an alternative ATM that does not charge a fee. There are a range of different services at different fee levels, including free services, depending on your financial institution, that are available to customers in the ATM market. Genuine competition exists there. Estimates are that the RBA reforms have led to savings of around $270 million from ATM fees between 2009 and 2011. It is notable that the use of ATMs is gradually declining with the greater take-up of electronic payments and the cash-out facilities in stores.

The credit card surcharge legislation that is before us today is implementing the important work undertaken by David Murray as part of the Financial System Inquiry. The FSI did not make any recommendations in respect of ATM fees. The government's surcharging ban
targets misleading conduct by merchants who charge a fee under the guise of passing on a credit card payment they incur to accept a card. That is an important point to emphasise. We are targeting misleading payments where consumers face a fee, allegedly associated with conducting a purchase by credit card, that is not a genuine, real or accurate reflection of the cost of that fee.

Conversely, ATM fees are disclosed in advance and are fees charged for a specific service, namely, the use of that ATM. They are not presented as the cost of somebody else in that regard, unlike misleading conduct in relation to merchant fees. They are different issues. The measures contained in this bill are the result of extensive work and broad consultation, and they really tie back to the Financial System Inquiry, which did not, as I indicated, touch on the relationship with ATM fees.

Senator WHISH-WILSON (Tasmania) (10:53): I think that at the heart of this bill, and it goes hand in hand with what you just outlined about misleading or deceptive conduct, is the concept of what is an excessive surcharge or an excessive fee. When I use my credit card at a shop pay a fee I am paying a fee for service as well. There is no difference whether I go to an ATM and look at my bank account details or I use my credit card to facilitate a transaction in a shop. Either way, you are getting a fee for service. The question I would like you to answer, minister, is: if we know from the Reserve Bank that the cost to a bank of providing an ATM service is on average around 77c, do you think that fees of $2 or $3, for example, that allow the banks to make $600 million profit a year from the Australian people are excessive? If you do, there is no reason you would not extend this bill to include the provision of services from ATMs. Could you please tell me whether you think banks have excessive fees on ATM services?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (10:54): Senator Whish-Wilson, I think you either misunderstand or seek to misconstrue the core nature of this bill. You said it is dealing with excessive fees. What I would draw your attention to is that it deals with misleading fees, and there is a clear distinction between the two. In relation to the merchant surcharge, what the legislation we are dealing with here seeks to address is where merchants present a fee that is related to the use of a credit card in the purchase of a good or service and the merchant presents that fee as a pass-through of costs incurred from the financial institution that provides the facility for them to take the credit card payment. Here we are seeking to deal with instances where that pass-through is grossly inflated and the consumer is being misled into thinking that it is a pass-through of that cost, whereas in fact the merchant is trying to make an additional profit on the manner in which the individual pays for the good or service.

That is quite different from the ATM context where, of course, the ATM is usually owned by the institution that puts the ATM in place and the fee charged to the consumer for accessing funds from that ATM is directly applied for the service of using the ATM. It is a different matter in that regard. We could come into this chamber every day and you could seek to ask me hypothetical questions about what an appropriate profit margin is for a different private business selling a different good. I do not think it is the role of government to be defining what appropriate profit margins are and what is excessive or otherwise. We have consumer law that seeks to account for misleading practices, abuse of market power and a range of other things, and to protect consumers in that regard, but in this case we should not
think it is a straightforward and analogous comparison to look at merchant fees and ATM fees and say they are one and the same problem. They are quite different matters, and it would be wrong of the Senate today, without having undertaken consultation or the proper processes that led to this legislation, to get ahead of the game and do something else in relation to ATM fees.

Senator WHISH-WILSON (Tasmania) (10:57): Senator Birmingham, you made my case for me in what you just said. Do you think most Australians understand, when they use an ATM, that it costs only 77c to process that transaction? Do you think they understand, when they pay two or three dollars, that they are getting a fair and reasonable deal out of the banks? Do you think they know they are being gouged by the banks? The point here, which you just raised and which I also raised, is that the fact that the banks charge $3 for a transaction that actually costs them only 77c could be construed by many people in this country as misleading and deceptive.

If you go back to the original RBA ruling in 2012, credit card surcharges were meant to have been limited to the reasonable cost to the business of processing the transaction, which for Visa and MasterCard was about 0.8 per cent and for American Express and Diners Club was about two per cent. We realise that there have been charges well in excess of that, especially by airlines. There have been some examples given in evidence. I think in one case Tigerair charged, for a $132 air ticket, a surcharge fee on a credit card transaction that ended up being inflated by nearly 1500 per cent. Isn't the same principle that is applied to credit card fees applied to the use of ATM machines? At the end of the day, Australians do not realise the profits the banks are making on this. Many would consider them excessive. Why can't we extend this principle to the use of physical infrastructure for processing a payment, whether it is an ATM, or EFTPOS in a shop? You have broadband, you have copper wires, you have all the same things in place for both systems: they both involve, essentially, an electronic service. We know the banks are making $600 million or more a year in profits from the use of ATMs. Let us take the reasonable principle that is in this bill and that we agree with and let us apply it to probably one of the biggest rorts that we see in this country, which is the profits banks make on ATMs.

They are even charging their own customers fees. Interestingly enough, I notice Bendigo Bank are charging 70c per transaction to their own customers now to cover the provision of that service. If that costs Bendigo Bank 70c, and the Reserve Bank said it cost 77c, how can anyone stand here and not say the current fees are excessive, and it is misleading and deceptive if the Australian people think that it costs the bank $2 or $3 to provide that service? Clearly, it does not cost them $2 or $3. And I do not see why we cannot apply the same principle to credit card payments.

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (11:00): Senator Whish-Wilson asked if I think Australian consumers know that banks are making profits. Yes, I think Australian consumers know that Australian banks make profits in all manner of different ways! Certainly, the people that I meet as I go about my daily business in engagement with constituents are well aware that banks make profits. They also know that when they go to use an ATM, if it is an ATM of a bank they do not bank with, there may be a fee attached to that because of the reforms by the RBA, but they know that fee up-front. They then have a choice as to whether they get their cash out from that ATM or they go to another
ATM; whether they go to the ATM of an institution with whom they do bank, where they might be able to take their cash out for free; or whether they go and use an EFTPOS facility while they are doing their shopping, where they may be able to take their cash out for free.

Senator Whish-Wilson, you raised an interesting point with your examples. You gave an example relating to Tiger Airways. Now, I am not aware of the details of that, so I will take it as a hypothetical example, but it does highlight exactly why the government are taking the action we are taking in relation to merchant fees. We do not want to see retailers or providers of goods and services of any description misleading consumers when they say they are recouping the cost to them of processing a payment by credit card as against some other means. We want to eliminate that misleading practice, whereby some are seeking to make a profit for themselves out of that. But I again draw the distinction that that is a misleading practice; that is not what is occurring in the ATM market, which is a fee-for-service practice.

Senator Whish-Wilson, you also raised the example of Bendigo Bank applying a pass-through of costs to their consumers. Of course, in many instances where banks are providing free withdrawals of money from ATMs, they are notionally making a loss on those ATMs—just as, where the transaction incurs a cost, as you have highlighted, they might be making a profit on them. In net terms, they may make a profit out of the ATMs, depending on how you define it and deal with the capital costs et cetera that are there.

If your amendments were to go through, Senator, I imagine one of the risks in terms of the consequences would be that institutions who were no longer able to provide preferential treatment to their customers—as distinct from the customers of another banking institution—might decide that they will charge everybody a flat rate. You could in fact create a circumstance that is to the disadvantage of many consumers of existing institutions. That is a potential risk. It may or may not occur. The problem with amendments like these, were they to be passed in this manner, is that we have not fully explored any of the potential impacts that could occur.

I again emphasise that the issue in relation to ATM fees is very different from the types of merchant fees and practices that we are seeking to stamp out through this legislation.

Senator WHISH-WILSON (Tasmania) (11:04): The Senate Economics Legislation Committee did hear evidence on credit card surcharges through ATMs—and I will call them surcharges. I come back to the point that this is about dealing with excessive surcharges, excessive fees. That is the whole principle behind what we are doing with credit card surcharges on other transactions, except for those through ATMs.

I want to outline what our amendments would do. A new division will be created in the bill which puts a limit on ATM fees. Firstly, it does so by banning any fees charged by banks for the use of their own ATMs, as we have heard Bendigo Bank and Adelaide Bank are doing, because we believe very strongly that if a bank is getting your money you should not be charged for the privilege of accessing it in getting it out of an ATM, which reflects the practice by pretty much all of the banks. Secondly, it requires the Reserve Bank to issue standards in relation to ATM fees charged by authorised deposit-taking institutions that will take into account the public interest and limit those fees to an amount that reflects the reasonable costs of allowing the person to make the transaction. This means that authorised deposit-taking institutions—in other words, the big banks—will be prevented from charging fees that are excessive and do not reflect those standards. We want to take the same principle
for credit cards that is outlined in this bill, which we support, and make it applicable to
ATMs.

Very quickly, just to finish off, it has been my experience in life—and I think most
Australians would agree with me—that it is not always the case that you can find an ATM
that is your bank’s. Certainly, in big cities and other places, there is a choice; within a
kilometre, you will be able to find other ATMs. But, if you are in a country town or any rural
and regional areas, you can end up having to pay through the nose. There is not a lot of choice
in some of those areas, where a lot of Australians live. And sometimes it is not convenient,
especially if you are not as mobile as other people and you have to take public transport or
you have trouble walking. There are all sorts of issues there. So it is not exactly clear cut, like
it would be in an economics experiment, that you are a rational consumer of these services
and you can make a choice. That is not always the case.

Anyway, we are saying it is reasonable for banks to recoup this cost. We are saying that is
reasonable. What we are suggesting is not reasonable is that they are making excessive profits
by gouging the Australian people when they use ATMs. We would like to crack down on that,
and this is the perfect opportunity

We did hear evidence on it. If we pass these amendments today and we see the transfer of
$600 million from some of the most profitable financial institutions in the world back to the
hip pockets of Australian people, I think the people will thank the Senate for it. I ask the
committee to give favourable consideration to these amendments moved by the Greens and do
the right thing.

Senator DASTYARI (New South Wales) (11:07): I have one or two questions that I want
to ask at this stage. But before doing so I did want to draw some attention to the amendments
that are being proposed by Senator Whish-Wilson. I want to begin by saying that the intent of
these amendments is something that, broadly, most people support—that is, the principle
behind the idea that you do not want people being ripped off by unfair ATM fees. I think that
is a very good principle.

There are a couple of reasons why the opposition did not support this in the House. As I am
sure everyone here is well aware, these are the identical amendments that were introduced by
Mr Bandt in the other place. The main reason was that there was no notice of major regulatory
change or its significant impact on business. The amendments have the effect of regulating
ATM fees. This is a completely different direction to the main thrust of this bill, which deals
with credit card payment surcharges. There was an entire, lengthy process that we went
through as a Senate through the Senate Economics References Committee—and I want to
commend Senator Whish-Wilson on the incredible amount of work he has done on that
committee. There would have been a much better and more appropriate opportunity to have thoroughly explored some of these ideas as part of that committee process.

Again, the points you are making are broadly, at a principal level, valid. But I believe there was a better way of doing this to bring industry on board and to have the debate and the discussion. The way that it should have been done was through the process that the Senate did establish, which was our committee process. I think it is unfortunate that we did not have the opportunity to really explore some of this in depth through that process. I do feel that there is, dare I say it, an element of grandstanding going on here with some of these amendments. But I would never be so outrageous as to accuse a senator of that!

The thrust of this bill deals with another matter, which is credit card surcharging. I note, Minister, that you are acting in the capacity at the moment, so this is not your bill per se. It is not a matter that you have directly been involved in, having a large portfolio like education, so I completely understand that you may or may not be able to answer some of this. But I did want to ask if, in the drafting of this legislation, the department did have an opportunity to look at, or take on board, any of the recommendations from the Senate inquiry into credit card use.

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (11:11): Thank you for the question and the overall comments—and for allowing us all to reflect on whether or not the pot at one stage there was calling the kettle black about grandstanding. But, in relation to your question, my understanding—and correct me if I am wrong here—is that the Senate inquiry looked more at matters relating to interest rates and the costs to consumers associated with that, which is distinct from these matters around merchant fees, which stem very directly from the Murray financial services inquiry. So, in a similar way to the answer I gave to Senator Whish-Wilson about ATMs, the two are distinct issues.

Senator DASTYARI (New South Wales) (11:12): You are right that a big focus of the inquiry was related to credit card interest rates and credit card interest payments. You are correct. That being said, though, there was quite a bit of work done on other types of payments. There was specifically within the terms of reference, I recall, reference to ATM fees, which we are here today discussing in an amendment before us, but it did not come up, there were no witnesses provided and it was not the focus of the inquiry even though there had been an opportunity to have had that debate in a different place.

What you are saying is in part true, and I do not in any way, shape or form think that you are intentionally saying the wrong thing. The focus was around credit card interest rates. But if you look at the terms of reference there was a specific one looking at certain matters like fees. We had quite a look at the payment system and how the payment system as a whole works. The system itself has quite a few different complexities around how secret or hidden payments are made, and there was quite a bit of evidence from Visa, MasterCard and others around disclosure and transparency on that front. So while you are correct that perhaps the headline focus of the inquiry was around credit card interest rates, there were a whole lot of other matters relating to payments that were explored through the process.

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (11:14): My understanding on advice is that the Economics References Committee report was released in December 2015. This legislation had already been introduced into the parliament by that stage. Senator Dastyari, I note in your second reading contribution some
concern about the time taken to bring this legislation forward. I am sure you would not have wanted to see a further delay to it in that regard. Of course, as with all Senate inquiries, the government will give appropriate consideration to all of the recommendations made and will officially respond in due course.

Senator DASTYARI (New South Wales) (11:15): I will take that as a positive indication of where the government sits in relation to the report. I want to stress that these are good changes. This is a good set of laws. These are good reforms. What makes them such good reforms is that they are practical, they are sensible and they are achievable. I would urge the government to take the opportunity to look at where the committee got to with its recommendations, where it tried to follow the same kind of spirit and principle of what has been recommended here. Rather than look at some of the more drastic or politically contentious issues around banking, which I do believe exist, the committee looked at the practical steps that could be taken to reform the credit card market and make it a more competitive space. That is what I think this bill does.

There are a series of other practical, sensible measures that can be looked at. I note the point that Senator Whish-Wilson and the Greens have made here—and I hope I am not incorrect in saying that I heard Senator Di Natale talk about this matter earlier—and that is making sure that ATM fees are not excessive. I think there will be an opportunity at a future date to have a proper discussion about this. I also note that an important reform in the last government was allowing people to see the payments for themselves, to know what it was costing them. When you use your credit card at an ATM and that little button comes up saying that this transaction will cost you $2, this is actually the kind of step we should be looking at to empower and inform consumers. It is important to make consumers physically take the step of pressing the button so that they know what they are paying for that transaction.

The points that Senator Whish-Wilson makes are very important. Firstly, people are not really aware of what a transaction actually costs. So far, we tell them what it costs them; we do not tell them what it actually costs. That is an important point. Secondly, it is important to address markets that are not competitive. If I walk down the main street of Sydney, I can go to the CommBank, ANZ, National Australia Bank or Westpac. The big four banks are within 30 metres of each other. If I am in a remote Indigenous community where there is only the general store, I have no opportunity. There is no competition. Anecdotal evidence is that in fairly disadvantaged Indigenous communities it can cost up to $3.50 to make a transaction, whereas it would cost $2 to do the same transaction in George Street, a main street in Sydney. This is obviously of concern. There has to be a way of properly addressing this. The proposal that is being presented by the Greens at this point in time is a way to address it. I do believe that there is some merit in properly addressing this issue and having a further look at it at some point in the future.

The TEMPORARY CHAIRMAN (Senator Sterle): The question is that amendments (1) to (17) on sheet No. 7841 be agreed to.

The committee divided. [11:23]

(Temporary Chairman—Senator Sterle)
Ayes ....................12
Noes ....................31
Majority ...............19

AYES

Di Natale, R
Ludlam, S
McKim, NJ
Rhiannon, L
Siewert, R (teller)
Waters, LJ

Hanson-Young, SC
Madigan, JJ
Muir, R
Rice, J
Simms, RA
Whish-Wilson, PS

NOES

Back, CJ
Bilyk, CL
Birmingham, SJ
Brown, CL
Bullock, JW
Bushby, DC
Cameron, DN
Dastyari, S
Edwards, S
Fawcett, DJ
Gallacher, AM
Gallacher, KR
Ketter, CR
Lazarus, GP
Lindgren, JM
Lines, S
Ludwig, JW
McKenzie, B
Moore, CM
O’Neill, DM
O’Sullivan, B
Peris, N
Polley, H
Reynolds, L
Ronaldson, M
Singh, LM
Smith, D
Sterle, G
Urquhart, AE (teller)
Wang, Z
Williams, JR

Question negatived.
Bill agreed to.
Bill reported without amendment; report adopted.

Third Reading

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (11:26): I move: That this bill be now read a third time.
Question agreed to.
Bill read a third time.

Communications Legislation Amendment (Deregulation and Other Measures) Bill 2015

Telecommunications (Numbering Charges) Amendment Bill 2015

First Reading

Bills received from the House of Representatives.
Senator BIRMINGHAM (South Australia—Minister for Education and Training) (11:26): I move:
That these bills may proceed without formalities, may be taken together and be now read a first time.
Question agreed to.
Bills read a first time.

Second Reading
Senator BIRMINGHAM (South Australia—Minister for Education and Training) (11:28): I present the explanatory memoranda and I move:
That these bills be now read a second time.
I seek leave to have the second reading speeches incorporated in Hansard.
Leave granted.

The speeches read as follows—
COMMUNICATIONS LEGISLATION AMENDMENT (DEREGULATION AND OTHER MEASURES) BILL 2015

This Government remains committed to removing outdated regulation that represents an unnecessary drag on the economy and may, in fact, hamper industry from providing more innovative and competitive, products and services to consumers.

The Communications Legislation Amendment (Deregulation and Other Measures) Bill 2015 is the latest in a series of measures introduced by the Government, and designed to increase productivity and reduce costs to the benefit of industry and consumers. The reform agenda requires continuous commitment, as small improvements over time provide a cumulative benefit. To date, this Government's efforts have resulted in the removal of over 3000 pages of redundant regulation and delivered over $300 million in estimated savings each year for industry and community stakeholders in the Communications sector.

As we all know, digital disruption is transforming Australia's broadcasting and communications landscape. New and converging technologies are making traditional regulatory frameworks either inefficient or even redundant. This bill addresses outdated regulatory requirements while preserving flexibility for the regulators to adapt to changing industry trends.

The bill includes measures to: streamline account-keeping and licence fee administration arrangements for commercial broadcasters and datacasting transmitter licensees; remove duplication for licensees, publishers and controllers who must notify the Australian Communications and Media Authority (ACMA) of changes in control of regulated media assets; implement a single classification scheme for all television programs, including films; and clarify the functions of the ACMA in investigating broadcasting complaints.

The bill will also reduce burden on the telecommunications industry by: removing the Australian Competition and Consumer Commission's (ACCC) unduly burdensome tariff filing arrangements; reforming the statutory information collection powers of the ACMA and the ACCC to ensure that the information collected from industry remains necessary and relevant; and establishing a framework to enable the telecommunications industry to develop a scheme to self-manage telephone numbering resources subject to the satisfaction of the Minister.

The bill also makes various other amendments to remove redundant or otherwise unnecessary legislation.

Account keeping and licence fee administration arrangements
The bill will streamline account keeping and licence fee administration arrangements under the *Broadcasting Services Act 1992* (BSA) for broadcasters and datacasters.

First, it will remove default audit requirements that apply to certain financial information provided by licensees to the ACMA at the end of the financial year as part of the regulator's revenue assurance regulatory task. Instead, a new provision will enable the ACMA to request the auditing of financial documents if the ACMA considers it necessary. In other words, the presumption is reversed from a default auditing requirement to a risk-based approach.

The ACMA already has the ability to exempt a class of licensees from these auditing requirements by legislative instrument and removing the default auditing requirement for all licensees will reduce the administrative burden on licensees.

The bill also provides greater flexibility to regulated organisations by widening the classes of officeholders who can make a statutory declaration about the gross earnings of certain commercial broadcasting and datacasting licensees. The eligible classes will be extended to include directors, as well as people authorised by the CEO/company secretary and with knowledge of the financial affairs of the licensee company. This measure reduces the regulatory burden on industry while still ensuring the ACMA can receive the information it needs.

The bill will also allow the ACMA to waive small licence fee underpayments where, in the ACMA’s opinion, it would not be efficient to recover the amount unpaid.

**Control notification**

This bill will remove duplicative requirements for licensees, publishers and controllers to notify the ACMA of certain changes in control of regulated media assets, namely commercial television broadcasting licences, commercial radio broadcasting licences, datacasting transmitter licences and 'associated' newspapers.

The BSA currently requires licensees and publishers to notify the ACMA of changes in the control of a licence or publication. It also requires the incoming controllers to notify the ACMA of the same change. By removing the obligation on the incoming controller, the bill will reduce duplication and the administrative burden on affected parties while still allowing the ACMA to maintain accurate and up-to-date control registers.

**Single classification scheme for television programmes**

The bill will streamline film classification arrangements for commercial and community broadcasters and open narrowcasters under the BSA. This will be achieved by repealing requirements for licensees to use the film classification scheme in the *Classification (Publications, Films and Computer Games) Act 1995* when broadcasting films, rather than the code-based television classification guidelines that apply to other television programmes.

These requirements were originally enacted to ensure consistency between classification ratings applied to films screened in theatre and/or released on DVD/VHS, and when those films are broadcast on television.

Since the enactment of those provisions, the film and television classification schemes have converged to the point where they are largely the same. Accordingly, the original policy intent for the provisions is now redundant. Duplicate classification rules in industry codes of practice and the Broadcasting Services act are inefficient for broadcasters, who must have regard to multiple classification frameworks for different kinds of content delivered over the same platform.

Repealing subsections 123(3A) to (3D), and related changes to licence conditions, will deliver a single classification scheme for all television programmes, including films.

**ACMA complaints handling**
The bill will also clarify the ACMA's complaints handling and information gathering powers under the BSA.

Part 11 of the BSA sets out a framework for making and investigating complaints about licensed and national broadcasters, including complaints relating to compliance with broadcasting codes of practice. In addition, Part 13 of the BSA provides the ACMA with a general power to conduct investigations relating to broadcasting, content and datacasting functions. Those functions include monitoring compliance with codes of practice and monitoring and investigating complaints concerning broadcasting services.

It is clear, therefore, that complaints of the type referred to in Part 11 can also be investigated by the ACMA under its broader investigation powers in Part 13 (section 170). This was recently confirmed by the Federal Court in Harbour Radio Pty Limited v Australian Communications and Media Authority [2015] FCA 371.

Accordingly, the bill will repeal Part 11, and make consequential amendments to Part 13 to make it clear that people may complain to the ACMA about broadcasting or datacasting services, and the ACMA may investigate the complaint at its discretion.

In recognition of the co-regulatory approach to broadcasting services, the amendments make clear that the ACMA may for example, choose to investigate a complaint where the complainant is dissatisfied with the broadcaster's response to their complaint, or where the broadcaster fails to respond to a complaint in a manner consistent with the requirements of the relevant industry code of practice.

Tariff filing

The Telecommunications Industry has changed dramatically since significant competition reforms were introduced in the 1990s following the Hilmer Competition Review, and since the privatisation of, then government-owned, Telstra.

Reporting requirements designed to ensure that those newly designed competition laws operated effectively have become less effective in aiding prevention of anticompetitive behaviour and disproportionately more burdensome as the telecommunications industry has changed.

The bill will repeal tariff filing arrangements applying to the telecommunications industry under Part XIB of the Competition and Consumer Act 2010 (CCA). These provisions are no longer necessary as there is no evidence that the tariff information provided has assisted in preventing anti-competitive practices. Further, there is already sufficient pricing information available in the public domain.

Information collection

The bill will also reform the statutory information collection powers of the ACMA and the ACCC, which have been identified by industry stakeholders as an area of particular regulatory burden.

Section 105 of the Telecommunications Act 1997 (Tel Act) requires the ACMA to monitor and report to the Minister (and for the Minister to table the report in Parliament) each financial year on all significant matters related to the performance of the telecommunications industry. The ACMA obtains information from industry in preparing the report. Though initially providing a high degree of oversight as part of a new regulatory framework in 1997, the policy rationale is no longer compelling close to 20 years later with a mature telecommunications sector.

Accordingly, the bill will reduce the scope of the mandatory ACMA report to focus on the operation of Part 14 of the Tel Act, regarding national interest matters, and Part 5-1A of the Telecommunications (Interception and Access) Act 1979 regarding data retention. The ACMA will be free to monitor and report on other issues, if it wishes to do so, providing it with greater flexibility to prepare targeted reports of most benefit to government and industry.
Section 151CM of the CCA requires the ACCC to monitor and report to the Minister each financial year on charges paid by consumers for listed carriage services, ancillary goods/services and Telstra price control arrangements.

The telecommunications market has changed significantly since these arrangements were first introduced. The monitoring and reporting obligations currently in section 151CM, which apply largely to traditional providers, may provide only a limited picture of the contemporary telecommunications market.

The bill will therefore introduce a more flexible regime allowing the ACCC to monitor and report on those services which the ACCC considers are the most commonly used consumer services supplied using a telecommunications network.

The bill will also require the ACCC to review any Record Keeping Rules made by reference to Division 12 at least every 5 years, having regard to whether the information is publicly available; whether consumer demand for the goods or services to which the information relates has changed; and the usefulness of the information to consumers, the Minister and Parliament.

The bill will substitute the requirement for the ACCC to report to the Minister (and for the Minister to table the report in Parliament) with a requirement on the ACCC to prepare and publish each report on its website within three months of financial year end.

Industry-based numbering management

The bill will also amend the Tel Act to enable a transition to an industry-based scheme for the management of telephone numbering resources, provided certain safeguards are met.

The Tel Act currently requires the ACMA to make a plan for the numbering of carriage services and the use of numbers in connection with the supply of services to the public. The numbering plan must specify the numbers for use and may set out rules for the allocation of numbers to carriage service providers, the transfer of numbers between carriage service providers, and the surrender of numbers by carriage service providers.

Industry stakeholders have proposed that numbering management be devolved to industry with potential benefits including faster implementation of new numbering ranges, lower charges and more efficient allocation processes.

This bill will amend the Tel Act to enable the Minister to appoint a ‘numbering scheme manager’ to manage numbering resources on behalf of the Commonwealth under a self-managed industry scheme. The scheme will need to achieve key principles specified in the legislation, including an adequate and appropriate supply of numbers, protection of the interests of consumers, the promotion of effective competition, support for the emergency call service and the ongoing collection of numbering charges.

Any industry scheme would only commence if and when the Minister was satisfied that the scheme met these and other relevant principles. Industry is expected to undertake public consultation in developing a proposed scheme. Any proposed scheme will be carefully assessed and will only be accepted if it meets the high standards implicit in the principles specified in the legislation. In addition, the Minister, the ACMA and the ACCC will be empowered to issue directions to the numbering scheme manager regarding the management of the numbering scheme.

As an important safeguard, the appointment of the numbering scheme manager could be revoked by the Minister if the numbering scheme manager was not managing the numbering scheme in accordance with the principles, or if the Minister was satisfied that the revocation was in the best interests of the telecommunications industry, users of telecommunications services, the general community or national security.

Any industry-based numbering management scheme would be fully funded by industry, however, there are also expected to be countervailing savings for industry from the reduction in ACMA involvement in numbering activities.
The proposed arrangements would have the benefit of giving the industry an opportunity to introduce more efficient arrangements in relation to managing telephone numbering resource while ensuring the continuation of core consumer and competitive safeguards in relation to numbering.

Other changes

The bill also makes minor technical amendments to the legislation governing the national broadcasters, for consistency and to reflect SBS activities in the converging digital environment.

Conclusion

In conclusion, Mr Speaker, the government remains committed to removing poorly focused and onerous regulation on Australia's broadcasting and telecommunications industries. This regulation reform process does not end today; it will be a continuing part of the government's productivity agenda.

I commend the bill to the House.

TELECOMMUNICATIONS (NUMBERING CHARGES) AMENDMENT BILL 2015

The Telecommunications (Numbering Charge) Amendment Bill 2015 (the bill) will make consequential amendments to the Telecommunications (Numbering Charges) Amendment Act 1997 (the Numbering Charges act).

These amendments are necessary as a consequence of the measures included in the Communications Legislation Amendment (Deregulation and Other Measures) Bill 2015 to establish a framework to enable the telecommunications industry to develop a scheme to self-manage telephone numbering resources, provided certain safeguards are met. Currently, the Telecommunications Act 1997 requires that the Australian Communications and Media Authority (ACMA) manage the numbering of carriage services in Australia, and the use of numbers in connection with the supply of such services.

While the proposed amendments to the numbering arrangements would enable industry to take on the day to day management of telephone numbering resources, it is also important to ensure that charges currently applied to carriage service providers for the holding of numbers continue to be collected. Currently these charges earn $60 million in revenue per annum. This requires an ongoing role for the ACMA in the setting, levy and collection of these charges.

The consequential amendments to the Numbering Charges Act in the bill reflect that the holding of telephone numbers by carriage service providers, for which charges arise under the Numbering Charges Act, could in future be managed by industry and require interaction between the industry administrator and the ACMA.

I commend the bill to the House.

Senator DASTYARI (New South Wales) (11:28): I rise to outline Labor's position on the Communications Legislation Amendment (Deregulation and Other Measures) Bill 2015 and the amendment that Labor has proposed and already foreshadowed regarding nbn co. Labor is supportive of many aspects of this bill. This bill will amend unnecessary administrative requirements imposed on broadcasting and datacasting licensees under the Broadcasting Services Act 1992. It will remove tariff-filing requirements for certain carriers and carriage service providers and amend the role of ACMA with regard to the monitoring and reporting of information. It will also repeal redundant legislation and spent acts and provide a framework so the telecommunication industry is able to develop an industry scheme to manage telephone numbering.

Labor is also supportive of the related Telecommunications (Numbering Charges) Amendment Bill 2015, which makes consequential amendments to the Telecommunications (Numbering Charges) Amendment Act 1997, to reflect changes made by the deregulation bill. Yet because of the refusal of the Turnbull government to provide the most basic information
about nbn co, Labor has been forced to seek to amend the Communications Legislation Amendment (Deregulation and Other Measures) Bill 2015.

The reality is that nbn co and the Turnbull government will not provide the Australian parliament and people with basic financial information about how nbn co intends to spend the $29.5 billion that taxpayers are investing into the project. I just want to make sure that the enormity of that figure is sinking in: $29.5 billion of taxpayer's money and yet basic information is not being provided. The NBN financial transparency amendment seeks basic financial and deployment information that historically has always been publicly provided as part of nbn co's corporate plan, but is not included in—or has been deliberately excluded from—nbn co's latest corporate plan, Corporate plan 2016.

The Senate has asked for this information on countless occasions: in Senate committee hearings, in questions put on the notice paper and most recently through the orders for the production of documents. On every occasion, the government has refused to provide the Senate with this information. The government's claim of commercial-in-confidence in relation to this information is nonsense. The information sought is high level forecast information that historically has been made public. The parliament and the people of Australia have a right to know how nbn co is investing their $30 billion of taxpayer dollars, including how much the network will cost to build, total capital expenditure, how much the network will cost to operate by build completion, total operating expenditure, how much money it will make by build completion and total revenues.

I note there are senators on the other side of the chamber—I note Senator Smith, who has been a vocal advocate for making sure that there is greater accountability in how public money is being spent and has been a strong advocate in the past for disclosure and transparency when it comes to the issue of taxpayer dollars—who are the same senators who have argued very strongly for fiscal restraint. I look forward opportunity to have them vote with Labor on this amendment that is simply seeking more transparency and more information.

Senator Smith: Dreaming.

Senator DASTYARI: We live in hope! The NBN financial transparency amendment seeks basic financial and deployment information that historically has been publicly provided as part of nbn co's plan, as I said earlier, and as part of the corporate plan. The information sought was actually last published in August 2012 as part of that year's corporate plan.

In opposition and in the early stages of the government, now Prime Minister Turnbull—at the time, Minister Turnbull—promised maximum transparency with nbn co under his watch. Mr Turnbull said:

Maximum transparency is going to be given to this project.

That was a comment that was made to the House of Representatives on 11 February 2014. The then minister said in a separate press conference held on 24 September 2013:

… our commitment is, our focus is, to have a much greater level of transparency and openness.

Then on 11 February 2014:

The bottom line is that as far as the NBN project is concerned, the government's commitment is to be completely transparent.

Earlier, on 15 December 2013:
The main promise, the most important thing we said about the NBN was that we would tell the truth, and we would liberate the management of NBN Co to tell that truth.

Mr Turnbull and Senator Cormann have also stated—and I quote the interim statement of expectations to nbn co on 24 September 2013—after coming to government:

… Government policy provides for increased security and transparency of NBN Co and its activities.

And on 8 April 2014:

The Government requires a high degree of transparency from NBN Co in its communication with the public and Parliament.

But what we have found is that Mr Turnbull has been anything but transparent. He has implemented a secrecy regime so severe that Pyongyang would be proud. The government that Mr Turnbull now leads has consistently refused to provide this parliament and the Australian people with basic financial information about how nbn co intends to spend the $29.5 billion that taxpayers are investing in this project. That is why Labor has been forced to act to amend this bill to ensure that the Australian people know how this government is spending their money.

What is so outrageous, and what has been so outrageous about the activities and action so far, is that the same information that was previously provided and the same information that was readily available under the previous government has now somehow been deemed to be too sensitive to be released, while the rhetoric coming out of the government before the last election campaign was simply that we need more transparency, we need more information and we need more openness. We should not be in a situation where the opposition is forced to try to amend a government bill is simply to be able to get basic information that was previously readily available.

Again, the spirit of this bill and the details of this bill as it is currently presented seem worthwhile and seem worthy of our support, but to make sure we are making the best decisions and we are making the right decisions what we have to also do is make sure that the right level of information is out there. I feel that if the government was prepared to trust the Australian taxpayer and the Australian consumer with a little bit more information and was able to provide them with some of the basic information that they were previously able to obtain in this area, it would result in better policy outcomes and a better public debate. We are not asking for anything that was not already available. We are not asking for anything that Labor was not prepared to divulge when we were in government. We are asking for the exact same information, word for word, that had previously been released and is now not being released.

What makes it so damning is the rhetoric that has come from the government in this space. If the government had gone to an election and said, 'We're not going to give you this information. We're going to treat this like it is an on-water matter. We're not going to give you any kind of information anymore. We're going to shut it down,' then people like myself would have disagreed and we would have had that argument, but the government would not have a leg to stand on. The government does not have a leg to stand on. The government has come repeatedly and said that they are going to be more transparent, they are going to be more open and they are going to give out more information prior to an election. What we have seen from that point after the election onwards is a crab walk away from their previous position.
Greater transparency and greater information will lead to better policy outcomes. That is what this amendment is for. Obviously, when we get the committee stage we will have a chance to discuss it in detail, but that is what this amendment seeks to do.

Senator LUDLAM (Western Australia—Co-Deputy Leader of the Australian Greens) (11:37): I will speak to the substance of Senator Dastyari's amendment when we come to the committee stage. I am not even sure that it has been circulated to all members of the chamber. I will just advise that the Greens, on the basis of our understanding of the Communications Legislation Amendment (Deregulation and Other Measures) Bill 2015 Telecommunications (Numbering Charges) Amendment Bill 2015, will be supporting the legislation. I thank the minister and I thank his advisers for offering us the briefing. It appears to the Australian Greens that this is basically housekeeping. It is an omnibus bill that sweeps up a number of different areas, particularly, streamlining the broadcast licensing regime; removing some of the licensing categories that I understand have never in fact been used in the entire time that they have been on the statute books; and maybe allowing ACMA to target its limited resources a little bit more directly at the areas where it needs to wave a stick or intervene.

The amendments on the telecom side around the ACMA and the ACCC's powers also appear to the Australian Greens to be reasonably sensible—again, streamlining recordkeeping, removing tariff fixing directions powers and a number of other fairly innocuous amendments, as far as we have been able to ascertain. I might put a couple of questions to the minister on the numbering arrangements when we get to the committee stage, but again I do not think there is anything here that we need to detain the Senate with overlong. This is sensible legislation that will clean up provisions that are either impediments to smooth functioning of the telecommunications and broadcast sector or are in fact completely redundant and have been placed in the statutes back in the mists of time and clearly have not been used and have not been all that necessary. As a housekeeping bill, we would certainly be supporting it. I think Senator Dastyari's amendment is something of a curveball and I think maybe once we get into the committee stage there will be an opportunity to debate that a little bit more directly.

Senator SMITH (Western Australia) (11:39): I am happy to show much more enthusiasm than Senator Dastyari did for the Communications Legislation Amendment (Deregulation and Other Measures) Bill 2015 Telecommunications (Numbering Charges) Amendment Bill 2015. To start, I just want to reflect briefly on the mis-truths, half-truths and falsehoods that Senator Dastyari has used to populate his very sparse contribution to this important issue. What Senator Dastyari conveniently ignored was the review and the findings of the Strategic review that was done into nbn co at the commencement of this coalition government's turn. For the sake of the Senate and indeed perhaps for the sake of Senator Dastyari's education I might just quote from the executive summary of the Strategic review that was done into nbn at the commencement of this coalition government's turn. For the sake of the Senate and indeed perhaps for the sake of Senator Dastyari's education I might just quote from the executive summary of the Strategic review into nbn—co—and I see Senator Dastyari smiling, so he might actually know what the review says. Turning first to page 11, the report talks about the, 'operational performance to date and revised outlook,' of nbn co at the time when this coalition government inherited that particular project. It said:

At 30 September 2013, the rollout of the brownfields FTTP network was 48 percent behind the planned Premises Passed in the Corporate Plan, with 227,483 Premises Passed at that date. Of these premises, only 153,977 are Serviceable (i.e. premises that are available to be connected) by NBN Co. The greenfields and Fixed Wireless rollouts are also behind the Corporate Plan. The Revised Outlook for the current deployment plan indicates that the fibre rollout project will take three years longer to
complete than indicated in the Corporate Plan, with a revised end date of June 2024. The Revised Outlook for Premises Passed at June 2014 is 357,000 compared to 1,129,000 in the Corporate Plan.

I cannot help myself, so I just want to reflect briefly on what the Strategic review had to say about the governance, planning and reporting performance under the previous government's administration of nbn co. The Strategic review said:

The Independent Assessment found that certain of the factors causing the financial and operational under-performance to date (relative to the Corporate Plan) related to governance, planning and reporting including: An unrealistic assessment by key internal and external stakeholders of the complexity and time required to complete the task; “Blind faith” in the achievability of the Corporate Plan, notwithstanding clear factual evidence to the contrary; Some significant operational decisions being made without appropriate commercial rigour and oversight;

That is just a taste of what the Strategic review had to contribute, which was revealing for the new government when it came to inherit nbn co. I am happy to report that first under Minister Turnbull, now the Prime Minister, and now under the current Minister For Communications, Senator Fifield, things are well and truly back on track.

But I would like to turn specifically now to the Communications Legislation Amendment (Deregulation and Other Measures) Bill 2015 and the Telecommunications (Numbering Charges) Amendment Bill 2015. These bills are another manifestation of the coalition government's overarching commitment to removing needless, burdensome regulation from right across government and fostering a more innovative culture that benefits consumers through greater competition. Since coming to office, the coalition government has removed over 3,000 pages of outmoded regulation from across the span of the communications portfolio, which together represent savings of around $300 million per year for those involved in the sector.

The communications portfolio, being what it is, the evolution of technology and rapidly changing patterns of consumer behaviour are combining to present a particular challenge for legislators. The legislation before us today is designed to remove regulatory impediments to innovation whilst still preserving the flexibility that regulatory authorities need to rapidly adapt to these technological and consumer driven changes.

In terms of the specifics, this bill will achieve a number of things. Firstly, it introduces a more efficient regime for broadcasters and datacasters when it comes to account-keeping and licence fee administration under the Broadcasting Services Act 1992. This legislation will change the default audit requirements that apply to certain financial information provided by licensees to ACMA at the end of the financial year. These changes will allow ACMA to request the auditing of financial documents if ACMA considers it necessary. In other words, broadcasters and datacasters will not have to submit to default audits by ACMA. The approach will instead become a risk based one. Additionally, the bill will now permit ACMA to waive small licence fee underpayments where, in the regulator's opinion, it would not be sufficient to recover the amount unpaid.

This legislation will also make some improvements to Australia's classification regime. At present, commercial and community broadcasters are required to classify films they broadcast using the film classification scheme separate to the code based classification system that applies to other TV programs. This process was originally established to maintain consistency between classification ratings applied to films screened in the theatre or released on DVD and
for when those films were broadcast over television. However, the two codes have now converged to the point where they are almost indistinguishable and thus the rationale for the two separate processes no longer applies. The changes set out in this bill will permit broadcasters to use a single classification scheme for all their broadcasts and thus provide greater certainty for consumers.

The legislation will also make some changes to the information collection powers of both ACMA and the Australian Competition and Consumer Commission. Under a regime that was first established almost two decades ago, ACMA was required to monitor and report to the minister and, in turn, the minister was required to table a report in parliament each financial year on significant matters relating to the performance of the telecommunications industry. This procedure was put in place as a mechanism when the Australian telecommunications sector was radically altered by the deregulation of the communications sector 20 years ago. However, with that approach having now come to maturity, there is no longer any compelling reason for such an onerous reporting mechanism. Thus, this bill will limit the mandatory aspect of ACMA's reporting requirements to matters of national interest and data retention, while still allowing ACMA the flexibility it needs to report on other matters should it wish to do so.

Section 151CM of the Competition and Consumer Act requires the ACCC to monitor and report to the minister each financial year on charges paid by consumers for listed carriage services, ancillary goods and services and Telstra's price control arrangements. This requirement no longer fits the reality of the telecommunications market in our country. In fact, the current approach is likely providing a limited and therefore distorted view of the realities of today's operating environment. This legislation will usher in a more flexible regime that will allow the ACCC to monitor and report on those services which the ACCC considers are the most commonly used consumer services supplied using a telecommunications network. Further, the legislation will replace the requirement for the ACCC to report to the minister and for the minister to table a report in the parliament with a requirement that the ACCC prepare and publish each report on its website within three months of the end of each financial year.

The legislation will also amend the Telecommunications Act to facilitate a transition to an industry based scheme for the management of telephone numbering resources, with the proviso that particular safeguards are met. At present, ACMA is required to make a plan for the numbering of carriage services and the use of numbers in connection with the supply of services to the public. This numbering plan must specify the numbers for use and may set out rules for the allocation of numbers to carriage service providers, the transfer of numbers between carriage service providers and the surrender of numbers by carriage service providers. In today's rapidly evolving communications environment, it is questionable whether this approach is going to meet consumer needs. Certainly industry stakeholders have expressed concerns that it will not meet consumer needs and that the present system is needlessly costly which ultimately ends up being an issue for all consumers.

This legislation will amend the Telecommunications Act to enable the minister to appoint a numbering scheme manager to manage numbering resources on behalf of the Commonwealth under a self-managed industry scheme. Under such an arrangement, the scheme will still need to achieve key principles specified in the legislation, including an adequate and appropriate
supply of numbers, protection of the interests of consumers, the promotion of effective competition, support for the emergency call service and the ongoing collection of numbering charges. An industry managed scheme will only be permitted to commence once the minister is satisfied these conditions will be met and maintained. These proposed arrangements provide the telecommunications industry with an opportunity to introduce more efficient arrangements for managing telephone numbering resources while maintaining core consumer and competitive safeguards in relation to numbering.

The changes made in this legislation are eminently sensible and designed to make certain that our regulatory framework better reflects contemporary reality. The support of the opposition is welcome in this regard, as indeed it is from the Australia Greens. We have certainly come a long way from Senator Conroy's days as the minister for communications when he dreamed of being an all-powerful commissar who could force telecommunications executives to, in his own words, 'wear red underpants on their heads'. Just as Senator Conroy's comments betrayed an attitude to telecommunications rooted firmly in a bygone era, the changes being made to Australia's communications framework through these bills will ensure that the nation is better equipped to deal with the fast-moving realities of disruptive technologies and to take advantage of them in a way that benefits broadcasters, telecommunications companies and, of course, consumers.

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (11:50): I thank my colleagues for their contributions—perhaps not some colleagues as much as others! The Communications Legislation Amendment (Deregulation and Other Measures) Bill 2015 and the Telecommunications (Numbering Charges) Amendment Bill 2015 are, as Senator Smith covered, the Broadcasting Services Act 1992 to streamline regulation and reduce the regulatory burden on the broadcasting industry by making some minor amendments to account-keeping and licence fee administration arrangements for commercial broadcasters and datacasting transmitter licensees. The legislation will also remove duplicative requirements for licensees, publishers and controllers to notify ACMA of certain changes in control. It will deliver a single classification scheme for all television programs by removing the requirements to apply the separate film classification scheme for some programs, and it will make for clearer regulation by clarifying ACMA’s complaints handling and investigation functions.

The proposed measures in the legislation would amend, as Senator Smith covered, the Broadcasting Services Act 1992 to streamline regulation and reduce the regulatory burden on the broadcasting industry by making some minor amendments to account-keeping and licence fee administration arrangements for commercial broadcasters and datacasting transmitter licensees. The legislation will also remove duplicative requirements for licensees, publishers and controllers to notify ACMA of certain changes in control. It will deliver a single classification scheme for all television programs by removing the requirements to apply the separate film classification scheme for some programs, and it will make for clearer regulation by clarifying ACMA’s complaints handling and investigation functions.

The legislation will also remove unnecessary arrangements for the Australian Competition and Consumer Commission to issue a tariff-filing directions to certain carriers and carriage services providers under the Competition and Consumer Act 2010. It will reform the statutory information collection powers of the ACMA under the Telecommunications Act 1997 and the ACCC under the Competition and Consumer Act 2010 to ensure that the information collected from industry is relevant and serves a useful public policy purpose. The bill will also amend the Telecommunications Act 1997 and the Telecommunications (Consumer Protection
and Service Standards) Act 1999 to enable the transition to an industry based scheme for the management of telephone numbering resources, potentially enabling greater efficiencies if industry develops a suitable scheme. The related numbering charges bill will make consequential amendments to the Telecommunications (Numbering Charges) Act 1997 as a result of these changes, ensuring that numbering charges continue to be set and collected by the ACMA following any transition to an industry based scheme.

Finally, the bill will make various other amendments to remove redundant and unnecessary legislation, including repealing 53 spent acts.

The bills are a further step in the government’s deregulation agenda. I thank colleagues in the chamber for indicating their support for the provisions in the bill. I should acknowledge the amendments foreshadowed by Senator Dastyari relating to the NBN. I think it is something that colleagues in this place have come to expect from the good Senator Conroy: that from time to time there will be amendments moved to legislation that actually do not have relevance to the particular legislation before the chamber. An example of that was an omnibus repeal bill where we saw amendment to—

Senator Conroy interjecting—

Senator FIFIELD: I stand corrected, Senator Conroy—one in particular to do with submarines. The legislation before us, as I have indicated and as Senator Ludlam characterised it, is essentially housekeeping. Senator Conroy, in seeking to move his amendments, is seeking to introduce to this bill something which is not really connected to it. I am sure that there will be ample opportunity shortly to canvass some of the reasons why the government is not minded to support Senator Conroy’s foreshadowed amendment. With those remarks I commend the bill to my colleagues.

Question agreed to.

Bill read a second time.

In Committee

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

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (11:55): I move opposition amendment (1) to the Communications Legislation Amendment (Deregulation and Other Measures) Bill 2015 on sheet 7844:

(1) Page 5 (after line 25), after Schedule 1, insert:

Schedule 1A—NBN Co Reporting

National Broadband Network Companies Act 2011

1 After section 98A

Insert:

98AA Financial and deployment forecasts report

(1) The Board must prepare a report setting out NBN Co's financial and deployment forecasts for the period beginning on 1 July 2015 and ending on 30 June 2022.

(2) The report must include:

(a) forecasts for each financial year during the period of the following:

(i) number of premises ready for service for each access technology;
(ii) number of premises activated for each access technology;
(iii) total revenue;
(iv) total operating expenditure;
(v) earnings before interest, taxes, depreciation and amortisation;
(vi) earnings before interest, taxes, depreciation and amortisation margin;
(vii) operating profit before deduction of interest and income taxes;
(viii) net cash interest (funding costs);
(ix) earnings before taxes;
(x) total capital expenditure;
(xi) movement in working capital;
(xii) cash tax;
(xiii) levered free cash flow;
(xiv) government funding;
(xv) debt funding;
(xvi) total funding; and

(b) totals for the whole of the period for each forecast mentioned in paragraph (a).

(3) The Board must, within 60 days of the day on which this item commences:

(a) give the Minister the report; and

(b) publish the report on NBN Co's website.

(4) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 5 sitting days of receiving it.

I am always grateful to listen to contributions from Senator Smith, as someone who worked in the telecommunications sector. As someone who campaigned for the deregulation and structural separation of Telstra, for him to make a contribution is always valuable. He took the time to read out a whole list—a litany—of failures of the National Broadband Network previously, in his words.

There is a reason he has been able to do that. It is because the previous Labor government made available to everybody in Australia all the information that Senator Smith drew upon. All of the claims of failure to meet targets, of failure to do this or that, arose because the Labor government provided the information that the Australian public were able to assess.

This government, however, after claiming that the NBN was more secretive than the Kremlin—I know Senator Ludlam will remember that—has actually put the Kremlin to shame. This is a government that treats the Senate with contempt. It treats the Senate committees with contempt. It treats Senate estimates with contempt. In fact, officials from nbn co were so bad in their evidence to the recent Senate committee that even the Liberal chair of the committee chided the CEO because they had been so unable to answer any of the questions. He actually asked the CEO to bring to the Senate the officers that the senators had requested, rather than taking the arrogant view that they could answer all the questions. After the first couple of hours of questions endlessly being taken on notice and described as commercial in confidence, even the Liberal chair of the committee said, 'Enough is enough—Mr Morrow, please bring officers to the Senate estimates so they can ask questions and get answers.'
Then we have the issue around commercial in confidence. Let me tell you what a farce this government is in its paranoid desire to hide the true state of the National Broadband Network's rollout and costings. I actually asked a question whether or not a following press release from a company hired by nbn co to do its construction was true. I read out the announcement and the size of the contract that the company had won from the National Broadband Network. The chief executive, Mr Morrow, said, 'I can't confirm that that press release by the company who we have just hired is true,' even though they were required by law to declare it to the Stock Exchange in this country, because it is a material amount. Mr Morrow, in treating this chamber—senators from all parties—with contempt, said, 'I can't confirm that the size and the value of that contract is as has been announced by the company, because it is commercial-in-confidence.' I ask the question: how on earth can something be commercial in confidence if the company is required by the Stock Exchange to announce it?

This farce has now reached a level where the minister is complicit in hiding from the Australian public every single piece of key information on the National Broadband Network. You would have thought at the beginning that there might have been a reason. But what has actually happened is a $15 billion blow-out in the costs of the National Broadband Network, entirely in the hands of the minister and the current Prime Minister. Mr Morrow has confessed publicly that the $15 billion of cost blow-outs is entirely because of changes that they have made to the National Broadband Network. When asked to explain what those cost breakdowns were, we were told it is all commercial-in-confidence. There is no other government business enterprise in this country that gets away with refusing to reveal information like, 'What is the value of a contract that you have entered into with another company?' They hide it all because they are afraid that the truth of the debacle that is unfolding behind the scenes will come to light.

The fact is that the HFC network is way behind schedule and they have no idea how they are going to meet the promised targets, so they hide the truth. They will not come and discuss it with the parliament of Australia, with the people of Australia. But no-one should be under any illusions that that is why we are moving this amendment again today, and, if we have the opportunity to move amendments to relevant legislation again, we will do so, because this government is covering up its failures, it is covering up its cost blow-outs and it is covering up its rollout debacle, which has not met the targets that the company set for it when it did its strategic review. In fact, it is millions of homes behind where the strategic review said it would be. That is no great surprise, given the man personally installed by the minister, Mr Rousselot, a business partner and a joint yacht-owning mate with Mr Turnbull, is getting paid over $1 million. He got a performance bonus when he missed the financial target of the company, in terms of its costs, by $15 billion. He wrote a report that missed the target by $15 billion and he got a performance bonus—seriously! But I do not even mind that scandal.

The fact that this government continues to hide basic cost information is why we are here having this debate. I am sure we will hear a lot of other points made, but no-one should misunderstand that the NBN, behind the scenes, is a debacle. No amount of tweets by 60 people in the media unit at nbn co and no amount of fluffy pieces saying Mr Morrow is the most transformational leader in the history of the universe can hide the fact that Mr Malcolm Turnbull and Mr Tony Abbott promised to have the NBN in every Australians' home by the end of 2016. The date it is due for completion has been extended to 2019 and now to 2020.
The costs—$29 billion—are now $56 billion and growing. The deceit in the accounting procedures at nbn co go on and on. The sleight of hand, of shifting costs—not used by any other company in the world—onto fibre to the home, is simply so they can pretend there has been a blow-out in costs. In fact, this company have promised the Australian public that, after rolling out a couple of million homes worth of fibre-to-the-home technology, they will not have found a single cost saving in five years. What legendary management! They should be paid more bonuses—but don't worry, they have been. They actually have sat in front of a Senate committee and said, 'Over a 10-year build we will not make a single productivity gain, a cost saving, in this technology.' Put aside that everywhere else in the world is actually making savings, put aside that there is architecture available at the moment, today, as was forecast by previous management, that would dramatically reduce the costs. nbn co cannot afford to admit to the lie of their costing of fibre to the premises. They can tweet and tweet, and they can do their fluffy interviews, but the lie has to be maintained at all costs, and there will be an accounting for this lie.

There will be an accounting for telling lies to the Australian public about the costs your company is incurring when you know that they are not true. You can keep hiding your figures as long as you want
You can keep burying the truth and hope that no-one inside the company will ever confess. You can keep refusing to let officials come to the table, because you know they might tell the truth. You can sack officials who do actually prove that you can get cost savings. This is a company that sacked a team which delivered substantial cost savings and rollout reductions, and their reward inside the company was to be sacked. The message went out: 'Don't you dare find cost savings.' Ultimately, you will not be able to hide from the truth, Minister.

This amendment would end the farce. This amendment would ensure that the truth about the real costs of the debacle of the change to the multi-technology mix would be revealed, and that is why you will oppose this. You will oppose this because the truth would expose the Prime Minister of Australia to be a complete and utter fraud when it comes to the project—the cost that were forecast, the costs that are currently being incurred and future costs. You would have to front up to this chamber every day in question time and answer questions about what is really going on. For as long as you hide this information, we will keep asking, we will keep going to committees and we will keep seeking amendments until we get the truth about the real costs of Mr Turnbull's broadband network will be.

Put aside the exciting new developments in 5G, which have been talked about over the weekend. I do not necessarily believe everything I have read, particularly from vendors who are trying to sell product into the future, but the 5G network—the mobile network—will make obsolete fibre-to-the-node technology before 2020. Three to four million homes are going to be faced with being locked into a technology which you will have put in place that will be bypassed. 5G was always coming and the substitution effect was known. Those opposite had to admit that they made bloated claims before the last election of how many homes would switch off and go mobile. Tragically, if you look at the statistics, after nearly a million rollouts and take-up rates, that was exactly what was forecast—72 per cent. Then you have to take into account housing stock and places that are not open—there are many reasons that it is not the whole 100 per cent; there was a lot of confusion about that—but the forecast was 72 or 73 per cent. Guess what the take-up rate has been? It is exactly as was forecast.
Let's be very clear: in the future homes locked into fibre to the node will actually be slower than the mooted speeds of mobile technologies. As I said, I do not always believe every claim by a vendor or every claim out of a lab, because the real world is a very different place. Always, at the end of the day, mobile technologies—whether they be HFC or mobile phones or broadband—are shared. When they talk about speeds of gig and more than a gig, always remember it is a shared technology and everybody's individual—(Time expired)

Senator LUDLAM (Western Australia—Co-Deputy Leader of the Australian Greens) (12:11): I rise to support this amendment, although I suspect it, like other amendments, has caught some people somewhat by surprise. I want to spell out my reasons for supporting the amendment. I wish the amendment were unnecessary, to be quite honest. I have a certain sympathy the Senator Fifield, as the rest of the chamber lined up to say that this bill was largely innocuous and was largely housekeeping measure. He is correct about that, but this is some unfinished business and some unfinished housekeeping which we should not be needing to deal with today.

The amendment that has been circulated requires nbn co to provide 'for the period beginning 1 July 2015 and ending 30 June 2022 forecasts for each financial year during the period of the following information'. I am not going to read the whole thing a couple of the ones that jumped out: the number of premises ready for services for each access technology; the number of premises activated for each access technology; revenue; operating expenditure; cash flow; and net levels of government debt. Why is this information not already in the public domain? Why do these forecasts have to be extracted by the Senate in this fashion? Why does this material not already exist?

Senator Conroy and I and those who have been participating in this debate since 2008 have had plenty of run-ins about the strategy, the performance of nbn co, some of the technology choices, some of the market choices, but the debates were always carried out against the backdrop of information that was being handed over by Mr Quigley and his team. It meant that we were able to compare the forecasts which were being generated by the government or by nbn co, when it only had a handful of staff, against the actuals. When the volume rollout finally began and we finally got a sense of who was taking up the technology, the speed tiers they were taking up, how the network was performing, how long it was taking to rollout, what it was costing per premise, we were able to go back and say, 'These forecasts were wrong and these were reasonably accurate.' At least we were acting on the basis of publicly accessible information. It was not always easy, and I can recall Senator Minchin, when he was shadow communications spokesperson, and the Greens—you can go back to the record if you like and you can find instances where the Senate was tabling orders for production of documents out of Senator Conroy when he was communications minister—but we got there. By the time the volume rollout started, everybody—whether they supported the model of the project or not—could base their arguments on the performance of the network on data and on information.

Let us go back to where this began—to before the election. Mr Abbott instructed his communications spokesperson, Mr Turnbull, to go out and demolish the case for the NBN. They sought to destroy anything that had Labor's name or the Green's name attached to it—the carbon price, the CEFC, the renewable energy agency, the minerals resource rent tax and the NBN. Anything at all that reminded Mr Abbott of the six years of achievement under the former government was to be destroyed—'demolished' was the term that was chosen.
So we had one of the bizarrest press conferences that I have ever seen, with this proposal for a cobbled together, half-baked national broadband network that was going to cost $29½ billion, and instead of future-proofing the country with an end-to-end fibre network we would use a bit of copper, a bit of HFC, some satellites, some wireless towers—we would have this mongrel network big parts of which would be obsolete on the day they are built and will need to be torn up and replaced with the kind of end-to-end fibre network that this parliament legislated for, that got the country Independents, Mr Oakeshott and Mr Windsor, across the line in 2010 to support a minority Gillard government. I am not here to speak for them, but we all know that telecommunications played a very big part not just in the election campaign but in those decisions that in part allowed Ms Gillard to form government in the first place.

They said it would cost $29½ billion. Then came December 2013, and the strategic review says actually it will be $41 billion—‘we misunderstood, our election promise was not worth the paper it was printed on; it is going to be $41 billion.’ Yet August 2015’s corporate plan for 2016 says we are up to $56 billion. How on earth did we get here? We are stuck with an obsolete copper network that you have to scrape the garbage out of when you discover it has been taped together with gaffer tape and plastic bags. We are stuck with a reliance on Telstra, who know where the bodies are buried, and are pretty happy to offload their network, which different spokespeople at different times have said is no longer fit for purpose, back to the taxpayer. The network rollout is way behind schedule. The fibre to the node network is way behind schedule. The satellites are apparently at or approaching capacity. Australians are getting a telecommunications network that will be slower, more expensive and delivered later than an all-fibre build. What act of genius put this together? Who dismantled something that was going to work?

We have had plenty of run-ins in this place about delays and about cost overruns. I think the cost overrun arguments were overblown, and they were not being reflected in the volume rollout data that Mr Quigley was putting to Senate committees. But, yes, the network was delayed—it was delayed by asbestos in the pits, it was delayed by a subcontracting pyramid that was six layers deep in some places, and it was delayed by the inherent complexity of doing something as complex as this—decommissioning a network that is decades old in some parts of the country and not particularly well maintained, and replacing it with an entirely new technology. Yes it was running behind schedule. But instead of coming in and cleaning out the messy subcontracting arrangements that had been put in place and throwing strong parliamentary oversight over the build, the coalition demolished it and now we are left with the mess that we are in today. The Senate has had to come forward with an amendment in this slightly unorthodox manner to ask for basic information so that the debate can proceed at the very least on the basis of data, and then we can have our disagreements about how they are performing.

Personally I think Mr Morrow is playing the best hand he can with a pretty rotten set of cards. Others may well disagree with that but I think he is doing the best he can with the cards he has been dealt. But he has been set up to fail. nbn co has been set up to fail. Now we read—although it is disputed, and Senator Fifield is very welcome to provide some light on this if he likes, because this unfortunately has now passed into his responsibility and I wish him well with it because I think he has been dealt a mess—that apparently there are moves to privatise this shambles, apart from the fact that you wonder where on earth you will find a
buyer for a half-a-billion-dollar cobbled together mishmash of a network such as the one you are trying to build. I can well remember the amendments that the Australian Greens put forward when the Labor Party was proposing that there be an automatic assumption that when the build was complete it would be privatised, that when the network was complete it would go back to the market—despite the fact that we had just been through the argument that the wholesale network is a natural monopoly. It is like the freeway network, it is like the water distribution network, it is like the electricity network. You do not want two sets of power lines running down the street as a result of trying to set up some arbitrary form of competition at the wholesale layer. You do not want that in telecommunications networks either. You want the wholesale NBN network in public hands, where the bosses can be brought into estimates committees and cannot hide behind commercial confidentiality, where budgets are tabled, where questions can be asked and answers can be provided, and you want that at the wholesale natural monopoly layer. You want nbn co to stay in that box and to do one thing and do it well. Then you want to let competition rip at the retail layer. I think that the market structure that this parliament decided on after exhausting late-night debates, night after night, was effectively and essentially the right one.

Now we have this proposal that we somehow privatise the network. Who is going to buy it? We all know who is going to buy it—Telstra is going to buy it. So we will be back to the bad old days. They sold this obsolete copper network to the taxpayer and we are going to be handing this whole mess of garbage back to them to fix up. It may be that there are no intentions to privatise the network, and I remind senators who may be a little less familiar with what is in the act, that we removed the Labor Party's automatic assumption of privatisation. That is no longer there, so it would be up to the government of the day to initiate a sale if they chose. That was our first amendment. Our second amendments related to the fact that the Productivity Commission and a parliamentary committee would be stood up to assess whether privatisation is in the public interest. At least we would take evidence as to whether that was the case or not. I am making the case this afternoon that it would strongly not be in the public interest to privatise the network, but we would let the evidence speak for itself. The third safeguard that we placed in the bill was that any proposed sale would be subject to a vote in this parliament, as informed by the PC, as informed by a parliamentary inquiry.

What kind of network is it that this government even proposes to sell? It is a huge loss-making entity at the moment because it is barely even a quarter built, because the rollout is a shambles. Again, this is no disrespect to the people who have been dealt these cards, to Mr Morrow and his team. I genuinely wish them well but they have been set up to fail. The least we can do is not make things worse. Senator Fifield has not had the opportunity to speak on this amendment yet and I am not going to put words in his mouth but I would struggle to understand a justification for not supporting this amendment. As we have our debates about what kind of telecommunications network is fit for purpose, we see Mr Turnbull, Minister Fifield, Mr Wyatt and other spokespeople talking about agility, talking about innovation, talking about a future focus, talking, heaven forbid, about diversifying our economy away from bulk exports of depleting low-value commodities. What better way to underpin these other vitally important parts of our economy than with world-class telecommunications? My home town of Perth is in Beijing's time zone, which stretches all the way to eastern Europe. What better way to connect with the rest of the planet than with world-class telecommunications, and what we have been served up is expected to be blindfolded to the
basic data underpinning the projections of this network and how fast they think they can get it built—and it is a network that will be obsolete on the day that it gets switched on. We have to be able to do better than this. So, unorthodox although it may be, this information should be in the public domain, this amendment should pass and then we can all get on with our day.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (12:23): I thank Senator Ludlam for his contribution. As I have said in this place before in relation to Senator Conroy and his approach to the NBN, Senator Conroy really took a theological approach rather than a technological approach to the NBN. I do not contend that Senator Ludlam is a follower of Senator Conroy. I think Senator Ludlam reaches his own conclusions, but Senator Conroy very much has a theological approach to the issues around the NBN.

We on this side of the chamber on coming into government sought to take what has been acknowledged by some who have contributed to this debate a technology-agnostic approach to the NBN—the objective being to see the NBN rolled out as quickly as possible and at lowest cost, and charging nbn co with the capacity to choose the technological solution that would see that happen. That has been our approach and obviously it is a very different approach to that of the previous government and Senator Conroy.

The essence of the amendment moved by Senator Conroy is that there is not adequate transparency in relation to the NBN and that, by implication, there was great transparency under Labor and sunlight reached wherever it did. Transparency was an illusion under Senator Conroy. There were plenty of pins on rollout maps and lots of very pretty maps on websites with really nice colours. The only problem is that they bore absolutely no resemblance to reality. It was the illusion of transparency.

When then Minister Turnbull took over the project, he told nbn co to provide the government with the unvarnished truth, and that unvarnished truth was not particularly pretty. Nbn co were told not to tell the government what they thought the government wanted to hear. I have a sneaking suspicion—and I hear it from some who were in nbn co at the time of Senator Conroy’s stewardship—that that really was the culture in the organisation: ‘For goodness sake, don’t convey information that will not be well received by the minister and the government of the day.’

There is an unprecedented amount of information available about the NBN rollout today, including weekly progress reports, quarterly financial updates and a detailed and regularly updated three-year rollout plan which extends to 2018 and, which was released for the first time towards the end of last year. There is the corporate plan which covers the next three years. There is the annual report. There is the statement of intent. There is an unprecedented amount of information available, and it really is in dramatic contrast to the period of Senator Conroy’s stewardship.

Something I plead guilty to, for which I get into trouble on this side of the chamber, is a degree of fondness for Senator Conroy. I know it is a radical thing, and I am often chided for it. But I must confess that I do get a little tired of Senator Conroy moving amendments to completely unrelated pieces of legislation, which he is doing in this case. No doubt this will not be the last time that we will see Senator Conroy do this and will not be the last time we see him do it in relation to the NBN. This is essentially an attempt at a legislative stunt.
In Senator Conroy's proposed amendment, he talks about forecasts going out to 2022. The difference between 2022 and the never-never can be negligible. What technology based company would propose forecasts that go out to that period of time? Another concern with the amendments foreshadowed is you have to be very careful when it comes to an organisation like nbn co, which enters multimillion dollar contracts with a range of different organisations that there is no information which could be to the commercial disadvantage of nbn co. It would not be remotely responsible for the government to entertain the amendments that could be to the commercial detriment of nbn co. This amendment has just been circulated. The government will not be supporting it. There is unprecedented information around the NBN.

I should just touch on a point raised by Senator Ludlam in relation to the ownership of nbn co. It is important to remind the chamber that there are certain legislative steps that would need to be gone through for the issue of ownership of nbn co to be examined. Our focus is fairly and squarely on rolling out the NBN. That is what we want to do—get it to Australians as quickly as we possibly can.

There have been a number of false claims over recent weeks and recent months by the shadow minister, Mr Clare. One is those is that Mr Clare said, in a press release: … Malcolm Turnbull bought back the old copper network … that John Howard sold last century. As part of the same deal he also bought the old HFC network that Optus planned to decommission years ago.

Wrong. Wrong. The fact is that the coalition government did not pay a single dollar more for the copper or HFC assets that were acquired. In June 2011, it was the former Labor government which oversaw binding deals with Telstra for $9 billion and with Optus for $800 million to stop using those networks. So the previous government was paying money to Telstra and Optus to not have something available. The underlying intention was to pay the telcos to migrate their fixed-line customers across to the NBN and stamp out competition, which would have been detrimental to the economics of the rollout. Despite paying these companies to stop using their networks, Labor did not negotiate any rights for nbn co to access or acquire this infrastructure. So the truth in relation to that is the exact opposite of what Mr Clare claimed. I would not be surprised if those opposite have Mr Clare's press release of mid-December with them, to go through and repeat some of its falsehoods.

I have posed to this chamber before—and I will do it again—the question that is often put to me in public forums, and that is: are you more likely to have faith in a technology based plan or program that was devised by Senator Conroy or one that was devised by Mr Turnbull? I have not, it is fair to say, had many people putting up their hand and saying, 'Senator Conroy.' That is a very rare occurrence. But there is no doubt that, under this government, the NBN will be rolled out six to eight years sooner than otherwise would have been the case and at a cost that is billions and billions of dollars less.

We are not taking a theological approach here. We are taking a remorselessly practical approach to the rollout of the NBN because what matters to us and what we know matters to the public is seeing the NBN rolled out as quickly as possible and at the least cost to them. The debate here is not about the desirability of an NBN; the debate here is about who is best placed to successfully roll out the NBN and who is best placed to do it at the lowest cost to the taxpayer. I would contend that that is much, much more likely to happen under the Turnbull plan than under the Conroy plan.
The CHAIRMAN: The question is that Labor amendment (1) on sheet 7844 be agreed to.
The committee divided. [12:38]
(The Chairman—Senator Marshall)

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**AYES**

Bilyk, CL
Bullock, JW
Dastyari, S
Gallacher, AM
Hanson-Young, SC
Lazarus, GP
Ludlam, S
Madigan, JJ
McAllister, J
McKim, NJ
Moore, CM
Rhiannon, L
Singh, LM
Urquhart, AE
Waters, LJ
Xenophon, N

**NOES**

Bernardi, C
Bushby, DC
Cash, MC
Fawcett, DJ (teller)
Fifield, MP
Johnston, D
Macdonald, ID
McKenzie, B
Nash, F
Payne, MA
Ronaldson, M
Ryan, SM
Seselja, Z
Smith, D

**PAIRS**

Cameroon, DN
Carr, KJ
Conroy, SM
Peris, N
Polley, H
Wong, P

Back, CJ
Brandis, GH
Abetz, E
Colbeck, R
Cormann, M
Parry, S

Question agreed to.
Communications Legislation Amendment (Deregulation and Other Measures) Bill 2015, as amended, agreed to; Telecommunications (Numbering Charges) Amendment Bill 2015 agreed to.

Communications Legislation Amendment (Deregulation and Other Measures) Bill 2015 reported with amendments; Telecommunications (Numbering Charges) Amendment Bill 2015 reported without amendments; report adopted.

Third Reading

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (12:41): I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

Insolvency Law Reform Bill 2015

First Reading

Bill received from the House of Representatives.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (12:42): I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (12:42): I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

INSOLVENCY LAW REFORM BILL

Today, I introduce a Bill that implements the first phase of the Government's reforms to strengthen and streamline Australia's bankruptcy and corporate insolvency regimes.

This Bill addresses a number of identified weaknesses in the current regulatory framework governing insolvency practitioners.

These have been revealed in numerous inquiries and were comprehensively discussed in the 2010 Senate Economics References Committee report: The regulation, registration and remuneration of insolvency practitioners in Australia: the case for a new framework.

Despite increased activity by the Australian Securities and Investments Commission in relation to its oversight of the corporate insolvency industry, it is clear that the level of confidence in the insolvency
industry needs to be improved. Insolvency practitioners received the lowest rating for perceived integrity in the latest survey of ASIC's stakeholders.

The Government believes progressing this package of reforms will provide benefits to creditors, businesses and insolvency practitioners. The reforms will increase the efficiency of insolvency administrations and cut unnecessary costs and red tape.

Members of the House would also be aware that earlier this year, the Government commissioned the Productivity Commission to examine, amongst other issues, the impact of the personal and corporate insolvency regimes on business exits.

The Government is currently considering the Productivity Commission's recommendations to ensure that financially distressed businesses are given the best opportunity to restructure, or be wound up efficiently where the business cannot be saved.

The Government will consult with the community on further possible amendments to the external administration regime to provide additional flexibility for businesses in financial difficulty shortly.

However any future reforms will require an insolvency profession that stakeholders can have confidence in. The measures in the Bill will assist in providing that confidence.

A key aim of the Bill is to restore confidence in the insolvency profession by raising the standards of professionalism and competence of practitioners, and identifying and removing 'bad apples' from the profession more swiftly.

The Bill does this by aligning and strengthening the registration, disciplining and regulator oversight of corporate insolvency practitioners with the framework currently in place for personal insolvency practitioners.

The existing paper-based process for the registration of corporate insolvency practitioners was identified as a weakness in the 2010 Senate Economics References Committee report.

Under the measures in this Bill, the process for registering corporate insolvency practitioners will be strengthened to require applicants to be interviewed and assessed by a three-person committee including industry and regulator representatives.

Rules to be made following the passage of the Bill will require new entrants to have completed formal insolvency-specific tertiary studies, as well as accounting and legal studies.

Corporate insolvency practitioner registration will no longer be indefinite. In line with the current arrangements for personal insolvency practitioners, a practitioner will need to renew their registration every three years. At that time they must show evidence of compliance with any new requirements for continuing professional education set by the regulator, as well as show that they have maintained their insurance coverage.

Once again, the framework for the disciplining of corporate insolvency practitioners not meeting the appropriate standard will be aligned with the framework currently applying to personal insolvency practitioners.

Practitioners who have breached their statutory obligations will be asked to 'show cause' why they should remain in the industry. If the regulator is dissatisfied with the explanation, it may refer the matter to a committee for consideration.

The adoption of the committee approach for practitioner disciplining will mean that the Companies Auditors and Liquidators Disciplinary Board will no longer play a role in the regulation of the sector.

A disciplinary committee will have a broad range of powers in addition to deregistration and suspension, including being able to prevent an insolvency practitioner from accepting further appointments for a specified period and issue public reprimands. Where a rogue practitioner is struck off, in appropriate cases they may also be banned from working in the industry for another practitioner for up to 10 years.
ASIC and the Australian Financial Security Authority play an important role in promoting an efficient and equitable market for insolvency services. The Bill will strengthen the powers of the regulators to monitor insolvency practitioners, provide information to stakeholders and intervene in individual corporate and personal insolvencies where appropriate.

Under the Bill, ASIC will be given further powers to seek information or records from corporate insolvency practitioners – similar to existing powers in relation to auditors. These new powers will aid ASIC in its efforts to undertake proactive surveillance of corporate insolvency practitioners.

To improve the level of information available to the regulators, practitioners will also be required to notify the regulators when any of a range of prescribed matters occur which may impact on the continued registration of a practitioner.

The penalties for a range of offences relating to practitioner misconduct have also been increased to better reflect the seriousness of the breaches and to provide a more appropriate deterrent. In particular, the penalties for failing to maintain adequate and appropriate insurance as well as failing to comply with rules regarding the banking of administrations funds have been significantly increased.

The Government recognises that confidence in how practitioners handle the funds of external administrations, as well as the protection from potentially negligent behaviour, is crucial to overall confidence in Australia's insolvency laws.

The Bill promotes market competition within the insolvency industry. It removes barriers to creditors receiving information in the course of insolvency administrations and to creditors taking action to protect their interests in relation to an administration.

Creditors will be empowered under the Bill to remove a practitioner appointed to a personal or corporate insolvency through a simple resolution of creditors at any time, and without court involvement. These changes will remove a significant barrier to removing an unjustifiably expensive or poorly performing practitioner.

In order for creditors to better inform themselves of the conduct of the administration, creditors will also be able to appoint an independent specialist to review the performance of an insolvency practitioner.

The reforms to the registration framework for practitioners will improve the balance between the need to protect consumers of insolvency services with the need for a competitive market that provides the best opportunity for maximising returns to creditors.

The Bill will remove the unnecessary and outdated distinction between official and registered liquidators. As a result, all registered liquidators will be able to undertake all forms of external administration. This change will also remove the obligation on some practitioners to take on matters even where there are no assets available to meet their costs and remuneration.

While the Bill removes unnecessary distinctions, it will allow for a person to apply for registration on a restricted basis to increase the number of service providers in limited sections of the market. For example, the Insolvency Practice Rules to be made under the Bill will facilitate an applicant being able to seek registration to perform receiverships only.

Rules will also reduce the period of experience that applicants must satisfy before they can apply for registration.

The Bill provides a first step in aligning the regulation of the corporate and personal insolvency regimes. Removing unnecessary divergence between the two regimes will reduce legal complexity, risk and costs for insolvency practitioners, creditors, shareholders, regulators and other stakeholders.

Default creditor meeting and practitioner reporting requirements will be removed. Instead creditors will have more powers to tailor these requirements to the needs of the particular administration. A
resolution of any form will also be able to be passed through a postal vote, instead of requiring the holding of a meeting.

The need for a meeting to be convened in order to obtain approval for remuneration in low asset administrations will also be removed. Instead practitioners will have the ability to draw down up to $5,000 in remuneration before creditor approval is required.

Measures are being taken to encourage electronic communication between practitioners and creditors by allowing practitioners to make information such as reports and other documents available on their websites.

Enhancements to the initial and ongoing education of practitioners, as well as improved regulatory powers for the surveillance of practitioners, are also aimed at improving practitioner standards with flow-on effects to practitioner performance. The expected improvements in practitioner performance should result in increased efficiency of administrations.

The Bill will commence upon proclamation within 12 months of Royal Assent. This will facilitate ASIC making the administrative and IT changes necessary to implement the package, as well as allow industry participants time to adapt to the new measures.

The measures in this Bill are currently estimated to result in savings to the insolvency industry of $50 million per annum from the commencement of the Bill, with positive flow-on impacts for creditor returns. These savings will be achieved while improving confidence in the industry, improving competition for insolvency services and enabling creditors and other stakeholders to better look after their own interests.

The Bill allows for the making of Insolvency Practice Rules which will provide further guidance on the provisions contained in this Bill. The Government will be consulting on these Rules shortly.

Finally, I can inform the House that the Legislation and Governance Forum on Corporations was consulted in relation to the amendments and has approved them as required under the Corporations Agreement 2002.

I commend the Bill to the House.

Senator DASTYARI (New South Wales) (12:43): The Australian Labor Party will support the Insolvency Law Reform Bill 2015. However, we call on the minister to release the insolvency practice rules—the legislative instrument giving effect to much of the legislation—and other foreshadowed insolvency legislation to provide the industry with confidence.

The Insolvency Law Reform Bill makes substantial changes to the way insolvency professionals are registered, disciplined and regulated. There is broad agreement among the industry that, following some high profile cases of misconduct by corporate insolvency practitioners, reforms are needed to modernise the industry and improve standards. Draft legislation on the issue, including measures recommended in the 2010 Senate Economics References Committee report, The regulation, registration and remuneration of insolvency practitioners in Australia: the case for a new framework, was released by the last Labor government in 2012.

The Insolvency Law Reform Bill 2015 has been criticised by the Australian Restructuring Insolvency and Turnaround Association as being 'a missed opportunity for substantive reform'; although they are generally supportive of the contents of the bill.

There is a whole series of key changes in the Insolvency Law Reform Bill 2015, and they include strengthening registration requirements for insolvency practitioners to require applicants to be interviewed and assessed by a committee and for registration to be renewed
every three years. Regulators, ASIC and AFSA, may issue show cause notices for alleged misconduct, requiring practitioners to explain why they should remain in the industry. There will be an increase in penalties for practitioner misconduct, including for failing to maintain adequate insurance. ASIC will have further powers to seek information or records from insolvency practitioners and require practitioners to notify regulators of certain matters. Creditors will be given the right to remove a practitioner appointed to an insolvency through a simple resolution, without court involvement. The legislation refers some of the fine detail of the registration, discipline and regulation process to a set of Insolvency Practice Rules, which are to be made by the minister via legislative instrument.

Labor agrees with the intention of this legislation and supports modernising the insolvency practice framework, which is why we supported this process of reform when last in government. However, we call on the minister to promptly release the Insolvency Practice Rules to provide confidence in the industry that their new framework will have the intended effect of improving the insolvency practitioner regime. The government have also indicated their intent to make further changes to the insolvency regime as part of their innovation statement. The government should release any intended legislation and their response to the Productivity Commission inquiry on Business Set-Up, Transfer and Closure as soon as possible, to minimise compliance costs of several separate changes to the framework.

Across Australia, there are 7,007 registered liquidators. Last year, these insolvency practitioners worked on around 9,177 instances of companies entering into external administration. While the current insolvency framework does a fairly good job of balancing the interests of creditors and businesses in distress, there have been some high profile cases of misconduct by corporate insolvency practitioners. As a result, insolvency practitioners received the lowest rating for perceived integrity in the latest survey of ASIC stakeholders.

**Senator Williams:** The lowest.

**Senator DASTYARI:** Lower than politicians, I may add, Senator Williams. The last Labor government undertook substantial industry consultation on the proposed reforms, issuing an options paper: 'A modernisation and harmonisation of the regulatory framework applying to insolvency practitioners in Australia' and a later proposals paper: 'A modernisation and harmonisation of the regulatory framework applying to insolvency practitioners in Australia'. This formed the basis of draft legislation, but the proposed legislation did not pass the parliament prior to the 2013 election.

The Insolvency Law Reform Bill 2015 enacts many aspects of Labor's proposed reforms to the corporate and personal insolvency framework and some new proposals from industry. This government commissioned the Productivity Commission to examine the impact of personal and corporate insolvency regimes on business exits in its *Business Set-up, Transfer and Closure Inquiry Report*. It made a serious of recommendations. Despite generally supporting the insolvency framework reforms, we do have some concerns around some aspects of this bill. Some fine detail of the bill is deferred to a legislative instrument called the Insolvency Practice Rules. The intended Insolvency Practice Rules have not been released yet and should be released to allow insolvency practitioners to prepare for regime change.

The bill claims a compliance saving of $50 million, but the industry association, ARITA, rejects this compliance saving, saying that regime change will cost them substantially. The government have foreshadowed further changes to the insolvency framework as part of their
innovation statement. In order to minimise the cost of regime change to the industry, the government should promptly release any proposed reforms and try to harmonise the phase-in of these two separate tranches of insolvency law reforms.

In conclusion, this is a bill that Labor will be supporting. This is a bill that enacts a series of measures, many of which had actually been proposed by the previous Labor government; but, in doing so, we do want to raise our concerns that, through greater transparency, greater certainty can be given to the industry and that, with a few transparency measures that can easily be undertaken by the government, a lot more certainty can be given to industry.

**Senator WILLIAMS** (New South Wales) (12:48): I would like to contribute to the debate on this very important bill: the Insolvency Law Reform Bill 2015. I am glad the opposition is supporting this legislation. I launched the inquiry into this matter many years ago, and it seems to have taken forever to finally get this legislation into the Senate. I note the unanimous recommendations—the very scathing recommendations—from the Economics References Committee, which I was part of during the inquiry. The previous government—those opposite when they were in government—did nothing. They did not bring it forward. This goes back many, many years to when I launched the inquiry and we needed changes in this industry.

It is amazing that, when I launched the inquiry, the Insolvency Practitioners Association—the IPA as they were known then; they have changed their name—said that the inquiry was not necessary; the insolvency practitioners industry is a good industry; it is well behaved. Well, I think McVeigh and Macdonald were gone within a few weeks of that being said. We can go on about Ariff, who went jail. Patterson has also gone, et cetera. There have certainly been some nasties in this industry.

I launched the inquiry after I spoke to John Viscariello—whom I have become good friends with—in South Australia. He told me what was wrong in the industry and what was happening in his case. He had just had a court ruling by Chief Justice Kourakis. It had cost him an enormous amount of resources, time and work. The liquidator had taken $500,000 from creditors, from the sale of assets, and spent the $500,000 suing a lady for $28,000 for bankruptcy. This was $500,000 that should have gone to the little Aussie battlers, the businesses that were owed money. Instead, the lawyers and the liquidators got hold of it and spent $500,000 suing a woman for $28,000. It is just crazy. That has now been appealed. We will let the judges make their decision on that as the court runs through its process. That was one of the reasons why I launched this inquiry.

The problem I have with the industry in its current form is that, when a business goes into administration, liquidation or receivership, the liquidator is the judge, jury and executioner. They are there; they are locked in at enormous cost. Some charge $900 to $1,000 an hour. When McGrathNicol went in as administrators to Cubbie Station, their costs were about $9 million to just simply manage the place until it was sold, even though the management of the station was already retained there.

The measures in this bill will make the process to become a registered insolvency practitioner more rigorous, while making it quicker and easier for the regulator to remove rogue practitioners from the industry. I certainly welcome that. So the situation is: instead of just doing an application online or on a piece of paper, you will actually have to front a three-man committee to see if you pass the proper character test. Another important thing about this bill is that creditors will be able to remove a poorly performing practitioner without going to
court. Hooray at last! A majority vote value of creditors can sack the liquidators if they think the liquidators are doing a terrible job, charging too much, not being fair or whatever.

Currently, the system is that they can remove the liquidator at the first meeting, but once the liquidator has been installed they are there forever. Well, under this legislation the creditors can team up and actually remove the liquidator. That will send the message to the industry, 'You'll do your job right, or you'll get sacked,' which is a pretty important message in my book. So the ability for creditors to remove and replace practitioners provides an important element of accountability to the insolvency framework, and that is a very good part of this legislation.

An applicant will also be required to satisfy a three-person panel that they are fit to be registered as a liquidator, instead of simply being assessed on the basis of a form and the payment of a fee. If the panel believes it is necessary, it may require the applicant to sit a written exam. Rules to be made under the bill will set out that tertiary study in relation to insolvency administration will be required in addition to general accounting and legal studies. That will raise standards, which is a good thing.

Registered practitioners will be required to renew their registration every three years. I hope that this puts some money into ASIC, because for many years ASIC has had its funding cut down with budget restrictions. Amazingly—from memory—ASIC spends $10 million a year policing the insolvency practitioners industry but collects just $40,000 in registration fees. Spending $10 million and collecting $40,000 is not fair, is it? So, hopefully, this will bring some money into ASIC's coffers so that they can do their job better. I have been a big critic of ASIC since I have been in this place. I do believe now they are lifting their game. They certainly have got the message from this Senate. But, clearly, for them to do their job they actually need funding, and I support that totally.

ASIC will also be given new powers to prevent practitioners from taking on new matters where they have failed to comply with directions by ASIC—another good move giving more powers to ASIC. Penalties for a wide range of offences will also be significantly increased in order to provide a more appropriate deterrent to practitioners breaching their duties. This includes increasing the penalty for intentionally or recklessly continuing to operate as a registered liquidator without insurance, to a maximum 1,000 penalty units or $180,000.

Where an insolvency practitioner has engaged in misconduct, disciplinary committees and the court will be able to prevent an individual from acting as a liquidator ever again—banned for life—as well as to prevent them from being employed by other liquidators for up to 10 years. AFSA and ASIC will have the power to directly suspend or deregister offending practitioners in limited circumstances—or to prevent practitioners from taking on new appointments where a practitioner is failing to lodge certain documents with the regulator or comply with a direction to hold a creditor meeting. In addition to the enhanced regulatory mechanisms, creditors will be empowered to replace practitioners by resolution if they are dissatisfied with their performance.

There are some really good things in this. We could have gone further; we can always go further—depending on opinions. But I think there are some really good regulations here to raise the standards. I think that probably 95 per cent—or even 99 per cent—of liquidators do the right thing. Yet it is the odd one out doing the wrong thing that smears the whole industry—like in politics. It is the same thing: we all get painted with the same brush. The
industry has been smeared. Hopefully, this will build better standards and more competition to bring prices down, because I think that their charges are outrageous. When I was running a small business, I had two customers that went down. When I got the letters from the liquidators, I simply threw them in the bin knowing full well that I would never get a cent of money from them, which I did not, of course. Usually, with those small companies, the liquidator seems to get the lot with their fees. That is how it pans out when there are not large assets of big value to be cashed in.

These changes are something I have pursued for many years—probably since soon after I came to this place. As I said, the previous government sat on them, unfortunately. I am sure that when we were in opposition we would have supported change. It was a unanimous decision by the committee; we were all on the one page. There were no political games being played in that committee report. The changes are here, and I welcome the opposition’s support. I hope that the Greens support it as well, and I look forward to the passage of this legislation and hopefully improving many things, including the powers of ASIC and increasing the fines. I am on the same page as Mr Medcraft, the boss of ASIC. As we discussed in Senate estimates recently, we need these changes and we need stiffer penalties. We are very soft in this country with the fines for people who are carrying out wrongdoings. Often the fines are far too soft. We look forward to the passage of this legislation and the changes it will bring. There will be more to come shortly, I believe.

Senator SINODINOS (New South Wales—Cabinet Secretary) (12:57): I rise to sum up the debate on the Insolvency Law Reform Bill 2015. I begin by thanking those senators who have contributed to this debate for the spirit they have brought to the process. This bill amends the Bankruptcy Act 1966, the Australian Securities and Investments Commission Act 2001, and the Corporations Act 2001, to align and strengthen the corporate and personal insolvency regimes in a number of key areas. It implements phase 1 of the government’s plans to reform Australia’s insolvency system.

The changes in this bill will remove unnecessary costs and increase efficiency in insolvency administrations, enhance communication and transparency between stakeholders, and boost confidence in the professionalism and the competence of our insolvency practitioners. Under the changes, the process for registering as a corporate insolvency practitioner with ASIC will be reformed to mirror the process for registering as a personal insolvency practitioner with the Australian Financial Security Authority. As a result, all applicants will now be required to undergo an interview and assessment by an expert committee made up of representatives from both industry and ASIC. To further boost confidence in the competence of practitioners, there will be new requirements for insolvency-specific tertiary qualifications and for practitioners to renew their registration every three years, rather than their registration continuing indefinitely. The bill will also strengthen the power of the regulators and the mechanisms to discipline poor performers, to promote confidence in the market for insolvency services.

The amendments provide ASIC with new information-gathering powers that will assist in its efforts to undertake an efficient proactive surveillance program of corporate insolvency practitioners. These powers include the ability to direct a practitioner to provide certain information and produce specified books to assist ASIC’s activities in its role as the corporate insolvency regulator. ASIC will also be given the power to give a 'show cause' notice to a
practitioner in certain circumstances, such as when it believes that the practitioner no longer has the required qualifications, experience and abilities, or when it believes that the practitioner has breached a condition of his or her registration. Where ASIC is dissatisfied with the explanation, it will be able to refer the matter to a committee, for disciplinary action which may include publicly admonishing or reprimanding the practitioner or deciding that the practitioner should not accept further appointments for a specified period. The movement to a committee system approach to practitioner discipline, based on the model currently used in the personal insolvency regime, will mean that the Companies Auditors and Liquidators Disciplinary Board will no longer have a role in the disciplining of liquidators. The amendments in this bill will also improve the confidence of stakeholders in the insolvency industry. For example, mechanisms to addresses losses from any negligence or misconduct will be improved by providing a greater deterrent to practitioners failing to maintain appropriate insurance.

The government recognises that default creditor meeting and practitioner reporting requirements are imposing unnecessary costs on administrations. The amendments in this bill will remove these requirements, while creditors will instead be able to determine when and what information they are provided by an insolvency practitioner. In addition, it will be easier for creditors to remove underperforming practitioners by allowing removal through a resolution of creditors rather than through a court order. Creditors will also be able to appoint an independent specialist to review the performance of an insolvency practitioner to inform those kinds of important decisions.

Other reforms in this bill are designed to simplify and streamline key processes and reduce the regulatory burden on practitioners and creditors. As a result, the changes in the bill are expected to save businesses more than $50 million a year. For example, amendments will encourage more efficient administrations by facilitating electronic communication with creditors and allowing resolutions to be passed without holding a creditor meeting. In addition, a default remuneration amount of $5,000 indexed will be introduced to avoid unnecessary costs in low asset administrations.

The government will soon release and consult on the updated insolvency practice rules to accompany this bill. The passage of this bill will implement the first phase of the government's reforms to strengthen and streamline Australia's bankruptcy and corporate insolvency regimes. The government will continue to work with the community to develop the next phase of reforms that will build on the great start that we are making today. I commend this bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

The DEPUTY PRESIDENT (13:02): As no amendments to the bill have been circulated, I shall call the minister to move the third reading unless any senator requires that the bill be considered in Committee of the Whole.

Senator SINODINOS (New South Wales—Cabinet Secretary) (13:02): I move:

That this bill be now read a third time.

Question agreed to.
Bill read a third time.

**Courts Administration Legislation Amendment Bill 2015**

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator JACINTA COLLINS (Victoria) (13:02): This bill, introduced last year and referred to the Senate Legal and Constitutional Affairs Legislation Committee, implements the merger of certain back office corporate services functions of our three federal courts: the Federal Court, the Family Court and the Federal Circuit Court. The merger of these functions—including finance, human resources, information technology and property administration—will save $9.4 million over the six financial years to 2020-21. It is expected to save a further $5.4 million annually in the years beyond. The bill will not alter the independence of the three courts, each of which will remain distinct bodies under their respective establishing acts. The courts will continue to be governed by their respective heads of jurisdiction.

Labor supports this measure. Where possible, we support removing duplication of back office functions so that funding can be best directed towards dealing with the core business of the courts and with meeting the needs of Australians who find themselves before those courts. While Labor supports this bill, no-one should be under any illusion that the relatively modest savings it will achieve will on their own solve the resourcing problems increasingly suffered by the federal courts, as we heard recently in Senate estimates.

Clearly, there are significant problems which demand the Attorney-General's attention and his action. Heads of jurisdiction have warned us of the consequences of the government failing to properly resource their courts. The situation is most dire in the Federal Circuit Court, a situation the government has inexplicably decided to make even worse by failing to appoint judges to vacancies in a timely fashion. Equally, fortunately, we can note some appointments occurred within the last fortnight to address some of those building pressures.

Of course, the management of tight court resources is also made much harder by the multiple rounds of cuts the government has now imposed across the legal assistance sector. Legal assistance services are not a luxury, as the Productivity Commission pointed out. They are integral to the smooth functioning of our courts. The timely provision of proper legal services can often avoid a matter going to court in the first place and, if it must, legal assistance will ensure that the matter proceeds as smoothly as possible, not clogging up the courts unnecessarily. This is a case where austerity can create more problems than it solves.

The government must act to ensure the courts are put on a stable financial footing into the future. The Attorney-General must release the KPMG report he commissioned into the funding of the federal courts in 2014 and explain to the courts, the profession and the Australian community how he intends to make sure that our courts are properly resourced into the future; but I commend this bill to the Senate.

Senator McKIM (Tasmania) (13:06): As we have heard, this bill seeks to merge the corporate services functions of the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia, and this would result in a single administrative
entity for those above mentioned courts. This entity would also include the National Native Title Tribunal, which currently sits within the Federal Court entity.

We understand that the corporate services to be shared will include communications, finance, human resources, information technology, libraries, procurement, contract management, property, risk oversight and statistics. We also understand that the shared corporate services would be managed by the Chief Executive Officer and Principal Registrar of the Federal Court. Importantly, the statutory independence of the three courts would be preserved and the existing Chief Justices and Chief Judge would maintain responsibility for the business of their respective courts. There have been a number of reviews conducted into this area over the past few years: there was one in 2012, the Skehill strategic review, a KPMG review in 2014, and a 2015 Ernest and Young review. In broad terms, they all identified potential savings and efficiencies in sharing administrative arrangements of our country’s courts.

We understand that the merger, based on government advice, is expected to deliver efficiencies to the courts of $9.4 million to 2021 and ongoing annual efficiencies of $5.4 million post 2021. We are very pleased to hear the Attorney-General make it very clear that it is the government's intent that all savings would be reinvested into the court system. Having said that, it needs to be placed on the record that even with the reinvestment of these administrative savings back into the court system the simple fact is that we will still be left with a chronically underfunded federal court system, particularly in the family division. The 2013-14 annual reports of the Federal Court, the Family Court and the Federal Circuit Court, show the combined deficits of the courts over the forward estimates is estimated to be $44.2 million. It has been reported that courts could be facing a blow-out in expenses of up to $75 million by 2017-18.

It is, of course, alarming that the government's response, in part, to what can accurately be labelled as a 'funding crisis' in Australia's court system is to try to reintroduce what in effect is a divorce tax, by significantly increasing certain fees in the Family Court. It is worth noting that the measure has already been disallowed twice in the Senate. As far as the Greens are concerned, this is something that we certainly will once again move to disallow, should the government again attempt to make it more expensive for people to file for divorce.

Extracting money from families who are already under a significant emotional load and are already suffering emotionally and potentially financially already, is not the solution to sustainable funding for the courts. As we often hear in the justice area, justice delayed is in too many cases justice denied. We owe it to the Australian people to have a court system that progresses matters in a way that allows people to have resolution within a reasonable time frame and allows people access to justice, because access to justice in this country has become more and more difficult as the years have gone by. While it was pleasing to hear at estimates recently that there is now a full complement of judges, there have been significant delays in appointing judges to the Federal Circuit Court and the Family Court, which again resulted in what are quite simply unacceptable waiting times in many of those courts.

It is worth the Senate reflecting on the submission of the Law Council of Australia to the inquiry of the Senate Legal and Constitutional Affairs Committee into this bill. The Law Council wrote:
Judicial vacancies result in unacceptable delays in the listing of matters. The earliest first return date for some matters filed in the Sydney Registry of the Family Court as at December 2015, was May 2016, with delays exceeding three years for some matters to reach trial.

It is also worth reflecting on the reports of a comment made by a recently retired Federal Circuit Court judge, Giles Coakes, who earlier this year was reported as saying, 'It's inexcusable in my view that the government has not met its responsibility to make timely appointments.' It is worth reflecting that—as the previous speaker, Senator Collins, said—some appointments have been made in recent times, which is an accurate comment. It is also worth reflecting on the evidence given to the Senate estimates committee just a couple of weeks ago by the Attorney-General, Senator Brandis, on the difficulties around pension arrangements for judges in certain federal courts and legislated ceilings on the numbers of judges in certain federal courts. It is the view of the Greens that if there are legislative actions, or a legislative action, that can be taken to resolve those two matters—if the difficulty around pension arrangements, which the Attorney General suggested was responsible for the high number of judges who are currently on sick leave, needs changing and dealing with in legislation—then the Attorney should be working on legislation to bring forward to this parliament to fix that issue, and again with the other matter I just mentioned.

The second reading speech on this legislation says:

The Bill will place control of corporate services in the hands of the Federal Court CEO. The Federal Court CEO will also hold the roles of accountable authority under the finance law and agency head under the Public Service Act.

This does not mean that the Federal Court will be 'taking over' the running of the Family Court and Federal Circuit Court. Each court will remain independent in their core functions and will not be subject to the control of another court.

I ask on the record here, and I would be interested in the minister's response, if those comments are intended to cover the concerns raised by the current chief executive officer of the Family Court of Australia, in his submission to the committee inquiry, regarding the Family Court's and the Federal Circuit Court's control over its information technology. The CEO in his submission does not believe that the bill provides enough control for the Family Court and Federal Circuit Courts over their provisions around information technology. He further submitted that there is the possibility that a conflict of interest could arise in giving the chief executive officer of one court the power to make decisions that affect all three courts.

I would be interested in a response from the minister to those matters and also, if possible, an assurance that the considerable expertise of the staff in the various registries will not be impacted on by this merger—that is, whether any commitments can be given to the Senate today around the potential for job losses and the consequent loss of what is a considerable body of corporate knowledge that is held by staff in the various registries of the courts that are affected by this legislation.

Senator IAN MACDONALD (Queensland) (13:15): I, too, support the bill. I want to make a couple of comments as the Chair of the Senate Legal and Constitutional Affairs Legislation Committee, which conducted the inquiry into this. I am pleased to see that the deputy chair of the committee and another committee member, Senator Collins and Senator McKim, have already made comments about this bill before the parliament indicating cross-party support.
The bill would merge the corporate service functions of the Federal Court with those of the Family Court and the Federal Circuit Court and bring the courts together as a single administrative entity. The performance, funding and operation of the Federal Court has been considered in several recent reports in the context of smaller, more rational government. That is a goal that the committee was pleased to endorse. The merger of the Family Court, Federal Court and Federal Circuit Court into a single administrative entity will make legislative provision for courts to share corporate services. The entity would also include the National Native Title Tribunal, which is currently within the Federal Court entity.

It is estimated that savings of about $9.4 million over six years would result from the merger, resulting in ongoing annual efficiencies of $5.4 million from this time. These are not big amounts of money, but it is always important to bring forward savings where they can be made. As has been mentioned by other speakers, those savings are going to be, we understand, put back into the administrative arrangements of the courts. So it is one way of giving the courts more funding without calling upon the poor old taxpayer to find more money.

I noticed the CPSU in its submission to the committee argued that, rather than focusing on restructuring the courts, the government needed to address chronic funding shortfalls and provide proper levels of resourcing to courts. That is something that every parliament would like to see happen in every aspect of governance in Australia. But, as I often point out when people say, 'The government should pay,' in fact governments do not have any money. They just use taxpayers' money. So it is not the government that funds these things; it is the individual taxpayers throughout Australia who are always being called upon to contribute more so that we can spend more. Whilst the Australian taxpayer is a very generous person, there is a limit to their generosity. Most taxpayers do not like paying more tax for all of the things that people keep asking the government to fund.

The committee issued a unanimous report welcoming the merger of the courts into a single administrative entity. As I say, the savings arising from the efficiencies are to be reinvested back into the courts. This will leave the courts far better placed to deliver services to litigants. The committee noted the details relating to the corporate services matters and efficient consultation between the three courts are to be set out in an MOU which will provide for appropriate management of corporate services. The committee encouraged the three courts to continue working expeditiously towards an MOU which will meet the needs and circumstances of all.

There have been concerns raised, I am sure, both to all senators in their electorate capacity and the committee and at estimates about the backlog of cases and how this should be best resolved. I do not want to mention names, places or times that might interfere with privacy or perhaps the outcome of some matters before the courts, but I was recently told of an instance where a 91-year-old litigant had to wait something like 18 months after the hearing of a particular matter before a judgement was delivered. I was many, many years a lawyer myself. I understand that sometimes judges take a while to write their judgements. I understand that in many cases the judiciary are running from one particular trial matter for hearing to another and sometimes do not get the time to deliver or write their judgements as expeditiously as would be hoped for. But it does seem to me there is something wrong with the system when, as I say, after the matter for a 91-year-old litigant had been heard by the court—and I
understand the trial was categorised as urgent so that it could be heard early—it took some 18 months to deliver the judgement. This just seems to be wrong. As the Attorney said at estimates, I think, it is a matter not for the Attorney or for the government but for the chief judges and administrative processes within the various courts that determine this. That is not a matter for governments—I agree with the Attorney on that—but it does seem to me that there needs to be some more attention given to the timeliness of the delivering of judgements and reasons, particularly where certain classes of litigants are in a situation where a decision is particularly urgent, such as in the case I mentioned.

Getting back to the committee's investigation of this bill, the committee did suggest that to ensure that the new arrangements are working effectively and the sustainability of the courts' workloads and financial situations is improving the government should have a review of the legislation by the Attorney-General's Department one year after its implementation, in consultation with the three courts. Such a review would allow the department to advise the government if any refinement of the bill or the arrangements was required. So whilst the committee was minded to agree with the bill and to recommend that the bill be passed, the committee did indicate that in its view the department should have a serious look at the arrangements in a year's time just to make sure they were working as they should be. I would expect and hope that the department would do that in any case, but to formalise it the committee has mentioned it in the penultimate paragraph of its report.

I support the bill, and I thank the committee for its consideration of the bill. As always, I thank the secretariat staff, who, on this and every other occasion, do a wonderful job in assisting committee members in understanding the submissions and the issues involved and in assisting the committee in reporting its findings. I also thank the submitters who made submissions to the inquiry. There were only four, and I thank all of those for taking the time to make their thoughts known to the committee.

Senator FIERRAVANTI-WELLS (New South Wales—Assistant Minister for Multicultural Affairs) (13:24): I thank honourable senators for their contributions to this debate. This bill is a crucial step towards placing the federal courts on a sustainable funding footing. As has been noted before, there is a pressing need for the savings forecast from the bill, given the significant budgetary pressures and ongoing deficits faced by the Federal Court and Federal Circuit Court. This bill would ensure that more of the courts' finite budgets are targeted at the thing that really matters—their delivery of justice to the Australian community. This is not only sensible, it is a matter of duty to the Australian taxpayer.

The bill's objective should not be conflated with calls to address broader concerns relating to the family law system, nor should such arguments be allowed to denigrate what the bill seeks to achieve. The reform, once fully implemented, is forecast to deliver $5.4 million each year in savings from the amalgamation of the back-office functions. The reform will also create scope for the courts to identify further opportunities for efficiencies into the future, so the final impact could be even greater. Let me reiterate: this is no government grab for savings to be returned to consolidated revenue. All the savings made by the courts are to be retained by the courts for the benefit of the courts. Clearly, funding injections are not sufficient to ensure the courts' long-term financial sustainability. Despite a significant funding injection in the 2012-13 budget, the family courts are now in a grave financial position. Realistic savings and efficiencies must come from within the system. The bill is vital to the

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courts achieving long-term financial sustainability. However, in a tight fiscal environment there must be a continuing focus on all court administrative practices.

The bill contains numerous measures to safeguard the integrity and independent identity of each of the courts. It addresses the unsatisfactory situation at present where the separate management of the Family Court and the Federal Circuit Court is impeded by their sharing of a single CEO. It guarantees the integrity of the separate budgets of each of the courts by preventing one court's funds being spent on another without appropriate consent. It ensures that relevant delegations will be made from the administrative head of the organisation to support the courts' independent management.

The bill has been developed in close consultation with the courts, and many of the key measures are the result of close consultation with the chief justices and the chief judge. In its submission on this bill the Family Court indicated that it had only one issue it wished to raise. Can I particularly address this in the context of the matter that you raised, Senator McKim. The Family Court submission indicates that its key remaining concern is the unconstrained powers of the Federal Court CEO, particularly in relation to the courts' information technology systems. The Federal Court CEO's ultimate responsibility for the delivery of corporate services is required to ensure that projected savings can be delivered, which will be critical to averting the need for cuts to frontline services. This is particularly necessary in relation to information technology, which is key to the savings to be achieved. The Federal Court CEO will be required to consult the CEOs of the Family Court and the Federal Circuit Court and the heads of jurisdiction in relation to corporate services, including IT. This will ensure that their delivery is tailored to the needs of the courts.

The heads of jurisdiction of the other two federal courts have advised that they do not support the creation of a board to oversee the functions of the Federal Court CEO. Adopting the proposal that the Federal Court CEO's decisions be voidable would create uncertainty in relation to the courts' contracts.

Although corporate services will be run by the Federal Court CEO, I am satisfied that there are sufficient safeguards in place. Consultation requirements have also been built in to ensure that each chief justice, the chief judge and the CEOs are all consulted in relation to the delivery of corporate services. The retention of corporate services functions within the courts' administrative entity and their management by a court CEO will ensure the delivery of these functions is closely aligned with the needs of the courts. This offers a better alternative to the approach taken prior to self-administration, where the Attorney-General's Department provided administrative support to the courts.

In short, the bill will deliver much-needed savings to be reinvested in the courts' front-line services while protecting and upholding their independence. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

The DEPUTY PRESIDENT (13:30): As no amendments to the bill have been circulated, I shall call the minister to move the third reading unless any senator requires that the bill be considered in Committee of the Whole.
Senator FIERRAVANTI-WELLS (New South Wales—Assistant Minister for Multicultural Affairs) (13:30): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**Crimes Legislation Amendment (Proceeds of Crime and Other Measures) Bill 2015**

Debate resumed on the motion:

That this bill be now read a second time.


It contains five schedules which comprise a range of measures to improve and clarify Commonwealth criminal justice arrangements, including amending the POC Act to clarify the operation of the non-conviction based proceeds of crime regime following recent court decisions; amending the Criminal Code to insert two new offences of false dealing with accounting documents; amending the serious drug offences in part 9 of the Criminal Code to clarify the definitions of the terms ‘drug analogue’ and ‘manufacture’ and ensure that they capture all relevant substances and processes; clarifying and addressing operational constraints raised by law enforcement agencies with the Anti-Money Laundering and Counter-Terrorism Financing Act, and expanding the list of designated agencies authorised to access AUSTRAC information to include the Independent Commissioner Against Corruption of South Australia; and clarifying and extending the circumstances under which AusCheck can disclose AusCheck background-check information to the Commonwealth and to state and territory government agencies carrying out law enforcement and national security functions.

It is important to state that Labor will—as we have in government and in opposition—continue to support building stronger laws that tackle criminal kingpins and take the profit out of crime. Indeed, the shadow minister raised several issues with the minister in relation to this bill, and the shadow minister thanks the minister for his cooperation with briefings and information provided. Also, the bill was referred to the Senate Legal and Constitutional Affairs Legislation Committee for some further examination and to allow submissions in relation to these measures. Let me go to three areas that were highlighted in the Senate committee report.

Concerns were raised in submissions regarding the fundamental rights and constitutional principles that may be impacted by the proposed amendments. As the committee noted:

At the same time, the committee is cognisant of the importance of an effective proceeds of crime regime in combating serious crimes and those who profit from crime, as emphasised by AGD and supported by a number of other submitters.

The committee acknowledges the department's advice that these amendments were developed in consultation with key stakeholders, and with a view to striking the appropriate balance between effectively combating crime, and respecting the fundamental rights and principles underlying

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**Senator FIERRAVANTI-WELLS** (New South Wales—Assistant Minister for Multicultural Affairs) (13:30): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

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Australia's criminal justice system. The committee notes that the amended legislation will if necessary be tested in the courts, who will be well placed to determine the questions of constitutionality and fundamental rights that have been raised in this inquiry.

Labor joins with the submitters from both within and outside of government to welcomed the proposed new offences in this bill, which will not only support Australia's compliance with our international obligations but actually go further, as was noted in the committee report, in helping combat a range of financial crimes. The committee regarded the breadth of the proposed offences, and the potentially serious penalties for those who commit them, as appropriate in the circumstances, which were canvassed in some detail in the committee's consideration.

In the course of the Senate inquiry concerns were raised by the Law Council of Australia in relation to the operation of some provisions, but it was noted by the committee that the clarification provided by the Attorney-General's Department emphasised that the regulatory powers granted by the bill remain subject to parliamentary oversight. The committee regarded information sharing as crucial to effective action against crime, particularly where antiterrorism and other national security concerns are at stake. As such, the committee and Labor endorse the enhanced information sharing proposed in schedules 4 and 5, while encouraging AUSTRAC and the Attorney-General's Department/Auscheck to ensure that adequate and robust safeguards are in place to protect personal privacy and to appropriately govern and oversee the careful and lawful sharing of information. As the committee also noted in its conclusions:

2.64 Ultimately, the issues … in relation to this bill, [come down] to questions of balance: between effectively combating crime and protection of human rights and constitutional principles; between closing unfair loopholes exploited by criminals and providing sufficient precision to ensure that the offences are appropriate to their context; between information sharing and the protection of privacy.

2.65 With the assistance of the information and clarification provided by the Attorney-General's Department and others in the course of this inquiry, the committee is satisfied that the bill strikes the appropriate balances within each of the legislative schemes, bearing in mind the important matters of criminal justice and national security at stake.

Thus, Labor accepts the fine work undertaken by the committee in this instance and commends the bill to the Senate.

Senator McKIM (Tasmania) (13:37): This bill makes separate amendments to four acts, as we have heard: the Proceeds of Crime Act 2002, the Criminal Code Act 1995, the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 and the AusCheck Act 2007. These amendments, at least in part, are in response to recent Victorian Supreme Court and High Court decisions, which highlighted problems with the interpretation and operation of non-conviction based confiscation provisions, specifically sections 315A and 319 of the Proceeds of Crime Act 2002.

Currently, that act allows the Australian Federal Police or the Commonwealth DPP to apply to restrain property where it is suspected of being the proceeds of an indictable offence and have the restrained property forfeited if the court is satisfied on the balance of probabilities that the property is indeed the proceeds of an indictable offence. The key amendment in this schedule is to section 319. This expands the range of grounds on which a court must not stay proceedings. When we looked at this bill, I have to say that it is difficult to understand what grounds would be left on which a court could in fact stay proceedings. We
have had major concerns expressed with schedule 1 amendments by the Law Council of Australia, the Australian Human Rights Commission, the Victorian bar and New South Wales Civil Liberties. In fact, the Law Council of Australia and the Australian Human Rights Commission have stated that the amendment to section 319 may be constitutionally invalid, as it may require a court to act in such a way that it would be acting contrary to the interests of justice.

So there have been strong concerns registered about the section 319 amendment which, it is fair to say, significantly expands the range of grounds on which a court must not stay proceedings. The Australian Greens have similar concerns to those expressed by the Law Council of Australia, the Australian Human Rights Commission, the Victorian bar and New South Wales Civil Liberties. Amendments standing in my name are currently being circulated to senators and I want to be very clear that schedule 1 item 4, which repeals section 319 of the Proceeds of Crime Act 2002 and substitutes a new section 319, entitled 'Stay of proceedings', does cause us in the Australian Greens significant concerns. The new section 319 that this bill proposes to insert into the Proceeds of Crime Act 2002 provides that a court must not stay proceedings of crime proceedings on any or all of the following grounds. It goes through and lists a range of grounds in subclauses (2), (3), (4) and (5). These matters cause the Australian Greens so much concern that we will not be supporting these amendments today through the Senate. Amendments that are being circulated standing in my name will provide us, when moved in the committee stages of this bill, the opportunity to vote against those sections and for clarity on referring to schedule 1, item 4, page 4, lines 1 to 31. There would then be another amendment that is also being circulated that, if we were successful, would be consequential to the first amendment.

I want to put this in context. We have seen over recent years a suite of legislative changes that have been made with the purported aim of giving governments more power to fight crime and, in many cases, to fight terrorism. Of course, we want to see governments with a range of reasonable powers at their disposal so that crime and terrorism can be fought, but it is our view in general terms that successive governments, both of Labor and the coalition stripe, have gone too far in these areas. Particularly in the context of antiterrorism legislation we have seen the continued erosion of human and civil rights that many Australians have fought and sometimes died to protect and enhance in the course of our history. Yet we seem to be giving these powers away bit by bit in a death of a thousand cuts—and it is a death of a thousand cuts to natural justice, and we would argue that is the risk in the context of the bill we are discussing today, but it is also a death of a thousand cuts in terms of fundamental civil and human rights that many of us believe need to exist in a 21st-century Western democracy. So the Greens position on this bill needs to be seen in the context of this ongoing erosion of natural justice, the ongoing erosion of fundamental civil and human rights that we have seen in this country particularly in the last 10 or 15 years.

We are concerned that the proposed new section 319 of the Proceeds of Crime Act 2002 could result in proceeds of crime cases proceeding uncontested, because it is eminently foreseeable that a person could end up in the position of forfeiting their property and allowing a proceeds of crime case to proceed uncontested so as to not jeopardise a potential criminal trial that they may be facing down the track. We will, as I said, be moving amendments based on recommendations from the Australian Human Rights Commission and the Law Council of
Australia. We believe these amendments are in the interests of natural justice and justice more broadly, because it is fundamental to our justice system that we in this country, when charged with a criminal offence, are innocent until we are properly proven guilty in a relevant court of law. That presumption of innocence is a keystone to our entire justice system that has been handed down through centuries of common law and jurisprudence in Western democracies. It is an incredibly important part of our justice system and of the rights that our citizens hold.

I might add, and senators will become used to hearing me say this, it is time for a bill of rights in this country. We are one of the few Western democracies in the world that does not have a national bill of rights. We have a very good model in Victoria that would inform a bill of rights, and I commit myself in whatever time I have left serving in this place to continuing to advocate and potentially developing and ultimately tabling a bill of rights for Australia so that the Australian people can see very clearly what their rights are as citizens. We hear a lot about our responsibilities as citizens, and rightly so—being a citizen of this fantastic country does confer on us significant responsibilities and we should honour those responsibilities and embrace them. However, we also have significant rights as citizens of this country, and unfortunately we have seen, as I said earlier, a slow drift—and at times, to be frank, a not so slow drift—towards an erosion of some of these fundamental civil and human rights.

Going back into the past, members of my family, and I am sure the families of others here, have served in the Australian armed forces, and in my case in the Second World War my grandfather served in the 1st Australian Light Horse and my grandfather on my mother's side of the family served in a Highland regiment from Scotland—he went to war in a kilt. He was a very brave man, I am sure Senator Cameron would agree. They went to war, at least in part, to defend many of the rights that we are now seeing eroded by governments. I have to say, shamefully, this is a bipartisan position of the coalition and the Labor Party; they seem to rush towards legislative provisions that purportedly make us safer against crime and terror but too frequently there is no evidence presented that they make us any safer at all. We will scrutinise all of the legislation that falls within the anti-crime and anti-terror ambit, and where we think it is appropriate, as we do today in relation to the proposed new section 319, we will be voting against legislation that we think unreasonably tilts the balance and unreasonably and without evidence continues the erosion of civil and human rights and the erosion of natural justice that seems to be happening all too commonly in our country today. If we are not going to stand up for those rights in the Senate and in the Commonwealth parliament, I ask who else is going to defend those rights and where else are they going to be defended? I thank the Law Council of Australia, the Australian Human Rights Commission, the Victorian bar and the New South Wales Council for Civil Liberties for their work on this issue and for expressing significant concerns with some of the provisions in the legislation that is currently before the Senate.

In terms of the constitutionality or otherwise of proposed new section 319, should the matter end up in the High Court that will of course be a matter for their honours in the High Court, but I would be interested, Minister, if you are able to provide in general terms any advice that may have been sought from the Solicitor-General in relation to whether or not that office holds similar concerns—that is, specifically around the proposed new section 319 in the Proceeds of Crime Act. If you are able to provide the Senate with any advice whatsoever on that, that would be gratefully received. For clarity, I know the minister will not table any of the Solicitor-General's advice because that has certainly been a constant position the
government has run since I arrived here only a relatively short time ago. But it is fair to say that the Attorney-General has on occasions provided general overview comments around the constitutionality or otherwise of proposals that have come before the Commonwealth parliament, and specifically proposals that have come before the Senate. Are you able to provide any response at all, particularly to the question of whether the Solicitor-General's advice was sought on the constitutionality or otherwise of proposed new section 319 in the Proceeds of Crime Act 2002?

With those comments, I will say that not all of the provisions in this legislation are opposed by the Greens. Our opposition is constrained to the proposed new section 319 in the Proceeds of Crime Act 2002, that is the section that provides a range of grounds on which the court must not stay proceeds-of-crime proceedings. We will be seeking to have this bill considered in committee so that we can register our opposition by voting against the proposed provisions contained on page 4 of schedule (1) lines 1 to 31.

Senator IAN MACDONALD (Queensland) (13:54): With reference to the Hansard of the Tasmanian government when Senator McKim was part of that government, it will be interesting to see how many legal advices were tabled in the Tasmanian parliament when the Greens had control of that. I answer Senator McKim by saying: we do have a bill of rights in Australia at the present time. It is called the common law and the courts of the land, which protect the human rights and other rights that we as Australians enjoy, perhaps more so than any other nation in the world.

The Legal and Constitutional Affairs Legislation committee, which I chair and of which Senator Collins is the deputy chair and Senator McKim is a member, inquired into this bill, receiving 12 submissions. The committee has issued a report, which until today I thought was a unanimous report, recommending that the bill be passed. I note that, unusually, the Greens have a set of amendments. Those were not raised in the committee's report to the Senate.

The Crimes Legislation Amendment (Proceeds of Crime and Other Measures) Bill 2015 does a number of things. Principally it amends provisions relating to serious drug offences in the Criminal Code to ensure that they capture all relevant substances and processes. With the Greens recently suggesting, as I read in media reports, that ice was okay and should be decriminalised—I may be verballing the Greens on that—

Honourable senators interjecting—

Senator IAN MACDONALD: No, I am not talking about water, either; I am talking about the drug. I may be verballing them; if I am I stand to be corrected.

Senator Siewert: I raise a point of order. The senator knows very well he is verballing us and I ask him to withdraw.

The ACTING DEPUTY PRESIDENT (Senator Lines): I do not believe there is a point of order.

Senator IAN MACDONALD: I am only going on what I read in media reports. You will have plenty of opportunity to explain the Greens' provisions and thoughts in relation to the drug ice. The bill that we are dealing with today is another measure in the government's ongoing campaign against dangerous drugs. Whilst Senator McKim says that sometimes we have to get the balance between human rights, our legal rights and the fight against serious drugs, then we have to look at legislation like that we have here. Indeed, this bill is brought
about because regrettably in Australia at the moment, there are amongst other things real problems with serious organised crime—not petty criminals down in the backyard—proceeds of that crime and very serious drugs.

This bill is intended by the government—and it seems with the support of the opposition—to tighten up areas, so that our law enforcement agencies can better address the scourge of very serious drugs distributed by serious organised criminal elements. One of the elements of this bill relates to that. Other provisions of the bill enable a wider range of agencies and officials to access and share information obtained by AUSTRAC under the money laundering and counter-terrorism financing bills and to further clarify the circumstances under which information can be shared. It enables a wider range of our law enforcement agencies to access the information obtained by AUSTRAC and also extends the circumstances under which AusCheck can share background checking information it gathers with other Commonwealth, state and territory agencies that perform law enforcement and national security functions.

Senator McKim raised proposed section 319 of the bill, which replaces the old section 319 and relates to a new multipart section dealing with more detailed criteria for any stay on known criminal forfeiture proceedings under the Proceeds of Crime Act Section 319, the new one, provides:

A court may stay proceedings … if the court considers that it is in the interests of justice to do so.

But then the bill goes on to limit the extent to which the court may stay proceedings, through a number of provisions which are set out in proposed section 319(2) of the bill. The new provisions are designed to prevent a respondent from claiming merely a generalised risk of prejudice—

Debate interrupted.

MINISTERIAL ARRANGEMENTS

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:00): I table a revised ministry list and I seek leave to have the list incorporated in Hansard.

Leave granted.

The document read as follows—

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<thead>
<tr>
<th>Title</th>
<th>Minister</th>
<th>Other Chamber</th>
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<td>Prime Minister</td>
<td>The Hon Malcolm Turnbull MP</td>
<td>Senator the Hon George Brandis QC</td>
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<td>Minister for Indigenous Affairs</td>
<td>Senator the Hon Nigel Scullion</td>
<td>The Hon Malcolm Turnbull MP</td>
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<td>Minister for Women</td>
<td>Senator the Hon Michaelia Cash</td>
<td>The Hon Malcolm Turnbull MP</td>
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<td>Cabinet Secretary</td>
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<td>Senator the Hon James McGrath</td>
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<td>Deputy Prime Minister and Minister for Agriculture and Water Resources</td>
<td>The Hon Barnaby Joyce MP</td>
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<td>Minister for International Development and the Pacific</td>
<td>Senator the Hon Concetta Fierravanti-Wells</td>
<td>The Hon Julie Bishop MP</td>
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<td>Minister for Regional Development</td>
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<td>Minister for Resources, Energy and Northern Australia</td>
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Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Human Services in the Social Services portfolio and a Department of Veterans’ Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases. Assistant Ministers in italics are designated as Parliamentary Secretaries under the *Ministers of State Act 1952.*
Senator BRANDIS: I take this opportunity to congratulate those senators—including Senator Fierravanti-Wells, Senator Ryan, Senator Nash, of course, and Senator Canavan—who have been promoted to the ministry.

I advise the Senate that Senator Colbeck will be absent from question time this week. In Senator Colbeck's absence, Senator Birmingham will take questions relating to international education and Senator Sinodinos will take questions relating to tourism and to the Agriculture and Water Resources portfolio.

QUESTIONS WITHOUT NOTICE

Economy

Senator KETTER (Queensland) (14:00): My question is to the Minister for Finance, Senator Cormann. I refer to the Treasurer's statement last week that bracket creep 'is a job killer, and it's a growth killer'. I also refer to the minister's statement on bracket creep that 'given that wage inflation is comparatively low, that inflation generally is comparatively low, the problem is there but it is not there to the same extent as it might have been in the past'. Who is right—the Treasurer or the minister?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:01): I thank Senator Ketter for that question. Of course, if he had quoted my full quote, he would have seen that the comments made by the Treasurer and me were entirely consistent. What I said in the interview on Radio National was that bracket creep is a problem, it is a drag on growth, and that we would do as much as is possible to address it and as much as we can sensibly afford, which I would have thought was an entirely reasonable boundary to set. Indeed, it is a very responsible boundary to set in relation to any policy proposals that will come forward down the track.

The second point I would make is that it is self-evident that the stronger the wages growth and the higher the wages growth across the community the faster people move through individual income tax brackets; and the lower the rate of inflation or the lower the rate of wages growth the more slowly people move through individual income tax brackets.

So the key point is this, and the government are of course of one mind in relation to this: bracket creep is a problem, bracket creep is a drag on growth, bracket creep is something that the government are committed to addressing, and we will address it to the best of our ability. We will do the best possible job to address bracket creep by pursuing personal income tax cuts in a way that is sensibly affordable.

Labor should have a close look at their policy, which is to spend more, borrow too much and then tax more. They are always chasing increased levels of expenditure with more new taxes. Our focus is on strengthening growth and creating more jobs, and part of that focus is to ensure that our tax system is as growth friendly as possible and as efficient as possible, and that we address bracket creep in the best way possible and in a way that is sensibly affordable. (Time expired)

Senator KETTER (Queensland) (14:03): Mr President, I ask a supplementary question. I refer to the Treasurer's admission as follows:

It was only last September when we started the approach of looking at issues, whether it was superannuation or the GST or other things like that. Those issues were not under consideration before September last year.
Did the Minister for Finance really do nothing on economic reform until Mr Turnbull and Mr Morrison showed up?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:04): It is quite humorous to see Labor playing politics with the Australian economy! They think it is quite humorous. This government, since its election in September 2013, has been working to strengthen growth and to create more jobs. That is why, since our election in 2013, we have focused on improving our international competitiveness, making our tax system more growth friendly and getting rid of Labor's disastrous carbon tax and their disastrous mining tax; that is why we delivered company tax cuts to small business in last year's budget; that is why we pursued an ambitious free-trade agenda; and that is why we pursued an ambitious infrastructure investment program—all focused on delivering stronger growth and more jobs.

It is a matter of public record that since September, when we had a change of leadership, a number of proposals, or a number of options, that previously had been taken off the table were back on the table for consideration. The way we are working through them— (Time expired)

Senator KETTER (Queensland) (14:05): Mr President, I ask a further supplementary question. With the increase in unemployment, debt and deficit blowing out, and slowing economic growth, does Mr Turnbull's statement last September that the coalition government 'is not successful in providing the economic leadership that we need' remain true?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:05): I completely reject the premise of the question. Employment growth today is much stronger than it was when Labor lost government. In fact, the unemployment rate is below the rate that was anticipated at the time Labor lost government. The economic position today is better than it would have been if we had kept Labor's disastrous mining tax and Labor's disastrous carbon tax, if we had not pursued an ambitious free-trade agenda and if we had not pursued an ambitious infrastructure investment program. Our budget position now is on an improving trajectory—it is on an unbelievably improving trajectory—with the underlying cash balance improving year-on-year in both dollar terms and as a share of GDP.

In any event, when are Labor going to tell us how they are going to pay for more than $50 billion in unfunded promises? Or are you going to increase taxes by another $50 billion, on top of all the tax increases that you have already put on the table?

DISTINGUISHED VISITORS

The PRESIDENT (14:06): I draw to the attention of honourable senators the presence in the gallery of Ms Rieke Diah Pitaloka MP, Member of the House of Representatives of the Republic of Indonesia. 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
Tropical Cyclone Winston

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:07): My question is to the Minister for Defence, Senator Payne. Will the minister please provide the Senate with the latest update on the situation in Fiji arising from Tropical Cyclone Winston and on the contribution of the Australian Defence Force?

Senator PAYNE (New South Wales—Minister for Defence) (14:07): I thank Senator Fawcett very much for his question and particularly acknowledge his longstanding interest in defence issues and, in this instance, particularly in our humanitarian assistance and disaster relief work.

Our thoughts are with the people of Fiji following the devastating impact of Tropical Cyclone Winston over the weekend, which has caused severe damage in the Pacific. This cyclone is the strongest tropical cyclone ever recorded to make landfall in Fiji, with reports of widespread destruction and devastation and, tragically, the death of 17 people. I want to acknowledge the government of Fiji for their work in putting in place a number of precautionary measures to protect their citizens and endeavour to limit the damage. Early assessments indicate that those measures have helped to reduce the loss of life.

I am pleased to say that Defence is working quickly with other Australian government agencies to ensure a coordinated response to this natural disaster. We are also working with our friends in New Zealand in the response process. I can confirm that Australia will provide MRH90 helicopters to assist Fiji to carry out assessments and provide relief to the outlying islands in particular affected by the cyclone.

The initial movement of advance elements departs today from RAAF Base Amberley and will provide the personnel necessary to assist the government of Fiji and the Republic of Fiji Military Forces. These initial elements will be deployed by C17A Globemaster and will arrive in Fiji this afternoon. Australia also has two AP3C Orion aircraft on standby in the region that can be activated at short notice, if that is requested by the government of Fiji, and they are able to assist with aerial surveillance of affected areas.

The Chief of the Defence Force, Air Chief Marshal Mark Binskin, spoke this morning with his Fijian counterpart, Commander of the Republic of Fiji Military Forces, Rear Admiral Naupoto—(Time expired)

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:09): Mr President, I ask a supplementary question. Can the minister advise how the Australian Defence Force is working with its regional partners in the response?

Senator PAYNE (New South Wales—Minister for Defence) (14:09): In addition to the CDF’s conversation with Rear Admiral Naupoto today to ensure the effective coordination of our support, as I referred to earlier, the ADF is also working closely with the New Zealand Defence Force to coordinate our support to the government of Fiji. I am aware that New Zealand has deployed a P3 Orion to assist with aerial assessment in the early days.

We are also working with the Pacific Islands Forum, which is consulting with its broader membership about how they are able to assist in Fiji as it, as a country, identifies the areas in which particular assistance is needed. We have also engaged with other international partners,
such as the United Kingdom and the United States, and are keeping them informed of our contributions to enable them to consider areas in which they may assist. Australia is also working in close cooperation with France through our France-Australia-New Zealand trilateral disaster relief arrangement here in the Pacific.

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:10): Mr President, I ask a further supplementary question. Could the minister detail to the Senate whether the ADF is able to provide any further assistance, if requested by Fiji?

Senator PAYNE (New South Wales—Minister for Defence) (14:10): I thank Senator Fawcett. That is an important question, given that the full impact of the cyclone is not yet clear, because power and communications remain down right across the country, and that makes challenging the identification of particular areas of need. As the situation becomes clearer the ADF stands ready to provide further assistance to support Fiji's relief and recovery efforts, as they may request.

Australia does have some additional capabilities that may be of assistance. One of those in particular would be HMAS Canberra, one of the Navy's new LHD amphibious vessels. It is on standby should the Fiji government request it. HMAS Canberra has a very significant medical support capacity and can also transport heavy earthmoving equipment should that be needed by the Fiji government. We will continue to plan with the Fiji government and with New Zealand, in particular, to ensure that we are able to provide the quickest possible response to any further requests from Fiji.

Taxation

Senator CAROL BROWN (Tasmania) (14:11): My question is to the Minister representing the Treasurer, Senator Cormann. Does the minister agree with former Liberal Premier Jeff Kennett, who said: 'I'm very disappointed at the way in which my side of politics are arguing against what I think is an eminently supportable concept that's been put forward by the Labor Party in terms of negative gearing'?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:12): No, we do not agree with our valued friend and colleague, the former Premier of Victoria, in relation to this point. The Labor Party clearly does not like it when police officers, nurses and teachers aspire to get ahead. On this side of parliament we like Middle Australia to aspire to get ahead. We do not believe that to hit them around the head with the sort of ill-thought-out policy that Labor put forward of ramping up taxes, distorting the market, leading to increased costs for rental accommodation—

Opposition senators interjecting—

The PRESIDENT: On my left!

Senator CORMANN: leading to lower property values in terms of established properties is a good policy. We do not think that is a good policy on this side of the parliament. We believe that a good tax policy is one that encourages people to work more, save more and invest more. We believe that a good tax policy is a policy that helps us strengthen growth and create more jobs in a way that is also fair, and that is the policy agenda that this government will continue to pursue.

Senator CAROL BROWN (Tasmania) (14:13): Mr President, I ask a supplementary question. Does the minister agree with former Treasurer Joe Hockey that 'negative gearing

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should be skewed towards new housing so that there is an incentive to add to the housing stock rather than an incentive to speculate on existing property? 


Opposition senators interjecting—
The PRESIDENT: Order on my left!
Government senators interjecting—
The PRESIDENT: And my right!
Honourable senators interjecting—
The PRESIDENT: On both sides!
Senator Cameron interjecting—
The PRESIDENT: Senator Cameron!
Senator Ian Macdonald interjecting—
The PRESIDENT: Senator Macdonald!
Senator Conroy interjecting—
The PRESIDENT: Senator Conroy!
Government senators interjecting—
The PRESIDENT: On my right!

Senator CAROL BROWN (Tasmania) (14:14): Thank you, Mr President. For a moment there I thought I was at the Press Club. Mr President, I ask a supplementary question. Does the minister agree with the coalition-appointed chair of the Financial Systems Inquiry, Mr David Murray, that reducing the concessions for negative gearing 'would lead to a more efficient allocation of funding in the economy'? When even the government's Liberal mates agree with Labor's policies, why won't the government?

Senator CORMANN (Western Australia— Minister for Finance, Deputy Leader of the Government in the Senate and Special Minister of State) (14:14): I do not agree that David Murray endorsed Labor's policy on negative gearing, so I reject the premise of the question. What I would say is that this government will continue to assess the tax system as a whole for opportunities to make our tax system more growth friendly so that we can strengthen growth and create more jobs in a way that is fair. Obviously, as we do in the lead-up to any budget, we will be considering all of the information, assessing all of the options and making judgments on what is in the national interest. Those decisions will be announced and reflected as appropriate in the budget on the second Tuesday in May.

Regional Australia

Senator WILLIAMS (New South Wales) (14:15): My question is to the newly appointed cabinet minister for regional development, Senator Nash. Will the minister update the Senate on how the coalition government is strengthening regional Australia?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate, Minister for Rural Health, Minister for Regional Development and Minister for Regional Communications) (14:16): I thank the senator for his question. It is with great pride that I
answer my first question in my role as Minister for Regional Development. Senator Williams, like me, is a passionate advocate for people in communities right around rural and regional Australia. This coalition government has committed to investing $50 billion to deliver the infrastructure of the 21st century. We are rebuilding regional Australia after a prolonged period of neglect by those opposite.

In New South Wales alone $15 billion will be invested by the end of the decade. This includes programs like $3.2 billion for Roads to Recovery, $1 billion for the National Stronger Regions Fund, $300 million for Bridges Renewal and $100 million for the Black Spot Program. The National Stronger Regions Fund will invest $1 billion in infrastructure projects to drive economic growth, increase productivity, increase employment and skills and improve partnerships across the Australian region—something we on this side are very well aware of how necessary that is.

Through the first two rounds of the NSRF, 162 projects have been announced, investing over $505 million. In round 2 alone, some 40 projects were announced in New South Wales that will drive economic growth and generate jobs. Over the two rounds, successful projects have included upgrading the Bathurst Airport, supporting the expansion of the Dubbo saleyards and replacing the Marine Rescue Tower in Ballina, which I know is so important to the local people. Each of these projects is vital to their community, and I know each project has been welcomed by Senator Williams. Round 3 of the NSRF is now open, and I strongly encourage members to talk to their local communities about making sure they take advantage of this tremendous program.

Senator WILLIAMS (New South Wales) (14:18): Mr President, I ask a supplementary question. I thank the minister for that wonderful news. Can the minister provide further details on the rollout of the successful Mobile Black Spot Programme and how this helps Australians living in regional areas?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate, Minister for Rural Health, Minister for Regional Development and Minister for Regional Communications) (14:18): The coalition government has delivered $100 million to dramatically improve our mobile phone coverage across regional Australia. There have now been 499 new or upgraded base stations under the rollout of this program, and that will roll out over the next three years. The full rollout from the program will provide 68,600 square kilometres of new hand-held coverage and more than 150,000 square kilometres of new external antenna coverage, providing coverage to some 3,000 mobile black spot locations nominated by members of the public.

The senator will be happy to know that the rollout of this program has started well, with both Telstra and Vodafone recently announcing their rollout schedules for the next six months. The Mobile Black Spot Programme is another example of the focus and hard work this side of the place is putting into regional Australia.

Senator WILLIAMS (New South Wales) (14:19): Mr President, I ask a further supplementary question. Will the minister please advise the Senate on how the coalition government’s commitment to regional Australia differs from that of previous approaches?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate, Minister for Rural Health, Minister for Regional Development and Minister for Regional Communications) (14:19): The coalition government has delivered $100 million to dramatically improve our mobile phone coverage across regional Australia. There have now been 499 new or upgraded base stations under the rollout of this program, and that will roll out over the next three years. The full rollout from the program will provide 68,600 square kilometres of new hand-held coverage and more than 150,000 square kilometres of new external antenna coverage, providing coverage to some 3,000 mobile black spot locations nominated by members of the public.

The senator will be happy to know that the rollout of this program has started well, with both Telstra and Vodafone recently announcing their rollout schedules for the next six months. The Mobile Black Spot Programme is another example of the focus and hard work this side of the place is putting into regional Australia.

Senator WILLIAMS (New South Wales) (14:19): Mr President, I ask a further supplementary question. Will the minister please advise the Senate on how the coalition government’s commitment to regional Australia differs from that of previous approaches?
Communications) (14:19): I think it is important that we do contrast to the previous Labor government when it comes to investment in mobile phone coverage. What did we see from those opposite over nearly seven years? Did we see millions invested in mobile phone technology and upgrades? No. Did we see thousands invested in mobile phone technology? No. What did we see under nearly seven years of those opposite? Not one dollar invested into mobile phone coverage—not one. There is a stark contrast between the other side of this place in the previous Labor government when it comes to developing and investing in regional communities. On this side, we recognise how important it is—indeed, we have committed another $60 million for round 2 of this program—that we deliver mobile phone coverage right across our rural and regional areas where they need it. (Time expired)

Asylum Seekers

Senator HANSON-YOUNG (South Australia) (14:20): My question is to the Minister representing the Prime Minister, Senator Brandis. Senator Brandis, right now, 'Baby Asha' and her family, along with dozens of other families, are living in Australia with the threat of imminent return to Nauru hanging over their heads. Will the government let these families stay here so that they can rebuild their lives or will you continue to disregard advice of medical experts and send these families back to the prison island of Nauru as soon as you can?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:21): Senator Hanson-Young, as Minister Dutton announced yesterday, 'Baby Asha' has now been transferred to community detention, following advice that her medical treatment has concluded. The Australian government's approach to cases of this kind has not changed. It has always been the approach of the Australian government, under both sides of politics, I might say, not to return to offshore processing facilities individuals, whether infants, children or adults, where there are medical reasons not to do so. That policy has not changed. Each decision is made on a case-by-case basis. In the case of the patient known as Baby Asha, that infant was assessed to be not suitable for return to an offshore processing facility.

Senator Hanson-Young, the policies which the government have adopted—in which we are now supported by the opposition, I might say—are policies that have seen the cessation of the flow of men, women, children and infants to Australia through people-smuggling routes. Senator Hanson-Young, under the policies of the previous government, which you supported, the number of children in detention peaked at 1,992—1,992 children in detention, at the same time, in the middle of 2013. In those six years, more than 8,000 children passed through the detention system. Today, as a result of the successful policies of the government and as a result of the work of my colleague Peter Dutton, there are now 73 children in the detention system, and that number is reducing all the time.

Senator HANSON-YOUNG (South Australia) (14:23): Mr President, I ask a supplementary question. Given Senator Brandis's response to my first question, my supplementary goes direct to the issue of government policy: will the government change its policy, to stop immigration department officials from vetoing individual recommendations of doctors when they advise not to send individuals to Nauru?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:23): Well, Senator Hanson-Young,
these decisions are made by ministers on the advice of those who advise them. In making these decisions, as I explained to you in answer to your primary question, the medical needs of the patient concerned are had regard to. That is not a new policy. That is a policy that has always been the case. Of course, medical considerations are taken into account and of course the opinion of doctors in relation to those medical considerations is important. But ultimately, as you know Senator, in any orderly scheme of public administration, it is responsible ministers, not private practitioners, who make the final decision.

Senator HANSON-YOUNG (South Australia) (14:24): Mr President, I ask a further supplementary question. When will the Prime Minister stop ignoring the advice of doctors that sending children to Nauru is state sanctioned child abuse?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:25): Senator Hanson-Young, as I said to you, and I am just going to have to say it again, the medical needs of a particular asylum seeker or detainee are always taken into account when a decision is made whether or not to return that person—whether it be an adult or a child—to a regional processing centre. Those decisions are made by ministers. Those decisions are informed by medical advice. Where the medical advice suggests that individuals should not be returned, the minister will routinely decide to adhere to that medical advice. That has always been the practice, and it was the practice in the case of Baby Asha. But, Senator Hanson-Young, it has always been the practice. By the proposition you have put to me in your question, you imply that that is not the case. It is the case; it always has been the case that we listen to medical advice. (Time expired)

National Security

Senator O'SULLIVAN (Queensland) (14:26): My question is to the Leader of the Government in the Senate, Senator Brandis. Will the Attorney-General update the Senate on the outcomes of last week's meetings of attorneys-general and national security ministers in Washington?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:26): Thank you very much indeed, Senator O'Sullivan. It is the case that last week, accompanied by the Minister for Immigration and Border Protection, I attended a meeting of attorneys-general and national security ministers in Washington DC involving the so-called Five Eyes nations: the United States, the United Kingdom, Canada, Australia and New Zealand. The meeting was hosted, on this occasion, by the United States. It was attended, among others, by the Attorney General of the United States, Loretta Lynch; the American Secretary of Homeland Security, Jeh Johnson; the British Home Secretary, the Rt Hon. Theresa May; the British Attorney-General, the Rt Hon. Jeremy Wright; and others from the Five Eyes community.

Attorneys-general, national security ministers and, for the first time, immigration ministers participated in meetings which were held together and reaffirmed the importance of continued and enhanced collaboration between our closest security and intelligence partners. Jointly, homeland security ministers and attorneys discussed a range of topics, including information sharing for counter-terrorism purposes, countering violent extremism, cybercrime, encryption and foreign investment in critical infrastructure. The attorneys-general also discussed criminal justice reform, the principle of self-defence under international law, and the need to uphold
the rule of law and individual freedoms in the age of national security threats. Separately, immigration and border protection ministers agreed to address the challenges posed by mass migration refugee flows and the need to improve information sharing between their respective jurisdictions. All five nations agreed to continue to coordinate efforts to ensure the security and prosperity of all of our citizens, consistent with the respect we all share for individual rights and freedoms and the rule of law.

Senator O'SULLIVAN (Queensland) (14:28): Mr President, I ask a supplementary question. Thank you, Attorney-General, for that comprehensive answer. What were the other outcomes of the meetings?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:28): Senator O'Sullivan, the attorneys and the ministers reaffirmed the importance of the Five Eyes—that is, the five great English-speaking democracies—continuing to work closely together on law enforcement and security matters, particularly in relation to counter-terrorism. And, in furtherance of those efforts, we agreed to undertake to further coordinate activity to counter violent extremism, including pooling of information as to CVE programs that work to best effect. We agreed that together we would address concerns about law enforcement access to encrypted information. We established an officials working group to arrive at a common position on the doctrine of self-defence under international law. We agreed to work towards even greater sharing of security and law enforcement information among the five countries, in particular enhanced sharing of information in relation to flows of migrants. (Time expired)

Senator O'SULLIVAN (Queensland) (14:29): Mr President, I ask a further supplementary question to the Attorney-General: why is multilateral cooperation on counterterrorism so important?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:29): Senator O'Sullivan, I am sure you, as a very distinguished former officer of the Queensland police service, would be well aware that it is very important that we have access to the best intelligence that we can and that that intelligence—

Senator Cameron: We know all about Bjelke's bovver boys!

Senator BRANDIS: Mr President, I thought this topic might be taken seriously by the opposition, but apparently it is not by all of them. Working with our closest allies is critical so that we can share that information and so that we can make one another aware of threats to the security of each of the nations, of which we become aware of through intelligence.

In addition to working to strengthen the Five Eyes alliance, the government is actively building strong partnerships with countries in our region. I have told you before, Senator O'Sullivan, about the ministerial council—in which Australia is a leading participant—which we established with Indonesia to ensure a local, regional and global response to the terrorist threat.

Higher Education

Senator SIMMS (South Australia) (14:31): My question is for the Minister for Education and Training, Senator Simon Birmingham. Senator Birmingham, this week thousands of students will start university for the first time and approximately 200,000 students from low-
income backgrounds will be on start-up scholarships. What support will the government be providing to these students from lower income backgrounds who will now be saddled with thousands of dollars of extra debt following the deal it did with the Labor Party to convert start-up scholarships into loans?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:31): I thank Senator Simms for his question.

Senator Kim Carr interjecting—

Senator BIRMINGHAM: Senator Carr, I acknowledge that, in relation to the reform we were just asked about, it was a measure that both sides of politics did support. They support it because it is important—in an era where government is spending more than ever before to support more students to access higher education than ever before—that we do also have financial sustainability around our higher education systems.

The income-contingent loans systems that we operate in Australia are among the most generous in the world in terms of the repayment arrangements that exist for individuals. They do provide a very fair and reasonable measure of support for students. Primarily, they provide that support for students' fees, but these measures provide opportunities for students to be able to access that additional assistance to meet other costs that they may not otherwise have the funds to meet in relation to their education. That is of great benefit to them.

It is consistent with what we do in other areas, such as the Trade Support Loans program, which again assists individuals to meet some of the costs of their trade training; but if they are taking a loan out from the government, it does expect that they would repay that. That is consistent with the terms of all of the other income-contingent support loan program, which do have that very generous threshold level—

Senator Simms: Mr President, on a point of order: with respect, I asked the minister quite directly what he would be doing to assist students from low-income families, and he has not addressed that part of the question.

The PRESIDENT: The minister did indicate some of the support mechanisms. I will invite the minister to continue his answer. He has 33 seconds in which to respond.

Senator BIRMINGHAM: In case Senator Simms was missing it, the support is still there. It is there in a different format; it is there in the format of an income-contingent loan that is available to students. The support is also there through the hundreds of millions of dollars in the Higher Education Participation and Partnerships Program that provides support for universities to be able to enrolled people from different backgrounds. I am very pleased that the latest enrolment data demonstrates that we have more people from lower socioeconomic backgrounds in universities than ever before and that that has been growing at a faster rate than the overall student population.

Senator SIMMS (South Australia) (14:34): Mr President, I ask a supplementary question. Given the government's deregulation agenda will also price people from lower income families out of universities, will the government abandon this deregulation crusade in the coming federal budget and finally put the money on the table that we need to provide world-class university education for all?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:34): As I have made clear publicly, the government provided certainty in relation to
university funding for university students and all stakeholders in 2016. We are consulting further in relation to reforms that may apply beyond 2016. But any reforms we apply will be equitable in their nature and will ensure continued access to university for people from all walks of life, because we are guaranteeing the maintenance of the HECS program, the HELP program, the income support arrangements and income-contingent loans that ensure that no student faces one dollar in upfront fees in relation to accessing an undergraduate degree at an Australia university. This ensures fair and equitable access for Australian's accessing university.

Since the HECS program was introduced by the Keating government, we have seen continued growth of enrolments from students, who are not deterred by the fact that they might incur a debt, because they know that it is the best debt that they will ever undertake in terms of getting better job security and higher wage jobs in future. It has been supported by both sides of politics. (Time expired)

Senator SIMMS (South Australia) (14:35): Mr President, I ask a further supplementary question. Given the government is still saddling students with more and more debt and still pursuing this deregulation agenda which will make university study less affordable, when will the government finally increase youth allowance to give students the support that they need while they are studying?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:35): I really do reject the premise of the argument that Senator Simms is putting, in terms of suggesting that the government is mounting some deregulation agenda that is saddling students with ever more debt. What the government wants to do is ensure that we have funding mechanisms that are sustainable for our universities, that we have funding mechanisms that do encourage excellence within those universities and that we have systems in place to support equity of access for all students. That is why we remain committed to ensuring that students do not face upfront fees going into university and that they do have what is the world's most generous program in terms of student loans and the way in which those loans repaid. Students around Australia and their families should be confident that in the future—

Senator Simms: Mr President, on a point of order: with respect, I did ask the minister whether he would commit to increasing youth allowance. He still has not answered the question.

The PRESIDENT: I remind the minister of the question. Minister, you have 13 seconds in which to answer.

Senator BIRMINGHAM: Coupled with the generosity of support for students in addressing their fees, the Australian government provides income support for a range of different categories, including youth allowance. Senator Simms, if you want to increase those payments, you better come to the parliament with ways to pay for them. (Time expired)

Workplace Relations

Senator McKENZIE (Victoria) (14:37): My question is for the Minister for Employment, Senator Cash. Will the minister advise the Senate of any further alleged breaches of workplace laws in the construction sector?
Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:37): Yes I can. I am disappointed to advise the Senate that there are yet again court proceedings alleging further industrial contraventions by CFMEU officials. Documents filed in the Federal Circuit Court allege that 13 CFMEU officials from New South Wales—

Opposition senators interjecting—

Senator CASH: including National Secretary Michael O'Connor, and State Secretary Brian Parker—

Senator Kim Carr interjecting—

The PRESIDENT: Order on my left!

Senator CASH: ran an orchestrated series of unlawful blockades against a Sydney concrete pumping firm, in 2015. One of the union officials accused of participating in this orchestrated action is union organiser Luke Collier, who worked for the CFMEU in Queensland, New South Wales and Western Australia, and, as was revealed at Senate estimates recently, is serving a three-month jail sentence for assault. I also note that Brian Parker has been referred to authorities by the Heydon royal commission, for civil and criminal contraventions. The alleged unlawful action occurred at the Barangaroo project site and at a second site at Harold Park in Sydney. The Fair Work Building Commission alleges that the dispute arose when a concrete pumping firm rejected the CFMEU's EBA proposal, as it was entitled to do.

Since the Australian Building and Construction Commission was abolished, the findings of dozens of court cases illustrate that history was quick to repeat itself and the flagrant disregard of industrial law is as common as ever. The long list of unsavoury actions includes physical and verbal violence, threats, intimidation, abuse of rights of entry permits, secondary boycotts, breaches of fiduciary duty and contempt of court. When the laws are not strong enough to act as a deterrent something needs to be done.

Honourable senators interjecting—

The PRESIDENT: Senators on my left and my right, order! Senator Cameron and Senator Heffernan. Order!

Senator McKenzie (Victoria) (14:40): Mr President, I ask a supplementary question. Can the minister inform the Senate what is alleged to have occurred at the Barangaroo site?

Senator Cash (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:40): Yes, I can. As part of the bargaining, some employees took protected industrial action, as they were entitled to do. As we know, this is part of the lawful process.

Senator Kim Carr interjecting—

Senator Cash: The CFMEU, however, allegedly prevented subcontractors engaged by the concrete firm from carrying out their lawful work. The Fair Work Building Commission alleges that workers trying to get to work were verbally abused and called 'effing scabs' and 'filthy dogs'. There are also allegations that Brian Parker, the CFMEU state secretary, repeatedly used his vehicle to block access to a concrete pump on the Harold Park site. We on
this side of the chamber believe that workers should be free to go to work, to their workplace, without being subjected to threats, bullying or intimidation.

*Opposition senators interjecting—*

**Senator CASH:** Sadly, and given all of the interjections, that is clearly not the view of those on the other side, who refuse to stand up to bullying. *(Time expired)*

*Senator Heffernan interjecting—*

**The PRESIDENT:** Order! Senator Heffernan!

**Senator McKENZIE** (Victoria) *(14:41)*: Mr President, I ask a further supplementary question. Can the minister advise the Senate if there are any other recent cases of unlawfulness on the part of the construction and general division of the CFMEU?

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) *(14:41)*: There are unfortunately—again, including the proceedings that have now been commenced—currently 81 CFMEU representatives before the courts around Australia and many of these 81 representatives represent the highest levels of union leadership. The list of 81 includes Michael O'Connor, two divisional presidents, four state secretaries, one national secretary, seven assistant state secretaries, and the list goes on. The courts have imposed almost $7 million in penalties on the CFMEU. The CFMEU is a respondent in 53 matters currently before the courts. The systemic unlawfulness in the construction and general division of the CFMEU clearly demonstrates that the current penalties are seen as nothing more and nothing less than the cost of doing business. This must stop.

**Shipping**

**Senator STERLE** (Western Australia) *(14:42)*: My question is to the Minister for Employment, Senator Cash. I refer to evidence in estimates that the Department of Employment knew in advance of the plan to replace the Australian crew of the MV *Portland* with a foreign crew and set sail the following day. I also refer to evidence that the minister and her office were informed in advance. Once informed, what action did the minister take to defend Australian jobs on the MV *Portland*?

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) *(14:43)*: I thank Senator Sterle for the question. If Senator Sterle was listening to the evidence at estimates, he would know that it is always the case in these types of disputes that the department is made aware of them. But in terms of what occurred on the MV *Portland*, that is a matter for the company—nothing more and nothing less.

In relation to the issue of Australian jobs, I see that Senator Sterle, a great defender of the actions of the MUA—and just remember in this case, the MUA members held that ship hostage for months—they sat on that ship in breach of orders that came out of—

*Opposition senators interjecting—*

**The PRESIDENT:** Senators on my left. Order on my left! Senator Wong on a point of order.

**Senator Wong:** Mr President, a point of order on direct relevance. I know Senator Cash does like to hit any union she can in any opportunity, but she was actually asked about what
action she took. She was asked: 'I refer to evidence that the minister and her office were informed in advance and once informed what action did the minister take to defend Australian jobs on the MV *Portland*?'

**The PRESIDENT:** The minister did explain that she believes it is a matter for the company and the employees. I will allow the minister to continue answering.

**Senator CASH:** As I was saying, the MUA members working on that ship were in breach of orders made by the Fair Work Commission. Those orders had been challenged in the Federal Court, and the Federal Court had referred them back to the Fair Work Commission. So, Senator Sterle, you and those on that side of the chamber may come in here and defend the unlawful actions of the MUA, but I will not.

I will tell you what I will defend. I will defend the small business owners in Portland who did not get business because the MUA held the ship hostage. I will stand here and defend them. More than 2,000 people are employed directly and indirectly by the aluminium smelter in Portland. Those jobs have been saved because of the actions of Alcoa. I will not come in here and defend unlawful action by the most militant union in Australia. It held a ship hostage and almost destroyed the jobs of small business owners in the town of Portland.

**Senator STERLE** (Western Australia) (14:46): Mr President, I ask a supplementary question. I refer to confirmation that the minister's department was aware that security guards would be present on the MV *Portland* during its midnight replacement of the Australian crew. Was the minister or her office aware that guards would be present, and does she support the use of security guards to forcibly remove Australian workers?

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:46): Again, I am absolutely gobsmacked. Senator Sterle comes in here to defend the actions of the MUA, who were themselves in breach of—

**The PRESIDENT:** Pause the clock.

**Senator Sterle:** Mr President, I rise on a point of order. My question clearly had two parts. I asked very clearly: was the minister or her office aware that guards would be present? Then I asked: does the minister support the use of security guards to forcibly remove Australian workers? She has gone nowhere near that question. She is avoiding it.

**The PRESIDENT:** I remind the minister of the question.

**Senator CASH:** I will remind Senator Sterle and those on the other side that the context of the MV *Portland* setting sail was that there were three orders of the independent umpire that were being ignored. The decision to remove the employees from the ship was made by the company. The company made that decision after its ship had been held hostage by the MUA for a number of months.

**The PRESIDENT:** Pause the clock.

**Senator Wong:** Mr President, I rise on a point of order on direct relevance. I refer you to the statement that you made at the commencement of this session's sittings where you made some comments about ministers' relevance to the question. Today you have done as you said you would in that statement, and that is to remind the minister of the question. There was only one question. It was on whether or not the minister or her office were aware that guards would
be present and whether she supports the use of security guards to forcibly remove Australian workers. So a rant about the MUA, with respect, cannot be directly relevant.

The PRESIDENT: I will remind the minister of the question.

Senator CASH: I say to Senator Sterle that the context around the people going on the ship to take the MUA members off and the MV Portland setting sail was that there were three orders of the independent umpire being ignored.

Senator Sterle: Mr President, I rise on a point of order. I cannot say it any clearer. There were two parts to my question. The minister only has to answer my question with a yes or no. I am not asking for a rant against any union. It is either a yes or a no, Mr President. With the greatest of respect, she is not being relevant to the question.

The PRESIDENT: As previous presidents have often said—and I did indicate this in my statement at the beginning of this session—I cannot direct a minister how to answer, but I can inform the minister whether he or she is being directly relevant. In this case, I will remind the minister again of the question that has been asked.

Senator CASH: Again, I will not stand here and defend the unlawful actions of the MUA—

Senator Sterle: Mr President, I rise on a point of order. That is twice now that you have asked the minister to answer the question and she has refused to do it. I would like to ask the question again in case there is some confusion.

The PRESIDENT: You have a final supplementary question available, Senator Sterle. It is your right to ask it if you wish.

Senator Sterle: I wish to ask my first supplementary question again because it was not answered.

The PRESIDENT: It still fits within the definition of a supplementary question, so you can ask that again if you wish to.

Senator STERLE (Western Australia) (14:50): Mr President, I ask my first supplementary question again. I refer to confirmation that the minister's department was aware that security guards would be present on the MV Portland during its midnight replacement of the Australian crew. Was the minister or her office aware that guards would be present, and does she support the use of security guards to forcibly remove Australian workers?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:50): If you listened to my previous answer you would know I did answer that question. I have nothing further to add.

Broadband

Senator BACK (Western Australia) (14:51): My question is to the Minister for Communications and Minister for the Arts, Senator Fifield. Will the minister inform the Senate how the coalition government is delivering the NBN sooner and more cost-effectively for Australian taxpayers?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (14:51): I thank Senator Back for his question and for his great interest
in communications, particularly in regional areas. As my colleagues on this side know, the NBN is being rolled out sooner and at less cost to the taxpayer than would have been the case if those opposite were still in office. Also, as I think colleagues on this side are well aware, we are adopting a technology-agnostic approach to the NBN, rather than a theological approach as was the case with Senator Conroy.

There is good news: the half-yearly results released earlier this month reveal that the rollout of the NBN is accelerating, with 1.7 million homes and businesses now able to order a connection. Isn't that good news? The rollout under those opposite was painfully slow: a miserly 51,000 users were connected to the fixed network by the time of the 2013 election. Results today show that the total number of connected premises was 780,000 as at the end of January. Financially, the company met or exceeded its targets, with revenue from the six months to 31 December 2015 more than double when compared with revenue from the corresponding previous period. This is in contrast to Labor's rollout, where the NBN failed to meet each and every rollout target that had been set. I was very pleased to see in the financial results that initial customer research showed that the levels of satisfaction with broadband services delivered using fibre to the node are exactly the same as those using fibre to the premises. I should take this opportunity to congratulate the management team of the NBN, who are getting the NBN out to Australians sooner and at less cost.

Senator BACK (Western Australia) (14:53): Mr President, I ask a supplementary question. I congratulate the minister on those statistics and ask, can he inform the Senate how the NBN is supporting Australian innovation by connecting more people to the National Broadband Network more quickly?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (14:54): The NBN is obviously important to assist Australian individuals and businesses to seize the opportunities of the digital age. We know that the NBN proved to be ridiculously slow and costly under those opposite. This is the largest and most complex infrastructure project ever undertaken in Australia. Australians want it; they need it; and they cannot afford to wait another decade, as would be the case if those opposite were on this side of the chamber. The social and economic benefits of the NBN will be realised as a result of Australians accessing the NBN sooner. The economic benefits of the NBN cannot accrue if the NBN is only available to a few people, as would be the case if those opposite were still in the saddle.

Senator BACK (Western Australia) (14:55): Mr President, I ask a further supplementary question. Will the minister outline to the Senate how many more households and businesses are being connected to high-speed broadband each week and whether there are any threats to this progress?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (14:55): It took three full years, from July 2010 until June 2013, for the NBN to cover just 100,000 premises. In fibre-to-the-node areas this milestone was achieved in just four months. Similarly, it took Labor's NBN rollout two years and seven months to get 10,000 users connected, from July 2010 to February 2013. Under our faster fibre-to-the-node rollout it has taken just four months. I think these numbers speak for themselves. Under
Labor, their rollout fundamentally consisted of pins on coloured maps. There were a lot of very pretty maps on websites; the only problem was that they bore absolutely no relation to reality when it came to the progress of the rollout. Indeed, it has been said unkindly that FTTP under Labor stood for 'fibre to the press release'.

**Economy**

Senator CAMERON (New South Wales) (14:56): My question is to the Minister representing the Minister for Industry, Innovation and Science, Senator Sinodinos. It relates to manufacturing jobs. How many Australian manufacturing jobs have been lost since the Abbott-Turnbull government came to office? How many more manufacturing jobs are projected to be lost by the end of 2017, when Ford, Holden and Toyota stop building cars in Australia after the former Treasurer and Deputy Prime Minister goaded carmakers to leave?

Senator SINODINOS (New South Wales—Cabinet Secretary) (14:57): I thank the honourable senator for his question. I can report that since the last election 421,400 new jobs have been created, with substantial opportunities particularly in service sectors. What we are seeing is a transition in the Australian economy as we wind down from the mining boom, and this is providing opportunities across service sectors and manufacturing sectors. It is true that manufacturing employment—

The PRESIDENT: Pause the clock. Senator Cameron, on a point of order?

Senator Cameron: Mr President, I raise a point of order on relevance. I asked a clear question followed by another question: how many manufacturing jobs have been lost and how many jobs are projected to be lost with the closure of Ford, Holden and Toyota? The minister has gone nowhere near those questions.

The PRESIDENT: I would not say he has gone nowhere near that. He certainly has been answering the question. Not as specifically as you have asked it, but I think we have to give him the benefit of the doubt and allow him to continue to answer. He has been addressing the topic directly.

Senator SINODINOS: The long-term decline of manufacturing as a share of total employment is occurring in most major OECD economies. In Australia, employment in manufacturing is projected to decline by 26,000 over the five years to November 2019, primarily driven by a fall in motor vehicle and motor vehicle part manufacturing following the announced planned closures by Ford, Toyota and Holden. This follows closures on the
watch of the previous government and is a trend which means that, for us to reverse it, is the
opposition saying that we should revamp—

The PRESIDENT: Pause the clock.

Senator Cameron: Mr President, I raise a point of order. I have been very patient. The
minister was asked how many Australian manufacturing jobs have been lost since the Abbott-
Turnbull government came to office. He still has not gone to that question. And he still has
not gone to the question of how many jobs will be lost in manufacturing as a result of Ford,
Holden and Toyota being goaded to leave Australia.

The PRESIDENT: Thank you, Senator Cameron. The minister has been on topic and the
minister has been relevant to the question—not as detailed as you have asked in your
question, but I will allow the minister to continue.

Senator SINODINOS: Mr President, I believe I have answered the last part of the
question, but I can report that notable growth is projected in the food product manufacturing
sector, and other sectors will grow, including in manufacturing, as the dollar stays low. If
members opposite are saying we should be putting more money into motor vehicle
production, why did they not do that on their watch? They cut jobs—

Senator Cameron: Mr President, I raise a point of order, again on relevance. The
question was unequivocally clear: how many Australian manufacturing jobs have been lost
since the Abbott-Turnbull government came to office? He has not gone near that. And how
many jobs will be lost as a result of the Deputy Prime Minister and the Treasurer goading
Ford, Holden and Toyota to leave Australia?

The PRESIDENT: Thank you, Senator Cameron. The Cabinet Secretary is aware of the
question. I invite the Cabinet Secretary to continue.

Senator SINODINOS: Mr President, on Labor's watch, one manufacturing job was lost
every 19 minutes. That is their commitment to manufacturing. They did not have a strategy.
(Time expired)

Senator CAMERON (New South Wales) (15:01): Mr President, I ask a supplementary
question. Just before I do that, could I acknowledge members of the AMWU and Wayne
Thompson in the gallery, workers here concerned about their jobs—

Government senators interjecting

The PRESIDENT: Go to the question, Senator Cameron.

Senator CAMERON: Is the minister aware that more than 1,500 jobs have already been
lost from the strategically vital shipbuilding industry on this government's watch, including 40
at BAE Williamstown and 150 at Forgacs just this month? How many more shipbuilding jobs
will be lost before this government sorts out its litany of broken promises on submarines and
confusion on the offshore patrol vessel build?

Senator SINODINOS (New South Wales—Cabinet Secretary) (15:02): I can assure the
workers who are here today that we are addressing the valley of death in shipbuilding that was
left by the previous government. That is what we are about. We have announced a continuous
build in shipbuilding. We have a competitive evaluation process in relation to the submarines.
I can assure the workers here today there will be no better friend for Australian shipbuilding
than this government and this Minister for Defence.
Senator Cameron: Mr President, I was going to raise a point of order. I am not sure whether the minister has finished.

The PRESIDENT: I think the Cabinet Secretary has concluded his answer. Cabinet Secretary, have you concluded your answer?

Senator Sinodinos: Yes.

Senator Cameron: What a pathetic performance that was then.

The PRESIDENT: Senator Cameron, to the question.

Senator Cameron (New South Wales) (15:03): Mr President, I ask a further supplementary question. I refer to the threat to the Arrium steelworks at Whyalla and Minister Pyne's refusal to commit to working with the state government to address the challenges Arrium faces. How many manufacturing jobs must be lost before the minister and the Prime Minister take the issue seriously?

Senator SINODINOS (New South Wales—Cabinet Secretary) (15:04): In relation to Whyalla and Arrium, the honourable senator should be aware that we have instituted an inquiry to look at the general issue of steel and steel imports in the region and at what is impacting on the competitiveness of the Australian industry, and we will have more to say on that in due course. But, if you want to promote Australian industry, you have to be more competitive and you have to cut red tape, and this government is doing whatever it can to make Australian manufacturing benefit from better conditions.

Senator Cameron: Mr President—

The PRESIDENT: A point of order, Senator Cameron? I think the Cabinet Secretary has concluded his answer.

Senator Cameron: Another absolutely pathetic performance.

The PRESIDENT: Order, Senator Cameron. You have no point of order.

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Taxation

Senator CAROL BROWN (Tasmania) (15:05): I move:

That the Senate take note of the answers given by the Minister for Finance (Senator Cormann) to questions without notice asked by Senators Brown and Ketter today relating to tax policy.

I would like to start with the response that Senator Cormann gave to a question that I asked in question time today. In response to my quote from former Treasurer Joe Hockey, it does appear that Senator Cormann threw Mr Hockey under the bus again. He is leaving the chamber smiling, but he could not even bring himself to agree with his former friend, his former smoking partner, that negative gearing should be skewed towards new housing so that there is an incentive to add to the housing stock rather than an incentive to speculate on existing property.

The responses by Senator Cormann were pathetic, to say the least. His response on behalf of the government basically had no relevance to the questions that I was asking. He also fell in line with Mr Turnbull in whipping up a scare campaign—something that Mr Turnbull said
that he would not lower himself to do. They have failed to see what economists in Australia are saying about the Labor Party's policy on negative gearing.

We had in The Examiner today a column written by Saul Eslake, a nationally acclaimed economist who lives in Tasmania. He wrote:

So let's not kid ourselves that negative gearing is something that is widely used by 'average Australians' to secure their retirement. It's something that is used by Australia's wealthiest households to reduce their tax debts.

There is no doubt that people up and down the income chain utilise negative gearing, but the simple fact is that surgeons get 100 times the tax benefit from negative gearing that cleaners do. They are the simple facts.

Saul Eslake's opinion piece in today's Examiner is based on fact; it is not based on the furphies that now seem to be part of the scare campaign that the government is running against negative gearing. Economist after economist, as well as the former Victorian Premier Jeff Kennett, is dismayed about the tack that this government is taking. The simple fact is that surgeons get 100 times the tax benefit from negative gearing that cleaners do.

Another question that was asked in question time today was about bracket creep, and, of course, we have differing views from Senator Cormann and Mr Morrison on it. What that demonstrates is that this government is all at sea on its plan for the economy and for tax reform. They have no plan. They have been in government for 2½ years and they have no plan. We have Mr Morrison so at sea that he had to blame Mr Abbott of doing nothing, but, of course, Mr Abbott had to give him a slap over that and deservedly so. They only started to look at their plan five months ago.

Mr Morrison's inept performance at the Press Club was excruciating—I felt bad for him, but I can tell you that Senator Cormann was sitting in the audience and his face told the whole story. He was just appalled by the lack of substance in Mr Morrison's performance. Mr Morrison rightly got the rounds of the table when he went out to the media—and no-one backed him in—because Mr Morrison started talking about unicorns and pixies. It was very hard to follow what Mr Morrison was trying to convey to the community. What he managed to convey was that this government has no plan—(Time expired)

**Senator EDWARDS** (South Australia) (15:10): I rise to take note of answers to questions raised by Senators Ketter and Brown to the Minister for Finance. It is like being hit by a heated lettuce leaf, isn't it?

**Senator Brandis**: Or savaged by a dead sheep.

**Senator EDWARDS**: This government is taking a very intellectual approach to a very difficult transitioning economy—an economy which is transitioning out of the mining boom with nearly 300,000 new jobs added in the new last 12 months. We are attempting to have a sensible conversation, and I am very pleased that Senator Ketter is joining me in the chamber to join in this. In our economics committee we are dealing with the issues of superannuation and fairness—whether it be the inequality of retirement incomes of men and women or corporate tax avoidance or the plethora of other issues we are dealing with. I can tell you that the opposition is playing catch up when it comes to these issues, because we already have introduced multinational corporate tax avoidance legislation into this place while the Labor Party and the Greens are still talking about it. We are the ones who are looking at...
superannuation. As I travel the length and breadth of this country, there are people with large superannuation funds who are saying, 'I think it is thoroughly acceptable that the government have a look at the way in which superannuation funds are taxed.'

I think it is thoroughly appropriate that the Treasurer of this country has the conversation with people of Australia as he heads towards the budget in May. Even the workers in these multinational companies are now looking at higher wages, wage growth and bracket creep and the drag on the economy that bracket creep is. As people progress through the 30, 32, 37 cent bracket, it is a drag on growth in this country.

All the Treasury modelling shows that high-taxing and high-spending governments are a recipe for disaster. The Australian people understand what $100 million a day of borrowings are—36,500 million is what we are faced with over the forward estimates. That is what we borrow—$100 million a day. The other side think it is sustainable to continue borrowing and spending. Every minister in this government is looking at ways in which they can create efficiencies, but that does not mean non-delivery of service. That is what prudent governments do; that is what we do—it is in the DNA of this side. That is what the commentators are seeing: a rational approach to the way in which this next budget is framed—one which transitions from the windfall benefits of a mining boom and one which transitions from a time where people expected governments to hand out money. We all know the days of pink batts and cash for clunkers have gone, but we are still paying for them and we cannot do it anymore. The revenues have gone. Every time iron ore drops a dollar, it is a $10 million hit on the economy. Anybody who thinks that we can keep the trajectory of spending going at those levels is not quoting from Saul Eslake. These people are lobbying the government. Big business will always want their bit, small business will want their bit, the unions will want their bit, and we will traverse a path methodically and intelligently through that.

If you look at negative gearing carefully, every Australian aspires, whether or not they own a home, to own an investment property—every Australian. I do not know why those on the other side play the politics of envy and why they deny people the same opportunity that they have had. I do not know why they are being mean. I do not think these things are lucrative; I do not think it is keeping anybody out of the Adelaide market and I do not think it is keeping anybody out of the Whyalla market—(Time expired)

Senator KETTER (Queensland) (15:15): I rise to speak on the motion that the Senate take note of the answers Senator Cormann gave to the questions I asked him. On the general issue of the quality of the economic leadership of this government, I think any objective observer of material put before the parliament today and of the responses we received would form the view that, instead of the quality of economic leadership improving since Prime Minister Turnbull took the top office, it has deteriorated quite alarmingly, to the extent that we now have a shambolic approach in the very important area of tax reform. The first question I put to the Minister for Finance related to the disparity between his response on bracket creep and that of the Treasurer. The Treasurer identified bracket creep as a job killer and a growth killer, so one could be forgiven for forming the view that this was the government's top priority. But nobody sent the memo to the Minister for Finance, because his response on the issue of bracket creep was that it is not the problem it has been in the past, or words that effect. The minister's response to my question was to divert and say I was not
quoting him completely, and he made the comment that there was a drag on growth with respect to bracket creep. The fact remains that we have a Minister for Finance and a Treasurer singing from two different hymn sheets, highlighting the fact that the economic leadership being provided is appalling.

My first supplementary question went to the issue of whether or not it had been only since last September that they had started looking at issues like superannuation and the GST. We see a government and a Treasurer basically trying to indicate that nothing has been done for the past 2½ years on issues such as tax reform, but we know that in September of last year the most senior bureaucrats identified that one of Mr Turnbull's first acts after becoming Prime Minister was to halt the release of the green paper, which had been expected within the next six weeks, pending a full rethink of tax reform. They were told at that point to put everything on ice. A reset on tax reform was taking place, according to one senior executive. This is after the fact that we had a reform process in place.

At least the former Treasurer put out a press release in March 2015 identifying what on the surface appeared to be an understandable process that would be followed, including a conversation with the nation on tax reform which would involve a green paper and a white paper following the discussion paper. We were all taken in by that because major corporations, industry bodies and interest groups then spent hundreds of millions of dollars getting taxation advice and legal advice to make submissions to Canberra for the white paper. The Business Council of Australia submission went to 75 pages, and the process cost Australian industry hundreds of millions of dollars, and there is speculation about how much mining companies and banks spent preparing their submissions. The Tax White Paper Taskforce had more than 700 public submissions uploaded to its website from companies such as ANZ, BHP Billiton and British American Tobacco. We were all involved in a journey only to find that, with the assent of the Prime Minister, Mr Turnbull, to his new role, we had the pin being pulled on it and instead of the economic leadership that Mr Turnbull promised at the time, in September, we have an absolute descent into a shambolic situation.

Senator Cormann talked about the fact that the budget was on an improving trajectory, but we have a doubling of the deficit. So, we have a very poor quality of economic leadership on display here.

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (15:20): I am pleased to be talking on the motion that the Senate take note of the answers given by coalition ministers to Senator Brown and Senator Ketter. If you had been paying attention to the national debate since Prime Minister Turnbull's ascension to the leadership of the Liberal Party, you would know that the coalition is interested in a better tax system, you would know that the coalition is interested in a bigger tax burden on ordinary Australian families and businesses. It is revealing that in the contributions this afternoon a particular quotation has not been referred to, and that is a quotation of former Prime Minister—indeed, former Labor Treasurer of this nation—Paul Keating, who said just three weeks ago that what this country had was a spending problem and what it did not have was a revenue problem. I will come to that in a moment.

The Labor Party has zero credibility on the issue of tax. We know that from the experience we had to endure with Labor's minerals resource rent tax; we know it from the misery that many Australian families and businesses had to endure as a result of the carbon tax. I will
come back to the mining tax and carbon tax issues, but in the short time available to me I thought I might start by refuting some of the falsehoods that have been put out by Labor specifically in regard to negative gearing.

I am going to refer specifically to comments made by the Leader of the Opposition, Bill Shorten, on the Sunrise program of 14 February; to comments made by the shadow Treasurer, Chris Bowen, on Sky News on 13 February this year; to Labor media releases; and of course to comments that Mr Bowen made in the Australian Financial Review on 14 February and in the Australian newspaper on 15 February.

Let me turn first to the shadow Treasurer's contribution to Sky News on 13 February, where he said that 50 per cent of house purchases at the moment are investments—false. In fact, according to Australian Bureau of Statistics housing finance data, the value of financial commitments by investors as a share of total financial commitments has never reached 50 per cent throughout the history of the series, which began in January 1985. Over the last three months of 2015, the share of investor housing finance commitments remains steady at 35 per cent.

Let us then turn to what Labor's media release says on the issue of Labor's negative gearing. It says that 93 per cent of new investment loans go to people purchasing existing housing stock—false; not true. In fact, according to the same ABS housing finance data, the average proportion for the past two years is around 93.4 per cent, with the proportion in December 2015 falling to 91.4 per cent.

Let us turn to the comments of Mr Bowen, the shadow Treasurer, made in the Australian newspaper of 15 February. He says that the top 20 per cent of income earners receive about half of all the benefits of negative gearing—not true; not accurate. He goes on to say, in Labor's media release again, that the top 10 per cent of earners capture nearly 70 per cent of the total subsidy of the CGT discount. That comment was also made in Labor's media release. It is not true. So we have a catalogue of comments and assertions being made by the Labor party in regard to negative gearing which are not true or cannot be substantiated.

Let us turn briefly to the issue of the carbon tax and the minerals resource rent tax. We know from Labor's previous commitments, when they made calculations of the revenue this would draw into the Commonwealth's coffers, those revenue projections were wrong. In fact they were so inflated—

Senator Conroy interjecting

Senator SMITH: Senator Conroy, perhaps you would like me to remind you that Prime Minister Kevin Rudd suggested there would be $50 billion in revenue from the mining tax. How much revenue was there from the mining tax? There was just $400 million of an expected $26 billion. (Time expired)

Senator McALLISTER (New South Wales) (15:25): I also rise to take note of answers given by the Minister for Finance to questions asked by Senators Ketter and Brown. Just last September, Innes Willox, the CEO of the Australian Industry Group said:

So we would hope the Government will be able to put together a coherent narrative around the sort of principles that we talked about at the reform summit …

He must be very disappointed. Poor Mr Willox! He must be very disappointed with the last five months, because what we have seen instead is not a coherent narrative—not even a
coherent set of proposals. In fact we have seen no coherence. We have seen no narrative. We have not even seen any principles by which the debate around tax ought to be conducted. And we certainly have not seen any ideas.

We are in the most strange position of having an opposition that, well before an election, has a fully costed set of policies on the table and a government with no policies at all. Most people who are watchers of Australian politics will understand that this is a most unusual situation. It is not ordinarily how Australian politics is conducted, but it seems that there is a very strange set of apparently deliberate decisions made by this government not to put anything on the table whatsoever. They are essentially an opposition in exile. Perhaps to misquote the Prime Minister, 'There has never been a more exciting time to be a small target government,' because this is a group of people who are completely unwilling to put anything on the table at all.

Senator Bilyk: No target.

Senator McALLISTER: Not only not a small target, as my colleague points out, but no target whatsoever.

It is not even clear anymore that we have a budget problem. People will recall the rather hysterical and urgent commentary about a budget emergency that greeted the commencement of the Abbott government. Spending now, in the words of the Treasurer, Scott Morrison, is over 26 per cent, which is where it was at the height of the GFC. He said:

This is not something that we believe is sustainable and there are plenty of people out there who want to raise taxes and have a new idea for a tax every single day of the week.

I would say to the Treasurer: 'I would be grateful for new ideas,' because this government would be very lucky to have even a single new idea, let alone a new idea every single day of the week. We are not seeing the kinds of economic leadership promised by the current Prime Minister when he removed the last Prime Minister, calling at that time for renewed purpose in our economic debate.

What is the debate that we are having at the moment? We started out by saying that the urgent debate under the new Prime Minister Turnbull would be a debate around tax, and we were going to have a mature conversation around tax at which all options would be on the table. What has become obvious is that there was only ever really one option on the table and that was the GST, but it was the option that dare not speak its name, because they did not have the courage to go out and prosecute the case themselves. They did not have the courage to name the option that was in fact their preferred option. They left it to a whole range of third parties to roll out the ideas, which is not the way you lead an economic debate.

And of course all the while, they were busily beavering away on secret modelling that nobody was ever allowed to see because this national conversation was to take place in the complete absence of data or facts. Of course when they really looked at it, what was there in the modelling was the thing which the Labor Party, which the opposition had been pointing out all along—that a GST would be a killer on economic growth. Not only would it be an unfair and regressive tax but it would be a tax that would actually hurt the economy.

So now where are we? We are back to square 1 because we have got no ideas on the table for the national economic conversation that is supposed to be taking place with all ideas on the table. So we do not have any changes to superannuation on the table despite the fact that
the Labor Party, for at least a year, has had a concrete costed proposal to address the most unfair elements of the superannuation system that deliver benefits to the very top income earners in our economy.

We have no plans to deal with negative gearing or with capital gains tax. In fact, all we see is an attempt to mislead the debate by introducing the idea that this is a benefit that helps ordinary people when in fact the modelling by NATSEM, which Senator Smith ought to be aware of, demonstrates that the benefits from both negative gearing and capital gains tax go to the very top cohort of income earners in this country.

I would say this to the government: if there was ever a time to get your ideas on the table, it would be now in the lead up to the budget and not wait until— (Time expired)

Question agreed to.

Higher Education

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

That the Senate take note of the answer given by the Minister for Education and Training (Senator Birmingham) to a question without notice asked by Senator Simms today relating to income support for students.

I asked the Minister for Education and Training a very simple, straightforward question earlier. I asked what the government is doing to assist students from low-income backgrounds in light of the fact that they will be saddled with more debt as a result of a deal done between Labor and the Liberals on the last day of parliamentary sitting last year to convert the start-up scholarships into loans, basically tacking these scholarships onto the end of someone's HECS debt.

I asked a very simple question: what support is being provided to students from low-income backgrounds? We got a lot of waffle but not much detail. Of course the reason for that is the government are doing nothing. They are doing nothing to assist students from low-income backgrounds. In fact, what they are doing is worse than nothing because they are making things more difficult for students from low-income backgrounds to get an education in this country. That is in the Liberal Party's DNA. I remember when I was a student activist, over 10 years ago now, and the Liberal Party had an agenda then to increase fees for university students. Now under the Turnbull government, nothing has changed—it is still their agenda. They are still trying to price people out of our university sector—that is their modus operandi.

But let us consider the implications of this decision to convert these scholarships, which are effectively a grant provided to students from low-income families, people on Youth Allowance. These grants were provided to help with some of the up-front costs associated with going to university—things like spiralling costs of textbooks, potentially buying laptops and so on, things that are going to help students with the costs they need to cover on campus. Let's think about the implications of converting that into a HECS and HELP debt. Most university degrees these days take about three years to complete and these scholarships were valued at around $2,000 a year. So what you are going to see happening is debt increasing for students from low-income backgrounds by an average of $6,000. If someone is doing a law degree, for instance, with five years of study, they could see their HECS debt increased by $10,000. That is a huge impost on students who are already doing it tough.
Of course we know that on top of this decision to slash these scholarships—which, in effect, is slashing the scholarships, getting rid of the grant and instead saddling students with more debt—the government are still pursuing their deregulation agenda. It is not dead yet; it is just resting and waiting for Malcolm Turnbull, Scott Morrison and Simon Birmingham to dust it off after the election and bring this corpse back to life. That is their plan. They want to bring back deregulation and all of the consequences that flow from that.

I have been in this job now for only six months but it is very clear to me, from the discussions that I have had with people in my home state of South Australia and across the community, that Australians do not want to see $100,000 degrees in this country. They do not want to see a US style university system, where you have the big end of town finding a pathway into university but people from disadvantaged backgrounds, people who went to public schools like myself being shut out of university because they simply cannot afford to buy a seat at the table. That is not the vision that the Greens have for higher education in this country. We are committed to free education. We are committed to accessible education. And we believe that all Australians should have access to quality education.

With the federal budget due to be handed down in May, there is an opportunity for the Turnbull government to abandon the Liberal's ideological crusade against universities, to abandon their slash-and-burn approach to the university sector and actually put some money on the table so that we can see a first-class education system that is accessible to all. That is the Greens vision for education and the Liberals should come on board. (Time expired)

Question agreed to.

CONDOLENCES

Halverson, Hon. Robert George (Bob), OBE

The PRESIDENT (15:36): It is with deep regret that I inform the Senate of the death on 9 February 2016, of the Honourable Robert George (Bob) Halverson OBE, former Speaker of the House of Representatives and member for the division of Casey. Prior to calling the Leader of the Government in the Senate, I also draw attention to senators of the presence today in the public gallery of Mr Halverson's daughter, son-in-law and grandson, and we offer our deepest sympathy to members of the family.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:37): by leave—I move:

That the Senate records its deep regret at the death, on 9 February 2016, of the Honourable Robert George (Bob) Halverson OBE, former Speaker of the House of Representatives and member for Casey, places on record its appreciation of his long and highly distinguished service to the nation and tenders its profound sympathy to his family in their bereavement.

Mr President, like you, I acknowledge the presence in the gallery this afternoon of members of the late Mr Halverson's family: his daughter, Sharon Bawden; her husband, Grant Bawden; and Sharon and Grant's son, Bob's grandson, James Bawden.

Bob Halverson rose from a modest background to become the Speaker of the House of Representatives and then to represent Australia as Ambassador to Ireland and the Holy See. Along the way he served his country with distinction for a quarter of a century in the Royal Australian Air Force and then for 14 years as a member of this parliament.
Bob Halverson was born in Springvale, Victoria, on 22 October 1937, the son of an electrician. He grew up in Footscray, studying at Footscray Technical School and later at Swinburne Technical College, joining the RAAF in 1956 and marrying Maggie in 1958. Bob's service in the RAAF included some years in Washington, DC, and in England, for which service he was awarded an OBE in 1978 and promoted to group captain in 1979.

After leaving the Air Force in 1981, Bob worked as a financial analyst and client adviser. Then, in 1984, he was elected as the Liberal member of the House of Representatives for the marginal Victorian seat of Casey, the first of five occasions on which he was elected as member for Casey. Gregarious, passionate, robust, unmistakably decent and with—in his words—'a PhD in hard knocks', Bob Halverson worked diligently to represent the people of this electorate, which spanned outer urban, semirural and rural areas.

He also made an ever-increasing contribution to this parliament. As well as extensive committee work in Canberra, including, for example, public works as well as foreign affairs, defence and trade, he became an Opposition Whip in 1990 and served as Chief Opposition Whip from 1994 to 1996. Elected as Speaker of the House of Representatives in the 1996 parliament, Bob Halverson devoted himself to being a thoroughly independent occupant of that office, balancing tradition and reform in the work of the parliament. When he resigned as Speaker in March of 1998 and said that he would not seek re-election to parliament at the election that year, the opposition leader Kim Beazley said that he had 'graced the position' of Speaker, and 'attempted to deal with the opposition fairly and lift the standards of the place'. The Prime Minister Mr Howard said that he had 'served his country with loyalty and distinction', and expressed the hope that he would come to serve it in further ways.

Having travelled widely around the globe while serving in the RAAF, Bob, as a member of parliament, represented this parliament in delegations to many countries, including in 1998 serving as an observer at the Cambodian elections. A long-time campaigner for retaining our existing flag, he became in time an advocate of an Australian republic.

In 1999, Bob Halverson was appointed Australian Ambassador to Ireland and the Holy See, which roles he fulfilled with his usual gusto, quick to establish strong links at the highest level, such as with the President and Prime Minister of Ireland and with the Pope, while being a warm and inclusive host, including of many visiting Australians.

After retiring from these posts in 2002 to combat prostate cancer, Bob—with Maggie—fulfilled a long ambition to go onto the land, moving to a farm at Holbrook in New South Wales. Bob maintained warm links to this parliament, not least through his family connection with the member for Murray, Dr Sharman Stone. Bob's son-in-law, Grant Bawden—who I acknowledge in the gallery this afternoon—is the brother of Dr Stone. Sharman Stone described Bob as her 'mentor, adviser and dearest friend'. It is noteworthy that Bob's seat of Casey is today once again held by the Speaker of the House of Representatives.

In his first speech in the House of Representatives in 1985, Bob Halverson said:

The men and women who seek to serve in this place may be motivated by many reasons. Mine were quite simple: I believe that our rights and freedoms must be protected, and I love my country.

He also spoke of the importance of 'sacrifice, courage, discipline, loyalty, devotion to duty and', once again, 'love of country'—the values by which he lived his life and served his country so passionately. In that same speech, Bob Halverson spoke with feeling of having 'the
help, support and encouragement of a loved and loving wife'. Our hearts go out to Maggie, and to their four children and their families, in their deep loss, and we send to them our very deepest sympathy on this occasion, while acknowledging the service to this parliament and to this nation of a great Australian.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:43): I rise to speak on behalf of the opposition on this motion of condolence on the passing of the Hon. Robert George Halverson. We join with the Leader of the Government in the Senate in conveying our thoughts to his wife and family at this time. Today we remember Bob Halverson, and we recognise and honour his service: his service to this nation, his service as a member of parliament from 1984 to 1998, his service as Speaker of the House of Representatives and, of course, his service as Ambassador to Ireland and the Holy See.

Prior to his election to the House of Representatives in 1984, Mr Halverson served with the Royal Australian Air Force. He enjoyed a distinguished career, enlisting as an officer cadet in 1956 and concluding in 1981 at the rank of group captain. For his service with the RAF during the Queen's silver jubilee, he was made an Officer of the Order of the British Empire. After leaving the Air Force—as Senator Brandis has said—he worked in the financial services sector for a brief period before being elected as the member for Casey in 1984.

In that election Bob Halverson defeated his Labor opponent after a redistribution turned a swing seat into one that held a little more advantage for the Liberals. However, in the end Mr Halverson, who had only joined the Liberal Party some two years prior to the election, won with a margin of 1,100 votes. Mr Halverson supported John Howard in opposition and served as Opposition Whip in the House of Representatives. As chief whip, he had a reputation for being an intimidating and effective operator.

Upon the election of the Howard government in 1996, Mr Halverson became the first Liberal Speaker of the House of Representatives since Sir Billy Snedden. I understand that the speakership did not come easily to him, with Mr Halverson receiving the endorsement of his colleagues after a party room meeting that involved some six ballots and lasted 90 minutes. I am sure there are stories associated with that! *The Canberra Times* heralded this with the headline "'Disciplinarian' Halverson wins Speaker's post'.

Mr Halverson did not follow his Liberal predecessors in the practice of wearing a wig in the Speaker's chair. He also ensured that the original Gothic Speaker's chair remained at Old Parliament House, despite the desire of some of his colleagues to see it relocated to the current House of Representatives.

Recognising the importance of the independence of the Speaker, he did not attend party room meetings and also resigned from two party bodies to which he belonged in Victoria. The independence of the speakership had been an election commitment of Prime Minister Howard. I note that the then Leader of the Opposition, Mr Kim Beazley, observed:

It did not strike us as immediately likely, when the Prime Minister … announced an intention to support an independent Speaker, that we would in fact find the Chief Whip of the Coalition parties sitting in that place.

However, despite these doubts, it turned out that Mr Halverson did operate in a way that demonstrated his independence and at times raised the ire of some of his colleagues through his performance in the chair, particularly through his enforcement of rules relating to supplementary questions. In one article in 1997 the headline was 'Independent Speaker digs
in, against his own side'. And I note—Senator Brandis has already quoted—the words of the then opposition leader, Mr Beazley, complimenting and acknowledging the service of Mr Halverson.

Mr Halverson resigned as Speaker in March 1998 and did not contest the election that was held in October that year. Prior to the election, he was appointed as ambassador to Ireland and the Holy See, a post that brought considerable enjoyment after the rough and tumble of his parliamentary career. He was the first non-Catholic ambassador to Dublin and the Vatican. Sadly, it was whilst on this post that Mr Halverson discovered his illness.

Bob Halverson died last week at the age of 78 on his farm at Holbrook, in southern New South Wales. He spent a lifetime in the service of this country, in the Defence Force, in the parliament and as an ambassador. We recognise and honour his service, and I again express the condolences of the opposition and extend our thoughts to his wife, children and grandchildren.

**Senator Scullion** (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (15:48): I rise to associate the Nationals with this motion and offer my condolences to the family and friends of the late Robert 'Bob' George Halverson. Others have covered many of the public details of Bob's life before he entered parliament, so I will not go over those comments, but I do think it is important to repeat and recognise his commitment to the Royal Australian Air Force, which he joined in 1956. Throughout 25 years of service, Bob rose through the ranks to achieve the position of group captain, and it was in this role that he was recognised as an Officer of the Order of the British Empire in 1978. This is an honour I know that his family would be very proud of.

Post service, Mr Halverson threw his hat in the political ring and contested the marginal seat of Casey, in Melbourne's outer east, in the 1984 federal election. In his first speech, Mr Halverson clearly articulated his primary priority in this place. It is one that we all can do with reminding of sometimes as we get caught up in the politics and distractions sometimes. Mr Halverson stated that his primary desire was:

… to pursue with dedication and commitment the best interests of my constituents … to be of service to my electorate and my country.

Mr Halverson's first parliamentary speech also unveiled for the public record his determined patriotism and nationalist pride in Australia. He was a champion for the local people that he represented, but he was also a staunch defender of the values of the nation.

In 1996, Mr Halverson became the first Speaker of the House of Representatives during the Howard government's term, probably his most significant appointment during his time in parliament. Mr Halverson took it upon himself to be as impartial and as independent as possible, adopting a Westminster-like approach in his role as Speaker of the House. Ditching the wig and donning a black coat, Mr Halverson unprecedentedly allowed supplementary questions by the opposition in the House. Whilst it might be the case that when we are in government we may not enjoy the additional scrutiny that can come from such an approach, I think that we should appreciate and acknowledge the standard that Mr Halverson set and his desire for greater accountability.

But, perhaps more interesting than talking about his actions in the chambers of parliament, I would like to reflect on Bob and the secret billiards competitions that he would organise.
across the party divide. I understand that the message would come from Bob that it was time 
for a special committee meeting, which meant that members of the group were to meet in the 
billiard room in the old house—and I can imagine that the discussion in that room was 
probably much more interesting than the games of billiards.

Following his retirement from parliament, Mr Halverson was a particularly effective 
ambassador. His personable nature enabled him to become very well connected and operate 
on a first-name basis with the Irish Prime Minister, the Irish President and many other Irish 
members of parliament of the day. It was Mr Halverson's notable close connections with the 
Vatican and Pope John Paul II that assisted in the release of the Australian aid workers held 
captive in Serbia during the Kosovo crisis.

Throughout his life, Mr Halverson was loved, supported and encouraged by his wife, 
Maggie, and their four children, a daughter and three sons—and I would like to also 
acknowledge the members of his family in the gallery today. Mr Halverson's family has since 
grown to include many grandchildren, who will forever be reminded of their grandfather's 
vigour and unfailing conviction to the best outcomes for his country. Many have talked about 
how Bob considered himself a man with 'clout' and 'a bit of a rebel', and I agree that Mr 
Halverson can be considered a true Aussie battler—a battler who was willing to jump in the 
ring and have a go. Mr Halverson will be remembered as one whose life was lived in the 
distinguished service of others—a man of integrity; a man of heart.

Vale Robert 'Bob' Halverson.

Question agreed to, honourable senators standing in their places.

Jones, Mr Andrew Thomas

The PRESIDENT (15:53): It is also with deep regret that I inform the Senate of the death 
on 2 December last year of Andrew Thomas Jones, a member of the House of Representatives 
for the division of Adelaide, South Australia from 1966 until 1969.

NOTICES
Presentation

Senators Lindgren and Bernardi to move:
That the Senate—
(a) notes that:
(i) bullying and harassment should never be tolerated in any forum,
(ii) schools should provide a safe and supportive learning environment for all students, and
(iii) schools participating in the Safe Schools Coalition Australia programme should carefully 
consider the suitability of resources, including web-based resources, for all their students;
(b) requests that all parents are provided information about the programme to allow them to make an 
informed decision regarding their child’s participation, and that schools respect their decision, including 
the right to exclude their child from the programme; and
(c) requests that all schools considering joining the programme respectfully consult parents in 
making any such decision.

Senator Lazarus to move:
That the Senate—
(a) acknowledges that rural and regional Queensland is suffering from drought and ongoing job losses across many sectors, including the meat processing industry;

(b) calls on the Government to take immediate action to prevent further job losses in the Queensland meat industry by:

(i) establishing a dedicated working group comprised of Government, employers and employees, including representative groups/bodies to consult with employers, employees and unions in the meat processing industry to ascertain what level of support would be useful in protecting employment levels in the industry, and

(ii) developing an industry accord in consultation with industry stakeholders, including those within the meat processing, live export and farming sectors, which delivers positive outcomes for all stakeholders and reduces job losses in the meat processing industry; and

(c) further calls on the Government to investigate and report on the extent to which recently signed Free Trade Agreements (FTAs), such as the China-Australia Free Trade Agreement, have altered demand and supply patterns in the local meat industry and, if FTAs have contributed to local jobs being lost, how such agreements can be strengthened to prevent this from happening in the future.

Senators Xenophon and McEwen to move:

That the Foreign Affairs, Defence and Trade Legislation Committee meet to consider additional estimates 2015-16 prior to 10 March 2016 to further examine the Department of Defence and that Dr Rob Bourke, Economic Adviser, Capability Acquisition and Sustainment Group appear before the committee at that time to answer questions.

Senator Ludlam to move:

That the Senate—

(a) notes that:

(i) strong digital encryption protects the personal and financial information of millions of people,

(ii) encryption is an important tool to prevent identity theft and other crime,

(iii) encryption ensures that public interest whistleblowers, journalists and other civil society actors can conduct their activities more securely,

(iv) the Government, through services such as Medicare and Centrelink, and digital platforms such as myGov, depends on encryption to keep client information safe, and

(v) any decrease in public trust in digital systems and services will present an obstacle to the Government’s agile innovation agenda; and

(b) calls on the Government to:

(i) support the continued development and use of strong encryption technologies,

(ii) resist any push from other governments to weaken encryption on personal devices, and

(iii) work with law enforcement to develop alternative avenues to obtain information through warrants and targeted surveillance that does not put every Australian at greater risk of identity theft.

Senator Williams to move:

That the International Organisations (Privileges and Immunities—Asian Infrastructure Investment Bank) Regulation 2015, as contained in Select Legislative Instrument 2015 No. 172 and made under the International Organisations (Privileges and Immunities) Act 1963, be disallowed [F2015L01737].

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

Senator Bilyk to move:
That the Senate notes:
(a) the devastating and destructive impact of bushfires in Tasmania which are affecting the people of Tasmania and destroying Tasmanian wilderness areas,
(b) grave concern for the survival of Indigenous cultural heritage sites in the area, as well as precious flora and fauna; and
(c) the unwavering commitment and hard work of the Tasmanian Fire Service, the Tasmanian Parks and Wildlife Service, SES and volunteers for their resilience and exceptional efforts responding to this natural disaster.

Senator Hanson-Young to move:
That the Senate—
(a) notes that the Australian Medical Association has said that keeping children in immigration detention is akin to state-sanctioned child abuse; and
(b) calls on the Federal Government to let baby Asha and the hundreds of other people who are facing return to Nauru and Manus Island stay, in accordance with treating doctors' advice, so that they can have their claims for protection assessed in Australia and be permanently integrated into the community.

Senator RYAN (Victoria—Minister for Vocational Education and Skills) (15:53): I give notice that, on the next day of sitting, I shall move:
That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings.
Dairy Produce Amendment (Dairy Service Levy Poll) Bill 2016
Narcotic Drugs Amendment Bill 2016
Offshore Petroleum and Greenhouse Gas Storage Amendment Bill 2016
Parliamentary Entitlements Amendment (Injury Compensation Scheme) Bill 2016
Tax Laws Amendment (Small Business Restructure Roll-over) Bill 2016
I also table statements of reasons justifying the need for these bills to be considered during these sittings and I seek leave to have the statements incorporated in Hansard.
Leave granted.
The statements read as follows—

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2016 AUTUMN SITTINGS
DAIRY PRODUCE AMENDMENT (DAIRY SERVICE LEVY POLL) BILL
Purpose of the Bill
Under the Dairy Produce Act 1986 and regulations, a dairy levy poll must be held every five years at a cost to levy payers of up to $1 million. This is irrespective of whether a change in levy rate is sought.

The bill proposes to remove the legislative requirement that a dairy levy poll must be held every five years and rather, that a levy rate will be considered every five years and a poll held only if a change in levy rate is sought.

The amendment will reduce regulatory burden on Dairy Australia and dairy levy payers and reduce the cost associated with conducting a dairy poll every five years.

Reasons for Urgency
The next dairy levy poll is due to be held before April 2017. Levy polls are organised by Dairy Australia up to a year in advance. Dairy Australia and levy payers have expressed concern about the cost of conducting a poll and a majority of dairy farmer levy payers participating in a voluntary poll have voted to remove the requirement to hold a dairy poll every five years. If the bill is not passed during the 2016 Autumn sittings, it may result in the next scheduled poll having to be held in 2017. This would be an unreasonable and unnecessary additional cost to impose on Dairy Australia over such a short timeframe given that a poll was recently held to vote on the amendment.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2016 AUTUMN SITTINGS

NARCOTIC DRUGS AMENDMENT BILL

Purpose of the Bill
The Narcotic Drugs Amendment Bill amends the Narcotic Drugs Act 1967 (the ND Act) to facilitate access to cannabis products in compliance with Australia's international obligations. The bill will establish a Commonwealth licensing scheme that will facilitate access to regulated products derived from cannabis in a way that is secure and consistent with Australia's international convention obligations. The bill also updates and modernises existing manufacturing provisions to ensure that they are consistent with the controls applied to the cultivation of cannabis for medicinal purposes and to manage the additional risk of diversion that cannabis products represent.

Reasons for Urgency
The Commonwealth currently has laws to regulate the import, export and manufacture of cannabinoids and cannabis raw material, but these do not allow the cultivation in Australia of cannabis plants for medicinal purposes. This was not anticipated at the time the ND Act was originally put in place. Further, the manufacturing provisions of the ND Act have not been updated for 49 years and are not consistent with contemporary best practice regulation. While they would allow for the manufacture of cannabinoids, they would not adequately control the risks of diversion associated with cannabis products.

As global supplies of cannabis for medicinal purposes are relatively scarce and expensive, it is anticipated that Australian cultivated cannabis will be sought for use in producing therapeutic products for research and other access schemes. Presently, the Commonwealth is unable to issue licences for the production of locally cultivated cannabis for medical use consistent with the obligations in the United Nations’ Single Convention on Narcotic Drugs, 1961 (the Single Convention) or the ND Act. Should cultivation of cannabis for medicinal use occur in Australia in a regulatory setting, which does not comply with Australia's obligations as a signatory to the Single Convention, then the Commonwealth would find itself in breach of its international obligations.

This bill makes good the Government's commitment to put in place a regulatory scheme that addresses the issues dealt with by the Regulator of Medicinal Cannabis Bill 2014, and covers the matters that are properly the responsibility of the Commonwealth. The Senate Committee on Legal and Constitutional Affairs recommended that the Regulator of Medicinal Cannabis Bill 2014 be passed, subject to some amendment. This bill takes account of the recommendations of the Committee. It is important to proceed with this bill now to ensure that the Government is seen to be working in accordance with the wishes of the Parliament.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2016 AUTUMN SITTINGS

OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE AMENDMENT BILL

Purpose of the Bill
Amendments to the Offshore Petroleum and Greenhouse Gas Storage Act 2006 (OPGGS Act) are required to clarify the status of certain petroleum titles under the Act.
Reasons for Urgency
The bill is urgently required to resolve uncertainty as to the status of certain petroleum titles purported to be renewed or extended by Joint Authorities under the OPGGS Act without all required approvals in place. This uncertainty as to the status of the titles has potential associated risks to titleholders' investments.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2016 AUTUMN SITTINGS
PARLIAMENTARY ENTITLEMENTS AMENDMENT (INJURY COMPENSATION SCHEME) BILL
Purpose of the Bill
To implement the parliamentary injury compensation scheme (including work health and safety support and equipment), authorise the Minister to determine scheme benefits in a legislative instrument, and confer authority on Comcare to administer the scheme.

Reasons for Urgency
Parliamentarians occupy one of the few remaining professions in Australia that has no coverage for work-related injuries. The parliamentary injury compensation scheme will provide cover for parliamentarians injured in the performance of their duties as a parliamentarian. The scheme was originally intended to be implemented by regulation and coverage was to commence on 1 January 2016. However, implementing the scheme principally through primary legislation instead, will overcome many of the practical difficulties with implementing solely through regulations. Passage of the bill in the 2016 Autumn sittings will remove these previously unanticipated difficulties which impede the implementation of this long-overdue initiative.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2016 AUTUMN SITTINGS
TAX LAWS AMENDMENT (SMALL BUSINESS RESTRUCTURE ROLL-OVER) BILL
Purpose of the Bill
This bill will allow small businesses to change their entity structure without incurring a capital gains tax liability at that time.

Reasons for Urgency
As this measure is to commence on 1 July 2016, introduction and passage of the bill during the 2016 Autumn sittings is required to give taxpayers and the Australian Taxation Office sufficient time to put in place systems and processes to allow for the efficient administration of the tax system and a smooth roll-out of Tax Time 2016.

Withdrawal
Senator LUDLAM (Western Australia—Co-Deputy Leader of the Australian Greens) (15:54): I withdraw general business notice of motion No. 93, relating to the introduction of a bill, which stands in my name for today.

Senator RHIANNON (New South Wales) (15:54): I withdraw general business notice of motion No. 980, relating to Marie Stopes International, standing in my name for today.

BUSINESS
Leave of Absence
Senator McEWEN (South Australia—Opposition Whip in the Senate) (15:55): by leave—I move:
That leave of absence be granted to Senator Peris for 23 February 2016 for personal reasons.

Question agreed to.

**Senator BUSHBY** (Tasmania—Chief Government Whip in the Senate) (15:55): by leave—I move:

That leave of absence be granted to the following senators:

(a) Senator Abetz for today, for personal reasons; and

(b) Senator Colbeck, from 22 February to 25 February 2016, on account of ministerial business.

Question agreed to.

**NOTICES**

**Postponement**

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

Business of the Senate notice of motion no. 1 standing in the name of Senator Xenophon for today, proposing a reference to the Environment and Communications References Committee, postponed till 24 February 2016.

Business of the Senate notice of motion no. 2 standing in the name of Senator Siewert for today, proposing the disallowance of the Social Security (Administration) (Trial Area — Ceduna and Surrounding Region) Determination 2015, postponed till 23 February 2016.

General business notice of motion no. 911 standing in the name of Senator Hanson-Young for today, proposing the introduction of the Migration Amendment (Free the Children) Bill 2015, postponed till 29 February 2016.

General business notice of motion no. 1024 standing in the name of Senator Xenophon for today, proposing the introduction of the Commonwealth Electoral Amendment (Above the Line Voting) Bill 2016, postponed till 24 February 2016.

General business notice of motion no. 1026 standing in the name of Senator Conroy for today, proposing an order for the production of documents by the Minister representing the Minister for Infrastructure and Regional Development, postponed till 24 February 2016.

**COMMITTEES**

**Reporting Date**

The Clerk: Committees have lodged extension notifications as follows:


Economics References Committee—

Australia's naval shipbuilding industry—extended to 30 June 2016.

Corporate tax avoidance—extended to 22 April 2016.

Gender retirement income gap—extended to 29 April 2016.

Education and Employment References Committee—Australia's temporary work visa programs—extended to 17 March 2016.

Finance and Public Administration References Committee—

Aboriginal and Torres Strait Islander experience of law enforcement and justice services—extended to 25 August 2016.

Foreign Affairs, Defence and Trade References Committee—Australia's bilateral aid program in Papua New Guinea—extended to 12 May 2016.

Rural and Regional Affairs and Transport References Committee—
   Effect of market consolidation on the red-meat processing sector—extended to 5 May 2016.
   Use of Flag-of-Convenience shipping in Australia—extended to 22 June 2016.

The DEPUTY PRESIDENT (15:58): Does any senator require the question to be put separately on any of those proposals? There being none, we shall move on.

Legal and Constitutional Affairs References Committee
   Meeting

   Senator LAZARUS (Queensland) (15:58): by leave—I move:
      That the Legal and Constitutional Affairs References Committee be authorised to hold a public meeting during the sitting of the Senate today from 7 pm to take evidence for the committee's inquiry into residential fire safety.
   Question agreed to.

MOTIONS
   Mining

   Senator IAN MACDONALD (Queensland) (15:59): Mr Deputy President, I refer to general business notice No. 1016 and seek leave to remove Senator Canavan's name from the motion—only because he is a newly appointed minister and it is not appropriate for ministers to be moving those sorts of motions in the chamber. Senator Canavan has asked me to remove his name, so I seek leave to do that.

   Leave granted.

   Senator IAN MACDONALD: I might add that this was Senator Canavan's motion and he totally supports it. I move:
      That the Senate—
      (a) notes:
         (i) that the Queensland Government has issued an environmental authority for the construction of the Carmichael mine,
         (ii) that the Queensland Government has acknowledged that, following 5 years of approval processes, there is no legal impediment stopping it from issuing a mining lease for the Carmichael mine,
         (iii) that Townsville's Labor Mayor, Ms Jenny Hill, the Queensland Resources Council and elders of the Wangan and Jagalingou people have all supported the benefits this mine will bring to Central Queensland, and
         (iv) the statement of the Queensland Minister for Natural Resources and Mines, Mr Lynham, that 'Everyone deserves their day in court, but not their four years in court'; and
      (b) calls on the Queensland Government to get on with the job of issuing this mining lease, providing a much needed economic boost to the people of Central Queensland.

      Question negatived.

   Radioactive Waste

   Senator LUDLAM (Western Australia—Co-Deputy Leader of the Australian Greens) (16:00): I move:
That the Senate—
(a) notes that:
(i) the Australian Government has initiated a voluntary site selection process for a national radioactive waste facility,
(ii) consecutive ministers have confirmed that such a facility would not proceed against the wishes of host communities,
(iii) six sites have been selected for further assessment for shortlisting, including Hill End in New South Wales, Omanama in Queensland, Hale in the Northern Territory, Cortlinye, Pinkawillinie and Barndioota in South Australia, and
(iv) strong local opposition clearly exists at all six sites currently under consideration; and
(b) calls on the Government to:
(i) acknowledge the opposition and lack of community support at all six sites,
(ii) respect previous commitments on non-imposition and the importance of community consent, and remove all six sites from further consideration,
(iii) initiate a genuinely independent inquiry to investigate long-term stewardship options for spent fuel, reprocessing waste, and other categories of radioactive waste, including drawing on international examples and experience,
(iv) investigate options for active waste minimisation, including increased use of non-reactor based methods for radioisotope production, and
(v) clearly reaffirm policy and legislative prohibitions on the importation and disposal of international radioactive waste.

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

The Senate divided. [16:05]

(The Deputy President—Senator Marshall)

Ayes ......................11
Noes ......................36
Majority ................25

AYES

Di Natale, R
Lazarus, GP
McKim, NJ
Rice, J
Simms, RA
Whish-Wilson, PS

Hanson-Young, SC
Ludlam, S
Rhiannon, L
Sievert, R (teller)
Waters, LJ

NOES

Back, CJ
Bilyk, CL
Bullock, JW
Cameron, DN
Collins, JMA
Gallacher, AM
Ketter, CR
Lindgren, JM

Bernardi, C
Brown, CL
Bushby, DC
Canavan, MJ
Fawcett, DJ
Gallagher, KR
Leyonhjelm, DE
Lines, S
Question negatived.

Coal Seam Gas

Senator RHIANNON (New South Wales) (16:08): I move:

That the Senate—

(a) notes that:

(i) the Federal Government has approved coal seam gas mining in the Pilliga Forest near Narrabri in New South Wales, with Santos planning to develop an 850-well field,

(ii) the Pilliga Push is an ongoing civil disobedience campaign against this mining led by the Gamilaraay and Gomeroi peoples, the Knitting Nannas and other grassroots action groups in New South Wales, and

(iii) the Narrabri coal seam gas project presents an unacceptable risk to the region's groundwater and the Great Artesian Basin; and

(b) calls on the Federal Government to:

(i) condemn the New South Wales Police Force's use of pepper spray against the protesters, and

(ii) withdraw its approval of the Narrabri coal seam gas project.

Senator WILLIAMS (New South Wales) (16:08): Mr Deputy President, I seek leave to make a one-minute statement.

Leave granted.

Senator WILLIAMS: The president of the Narrabri Chamber of Commerce, Russell Stewart, says the vast majority of Narrabri Shire is pro-Santos, and sick to death of the fly-in fly-out protesters. Mr Stewart said, 'We don't have a problem with coal seam gas. We have a problem with out-of-towners coming here and revving things up.' The Northern Daily Leader reported that two South Australian women locked themselves to an excavator and police asked them to remove themselves. In 2014, one lady at Maules Creek positioned herself underneath a bulldozer blade as it was being lowered. This is reckless and stupid. We remember the fake press release sent by Jonathan Moylan and the Greens congratulating him on wiping $314 million off the value of Whitehaven Coal. The Greens cheer on law-breakers, but our police have better things to do with their time than to be at these blockades every day where protesters put themselves in danger. I will ensure this disgraceful motion is relayed to the New South Wales police minister, Troy Grant, so that he can let every police officer in the state know what the Greens really think.
Leave granted.

Senator RYAN: This motion is factually incorrect. No approval has been given for this project. The project is currently being assessed in accordance with national environmental law.

The DEPUTY PRESIDENT: The question is that general business notice of motion No. 1020 be agreed to.
The Senate divided. [16:14]
(The Deputy President—Senator Marshall)

AYES
Di Natale, R
Lazarus, GP
McKim, NJ
Rice, J
Simms, RA
Whish-Wilson, PS

NOES
Back, CJ
Bilyk, CL
Bullock, JW
Cameron, DN
Carr, KJ
Fawcett, DJ
Gallagher, KR
Leyonhjelm, DE
Lines, S
Marshall, GM
McEwen, A (teller)
McKenzie, B
Moore, CM
O’Sullivan, B
Peris, N
Reynolds, L
Ryan, SM
Urquhart, AE
Williams, JR

Question negatived.

Australia Day Honours

Senator LAZARUS (Queensland) (16:16): I, and also on behalf of Senators Moore and Waters, move:
That the Senate acknowledges, congratulates and thanks all Queensland Order of Australia recipients and all Australia Day Award recipients for 2016 for their outstanding service and contribution to Queensland and more broadly Australia.

Notice of motion altered on 3 February 2016 pursuant to standing order 77.

Senator RYAN (Victoria—Minister for Vocational Education and Skills) (16:17): I seek leave to make a very short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator RYAN: The government warmly congratulates all Australians whose service and achievements were recognised in the 2016 Australia Day Honours list.

Question agreed to.

COMMITTEES

Joint Standing Committee on Migration

Meeting

Senator BACK (Western Australia) (16:17): I move:

That the Joint Standing Committee on Migration be authorised to hold public meetings during the sittings of the Senate, from 9.45 am, to take evidence for the committee's inquiry into the Seasonal Worker Programme, as follows:

(a) Wednesday, 24 February 2016; and
(b) Wednesday, 2 March 2016.

Question agreed to.

MOTIONS

Aboriginal Children in Out-of-Home Care

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:17): I move:

That the Senate—

(a) notes that:

(i) Aboriginal children make up less than 5 per cent of the general population, but 35 per cent of children in out-of-home care nationally, and more than 50 per cent in Western Australia, and

(ii) children in out-of-home care experience poor outcomes on a range of indicators; and

(b) calls on the Government to address the unacceptably high rates of Aboriginal children in out-of-home care.

Question agreed to.

Tasmanian Wilderness World Heritage Area

Senator McKIM (Tasmania) (16:18): I request that Senator Singh be added as a co-sponsor, and I seek leave to amend general business notice of motion No. 1023 standing in my name for today, relating to the Tasmanian Wilderness World Heritage Area.

Leave granted.

Senator Ryan: Mr Deputy President, can I seek clarification of the amendment?

The DEPUTY PRESIDENT: Yes, Minister.
Senator RYAN: Senator McKim—through you, Mr Deputy President—there was some discussion the last time this came up about clause (b)(ii) of the motion remaining or being removed by prior amendment. I seek clarification as to whether that clause is in the motion being moved now.

Senator McKIM: Yes, that clause has been removed from the motion in the terms circulated in the chamber. I, and on behalf of Senator Singh, move the motion as amended:

That the Senate—

(a) acknowledges the impact of recent fires on the Tasmanian Wilderness World Heritage Area (TWWHA);

(b) notes that:

(i) over 22,000 hectares inside the TWWHA has already been burned, and that many fires are still burning inside the TWWHA,

(ii) the Commonwealth Government is a signatory to the World Heritage Convention, which binds it to responsibly manage the TWWHA, and

(iii) scientists are predicting that it is likely that the TWWHA will experience hotter, drier conditions, and more dry lightning, in the future due to the impacts of global warming; and

(c) calls on the Australian Government to work with the Tasmanian Government to establish and adequately resource an independent inquiry to examine the response to the current fires in the TWWHA, and the planning for, management of, and response to future fire events in the TWWHA, to seek submissions and hold public hearings, and to examine, report and make recommendations on relevant matters, including:

(i) the impact of global warming on fire frequency and magnitude,

(ii) the availability and provision of financial, human and mechanical resources,

(iii) the adequacy of fire assessment and modelling capacity, and

(iv) any other related matters deemed necessary by the inquiry.

Question agreed to.

Foreign Investment: Van Diemen's Land Company

Senator XENOPHON (South Australia) (16:20): I request that Senators Madigan and Whish-Wilson be added as co-sponsors. I, and on behalf of Senators Madigan and Whish-Wilson, move:

That the Senate—

(a) notes:

(i) the proposed sale of Australasia's largest and most productive dairy farm holding, Van Diemen's Land Company, to Moon Lake Investments, is currently before the Foreign Investment Review Board,

(ii) the critical importance of Van Diemen's Land Company to Australia for food security and our international reputation as a high quality dairy product producer,

(iii) the significant environmental importance of the Van Diemen's Land property with its remnant vegetation, refuge to the last disease-free population of Tasmanian devil in the area and habitat to rare, threatened and endangered native fauna and flora species, and

(iv) the opportunity for this iconic and strategically-important agricultural and natural asset to be brought into Australian ownership for the first time; and

(b) calls on the Government to consider:
(i) the potential economic, social and environmental benefits that may flow from a viable alternative Australian-based bid for Van Diemen’s Land Company when considering the Moon Lake Investments proposal, and

(ii) the following as part of a national interest test when examining the proposed sale of Van Diemen’s Land Company to Moon Lake Investments:

(A) the potential for transfer pricing, including any potential loss of revenue to the Commonwealth,

(B) commitments to the local workforce in terms of the business plan being proposed, and

(C) any expansion plans of the overseas bid compared to the local bid.

Senator RYAN (Victoria—Minister for Vocational Education and Skills) (16:20): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator RYAN: The government does not support this motion, as it considers the motion unnecessary, given the thorough and vigorous process of review that shall be undertaken on this foreign investment application. As the motion itself notes, the proposed sale is already under review by the Foreign Investment Review Board. The government will always ensure that no investment is contrary to the national interest. The Foreign Acquisitions and Takeovers Act 1975 requires the Treasurer to consider whether a proposed purchase of Australian agricultural land or an Australian agribusiness is contrary to the national interest, and Australia’s foreign investment policy, which the Treasurer follows, provides guidance on how this responsibility is met, including what factors may be considered when assessing foreign investment proposals.

The DEPUTY PRESIDENT: The question is that general business notice of motion No. 1022 be agreed to.

The Senate divided. [16:25]

(The Deputy President—Senator Marshall)

Ayes ......................14
Noes ......................36
Majority .................22

AYES

Di Natale, R
Lazarus, GP
Madigan, JJ
Muir, R
Rice, J
Simms, RA
Whish-Wilson, PS

Hanson-Young, SC
Ludlam, S
McKim, NJ
Rhiannon, L
Siewert, R
Waters, LJ
Xenophon, N (teller)

NOES

Back, CJ
Bilyk, CL
Bullock, JW
Cameron, DN
Edwards, S

Bernardi, C
Brown, CL
Bushby, DC
Carr, KJ
Fawcett, DJ

CHAMBER
The DEPUTY PRESIDENT (16:28): 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 Turnbull Government's failure to articulate a tax policy.

Is the proposal supported?

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

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

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (16:28): As we on this side know, this government is a shambles. Malcolm Turnbull rolled Prime Minister Abbott based on the false promise of a new economic leadership and, allegedly, to usher in new politics where slogans would give way to advocacy. This new economic leadership has failed to appear, and 162 days and 13 or 14 ministers later we are seeing an unravelling government that has no tax policy—indeed, no policies at all—to help everyday Australians. The best Malcolm Turnbull can offer is a weak, scare campaign—

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Senator Bilyk, I am going to ask you to refer to the Prime Minister by his title or as Mr Turnbull.

Senator BILYK: The best Mr Turnbull can offer is a weak scare campaign slogan on opposition policy. Mr Turnbull decided that his government is so devoid of policies, so lacking in ideas, so lacking in vision and a Treasurer so hopelessly and obviously out of his depth they would launch an old style Mr Abbott scare campaign about negative gearing. It is utterly remarkable that just months out from a federal election the government has no plan at
all on taxation. So we have had months of the government secretly dipping their toes into the water to test whether a GST change was palatable.

Leaked COAG documents show that the government put a number of options relating to changes to the GST on the table. The first few options include lifting the GST to 15 per cent, lifting the GST to 12½ per cent and expanding the base to include all food and non-alcoholic drinks, and raising the GST to 15 per cent while expanding it to include food and non-alcoholic drinks, water and sewerage. They deviously did not articulate any of these options to the Australian people. Why? Because they know just how unfair they are. An increase in the GST will be an increased tax on everything—fresh food, health, education. As we know, a 15 per cent GST on everything will cost families an extra $7.4 billion in school fees and other educational expenses in the first year alone. Treasury figures show raising the GST to 15 per cent and extending it to fresh food would hit families for another $9.45 billion a year—an extraordinary impost that, as always with the GST, would fall hardest on those with the least to spare. We know that this is utterly heartless and cruel. These are the policies that we have not actually seen yet—but we hope that we eventually will, because there could be an election in a couple of months. We are still waiting on the government to articulate any policies—but we do know that being cruel and thoughtless is a common thread in this government.

The Liberals are still in confusion about their position on the GST. Just recently, we had one minister, Senator Cash, in fact, say just last week that a 50 per cent rise in the GST was still on the table of tax proposals being considered. The employment minister told Sky News:

We haven't taken it off the table completely, not at all.

This contradicted Prime Minister Turnbull, who told reporters in Rockhampton on the very same day:

I can assure you the government will not be taking a proposal to increase the GST to the election.

That leaves me with one or two thoughts: if they get re-elected then either they are going to do it anyway and just not bother being honest about it or they have realised their plan to increase the GST is unpopular because it is so unfair, and they would just like the issue to go away. The government has spent the last six months with the ‘Will we? Won't we? Will we? Won't we?’ conversation on the GST and, as we know, they are now left with no policies on taxation at all. They have wasted the first 2½ years of their three-year term failing to develop policies, and now they expect that whatever thought-bubbles they come up with in the next couple of months will be good enough. I can assure those opposite that the people of Australia do not think that that is good enough.

Last week, the Treasurer, Mr Morrison, gave one of the worst speeches in living memory of a sitting Treasurer at the National Press Club. Worst speech in living memory of a sitting Treasurer: 46 minutes of waffle! Even people on this side felt embarrassed and sorry for him. This was his moment to shine. He was at the National Press Club. This was his moment to take economic leadership and define how he would make the taxation system fairer—and he failed. He failed big time. It is obvious that what he wanted to talk about was a GST—and that rug had been very nicely pulled out from underneath him. All that was left were platitudes and meaningless glib statements.

I know that the great Australian dream for young people is to buy their own home. Labor has a plan to make the taxation system around housing fairer. The negative gearing and
capital gains tax changes announced by Mr Shorten and Mr Bowen will deliver the most important structural budget reform in a decade. These changes will improve fairness and make a real contribution to tackling housing affordability. On negative gearing, Labor will modify the system so that investment losses can only be offset against wage income for new properties, new builds. This will help channel investment into new housing supply to improve affordability.

A strong housing market is central to Australia's successful transition out of the mining boom, and directing investment towards new building starts will obviously also improve jobs, investment and growth. Despite Mr Morrison peddling propaganda, the current tax concessions on negatively geared property overwhelmingly go to those on the highest incomes. The government's own Re:think tax discussion paper tells us that fewer than one in seven Australians earning a middle income claim negative gearing deductions. So, even though those on the other side say, 'All the negative gearing is done by nurses and school teachers,' we know that that is not true. Almost a quarter of the people earning $250,000 claim for negative gearing. So the top 20 per cent of income earners receive about half of all the benefits of negative gearing. Importantly for existing properties and other asset classes, our changes will mean investment losses can still be offset against other investment income and the final capital gain, directly linking the deductions claimed to the specific class of earnings. This will align Australia's rules more closely with those already operating in other advanced economies. We will also halve the existing capital gains tax discount to 25 per cent.

When the current discount was introduced in 1999, Australia was running a $12 billion surplus in the most favourable economic climate in a generation. Today, we are facing a $37 billion deficit as our economy switches gears and we continue the long climb back from the depths of the global financial crisis. While fairness is front and centre of our policy approach, these changes are also good economic policy. As observed by the recent Financial System Inquiry, reducing the capital gains tax discount and negative gearing concessions would lead to a more efficient allocation of funding in the economy. This would lead to more productivity-enhancing investment and more economic growth and jobs. Significantly, these changes would take effect from 1 July 2017, with all existing investments fully grandfathered—that is, anyone who has already made an investment in good faith before this date will be unaffected by the new arrangements.

In deciding to pursue these specific reforms to negative gearing and capital gains tax, we in the Labor Party have been guided by our values. We believe that the tax load should be fairly shared and not get lighter the higher up the income scale you go. Labor know that there are 475 Australians with more than $10 million in their superannuation account and that they are living tax-free on the income from those superannuation accounts. We say that that is not fair and it is not sustainable. Labor have had our plans on the table since April of last year—the best part of a year—and we have had a fully costed plan for fairer super.

In addition, Labor want to tackle the issues of the multinational tax avoidance. In 2012-13, companies shifted over $300 billion from their Australian arms to overseas parent or subsidiary companies. We want to close the loopholes that allow big multinationals to send their profits overseas. Unlike the government, who want to cut funding to schools and hospitals, we think that multinationals should pay their fair share of tax. (Time expired)
Senator BACK (Western Australia) (16:39): Senator Moore is a gift that just keeps giving when she comes up with these MPIs on activities of the Turnbull government. Acting Deputy President Bernardi, you, in business, and all of us with families, know very well that unless you are earning more than you are spending on a week-to-week or fortnight-to-fortnight basis, you are going down the gurgler. And that is where the last Labor government sent this country, as you know. The young people in the gallery should be taking notes because one day they will be having to run household and business budgets and having to vote for governments of the day. I say again that the only way to balance a budget is to make sure that you have more coming in than you have going out.

If we have a look at the situation in November 2007, this country had no net debt, it had no deficit and it had cash in the bank. Look where we are today? When this government came into power in September 2013, the deficit—the accumulation year to year—was already $123 billion! We were rushing to $660 billion of debt! The important point to be understood here is not the debt itself. Those of us with credit card accounts and those of us with mortgages know that it is not the actual amount on the credit card or the mortgage: it is what you are paying out each and every month in interest. What is of interest is that this country is borrowing offshore and paying $1.2 billion a month just to pay the interest on the debt.

We heard Senator Bilyk talk for one moment about negative gearing. By the Leader of the Opposition's own statement, this transformational tax reform would raise less than $600 million in four years. Do you know what that equates to in the interest that we are paying offshore at the moment? Two weeks—two weeks of lousy interest on the debt would account for the Leader of the Opposition so-called transformational tax reform on negative gearing on housing. If the Labor Party is genuinely interested in actually having a look at negative gearing—as Senator Whish-Wilson should note from his economic past—they need only go back to the efforts of the Hawke-Keating government, who did try to remove negative gearing. We all know what the impact of that was.

Of all funds associated with negative gearing, 97 per cent is on existing housing. Two-thirds of all Australians who negatively gear have a taxable income of $80,000 a year or less, 70 per cent of them have only one rental property and it makes the masterful average loss of $10,000 a year. It is largely people who can gain no other advantage. So we need to have a look at what this government is doing. Its first principle has been, is now and will be to ensure that we get to a situation in which this country is earning more than it is spending. At the moment we are spending $100 million a day, seven days a week, in excess of what we actually have and what we earn.

The comment was made by Senator Bilyk—and I am in complete agreement—that we have to make sure that all entities pay their tax. I was pleased that only this day Treasurer Morrison made the statement:

The Turnbull Government will apply new requirements on foreign investment applications to ensure multinational companies investing in Australia pay tax here on what they earn ... The Government is committed to ensuring companies operating in Australia pay tax on their Australian earnings. Where companies fail to do so I will have powers to take action, including ordering divestment of Australian assets.
That is not a large area, but we all agree in this place that it is essential. It is essential that people pay their due taxation, whether they are Australian organisations, overseas organisations et cetera.

I go again to why we are where we are. The Labor Party proposed savings in government, and we know very well in the 2½ years that we have been in government that the Labor Party has opposed and blocked in this place savings measures it had itself proposed—well in excess of $3 billion. There have been further savings and revenue measures proposed by this government that the Labor opposition is blocking now—$5.5 billion. There is spending that Labor says we must restore from banked savings, this is loaned money—$30.2 billion. There are savings in this current 2015-16 budget that the opposition has said it will not support. The list goes on and on.

But I say this to the chamber: if you have a look at the situation occurring now in Europe, the United States of America, Eastern Europe and South America, the world in my view is headed for some very, very rocky times. Acting Deputy President Bernardi, as you know, I have had many years in the oil and gas industry. Look where oil and gas prices are today. I say to you: each time over history—going back to before the First World War—every time there has been a sustained drop in oil prices, the sequel has been recession and/or depression around the globe. Where are we today? Oil prices are down at the levels they are. When you have a look at what the major oil producing countries are, with the exception of the United States, they are countries that have difficulty with stability: Russia, Angola, Nigeria, Iran, Iraq, South American countries and some of the Middle Eastern countries.

This is not a time for cheap political point-scoring. This is not a time for this country to be spending well beyond its means. This is a time for us to be getting our debt under control. It is not a time for us to be losing $1.2 billion a month in interest alone on our debt. This is a time when this country needs to get back to a circumstance of strong economic stability: the sort of stability that we saw in 2007, which got this country through the global financial crisis when it eventually occurred, during the time of the Rudd government.

Just have a look at how different the circumstances are today to how they were then and whether this country is equipped to be able to sustain another global financial crisis: our terms of trade have declined; China, the great supplier of wealth to this country over the last few years, has slowed down economically; high commodity prices have now come off; and Australia has that debt of $400 to $600 billion and the monthly interest of $1.2 billion. Interest rates are at a historically low level. It is time that this country understood the challenge. (Time expired)

Senator LUDLAM (Western Australia—Co-Deputy Leader of the Australian Greens) (16:47): Sometimes it is good to go third in these debates so that you can hear the views of the opposition and the views of government senators. I thank Senator Moore for bringing this motion forward for consideration today. When Prime Minister Turnbull had rolled Mr Abbott out of the Prime Minister's office, his pitch to his own party room and to the people of Australia was really twofold. It was, 'We're doing very badly in the polls, and I will improve your standing in the news polls. Prime Minister Abbott cannot sell the economic message and that is something I will do.'

It is interesting, only a few short months later, to see how that is working out. The polls are not looking all that great, but—of much greater consequence—the government's economic
message is just incoherent. With greatest respect to Senator Back, who I quite like personally, he did not shed a great deal of light on the government's economic message just then. Senator Bilyk, in her own way, has just put a proposition. We do not believe that the opposition's proposals on negative gearing go anywhere near far enough. I will explain why in a moment.

But it is, nonetheless, a recognition of the revenue that is available. Having bailed out and gone a bit weak at the knees at the idea of taxing every Australian on every purchase of every item through the GST—you have gone a bit cold on that idea—there are revenue measures available through things like negative gearing and, particularly, capital gains tax exemptions. For Senator Back, it appeared to have just gone completely over his head that that is what is on the table.

It is very interesting because I can recall through six years of the Rudd-Gillard governments that we could not get a peep out of the Labor Party on negative gearing. We could not find a pulse. We went after the Treasury department: 'No, we've not been asked to model it.' It was this extraordinary tight-lipped exchange at the time, where negative gearing was considered too politically dangerous to handle. Labor will say one thing in opposition and in government another, but credit where it is due: it is out in the open now and the debate is joint. They at least—

Senator Cameron: You'll never be in government with that.

Senator LUDLAM: Do not be so sure of that, Senator Cameron, because that smug attitude is what is costing you votes. Now that it is at least out in the open, I do want to acknowledge that the Labor Party has at least bitten the bullet—there is a negative gearing policy out there; there is a capital gains tax policy out there—which is more than we can say for the government. They are screaming about the loss of revenue and yet they are not interested in actually taking it on where it is available.

In the middle of last year, we had the Parliamentary Budget Office model what negative gearing concessions to wealthy property investors actually cost the economy. It is—in combination with capital gains tax exemptions, which is the sixth largest tax expenditure in our economy—$22 billion over the forward estimates. That is an incredible transfer of wealth; that is a subsidy to property investors.

I have been kind of amused to see the Property Council, one of the few voices left in the debate still hanging on to the idea that this intervention in the housing market is in the public interest, saying, 'It's all people on $80,000 a year or less.' It is remarkable. Yes, you can do that. When you have negatively geared a whole heap of your income out of existence so that it is invisible to the Australian Tax Office, you can actually get your taxable income down below $80,000 a year—you can get it to zero.

The Property Council does not mention that in their press release: all these people who negatively gear rental properties who have no income at all. What a remarkable miracle! Are these homeless people who are negatively gearing? No, it is not. It is people who have managed to take their taxable income down below these thresholds, and then the Property Council can go on in their press release about how it is doctors, teachers, plumbers and presumably homeless people who are all negatively gearing their seven investment properties. That is how ridiculous the debate has gotten. It is costing the economy $22 billion over the
forward estimates. The debate should have been over when Malcolm Turnbull stood up the other day—

**The ACTING DEPUTY PRESIDENT:** Order! Senator Ludlam, it is 'Mr Turnbull' or 'the Prime Minister'.

**Senator LUDLAM:** Quite correct, Acting Deputy President. When Mr Turnbull, the Prime Minister of the Commonwealth of Australia, brazenly stood up the other day and said, 'It'll crash property prices if you take away these negative gearing and capital gains tax reforms.' I would have thought that, if you strip away the hysterical language, that should have been the end of the debate. When this so-called liberal said that this $22 billion intervention in the property market is there to help push prices up, he basically acknowledged that negative gearing and capital gains tax exemptions increase property prices. What kind of intervention in the market is that supposed to be, where these incentives are being subsidised by low-income taxpayers? That should have been the end of the debate, but at least it has started. (Time expired)

**Senator URQUHART** (Tasmania—Deputy Opposition Whip in the Senate) (16:52): Today I rise on the matter of the Turnbull government's spectacular failure on tax policy. It has become painfully clear the Turnbull government has no plan for the economic future of our country and no idea when it comes to taxation reform. Last year, Mr Turnbull told us he was stepping up to contest the prime ministership because of the dire lack of economic leadership in the federal Liberal government. He told us he would lead an intelligent conversation with the Australian people about the economic reforms that his government would undertake. He told us that things would change. He told us that he would be different. Many Australians took Mr Turnbull at his word. They trusted that he would deliver solutions that would create a fairer taxation system to drive a more productive economy, which would create more jobs in Australia, for Australians. They believed that they would be treated as rational, intelligent human beings and that the government would be clear, direct and honest with its plans. There was also genuine goodwill in the electorate that the government was doing the hard yards and a comprehensive taxation agenda would soon be unveiled.

It is now more than five months on and what have we seen—nothing—no policy, no direction, no solutions and no idea. We have seen the Liberal Party members continue to block greater fairness and transparency in our taxation system at every opportunity, while they continue unabated in their calls to cut the wages and conditions of hardworking Australians. We have seen a party divided, a party where the Prime Minister, the Treasurer and the Minister for Finance cannot agree on what problems are facing the country, let alone find any solutions.

The reality is that while the Liberal Party might have a new front man in his shiny leather jacket, they are still singing the tired old Liberal songs that have already been roundly rejected by the Australian people. Songs of young people forced into decades of debt with $100,000 degrees, and of Australian schools being tasked with educating the next generation with $30 billion less. Songs of hospitals that have to absorb more than $50 billion worth of cuts in the face of the increasing care needs of an ageing population. And songs of hardworking Australians who would have their wages and conditions viciously cut and penalty rates slashed if the Liberals got their way. Let me be clear, while Mr Turnbull might sing in more soothing tones than Mr Abbott, the words are exactly the same.
All of the toxic Abbott era policy remains and now we have the additional burden of a government that does not have a clue what to do on taxation reform. In fact, if anything, the Turnbull government actually went backwards when they junked their own tax white paper after billing it as ‘the document’ that would lay out a road map for the direction of tax policy. Those opposite spent millions of dollars in staffing and advertising the white paper process before junking it completely. What a shameful waste of time and money.

The truth is that Mr Turnbull and Mr Morrison have completely dropped the ball on tax policy. They have been asleep at the wheel when it comes to the fundamental levers that will drive the direction of our national economy. The reality is that our taxation system is in dire need of reform. There are too many loopholes that allow the highest earning companies and individuals to avoid paying their fair share of tax. There are too many subsidies going to the well-off. There is too little to stimulate growth and create jobs, and despite being in power for more than two years the Liberal government has shown it has no idea how to do anything about it or is completely unwilling to do anything about it. This is a very serious matter.

The Liberal government is hopelessly divided, irretrievably ideological and utterly incompetent when it comes to economic reform. On if any given day, we see as many different policy positions as there are Liberals fronting the camera. We saw Treasurer Morrison try to convince us in his Press Club address that bracket creep is one of the greatest issues facing the country, only to be contradicted very soon after by the Minster for Finance, Senator Cormann, who has contended that it is really not so bad after all. We heard Senator Cash reiterate that a GST hike is definitely still on the cards, only days after the Prime Minister told us exactly the opposite. Clearly the Liberals are deeply divided. The only thing they could agree on was a regressive hike to the GST, and, clearly, Mr Morrison had nothing else to offer once Mr Turnbull scotched this plan in a transparent attempt to save his electoral fortunes.

This became abundantly clear last week at the Treasurer's awkward and highly embarrassing appearance at the National Press Club. After more than five months as Treasurer, all the Australian people got was 46 minutes of waffle, slogans and platitudes. It became painfully clear that the Treasurer had no framework, no vision and no policies. Even the most rusted-on Liberals would have been hard-pressed to find a single policy to celebrate from Mr Morrison's much anticipated speech. Two and a half years in power and this government cannot summon up a single idea—not one. Even their multinational taxation legislation has an asterisk where the revenue figures should have been.

The Labor Party understands that Australia's taxation system is in dire need of reform and we understand that we need a system that works for all Australians, not just the wealthy, who are able to benefit from generous taxation loopholes. In too many areas fairness has been mistaken for the interests of the rich and powerful—never more so than under this Abbott/Turnbull government. The harsh and punitive measures put forward by those opposite will not solve the problem of inequality, they will only serve to entrench it. Labor has presented a coherent and measured set of policies that would deliver more fairness to our taxation system and grow our economy without sacrificing vital investment in the health and education of our people. In the complete absence of leadership from the Turnbull government, Labor has proven we are ready and able to lead the tax debate. Labor has been very clear about our priorities and we have released a comprehensive suite of policies so that the
Australian people know exactly what we stand for. In fact, we have released more policies than any other opposition in living memory—more than 50 so far. We have led the way on high-income superannuation, multinational tax, tobacco and housing subsidies.

More recently, we have offered a positive plan for negative gearing and capital gains changes which would remove distortions in the housing industry and put homeownership back in reach for prospective first home buyers. Australian taxpayers currently spend more than $10 billion each year on negative gearing and capital gains subsidies for housing investment. Despite what those opposite will tell you, the facts are indisputable. The vast majority of the financial benefit from these concessions goes to those on high incomes. Many argue that negative gearing and capital gains concessions encourage building activity. The reality is that 97 per cent of houses bought under this policy are existing properties, with few investors taking the opportunity to invest in new housing stock. If more houses is truly the goal then it is very difficult to argue that we should continue to spend billions of dollars each year with only a three per cent success rate.

But Labor's reform plan will succeed where the existing policy has failed because negative gearing subsidies will be restricted to new properties. It will invigorate the construction industry. It will increase housing supply and create jobs. It will also provide the financial means for greater investment in health and education. Labor have demonstrated that we are willing to address the difficult questions and do the hard work to find solutions that are fair, reasonable and productive.

In contrast, this Abbott-Turnbull government have been in power for more than two years and yet they clearly do not have a clue on tax policy. The reality is that those opposite either have no intention or no idea how to create a fairer tax system that will support a productive economy. And now they are trying to distract from their abject failure by waging a baseless, hysterical scare campaign against Labor's measured and sensible negative-gearing reform. Mr Turnbull promised an intelligent debate on tax to the Australian people. But now we see that he is trying to cover up the total policy void in his own government by waging a desperate misinformation campaign against Labor. Well, it is not good enough. Australians expect more from the government, and they deserve more. Those opposite need to stop sitting on their hands and start doing the work. Mr Morrison needs to stop blaming everyone for his failure and Mr Turnbull needs to front up to the Australian people. (Time expired)

Senator BERNARDI (South Australia) (17:02): I have realised something that has been a crystal clear awakening for me, and that is that the term 'fairness' when used by those on the other side of the chamber is just another euphemism for socialism. Everything they have talked about to do with fairness in the tax debate has been about taking more money from taxpayers and giving that money to those who do not pay tax. Everything about their debate has been about increasing the revenue for government, not about cutting programs that are wasteful or ending the money shuffle. There has been no proposed radical reform of the tax system. It has simply been about getting more from fewer people. That is the Labor way; it is the socialist way—'We will continue to take and spend your money until there is none left.'

You do not make everyone wealthier and lift a tide that all boats can float on by penalising those who are producing in the economy. We need to provide assistance and incentives for people to get out there and work. We need to provide assistance and incentives for people to
get out there and start businesses, to employ and to invest. You do not do that by taxing people more.

The gerrymandering that would go on according to the plan of those on the other side is designed to make it fair for them, who have all benefited from lucrative superannuation investment schemes and no thresholds and who have all benefited from negative gearing and the tax fairness that came in under a coalition government previously. But they are going to penalise future generations even more than they have. Let's remember this: there was no debt in this country seven years ago. The mob on the other side spent hundreds of billions of dollars that they did not have that our children—your children and my children—and successive generations of children are going to be forced to repay. They implemented policies that have wasted tens of billions of dollars that we are still living with the legacy of today.

But, having said that, I want to thank Senator Moore for introducing this motion. It is not because of the wording—I understand there are spurious political games being played there—but because it provides an opportunity for those on this side of the chamber to talk about this and to prove that we are the thinkers. We are the people who are contemplating sincere and serious reform of the tax act.

So for the benefit of those on the other side, rather than apportion any ideas to the government, I am going to outline briefly the Bernardi tax plan. This is an opportunity to provide incentives and true equity and fairness to the Australian people. Let's start with the inequality between single-income families and dual-income families. On a $100,000 income, there is about a $10,000 tax disparity. That means that if you are sole breadwinner in your family earning $100,000 you are going to pay $10,000 or so more tax than if two people are out there working. On top of that, if the two people who are out there working have children, they are going to be benefiting from the childcare rebate and a whole bunch of other rebates and assistance. The inequality continues to grow.

So why don't we do something different? Why don't we say a single-income family with a dependent spouse or dependent children can benefit from multiple tax-free thresholds—maybe one for their spouse and half a one each for their child? This is about ending the money shuffle. It is about shrinking the size of government and making it truly fairer for individuals and families to determine what they want to spend their money on and get government out of it, because everything government touches turns to custard. Demonstrations of that have abounded again and again.

If you want to get more radical—and the aristocratic socialists, the merchant bankers, would like this—you could look at something like having a massively high tax-free threshold.

_Senator Whish-Wilson interjecting_—

_Senator BERNARDI:_ Of course, there would be no subsidies for vineyards or anything like that under that scheme, Senator Whish-Wilson. But, nonetheless, you could have a very high tax-free threshold so that anyone earning under, say, $50,000 a year did not pay any tax. Principally they do not now because of the money shuffle and rebates. On top of that, you could have a flat rate of tax for those earning between $50,000 and, say, $100,000 of 20c or 25c in the dollar and maybe a 30c threshold after that. You could lower the company tax rate to the flat rate of 25c in the dollar, and in compensation for these sorts of cuts you could abolish personal deductions, subsidies and rebates and all the things that increase the size of

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government and decrease the size of the private sector. As I said before, everything the
government tries to subsidise or infiltrate or influence goes bad.

We need to confront the demons that are within the Australian economy at the moment. That is simply that government is too big. Australians do not need more taxes. They need tax cuts. If you want to grow your economy you have to provide the incentive, and the incentives come from rewarding people for their efforts, rewarding people for taking risks. If you had a flat rate of tax after $50,000 or something, as I have demonstrated, you would not need capital gains tax exemptions or concessions, because people would be paying 20c or 25c in the dollar for every dollar, whether it came from a capital gain, speculation or from income.

That sort of stuff, of course, is anathema to the socialists on the other side. It is anathema to them because it stops them having control over what people want to do for themselves. They love being able to pull the levers and strings and say, 'We will give you a bit of that, if you do this over there.' They are channelling their inner Bernie Sanders. Senator Dastyari gives me the thumbs up because I have no doubt that Senator Dastyari, in his heart, is a true socialist. He is cuddling up there to Senator Cameron, which is a creepy, creepy thing to do, but, nonetheless, they are two peas in a pod when it comes to socialism and taxes.

Senator Dastyari: Madam Acting Deputy President, I raise a point of order. I believe Senator Bernardi was trying to insult me. I am not sure that he has succeeded in doing so, but I do feel—

The ACTING DEPUTY PRESIDENT (Senator O'Neil): What is the point of order?

Senator Dastyari: I am seeking guidance on whether or not a senator is in a position to pass those kinds of aspersions on another senator regarding—

The ACTING DEPUTY PRESIDENT: There is no point of order.

Senator BERNARDI: What I find interesting about that interjection is the fact that Senator Cameron has the dignity to accept that he is a true socialist and he is a Bernie Sanders, whereas Senator Dastyari on the one hand wants to embrace it, but is not prepared to. He is a bit of a chameleon; we understand that. We recognise the fact that he likes to be a bit of an actor. We have seen him perform on the ABC stage in the theatre there. His props are sometimes wrong and sometimes he does not know whether he is Arthur or Martha, whether he is coming or going, whether he is a socialist or a free marketeer, whether he is Labor right or Labor left. He is everywhere. I have seen him coming up to almost anyone in this chamber. It is spurious. I would say to you, Madam Acting Deputy President, in this place people will respect you if you are your true self and if you do not pretend to be something that you are not. I have lived by that all my life, as you would probably know, and if I could give any unsolicited advice to the socialists, the wannabe socialists or the denialist socialists on the other side, I would say, 'Be yourself.' If Senator Dastyari were asking me this, I would say, 'Just be yourself—people might not like you for it, but you will win their respect.'

Having said that, they have failed, clearly, to adopt the Bernardi taxation plan of simplifying things, because from their point of view it is about controlling and influencing people and trying to coerc their behaviour. As I mentioned earlier, every notional saving—if only *Hansard* could pick up that I am putting 'savings' in air quotes—savings, for those on the other side, are bigger taxes. They are expenses for other people. That is the duality and the great hypocrisy of modern politics: they talk about savings but they are actually expenses.
This is why the budget is never going to balance under those on the other side. What they put forward is a fraud. We need to allow individuals to make determinations about what they want to spend their money on, free of the influence or corralling of government. Let them choose the best type of child care for themselves by cutting the taxes and not having to subsidise it. It means not taking a dollar from someone, clipping the ticket in government and giving them back 90c or 50c or 40c in rebates. That only increases the size of government, and this is what this country cannot afford. This is a very hard word for me to say, as a conservative, but it is time for a radical rethink of how taxes are implemented in this country. If we do not, we will travel the path of other countries—that is, the reward for effort is gone and government gets bigger and bigger until it is no longer sustainable. We have seen it in Greece, we have seen it in Italy, we have seen it right through the European Union. We are seeing that America is struggling with debt problems and the polarisation of the community there. We want to avoid those issues in this country. The only way to do it is to shrink the size of government, to live within our means and to allow people the opportunity to make determinations, good and bad, and to live with the consequences, good and bad, of making their own decisions. That needs a radical rethink from those on that side of the chamber. But it is clear that those on this side of the chamber are starting to think seriously about how we can reset the tax system for the benefit of all Australians.

**Senator WHISH-WILSON** (Tasmania) (17:12): It never ceases to amaze me that the ultraconservatives like Senator Bernardi are fairly happy to talk to us about the role of government. They do not see any role for government in our lives except when it comes to social issues that you rely on the government to step in and regulate, such as same-sex marriage and other issues.

Let us talk about Bernie Sanders. It is a really interesting point. Why has Bernie Sanders been so successful in the US in the primaries today? It is probably the same reason that Donald Trump has been so successful. This is an international hot topic. I heard a really good summary from none other than Mr Kim Beazley on TV the other night, on *Lateline*. He said that the reason that US politics seems to be going haywire is that white males of middle income brackets have had no change in real income in the US in the last 20 years, whereas Australian incomes have increased 3½-fold. In the US, trickle-down economics has failed. Trickle-down economics, small government and leave it to the market have failed the American people. That is why we are seeing such an interesting race in the US primaries.

Tax reform is partly about revenue raising; it is partly about balancing budgets; but mostly it is about having a fair and equitable society. It is using the levers that we have in tax reform to get outcomes that we want to have a more prosperous and sustainable society. My party, the Greens, have been very proud to have led on the biggest tax reform of our generation with a clean energy package, putting a price on carbon, trying to tax the superprofits of mining companies.

This government ruthlessly and cynically campaigned at the last election to rip up $18 billion worth of good policy that raised significant revenue for our country. But what they failed to tell the Australian people was how they were going to replace that revenue. In their first budget, which we all remember very well, they were going to attack pensioners, students, single parents, the sick and the elderly—and it failed, because they had no plan. Since then we have gone through a green paper process and a white paper process, constantly ruling in and
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ruling out what we are going to look at in tax reform. In our party, the Greens, we just want to have a sensible debate.

Talking about sensible, sadly we lost the clean energy package and now we are paying polluters billions of dollars. But we have done a good job of getting some outcomes on tax transparency. That still has a way to go, but we are convinced we are on the right track there. We have delivered a small business package, which has helped small business get up. They are the engine room of our national economy. We have delivered pension reform. That gives an increase in pensions to the least well-off this country, those who need it the most. We have constantly stood up against the GST, not just because it is a regressive tax but because it is lazy. It is lazy politics, when there are so many other things we could do. We have been out there suggesting these constructive alternatives for some time now.

I am very proud to say that my partner in crime here, Senator Ludlam, has been campaigning on negative gearing for at least 18 months, if not longer. I sat in the Press Club nine months ago debating negative gearing and capital gains tax with Judith Sloan and the Grattan Institute. This is something we have been talking about for some time. We have constantly had policies on removing negative gearing, removing the capital gains tax concessions and having superannuation tax reform. We have been happy to put those costings out there. We have been happy to lead on this. I am proud to say that we now have the support of the Labor Party in a couple of these things and, in a constructive process, they have joined us to campaign on tax reform around these issues. Adam Bandt was on the front page of The Australian last week saying that he was holding out a fig leaf to the government: 'Come and talk to the Greens about super concessions, come and talk to us about capital gains tax and come and talk to us about negative gearing. Together we can secure $22 billion of revenue and make this country fairer.' It is no surprise to me that, three days later, Labor caucus finally approved their negative gearing plan, 12 months after Chris Bowen started talking about it. Thank you for the leadership from the Greens and thank you, Labor Party, for entering the fray.

We also have a vision for infrastructure spending around this country. We have a vision for getting rid of fossil fuel subsidies and other areas where we know we can get up to $80 billion worth of revenue in this country, which we can redirect into schools, into hospitals, into affordable housing, into where it is needed, and look after those who are least well-off in this society. That is the role of government—not what Senator Bernardi said. The role of government is, when markets fail, being there to protect those who are vulnerable.

Senator LINES (Western Australia) (17:18): This week marks just 12 sitting days before the budget is brought down—just 12 sitting days. The government is in a shambles over tax, and that was amply demonstrated last week in the embarrassing Press Club address by the Treasurer, Mr Morrison. To this end, I saw a news headline last week which said 'Malcolm in a muddle'. Is it any wonder? Last week there was a universally bagged speech by the Treasurer which, at best, went down as a backdown on his rhetoric about the generous tax cuts he wanted to deliver, which, according to the Treasurer, would have enabled Australians to get on. But, of course, that was just a furphy, as any gains would have been swallowed up by their big fat new tax: their proposal for a massive hike in the GST.

And where is the government on GST? Who knows. On the day the Prime Minister ruled it out, Senator Cash ruled it in. Over the last couple of days we have had Mr Morrison ruling out
changing super to enable low-income earners to opt out and, at the same time, the new Deputy Prime Minister ruling it in. One assumes the Deputy Prime Minister outranks the Treasurer. But wait—there's more. Two more government members have taken the proposal a step further by saying, 'Let's extend this exemption to include students.' That's right, students—and why? Well, they will need additional income to pay off their HECS debt, their $100,000 degrees, because that proposal is still on the table.

Back to Mr Morrison's National Press Club address: it should have been a bit of a hint and a promise of what was to be expected in the upcoming budget just 12 sitting days away, but instead it was once again a contradiction on the issue of bracket creep. We heard that Mr Morrison said that bracket creep was a job killer and a growth killer, and he confirmed that again at the National Press Club by saying it was something that should be a priority. However, his cigar-smoking mate, the Minister for Finance, Senator Cormann, contradicted him the very next day when he said that bracket creep is not there to the same extent as it might have been in the past. Let's not get to the real issues of the tax avoidance of some almost 600 companies in this country that those opposite have refused to do anything about. We saw their pathetic deal with the Greens last year, which did not go any way to looking at how we might really address companies paying their fair share of tax in this country. So the real issues are still there. The Turnbull government simply wants to attack those at the bottom end. It thinks Australians should pay more through a GST or through cutting back on pensions or through all the other sorts of measures we have seen in the two budgets which have failed it so far.

What about when the PM said he wanted to have a conversation with the Australian people about tax? That is pretty much all he said from the day that he took over from the other failed Prime Minister, Mr Abbott. My advice to the Prime Minister is that he really needs to start that conversation with his own government in their caucus room, as we see senior members of government, cabinet ministers, on a daily basis contradicting one another and indeed contradicting the Prime Minister.

Goodness knows what is going to be in the budget. It would seem that Mr Morrison has had to rip it up and start again because he was getting contradictory messages from all sorts of people—not backbenchers, but senior members of the government who want to be out there contradicting one another. It is shambolic and it is a disgrace. I have not heard it, but we know there is an internal conversation going on, and it is one of dissent within the Turnbull government about where to go on tax. That is what we have seen: shambolic government and empty promises among other things. There are 12 sitting days until the budget and we have seen no real hint of what is going on, apart from there will be announcements at some point into the future. It is shambolic and the Australian voters know that—they know it well and truly—the gloss is off.

Senator SESELJA (Australian Capital Territory) (17:23): I am very pleased to contribute to this very important debate today. I want to focus on two or three areas of tax policy, and the first is the achievements of this coalition government. When it comes to tax, we got rid of the Labor Party's carbon tax. We got rid of that job-killing carbon tax for the good of households—so they had lower electricity bills, more money in their pockets and lower gas bills. We lowered the cost of doing business by lowering the cost of electricity; that was a great achievement and good for business. We got rid of the Labor Party's ill-thought mining
tax, which was an attack on one of our most important industries. We came in promising to get rid of it and we got rid of it. We have focused on giving tax relief to small business—hard working men and women who employ millions of people and who go out and take risks. We said to them, 'We will give you a small business tax cut and a small business instant asset write-off.'

Our runs are on the board when it comes to tax. They are in stark contrast to the attitude of the Labor Party, and not just the taxes they imposed on us when they were last in office. They did their best to take one of the best performing parts of our economy, the mining industry, and kill it and they did their best with the carbon tax to have an additional hit on families and on business. Unfortunately, we know that the Labor Party, if they came back into office, have a plan to tax Australians more. Having not learnt the lessons in their last failed experiment in government—which was all about taxing more and spending more—they have a plan, if they come back in at this year's election, to tax more and to spend more. Who would have thought? They have very clearly laid that out on the table. Their plan is to tax Australians more—not to try to get the budget under control or to have policies that stimulate and grow the economy and grow jobs. We have seen 300,000 jobs created in this country in the last 12 months; that does not come about by accident; it comes about through policies which encourage business, policies which encourage people to employ others and which encourage people back into work. That is what we have been focusing on.

The Labor Party's alternative is to tax more. We know they are going to whack people's retirement savings by hitting their nest eggs with additional taxes. I want to focus on one of those proposals, their plan to tax housing in Australia—this massive housing tax proposed by Bill Shorten and the Labor Party. If they seriously think that this will not have a significant negative impact on ordinary Australian homeowners and on the broader Australian economy, then they have to be kidding themselves. The idea that you can make such a dramatic change to a longstanding, bipartisan policy and that it will not have a significant impact on house values! As the Prime Minister has pointed out, if you take out 30 per cent of the buyers, what is going to happen? We know what will happen—people's homes will be worth less. If you vote for the Labor Party and you vote for this negative gearing policy, your home is going to be worth less. They can pretend that that is not the case, but we all know it to be true.

We have heard from a range of voices in this debate, including from the Property Council and the Master Builders Association, which makes its living from building homes. You would think such a group would like a policy that is apparently about building more homes, but they see severe dangers to the property industry as a whole. But do not just take their word for it, what about the Grattan Institute? The Grattan Institute supports this policy; they are not critics of this policy and, along with Labor's McKell Institute, they helped to create this policy. Regardless of whether that is the case, they support the policy, but what do they say about housing values? According to the Grattan Institute, they will drop by up to 10 per cent. But that is the opinion of the group that supports the policy, and so it may well be more.

We talk about first home buyers and the reason that so many first homebuyers are locked out of the market is that state and territory governments, particularly of the Labor bent, have held back on land release and have unreasonable planning laws which restrict the amount of land coming on board. Is this going to magically change under Labor's policy? Of course, it will not. What about all those home buyers who purchased a house a year ago or two or three
or four years ago and who took out large mortgages to make a major investment? The Labor Party is saying to them, 'We do not care about you. We are happy to see the value of your home drop.'

What is this going to mean for future borrowings, as banks consider whether houses remain a good risk? People might find they cannot get into the property market, even with those lower values, because it will be harder to access finance. What kind of flow-on impact will this have on the economy—when people lose significant amounts of their wealth, do not have any confidence, do not have the same disposable income, do not have the same ability to access funds necessary to make major purchases? What is that going to do for business and spending? This is the Labor Party's future. This is the future for Australia under the Labor Party—more taxing, more spending and, most importantly, when it comes to negative gearing changes in particular, a whack on the value of the family home and a whack on the value of all properties. This is what the Labor Party is advocating, and a coalition— *(Time expired)*

**DOCUMENTS**

Consideration

The government documents tabled today and general business orders of the day nos 9 to 43 relating to government documents were called on but no motion was moved.

**PETITIONS**

Stolen Generation

**Senator SIEWERT** (Western Australia—Australian Greens Whip) *(17:30)*: Mr Deputy President, I seek leave to table a petition that is not in conformity with standing orders. The petition, containing 21,676 signatures, is particularly about Alan Jones's comments on needing another stolen generation and it calls on the Prime Minister to show some leadership and stand against Alan Jones's call for another stolen generation.

Leave granted.

**BILLS**

**Crimes Legislation Amendment (Proceeds of Crime and Other Measures) Bill 2015**

**Explanatory Memorandum**

**Senator RUSTON** (South Australia—Assistant Minister for Agriculture and Water Resources) *(17:33)*: I table an addendum to the explanatory memorandum relating to the Crimes Legislation Amendment (Proceeds of Crime and Other Measures) Bill 2015.

**Family Law Amendment (Financial Agreements and Other Measures) Bill 2015**

**Explanatory Memorandum**

**Senator RUSTON** (South Australia—Assistant Minister for Agriculture and Water Resources) *(17:33)*: I table a replacement explanatory memorandum relating to the Family Law Amendment (Financial Agreements and Other Measures) Bill 2015.
DOCUMENTS

Defence White Paper

Order for the Production of Documents

Senator RUSTON (South Australia—Assistant Minister for Agriculture and Water Resources) (17:34): I table documents relating to the orders for the production of documents concerning the Defence White Paper 2015 and the Lazard scoping study.

MINISTERIAL STATEMENTS

Trans-Pacific Partnership Agreement

Senator RUSTON (South Australia—Assistant Minister for Agriculture and Water Resources) (17:34): I table a ministerial statement by the former Minister for Trade and Investment and related documents on the Trans-Pacific Partnership Agreement.

Senator WHISH-WILSON (Tasmania) (17:35): I move:

That the Senate take note of the statement.

It has been six years since negotiations started on the Trans-Pacific Partnership Agreement—six years of secret meetings behind closed doors, between negotiators and special interests; six years that the public have been kept in the dark about an agreement that is going to impact just about every aspect of our life, our society and our economy. We see in the documents tabled by the Minister for Agriculture and Water Resources the actual text of the agreement—the thousands of pages of text that JSCOT will now have a look at in detail. We also see the national interest analysis—a total farce, having been written by the same people who negotiated the deal on behalf of the government. It was not independently assessed. Independent assessment has been a minimum requirement of the Foreign Affairs, Defence and Trade Committee in its recommendations for future trade negotiations and trade deals.

The Trans-Pacific Partnership Agreement is a document that cannot be changed, cannot be altered. There are 31 chapters of this document—from labour standards through to environmental conditions, through to local procurement, through to monopoly rights and intellectual property, through the investment chapter—we cannot change a single thing in this agreement. It is signed and sealed. The process we go through now is a total joke, a farce. This goes to JSCOT, which is a government-dominated committee. They will go around the country and roll out all their stakeholders, the usual suspects—the National Farmers Federation and other groups will tell us how great this trade deal is going to be for their constituents. No matter what we discover and want changed—it is not possible.

In parliament in a democracy, when legislation comes to parliament, especially the Senate—a house of review—we get to debate that legislation. We get to amend it and put up amendments knowing that if we get support from other members of the chamber, we can change that legislation and the law. We can improve it, which is what a democracy is all about, bringing in all stakeholders in this country, not just big business, who helped negotiate this deal, but all stakeholders. But under the treaty process that we have now, we cannot change a thing. It is locked in, signed and sealed. Those of us who may very well look at this document and find things that we agree with, things that could be good for the economy, have to weigh it the entirety of its 31 chapters in deciding whether we do or don't vote for this enabling legislation.

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There are so many things in this deal that could have been improved if we had had a transparent democratic process through the trade negotiations. This is something that Foreign Affairs and Defence committee have spent time on. They have come up with a process that allows for democratic input throughout the negotiation process, while still giving flexibility to the negotiators to get work done. They have allowed for their independent assessment before it is signed by ministers at their press conference, getting their headlines in the newspapers, so that we can actually see that it is in the national interest. There are some things that can be omitted, such as deregulation of labour markets and dangerous clauses which give special rights to corporations to sue us if they do not like what legislation or policy may do or the impact it might have on their future profits. They are just some examples.

So what we have here is a document for the Trans-Pacific Partnership Agreement, an agreement that in reality is a trojan horse for circumventing the democratic parliamentary process in this country, because the special interests that originated this deal, manufactured it and has driven it relentlessly for six years do not want this to come to the Australian people. They do not want it to be voted on by the parliament. This is a document whose 31 chapters cover every aspect of our life here in Australia and our economy. It is a line in the sand with the Trade in Services Agreement, an even bigger agreement under negotiation now; with the RCEP agreement, the Regional Corporation Economic Partnership agreement, which potentially involves China and dozens of other countries, and is also under agreement now behind closed doors, in secret; potentially a massive deal with the EU and India. When do we get a say in this? The executive in this country has the power to negotiate these treaties and it does not have to come to parliament. It can deliver them and sign them, and then they go for a rubber stamp process. What is ludicrous about the Trans-Pacific Partnership Agreement is that it is unlikely the US congress itself will vote on the deal that it has primarily originated and pushed. This is a US hegemony contract that is pushing US interest in our region. There is no doubt that sometimes that it is in our interests, but even they will not be voting on this deal, so why are we rushing this process here in Australia? Why do we have to have this signed and sealed by June-July, when it is unlikely the US is going to see it till at least the end of the year. If the US does not sign this deal, if they do not agree to it—there is a lot of evidence out there at the moment through the US primaries that this is a politically toxic issue in the US for exactly the same reasons that it is here in Australia. Workers do not believe these deals have delivered for them in the past. Even some of the industries that trade do not believe these deals have delivered for them in the past. Dangerous new laws for corporations allowing them to sue governments have set up parallel legal processes in shady international arbitration tribunals that do not function as democratic courts. This is the world that we are facing. This is the road we are going down. We have a chance to stop that in the Senate, but I despair that that is going to be very unlikely. All we have asked for is some transparency and some democratic input into this deal since I have been in this role, for the last four years, because we know that there will be things that will involve political decisions that have been made by the executive because someone has been in their rear.

Let me tell you about the Korean free trade deal. The beef producers in this country gave evidence to the Senate committee I was on that they lobbied Minister Robb to include investor state dispute settlement clauses in the Korean deal to get it done, because Labor to their credit, had not signed this deal while they were in government because the Koreans were insisting on ISDS clauses. That is one interest. We all know that Mr Andrew Robb used to be
involved in the National Farmers Federation. People he knows well got in his ear and said, 'For God's sake, get on with it! Just include these wretched clauses in there,' and since then we have set a precedent. Now they are in all our deals. Now we face 12 countries in the TPP, including US corporations, who are the most litigious corporations on the face of this planet, along with European counterparts.

Statistics recently came out about ISDS. There has been massive proliferation of court cases against sovereign governments by corporations in the last 12 months. Looking back over the last five years, hundreds of new cases are coming forward, where sovereign governments, parliaments and the people are being second-guessed by corporations. Senator Wong at estimates, brought up a situation that we might be facing in Queensland around coal seam gas. We already have a robust legal system—Justice French has talked about this. We do not need to be giving these special rights to corporations that give them an advantage over domestic companies and the ability to erode our sovereignty and democracy. It is not something we as decision makers should be doing lightly.

This agreement that we have in front of us today that the minister tabled in his ministerial statement includes a national interest analysis, but you will not find a single negative word in there, even though there are of course always costs as well as benefits in trade deals. DFAT and Mr Andrew Robb have marked their own homework and give themselves top marks, although the World Bank and other independent economic forecasters have said there will be virtually no benefit to Australia and very little benefit to the US. Yet this is trumpeted as the best thing since sliced bread—rivers of gold for our country. What it actually does is enclose risks that we as parliamentarians are going to have to face and, if we do not fix it, that our children's generation, when they come to parliament, are going to have to face.

Question agreed to.

Closing the Gap

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (17:45): On behalf of the Prime Minister, I table the Closing the gap: Prime Minister's report 2016 and the accompanying ministerial statement. I seek leave to move a motion relating to the documents.

Leave granted.

Senator SCULLION: I move:

That the speaking times relating to a motion to be moved to the document shall not be more than 10 minutes and that standing order 169, relating to the total time for debate on the motion, shall not apply.

Question agreed to.

Senator SCULLION: I move:

That the Senate take note of the documents.

Firstly, I acknowledge the traditional owners of the land on which we meet, and pay my respects to Aboriginal and Torres Strait Islander people across the whole country, and their elders past and present.

I speak today as a senator for the Northern Territory, where 30 per cent of the population is Indigenous. But I also speak as Leader of the National Party in the Senate, a party whose members and senators represent many of the largest Aboriginal and Torres Strait Islander

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communities in the country—tragically, in a conventional sense, some of the poorest. And of course I speak as the Minister for Indigenous Affairs.

In presenting this year's Closing the gap report, the Prime Minister spoke of his respect for the endurance of the oldest continuing culture on earth. He acknowledged that we—as a nation—have not always shown genuine respect for the diversity of Aboriginal and Torres Strait Islanders' cultures, languages and experiences; nor for the 'humanity and imagination' of the First Australians. There is no doubt that that is absolutely true.

We can also acknowledge that a lot has changed in the 10 years since the Close the Gap campaign was launched, when then Prime Minister Rudd acknowledged the importance of addressing Indigenous disadvantage by providing an annual report to parliament. I am pleased that this annual focus on Indigenous affairs has continued to this day as a bipartisan commitment. I believe that we all in this place and the other place—and, I would hope, all Australians—remain determined to turn the hopes and aspirations of Aboriginal and Torres Strait Islanders into a reality. The coalition government has committed to improving engagement with Aboriginal and Torres Strait Islanders. As the Prime Minister said, we will do with, not do to.

I want to use this opportunity to thank those that have been working with us and share our commitment to improving the lives of Aboriginal and Torres Strait Islander people across the country. In representative bodies around the country, bodies like the New South Wales Aboriginal Land Council and the Torres Strait Regional Authority; in cultural leadership, from Murdi Paaki to the Dilak in north-east Arnhem Land; and in service providers like Winun Ngari in Broome and the Arnhem Land progress association, we have some of the most committed and hardworking organisations and individuals.

I want to thank everyone who is part of our efforts and everyone who has taken the time to welcome me to their community. Since the beginning of last year, I have visited more than 70 remote communities on almost 100 occasions and I can tell you there is real sense of change occurring and, in many communities, optimism for the future.

People have been telling us for a long time that closing the gap is not just about the numbers and momentum; it is about 'how' you get it done. We must continue to work with Aboriginal and Torres Strait Islanders, not for them; and we must continue our efforts to work locally. This has been a major change under this government. When government and communities are working well together, there are marked improvements in education attainment, in employment, economic participation and community safety.

As always this year's report is a frank assessment of our progress. It acknowledges our achievements and identifies areas where we need to accelerate our efforts. There has been mixed progress on the targets. For instance, the target to halve the gap in child mortality by 2018 is on track. This report, however, also outlines the remaining challenges ahead. For instance, although there have been long-term improvements in Indigenous mortality rates, the life expectancy gap of around 10 years remains unacceptably wide and I am concerned that this target will not be met by 2031. We need to do more.

In education, one group that I have enjoyed working with over the past year has been our school attendance officers and supervisors. They are motivated, hardworking community members who ensure children go to school as part of the Remote School Attendance Strategy,
and their hard work is paying off. In Northern Territory and Queensland government RSAS schools, the number of students attending was nine per cent higher in term 2, 2015 than it was at the same time in 2013. Obviously, we still have some way to go in education.

Reading and numeracy targets also show mixed results. But four of the eight measurements for students achieving national minimum reading and numeracy standards are on track. And the year 3 reading target is very close to being achieved. This should give us all hope that the target can be met and it should focus our effort—across all political parties, across all levels of government—to ensure it is met.

On any given school day, the majority of Aboriginal and Torres Strait Islander students are attending school and we can now say that more of these students are attending school than before our Remote School Attendance Strategy commenced. This is an achievement that should not be underestimated. More young people are also staying at school and making their families proud, placing the target to halve the gap in year 12 attainment by 2020 on track.

This is crucial to ensure that in the generations to come we have more and more Indigenous students finishing year 12 and continuing on to university, to ultimately become the professionals of the future—the doctors, nurses, lawyers, engineers, nutritionists, dentists and eye specialists, all professions which play such a crucial role in closing the gap. We remain committed to the scholarship and mentoring programs that will help more people stay with education right through to year 12.

Another target I hope we can achieve soon is that of early childhood education. The target to have 95 per cent of four-year-olds enrolled by 2025 is within reach. We need to make meeting this target a whole-of-community effort, by using the Community Development Program, linking in with the school to create a clear pathway for a child’s education and by using whatever other resources we can to make this happen. I am convinced that education is the way to prosperity. I have met many people for whom education paved the way to a job, respect, dignity, aspirations and financial security.

Another life-changing target is the employment gap. It has felt in the past like we are taking one step forward and two steps backwards in relation to jobs. We are more than aware that there is a need to accelerate progress against the target to halve the gap in employment by 2018. But I am optimistic that the significant reforms that have been made in our jobs and other programs will help halve the jobs gap, because we are beginning to see results. Since September 2013, the employment initiatives in my portfolio have supported 36,650 job placements. That is over 50 jobs every day. In our 29 Vocational Training and Employment Centres, 3,639 people have commenced jobs, and we are on track to reach our target of 5,000 jobs through the VTEC program. In the Employment Parity Initiative, which works with major employers to get their own workforce to parity and beyond, we have already signed 10 contracts for more than 6,800 jobs, and there are more are on the way, putting us on track to achieve the goal of an additional 20,000 Indigenous people in jobs by 2020.

The new Community Development Program is underway and is beginning to gain traction to get people into work. At the start of this year almost 75 per cent of CDP job seekers required to attend Work for the Dole activities were in fact placed in activities. That is a huge increase, and I hope it signals a return to the success of the old CDEP when most people in communities were engaged and undertaking activities that helped build personal, family and community pride.
Just last week I was on Elcho Island to see the progress on the rebuild of Galiwinku, 12 months on from Cyclone Lam. It is a real credit to the local community to see so many local community members involved in the rebuild. They are building the houses the community needs, and they are building a future for themselves—a future in which they have the skills and practical experience needed to secure a real job—a real future. The rebuild includes local businesses like Gumatj, who have won the contract to build roof trusses. It is because of efforts like this that we are already seeing a steady increase in real pathways to employment for remote job seekers.

Since 1 July our procurement policy has seen 116 separate contracts worth about $40 million awarded to 52 separate Indigenous businesses. That is compared with about $6 million in procurement from Indigenous businesses in all of 2012-13. With a continued effort, this will build huge momentum amongst the Indigenous business sector and see more businesses opening up, and, as a result, employing more and more Indigenous people.

Other reforms are driving success for Aboriginal and Islander people and businesses in the mainstream economy, including native title administration, township leasing and opportunities presented in the northern Australia white paper. None of these initiatives are a quick fix. But they reflect our absolute determination to find enduring solutions to complex problems. As the late poet Oodgeroo Noonuccal from Queensland once said, the 'present generation' is 'responsible for the present and the future'. She added that it is our 'responsibility to change things for the better'.

Closing the gap is everyone's responsibility. And we will endeavour to get even better at closing those gaps in a way that works with Aboriginal and Torres Strait Islanders. The 'closing the gap' report will continue to hold all of us to account for that better present and ideal future.

Senator Wong (South Australia—Leader of the Opposition in the Senate) (17:56): I acknowledge the traditional owners of the land on which we meet and pay my respects to elders past and present.

Aboriginal and Torres Strait Islanders were the first lawmakers in this land, but for too long, their successors—the lawmakers in this place and in state and territory parliaments—have often let Aboriginal and Torres Strait Islanders down. That much is clear from the Closing the gap: Prime Minister's report 2016.

I will start by recalling the origin of this report. It had its origin in the meeting of the Council of Australian Governments—the COAG—on 20 December 2007. At that meeting, first ministers of this nation agreed to close the gap between Aboriginal and Torres Strait Islander peoples and other Australians by embracing six key targets: closing the life expectancy gap within a generation; halving the gap in mortality rates for Indigenous children under five within a decade; ensuring all Indigenous four-years-olds in remote communities have access to early childhood education within five years; halving the gap for Indigenous students in reading, writing and numeracy within a decade; halving the gap for Indigenous people aged 20 to 24 in year 12 attainment or equivalent attainment rates by 2020; and halving the gap in employment outcomes between Indigenous and non-Indigenous Australians within a decade.
In February 2008 the then Prime Minister, Kevin Rudd, restated his government's commitment to closing the gap, during his apology to the stolen generations. The following February, again at the initiative of Prime Minister Rudd, the first 'closing the gap' report was delivered to the national parliament.

Ahead of today's debate, I went back and had a look at that first report to remind myself what that report said and how it said it. I was struck by how candid it was—how free it was from the self-justification, the blame shifting and spin that characterises so much of government self-reporting. The report said this:

In remote areas, successive governments have failed to properly coordinate their efforts and to fund them adequately, resulting in acute and visible need. In urban and regional areas, services provided for all Australians have not been accessed by or effectively delivered to Indigenous people. Blurred responsibilities have allowed Commonwealth, state and territory governments to avoid accountability for their failures.

It is a sentence worth repeating:
Blurred responsibilities have allowed Commonwealth, state and territory governments to avoid accountability for their failures.

It also said governments must be accountable for improving outcomes for Indigenous Australians and noted the COAG Reform Council would monitor progress. That was the first report, and today we are discussing the eighth, and I do have to say that there are some aspects of this report that trouble me—they trouble me greatly.

I am, of course, as we all are, concerned about the lack of progress towards many of the Closing the Gap targets. I will turn to some of these in a moment.

I am also troubled by changes to the report itself, because its tone, its language and maybe even its purpose appear to have shifted. Nowhere in this year's report do we find reference to failure, even where governments' failure to make progress towards agreed and measurable targets is manifest. Instead, the Prime Minister exhorts us to focus on 'encouraging progress'. We learn he is heartened by 'positive gains'. In his foreword, the Prime Minister tells us how proud he is of jobs generated by the government's Indigenous Advancement Strategy—devoid of acknowledgement that the target to halve the gap in employment by 2018 is not on track.

The report notes that 'overall progress has been varied and that meeting many of the Closing the Gap targets remains a significant challenge'. But instead of acknowledging the Commonwealth's critical responsibility for failing to make progress on targets, the report reiterates the roles of the states and territories, saying:

State and territory governments will continue to have a critical role in making progress against the targets.

I again seek to recall the words in the first Closing the gap report, which remind us that blurred responsibilities have allowed Commonwealth, state and territory governments to avoid accountability for their failures. The Closing the gap report must be an honest reckoning of progress made towards eliminating the disadvantage of our First Peoples. Where progress is not being made on critical targets, the Closing the gap report should not gild the lily. It should not shift the blame, offer excuses or promote programs that yield little more than anecdotes for inclusion in a Prime Minister's foreword.
Poor progress should make government uncomfortable. It should make all of us uncomfortable. The very least we owe Aboriginal and Torres Strait Islander Australians is some honesty on the progress we are making in key areas of life expectancy, infant and child mortality, early childhood education, literacy and numeracy skills, school completion rates, and employment outcomes. This is not a partisan point I am making. Notwithstanding my manifest and many differences with the former Prime Minister, I would say that last year's Closing the gap report presented by then Prime Minister Abbott was in many ways a more honest document than the one we are debating today. In that report Prime Minister Abbott told parliament that, despite good intentions and considerable investment by successive governments, progress in meeting targets had been far too slow. Twelve months ago, Mr Abbott expressed disappointment that most Closing the Gap targets were not on track. The table in last year's report that illustrated progress against the targets appears to have been omitted from this year's report. This year, progress against targets is buried in the text of the report, and more often than not justified or excused lest any reader seek to hold anyone to account.

Closing the gap in life expectancy was the first target on the COAG target list agreed in 2007. It lies at the very heart of the Closing the Gap project. The 2016 report confirms we are not on track to close the life expectancy gap between Aboriginal and Torres Strait Islander people and other Australians by 2031. That is a national shame. The gap and the failure to make progress towards a generational target set more than two decades hence shames all of us. For reasons I have already stated, I am not surprised to find that, contrary to previous years, life expectancy is no longer the first target subject to reporting this year. The target to halve the gap in employment by 2018 is also not on track. In the 2016 report this fact is accompanied by the statement:

… although no progress has been made against the target since 2008, Indigenous employment rates are considerably higher now than they were in the early 1990s.

The report includes an Indigenous unemployment table incorporating statistics from 1994—13 years before the COAG goals were set. It seems as if whoever was drafting this report was wanting to make a qualification, even if the qualification, frankly, was irrelevant or related to a time long past.

In relation to the failure to make progress towards the employment target, the government continues to make excuses, asking the reader to ignore the impact of the decision to axe the Community Development Employment Program, or CDEP, in 2015, and telling us:

To get a more accurate sense of the employment gap, it is better to focus on the non-CDEP employment rate and how this has changed over time. While this rate fell between 2008 and 2012-13, the decline was not statistically significant.

The 2016 report shows little progress towards the goal of closing the gap in school attendance by 2018. It reports mixed progress on the target to halve the gap in reading and numeracy for Aboriginal and Torres Strait Islander students by 2018, achieving national minimum standards on track in just four of eight areas.

The report notes that COAG has renewed the target of ensuring access to early childhood education for Aboriginal and Torres Strait Islander four-year-olds. It notes that the previous target related to access for four-year-olds in remote communities 'expired unmet' in 2013, but does not say why. And nowhere in the report are the consequences of the coalition's decision
to cut half a billion dollars from Indigenous services and programs in its first budget explained; nor the decision to make additional cuts worth tens of millions from indexation pauses, including $17.8 million, confirmed by PM&C in an estimates hearing today; or the decision to sack hundreds of Indigenous public servants; or the decision to axe the COAG Reform Council. There is a lot left unexplained. It does show some welcome progress. It is a good thing that the target of halving the gap in child mortality by 2018 is on track and the target of halving the gap in year 12 attainment is also on track. These are good outcomes. One addition that should be made, which the Leader of the Opposition has spoken about, is the target that tackles the increasing incarceration of Aboriginal and Torres Strait Islander people. Mr Shorten has spoken about in the other place.

Successes and failures on the path to closing the gap should be reported objectively. Success should be celebrated. Failure should be addressed, and it must not be explained away with irrelevant data or hollow words. Closing the gap matters too much for that.

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:06): Before I commence, I too would like to acknowledge the Ngunawal and the Ngambri people—the traditional owners of the land on which we meet—pay my respects to elders past, present and future and acknowledge that this was and always will be Aboriginal land.

I rise today to speak to the Prime Minister’s Closing the gap report 2016 and his statement on that report. I would like to note that this is the 10th anniversary of the Close the Gap campaign. The Prime Minister’s report clearly shows that we are not making enough progress. We are not on target to close the gap. We have not made significant progress on life expectancy for Aboriginal and Torres Strait Islander peoples since the last report. Although we have made very welcome progress on two of the targets—reducing infant mortality and school leavers look like they are on track—targets for life expectancy, reading and numeracy, school attendance, and employment are not on track or show mixed progress at best. It is clear that if we do not improve what we are doing we will not close the gap.

The Australian Reconciliation Barometer still shows that Aboriginal and Torres Strait Islander peoples experience high levels of racial prejudice and discrimination: 33 per cent of Aboriginal and Torres Strait Islander peoples reported experiencing verbal racial abuse and 62 per cent of Aboriginal and Torres Strait Islander respondents believe prejudice is high. Tragically, things are getting worse in many areas. We know that Aboriginal children are nearly 10 times more likely to be in out-of-home care and the number of Aboriginal children going into out-of-home care is increasing. Aboriginal and Torres Strait Islander adults are imprisoned at a rate 13 times higher than non-Indigenous adults. Aboriginal and Torres Strait Islander men are twice as likely to be in prison as in university.

In this country, we still have unfinished business. Sovereignty was never ceded in this country. Sovereignty and treaties are still rarely spoken about outside of Aboriginal and Torres Strait Islander communities, and that has to change. If we are going to achieve constitutional recognition of Aboriginal and Torres Strait Islander peoples, which I know many people want to achieve, we need to look at this issue of unfinished business as well. I contend that unless we deal with this unfinished business, we will not close the gap.

Each year, the Close the Gap Campaign Steering Committee reports on progress, through the Progress and priorities report, which has in the past been known as the shadow report, and each year I table in this place a copy of that report. I seek leave to table that report. I also
seek leave to table Reconciliation’s Australia’s report *The state of reconciliation in Australia: our history, our story, our future.*

Leave granted.

**Senator SIEWERT:** The *Progress and priorities* report says:

… progress against this headline indicator of population health has been difficult to measure but appears to have been minimal. While there is some good news to report, improvements are yet to be reported at this high level. Both absolute and relative gains are needed in future years.

The report also makes several key recommendations. They include that political parties—that is this place, folks—commit to:

Make Aboriginal and Torres Strait Islander health and wellbeing a major priority for their election policy platforms, and fund the *Implementation Plan for the National Aboriginal and Torres Strait Islander Health Plan (2013–2023)* until it expires in 2023.

It also recommends that we adopt a justice target, which is critical when you think about the incarceration rates that I have just gone through, and that we adopt a target for Aboriginal and Torres Strait Islander people with a disability. I have asked the Social Justice Commissioner some questions about this in estimates and talked to the Disability Discrimination Commissioner as well, who articulated that in fact Aboriginal and Torres Strait Islander people with a disability suffer double discrimination and prejudice through being Aboriginal and Torres Strait Islander and also having a disability.

The report also talks about the need for Aboriginal controlled health services to be the preferred approach for Aboriginal primary health care and planning, and says that there should be a national inquiry into institutional racism in healthcare settings. I urge you to look at *The state of reconciliation in Australia* report. You would be quite distressed to see some of the figures for discrimination reported in some of our institutions in this country. The report also commented and made recommendations on the disastrous Indigenous Advancement Strategy changes. The report states:

Another area of concern for the Campaign Steering Committee is the impact of the *Indigenous Advancement Strategy* (IAS) on the social determinants of health.

More than any single policy, it is critical that we work with Aboriginal and Torres Strait Islander peoples. In his speech, the Prime Minister quoted advice he received from Dr Chris Sarra on how to truly make a difference in policy. One of the pieces of advice he received he said was very important. It was:

Do things with us, not to us.

It is very good advice, and I wish politicians and decision makers would listen to it and take it to heart. Sadly, all too often the government—I have to admit not just this government—has done things to Aboriginal people and not worked with them. This is a consistent pattern of doing things to, not working with. Too often, government policies have left Aboriginal and Torres Strait Islander peoples worse off, with critical gaps in their services.

The Indigenous Advancement Strategy has been a disaster for many Aboriginal and Torres Strait Islander communities and organisations. We heard about it yet again when the Finance and Public Administration Committee was in Darwin having another hearing on this matter just last week. We heard again of the problems that this has caused. There was no consultation. Mick Gooda, the Aboriginal and Torres Strait Islander Social Justice
Commissioner highlighted yet again in last year’s report and in 2014 the lack of consultation on that program, which, in many cases, took funding off Aboriginal organisations and gave it to non-Aboriginal organisations. We had funding taken from Aboriginal legal services. Some of it has been given back. We heard in Darwin last week that funding is not assured for many of the programs that deliver critical legal supports and services to the Aboriginal and Torres Strait Islander community and that that funding runs out in June this year. It is time that that changed. They need long-term funding.

The Northern Territory intervention is one of the most recent glaring examples of doing things to Aboriginal people, and it is still having ongoing ramifications. It is still in place in another guise, called Stronger Futures. The final evaluation of that report shows quite clearly the failure of that policy. The cashless welfare card—income management on steroids—is yet another example of doing things to Aboriginal communities. We heard on Friday all about the Community Development Program, which many Aboriginal communities have been told is CDEP coming back. Well, it is not. Be very concerned about that particular policy. These policy failures make things worse. They have a real impact on Aboriginal and Torres Strait Islander peoples in this country, who face the challenges of decades of inequality and injustice.

As we work to close the gap, we need to talk about reconciliation in Australia. I have just tabled The state of reconciliation in Australia report. I urge all people to read that report. Again, the things they talk about are critical if we are going to close the gap. They talk about five dimensions that need to be considered: race relations, equality and equity, unity, institutional integrity and historical acceptance—do you hear a theme here? This is a theme that we need to be working on. We need to be addressing all of those issues if we are going to close the gap.

We do not need shock jocks getting on the radio and saying that we need another Stolen Generation. That is ignorance, and a complete lack of understanding of the current situation facing Aboriginal and Torres Strait Islander peoples in this country and the way that Aboriginal children are taken disproportionately into care without looking at the broader context and without providing the necessary supports that Aboriginal and Torres Strait Islanders need. They do not need chopping and changing programs, failing to address the issues around race relations, institutional integrity, equality and equity, unity, historical acceptance and realising that we have unfinished business in this country that is critical to address.

I look forward to hearing and seeing a much better report next year on this vitally important issue.

Senator PERIS (Northern Territory) (18:16): I acknowledge the Ngambri and Ngunnawal people, the custodians of the Canberra region. I acknowledge my elders past and present. I begin by thanking the Prime Minister for beginning his first Close the Gap speech of 10 February in the language of the Aboriginal traditional custodians of this region. It was a remarkable thing. But what is not remarkable—and most of us in this chamber know this—is that we are on track to fall short again on almost all of our Closing the Gap targets. So we need to get real about what we are doing.
Today I had the pleasure of attending the National Press Club to hear eminent journalist Stan Grant give an address on his family's story—both Aboriginal and Irish, yet so Australian. His story is so familiar to me and to virtually every Aboriginal and Torres Strait Islander, because we share the same history. I echo Stan's words that all Aboriginal people in Australia continue to live with the weight of our history, we bear the burden of our survival, we share common wounds and it is unbelievable that we have been classified at least 64 times by government as half-castes, quarter-castes, octoroons or coloureds—the list goes on and on.

I come before you today not to quote statistics but to speak about human citizens, citizens of this country. I want to share with you my concerns as to why the whole Close the Gap campaign has effectively stalled. For 10 years, the infamous talking stick has been going around and around in circles, so my question is: who in this chamber will stand up, step out of the circle and begin a brand new dialogue with Aboriginal people?

Today, I want people in this chamber to know what it is like to walk in the shoes of an Aboriginal person. I want you to be able to see through our lenses, not yours. My uncle Patrick Dodson spoke wisely when he stated:

There's a lot of aspiration and maybe good intention, but unless you get participation from Indigenous entities at a local level and community level, it's not going to work.

Aboriginal people come here year after year with the solutions—that is right, the solutions. They continuously own the problems that have been caused by failed government policies and decisions. What sickens me is when our mob finally get a program up and running that is benefitting all in their community and their children, the rug is ripped out from underneath them, with funds being removed without due notice.

There is no denying the issues we face, but there is also no denying the government's nitpicking and micromanaging of our lives. We are at a crossroads and it is time to reassess. Let's stop with examining the oppressed; instead, we should be examining the oppressor. Our lives are not expendable, and we need to acknowledge the reality of how our decisions here in this place affect our families, children and communities back home. Enough of the rhetoric. We need to move forward together side by side and hand in hand to get it right for Aboriginal and Torres Strait Islander families and communities—and for all of us. After all, we are Australians.

We cannot keep coming back year after year nodding our heads and being a part of the problem. If the Close the Gap campaign is at its use-by date, then, Prime Minister, you said:

It is equally important we listen to Aboriginal and Torres Strait Islander people when they tell us what is working and what needs to change. It’s our role as government to provide an environment that enables Indigenous leaders to develop local solutions. Again, Mr Speaker, it is time for Governments to ‘do things with aboriginal people, not do things to them’.

I say this, Prime Minister: imagine if all 339 recommendations of the Royal Commission into Aboriginal Deaths in Custody had been implemented, then how many lives could have been saved by the wisdom in this report. Imagine, Prime Minister, if the $245 million spent on remote policing in the Northern Territory was instead spent on our kids and early childhood programs, instead of a mere $13.42 million.

Imagine if Aboriginal children could have access to excellent educational and innovative programs irrespective of where they live, whilst maintaining their languages and cultural identity; then an Aboriginal child would be proud knowing that their own identity is valued
this country. Imagine if Aboriginal peoples' incarceration rates were comparable to the general population; then the imprisonment rates for young Aboriginals would not be higher than school retention rates. Imagine if we had a national approach that had consensus from the states and territories for a grassroots driven and culturally appropriate out-of-home care program for our children in care. Our children should not become statistics in a flawed system.

Imagine if all of us here in parliament did more than just nod at the United Nation's Declaration on the Rights of Indigenous Peoples. Imagine if we actually acted on the articles of this declaration and implemented policies reflecting them; then perhaps our priorities would lead us to maintain the dignity and aspirations of Australia's first peoples. Imagine if the government let Aboriginal and Torres Strait Islander peoples assert their rights to participate in decisions that directly affect our lives and imagine if the protection of their lands, waters and culture were seen as our inherent responsibilities by everyone in this country. Imagine.

Imagine, Prime Minister, if Labor's national Aboriginal and Torres Strait Islander suicide prevention strategy of 2013 was enacted; perhaps we could have saved the lives of those 300-plus Aboriginal people who took theirs. Imagine if Aboriginal and Torres Strait Islander people could create their own jobs with their own dreams and aspirations of what will work and sustain their community and cultural values. Imagine if we could all understand and respect that healing takes time—often, it takes decades. Imagine if Australian's black history was intertwined with white Australian history so that it was all one Australian history. We know that this country is not fair and that we are not all treated equally. But instead of criticizing this inequality, we must embrace and respect everything that makes us different. This can be an even greater country. We cannot change where we were born, or the circumstances in which we were born into, but we can work together to overcome the challenges that stand before us. If we cannot do this then the only thing we have to look forward to is more failure. Finally, I would like to remind this place of another time, in the past, when another senator gave his maiden speech, because despite the intervening decades, not much has changed. He said:

... all within me that is Aboriginal yearns to be heard as the voice of the indigenous people of Australia. For far too long we have been crying out and far too few have heard us.

It would be an understatement to say that the lot of fellow Aboriginals is not a particularly happy one. We bear emotional scars—the young no less than the older.

... my people were shot, poisoned, hanged and broken in spirit until they became refugees in their own land.

Whilst I commend the Government for its awareness of the need for improved programmes of housing, health and education, I want to take this opportunity to point out that in common with all citizens, Aborigines of Australia are most certainly not looking for handouts. They have suffered enough from the stigma of paternalism, however well intentioned it may have been.

Those were the words of the late Senator Neville Bonner, quoted from his first speech, in September 1971—the year I was born—and here, today, we are still debating the very same
single issue. Today, Stan Grant said much the same at the National Press Club. For the betterment of this country let us all strive for a different story at next year's *Closing the gap* report.

**Senator LAMBIE** (Tasmania) (18:24): I rise to contribute to the debate on the response to the *Closing the gap: Prime Minister's report 2016*. In doing so, I first acknowledge the traditional owners, both past and present, on the land on which this parliament meets. We all know the horrific statistics, the disadvantages and the injustices that afflict and torment Australian Aboriginal and Torres Strait Islander people—the sum of which produces a reality, which is our national shame—namely, Aboriginal and Torres Strait Islander people on average die decades earlier than non-Indigenous Australians.

This Prime Minister's 2016 report on progress on closing the gap does nothing to lessen our national shame. The difference in average mortality rates has become known as 'the gap' and the question everyone has been trying to find an answer for is: how do we close the gap? How do we stop Aboriginal Australians from dying sooner than non-Indigenous Australians? Apart from the obvious calls for better Indigenous health, housing, education, job training, work opportunities, social condition and prison reform, over recent times many high-profile Indigenous leaders have focused our thoughts on policy creation, and I agree with them: Indigenous people should create Indigenous policy. Imagine if great Indigenous Australians like Stan Grant and Chris Sarra held the balance of power in this Senate, and in every vote in this chamber they were able to make a speech in this Senate and then cast a vote as their consciences dictated, not how their Liberal, Labor or Greens party bosses wanted them to vote. What a mighty nation we would actually become. How grown-up we would seem. And then over time, with greater Indigenous involvement in government policy making, credible and workable solutions will be found to close the gap.

The key question is: how do we encourage natural Indigenous leaders and great Australians like Stan Grant and Chris Sarra to become involved in political parties, and then help them become elected into this place? And it has to be this place, not an ATSIC, or some other symbolic Indigenous group, because it is here in this Senate, in this parliament, that the policymaking and deals happen that affect Australia's Indigenous people. It takes a rare Indigenous person, and luckily we have a few of them in this parliament, to put up with all of the BS and corruption that automatically comes with the baggage of all Australian political parties.

If you do not have the ability to introduce private members bills into this parliament, then you really are not at the cutting edge of policy making in this country. That is why I say we should look to New Zealand, Canada and some states of America, where Indigenous people have had the ability to submit their bills to their parliaments and as a result have managed over time to close the gap. Therefore, today, I will again repeat an offer to this chamber I made about a different approach to closing the gap between the first people of Australia and those who joined them from countries all over the world. This parliament that we serve can be overwhelming, if you let it, because of its size and grandeur. This Senate can intimidate and frighten with complicated rules and procedures. However, stripped away to its bare essentials this is a place where we make decisions on how to share Australia's national wealth and prosperity with its people, through argument and debate. Put simply, we sit at our nation's table, have a conversation and we carve up the pie. We decide how much of the pie each...
Australian receives and how it is eaten. How can Aboriginal and Torres Strait Islander Australians ever have any chance of receiving a fair share of the pie and determine how it is eaten if they do not have a permanent voice at our nation's table. My message today is simple: if you want Australia's first people to have a fair share of our national wealth and a proper say in how it is spent then every piece of legislation that passes through this parliament must be scrutinised and spoken to from an Aboriginal and Torres Strait Islander point of view.

This democratic objective can be achieved in number of ways. We could establish parliamentary committees that review all legislation and ask the questions: one, will this be good or bad for first Australians; and, two, how can we improve this legislation to help Indigenous people? The other way to guarantee that every piece of Australia's national wealth is wrapped up in the documents we consider in this Senate, and is spoken to by an Indigenous voice, is to establish dedicated Indigenous seats in this parliament. This is not a new concept. A number of progressive countries have already established dedicated Indigenous seats in their parliaments. Our brothers and sisters across the ditch in New Zealand established dedicated Maori seats in 1867; and, importantly, in countries that have dedicated Indigenous seats the gap in mortality rates between Indigenous and non-Indigenous people is lower than Australia's gap, and it is lower by a long mile. In 2007, an international health and human rights research article, which examined the human development index of Indigenous people in Australia, Canada, New Zealand and the United States, showed that Australia was the worst-performing country and the only country that did not have dedicated Indigenous seats.

Sitting suspended from 18:30 to 19:30

Senator LAMBIE: The study confirmed the Maori mortality gap of 8.5 years and closing is not as large as the gap for Australia's first people at 23.2 years and widening.

If two or three per cent of Australia's population is Indigenous then I cannot see why two or three per cent of our seats in parliament cannot be designated Aboriginal and Torres Strait Islander seats. This one change—dedicated Indigenous seats—while not a silver bullet, if international experience is to be valued and respected, will do more to close the gap than any other symbolic or practical measure that has previously been put before the Australian people.

Recently there has been a public debate about who is and who is not an Indigenous person. An article in The Australian by Michael McKenna says:

A landmark finding disqualifying a claim of Aboriginality by a former senior NSW public servant has led to indigenous leaders calling for tougher identity checks amid warnings that 'fake Aborigines' are involved in widespread rorting of benefits, government jobs and contracts.

The politically sensitive issue dominated a meeting of the Prime Minister's Indigenous Advisory Council late last year to discuss a new commonwealth procurement policy that at least 3 per cent of all government contracts should be allocated to Aboriginal and Torres Strait Islander businesses.

A formal submission has since been made by the council to Malcolm Turnbull's office to abolish the practice of local Aboriginal land councils signing off on claims—often on the basis of a single statutory declaration—with power given to native title groups to use certified genealogists.

Council chairman Warren Mundine and Queensland Aboriginal leader Stephen Hagan, who until recently headed a council of Australia's Federal Court-vetted native title organisations, said the existing system to approve claims of Aboriginality was outdated and being rorted. 'You can go to any town in the nation with a significant indigenous population and you'll see not one, but numerous 'white
blackfellas' falsely claiming Aboriginality to get jobs and benefits that should go to our people,' Mr Hagan said.

In Tasmania there has been a similar debate on who is Indigenous and who is not. The fact remains that the Commonwealth recognises about 25,000 Tasmanians who are indeed Indigenous and the state government recognises only 6,000. This is because the Tasmanian state system for Indigenous recognition for decades was corrupted by the TAC and the Mansell family, who were allowed under extraordinary state laws to be the final judges of people's Indigenous heritage. The Mansells, with successive state Labor, Greens and Liberal governments, have rorted and corrupted the system of identifying Indigenous people in Tasmania, even denying hundreds of Indigenous Tasmanians who had submitted themselves to scrutiny from a federal tribunal in 2002.

Over the decades, millions of dollars have gone missing or been denied to tens of thousands of Indigenous Tasmanians, causing the gap in Indigenous disadvantage to widen. I condemn the politicians who have stood by and allowed this rort to happen and congratulate the whistleblowers for the courage they have shown to speak out about these injustices.

**Senator LEYONHJELM** (New South Wales) (19:33): When I was a kid in primary school, I shared classrooms with kids from Aboriginal families. By the time I got to high school, those kids were no longer there. Not one of them went on to high school with me and my peers. That was over 50 years ago, but little has changed since. Too many Aboriginal kids see no reason to go to school, and neither do their families. Too many suffer from diseases that the rest of us regard as a thing of the past. Too many live in households where their diet comprises chips and soft drink. And too many never become productive members of society when they grow up.

Considerable blame for this lies with our governments. With the support of people who ought to know better, governments maintain policies that foster dysfunctional Aboriginal communities, attitudes and behaviours. In doing so, they are holding back improvements in Aboriginal living standards. The gap is not narrowing. At its heart is a preference for fawning and hand wringing rather than pragmatism, for sounding good rather than doing good, for empty symbolism rather than practical change and for truthiness rather than truth.

The gap between Indigenous and non-Indigenous living standards is largely explained by the poor outcomes in rural and remote Aboriginal communities. This is where Aborigines go to school the least, where employment is rare and where we see the most hospitalisation from assaults and substance abuse. And it is where we see the most appalling family violence, child abuse and neglect.

To their credit, many Aborigines are voting with their feet and getting out of these hell holes. May there be many more. But the government holds back this exodus with programs like the Community Development Program. This gives Aborigines more money, with fewer conditions compared to the dole, so long as they stay in these dysfunctional communities. Under the Community Development Program, Aborigines are supposed to do some community service during the week. Decisions about what this involves are devolved to self-appointed Aboriginal leaders and can entail tasks like mowing the yard of these same Aboriginal leaders. It is neither a job nor preparation for a real job.

The *Closing the gap* report re-affirmed the squalor of rural and remote Aboriginal communities. But the government's response is to redouble already failing efforts, repeating
the mantra of local empowerment. As it stands, local empowerment is a big part of the problem. The local Aboriginal leaders who act like bosses under the Community Development Program have no expertise or qualifications in preparing people for real employment, have no track record in improving the lot of Aboriginal communities and, in many instances, were not chosen by those they lord over. What is more, as the program boosts their status and power they have a strong incentive to keep it going and preserve their fiefdoms.

The Closing the gap report makes little effort to scrutinise policies affecting Aborigines. For a semblance of scrutiny you have to go back to 2010, when the accountants in the Department of Finance wrote their Strategic Review of Indigenous Expenditure. This was only made public thanks to freedom of information laws. It uncovered poor governance and leadership in rural and remote Aboriginal communities and called for government intervention to help Aborigines leave unsustainable and dysfunctional communities.

But this message fell on deaf ears. The government continues to treat Aborigines in rural and remote areas like museum exhibits, with policies that perpetuate violence, child abuse and neglect. Governments regularly use language that casts Aboriginal offenders as victims. The Prime Minister said:

When young Aboriginal and Torres Strait Islander men see jail as a rite of passage, we have failed to give them a place in society, in our community, and an alternative pathway where they can thrive.

I accept that support is sometimes needed to remain within the law. But people can rise above their upbringing and anyone can reject violent behaviour. It is irresponsible for the Prime Minister to wave away the notion of personal responsibility. Governments prop up dysfunctional behaviour by having Indigenous sentencing courts. These give Aboriginal offenders more options for sentencing, but they have not reduced the high rates of Aboriginal re-offending.

Governments enable child abuse and neglect through their Aboriginal child placement principles. These require child protection departments to consult with Aboriginal organisations prior to the removal of any Aboriginal child, to arrange alternative care with extended family or another local Aboriginal family if possible and to ensure that the child maintains a connection to Aboriginal culture. This results in delays and uncertainty regarding the removal of children at risk, does not necessarily mean the child is any better off and discourages people from reporting abuse and neglect. The idea that a kid is better off growing up illiterate and unhealthy in an Aboriginal household, rather than literate and healthy in a non-Indigenous household, is destructive racism. Irrespective of whether the stolen generation was a result of racism or paternalism, we should not pretend that it is okay to allow kids, Indigenous or not, to remain in situations of neglect and abuse.

Finally, our governments are holding back Aboriginal living standards by proping up dysfunctional attitudes. Governments maintain affirmative action programs, including targets for government employment of Aborigines in the public service and government procurement from designated Aboriginal businesses. These programs extend to anyone who is accepted by Aboriginal elders as being Aboriginal, even fair-skinned people who have had more opportunities than many of their fellow Australians.

Affirmative action programs encourage Aborigines to get ahead through special pleading and they encourage non-Indigenous Australians to view Aborigines as charity cases.
Governments tell Aborigines fairy tales, which encourages them to consider themselves special. They say our nation is as old as humanity itself, as if the out-of-Africa thesis were debunked. They say Aborigines were undoubtedly the first Australians, as if they know exactly what happened 40,000 years ago. These comments are not true, but they are ‘truthy’, in that the speaker desperately wants them to be true. Encouraging Aboriginal exceptionalism with truthiness is a mistake because it risks making Aborigines think the rules for getting ahead that apply to everyone else do not apply to them.

Governments also encourage dysfunctional attitudes by lamenting the injustices done to Aborigines, while failing to note that this refers to previous generations. Many non-Indigenous Australians have ancestors who suffered terrible injustices too. Hanging on to injustices that were not done to you is paralysing and should not be encouraged. Finally, governments routinely tell Aborigines that they are defined by a strong connection to country and culture, so those who do not feel a strong connection to country and culture feel they are not really Aboriginal.

Aboriginal living standards are not improving as they should. We honour Aboriginal culture and want to see it preserved, but we should not expect Aboriginal Australians to endure third-world living, health and education standards in the process. Their culture is not at risk when they own freehold property, when they learn to read and write in English, when they gain a decent education, when they are encouraged to move to where the jobs are, when they get real jobs instead of pretend jobs and when their kids are removed from abuse and neglect.

When refugees come to Australia we expect them to join mainstream Australia. Indeed, we go to great lengths to help them achieve that. The gap would close a lot quicker if we took the same approach to our Indigenous people.

**Senator MOORE** (Queensland) (19:43): In 2008 the then Aboriginal and Torres Strait Islander Social Justice Commissioner, Tom Calma, made a statement in a speech in Brisbane. He said:

Back when Mick Dodson was Social Justice Commissioner in the early 1990s he referred to what he called the ‘industrial deafness’ of the Australian community. By this he meant the phenomena whereby the Australian community had become so accustomed to stories of Indigenous disadvantage that they had become immune to it, and came to expect it.

Over the past decade, the community and government have come to believe that this situation is intractable, too difficult to shift and for some people, the fault of Indigenous peoples themselves.

And at some point, as a nation we stopped believing that equality of opportunity for Indigenous peoples was a realistic goal. And so we stopped trying to achieve it.

In 2008 he made that comment to all of us. It was indeed a challenge, because what we had to do as a community, white and black together, was to say that we were not going to stop trying to change it. Out of that came the Closing the Gap statements.

Out of that challenge came the expectation that there were issues that we could look at clearly and truthfully; we could identify that there is a gap and we could see what we could do together to end that gap in our community. That continues to be the focus of what we do each year when the parliament, as together, talks about what has happened in closing the gap in the previous 12 months. The original theory was that by 2030 we would close the gap and there would be genuine equality, particularly at that time around the issue of health. The genuine
focus of the original Closing the Gap process was around ensuring that we would have health equity. To achieve that, there was an acknowledgement that the social determinants of health—education, employment, living standards, safety and opportunity—would be able to be identified and, as we have heard through the contributions this morning, truthfully assessed to see how we could work to ensure that we could make a difference.

There was never an intent of charity. There was never an intent to have some kind of focus in our community on helping people along, on giving people some help along their way to achieve equality. Closing the Gap said that we as a nation expected that everybody in this community would have equality, and we knew—the data was there in 2005, 2006 and onwards—that there was not equality in our community. The reality is that in 2015 there is still not equality. When the report came into our parliament in the previous sitting, leaders of all the political parties got together and said that we had not done well enough. We had information that, on the guidelines that we faced at the time, there were only two on which we were meeting the expectation to achieve equality by 2030. That has caused a great deal of consternation in the community. In fact, my friend Jackie Huggins, in her analysis of what is happening in Australia at the moment, said:

… we do see that there is lack of engagement, not a general commitment to the needs and the aspirations of Aboriginal and Torres Strait Islander people in their community.

I've worked for many decades now and I can't remember such a low point in our history where our people on the ground are just not getting the services. That indeed is the telling factor of the Closing the Gap situation as it exists now. We have the challenge now, 10 years down the track, of assessing how far we have gone and what we hope to achieve. It is a pretty sorry process that we face at the moment.

Previous contributors have commented about the way the program is operating now. But I am looking back at the previous Closing the Gap processes in this place, and I have spoken in a number of these sessions. I had a quick look at some of the things I talked about in previous times, one of which was eye health. Tonight upstairs in this place, Vision 2020 is talking about international eye health. In looking at how our aid program can make sure that people in developing countries can achieve effective eye health, we acknowledge in 2015 that one of the original aims of the Closing the Gap program was to identify trachoma in Australia. It was one of the original processes. Where are we 10 years down the track? On the data we have been able to find, we are actually going backwards in this area. We are not effectively looking at the eye health needs of the community. We have a national Aboriginal and Torres Strait Islander health program signed up to by all people in this parliament, but we are not achieving something that was clearly identified 10 years ago as one of the things that had to be faced immediately. Are we actually saying that we are not achieving it? We are not even quite saying that. We are saying that we need to do more. We need to move forward. But I do not think we are meeting the challenge that was laid down to us earlier. So I put that into one box. We have not met that process.

Another element of Closing the Gap is incarceration and imprisonment of Aboriginal and Torres Strait Islander people in Australia. In last year's session on Closing the Gap, I talked about the need to have justice targets in the program. We still have not got overall commitment in this parliament to effective justice targets in our Closing the Gap strategy. We
do have the data. This is one area where the data cannot be questioned. Aboriginal and Torres Strait Islander young people are 14 times more likely to be in prison than non-Indigenous young people. We have the alarming statistic that Aboriginal and Torres Strait Islander women are 34 times more likely to be hospitalised as a result of violence and 11 times more likely to die as a result of family violence. In this case, there is a clear indication that there is a challenge to ensure we have safety in our community, and we are not meeting that target. In fact at this stage we still have not acknowledged in the parliament that there should be justice targets. Our side of the chamber believes there should be. This has not been taken up by the government of today. The community is saying this is something they find to be most important. The parallel report again this year highlights that we need to look at justice targets.

We hear from Aboriginal and Islander people that they want to be engaged; they do not want to have programs imposed on them. There seems to be reluctance in some areas to acknowledge that—even though, consistently through the rhetoric, we talk about working together and working cooperatively. My understanding is that Closing the Gap is a cooperative process where, together in our community, we accept that there needs to be change and we identify how we can ensure that Aboriginal and Torres Strait Islander people, citizens in our country, have equality of health. Wrapped around the issues of health come all those other things that I mentioned—housing, safety in community, education, employment opportunities. All of these things wrap together to achieve a whole, which is what people were hoping for in 2005, when Tom Calma said:

It is not credible to suggest that one of the wealthiest nations in the world cannot solve a health crisis affecting less than 3% of its citizens.

That was the challenge. We had the opportunity to ensure that we look at our programs, assess those programs, analyse the data and once a year one of the clear commitments is that the parliament then has an opportunity to review what has occurred and to re-assess how we go into the future.

Again, I do not see this as charity; I see this as a genuine challenge to all of us because we have to accept that there must be equality of opportunity and we must accept that there has not been. We have made the commitment together that we would move forward and accept the challenge to close the gap. It cannot simply be rhetoric—in fact, there is a fabulous quote about the breakdown comes between the rhetoric and putting action into place in the community. When we made the commitment to close the gap, it was not just about fancy words and making people feel better. I acknowledge that that can be a trap people fall into: you can have wonderful rhetoric without making change. We have the opportunity in reporting to parliament to ensure that there is a clear analysis and an opportunity to make change. If we do not accept that, we have failed.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (19:53): Firstly, let me acknowledge the traditional owners, the Ngunnawal people. I want to pay my respect to their elders, past and present. The official Closing the Gap report and the civil society reports are very clear—we have a long way to go when it comes to achieving equal health, social and economic outcomes for Aboriginal and Torres Strait Islander peoples. Of course, the statistics tell the story—they are damming—but there is no substitute for seeing and experiencing.

Let the say a few words about my own experience of working in an Aboriginal community controlled health clinic. For young graduates coming out of medical school, there is no need
to travel overseas to experience the health conditions that we see in developing countries. Indeed, conditions that have effectively been eliminated in most wealthy nations exist right here in Australia. We see diseases like trachoma—a disease which causes blindness and is entirely preventable but which is prevalent within Indigenous communities—and rheumatic heart disease, which was wiped out generations ago for non-Indigenous people. We see the scourge of hearing loss and the impact it has on young children's ability to learn language skills and to develop and thrive at school. Then there is kidney disease. I have had the experience of a young boy who came to see me at the age of 10 because he was failing to thrive—his kidneys had stopped working. We did not have haemodialysis and we had to set up a system basically to try to keep him alive in the community in which he lived. The incidence of diabetes and the many complications that flow from that—poor eye health, peripheral vascular disease, kidney disease and so on. And then there are the problems with grog—alcohol fuelled violence, domestic violence and the issues that stem from that.

There is no substitute for seeing and for experiencing those conditions. It is true that we have made some gains in the area of maternal and child health, for example, but, gee this, we have a long way to go. It is one thing to see it and experience it from the perspective of privilege, which was the perspective I had as a young graduate in my late 20s, thinking I had all the answers and knowing what needed to be done. I have come to learn that what is absolutely critical here is that we listen—that we listen to the voices of Aboriginal people if we are to make progress on this issue.

We had an intervention from one of those Aboriginal voices today—Stan Grant at the National Press Club. He said:

For so many of my people, Aboriginal people, this is true, there is a deep, deep wound that comes from the time of dispossession, scarred by the generations of injustice and suffering that have followed. And this wound sits at the heart of the malaise that grips Indigenous Australia.

What he is saying is that we have to come to terms with our past if we are to make progress.

We must come to terms with our past. It is true that we now have a national debate around constitutional recognition—one small step forward—but if we are really and truly to come to terms with our past we have to do much more than that. We have to truly reconcile and we have to ensure a treaty with our Aboriginal brothers and sisters. At the heart of what needs to be done is understanding that solutions must be owned by Aboriginal people. I know there are many good people who think they know what needs to be done, and some of the interventions in this space have been guided by goodwill, not malice, but they have failed and they have been counterproductive. The Healthy Welfare Card, for example, aimed to stabilise communities and to move people away from the use of welfare cash to buy grog and to get people off welfare and into work. We know that in the communities where that has been tried, it has failed and it is failed badly.

We know that the most detailed investigation, according to Nicolas Rothwell in the Australian, who made a very insightful contribution to this debate on the weekend. He talked about the Northern Territory Emergency Response, the intervention, and all of the downstream programs that came with it and about the devastating conclusions that the intervention report revealed in 2014. There was no improvement in community wellbeing, no
financial autonomy for people—and indeed an increased sense of dependence on welfare—and a complete failure to meet the stated objectives of the intervention. The report itself says: The tools envisaged as providing welfare recipients with the skills to manage have rather become instruments which relieve them of the burden of management.

We saw too the former head of the Department of Prime Minister and Cabinet, Michael Thawley, who said with laser-like precision that the effect 'has probably been to increase the sense of dependence in the Indigenous community, whereas we actually have wanted to try to build their capacity to manage themselves'. So what can we do? Let us start by funding the implementation plan for the National Aboriginal and Torres Strait Islander Health Plan, which is critical given that the National Partnership Agreement on Closing the Gap in Indigenous Health Outcomes expired in 2014 and the funding under that agreement has been discontinued. I know what people will say—money alone will not solve the problem. That is true, and some money in this area has not been spent as effectively as it could have been—but the health dollar has been underutilised because Indigenous people simply are not afforded the same level of access. Of course, there is the other retort that we cannot afford it. While this government might be locked into the notion that we need to reduce spending and lower income tax, we think that in a decent society we can raise revenue to pay for the sorts of things that we value—that we can pay for health, education, infrastructure; that we can address growing income inequality and contribute to improved productivity simply by ensuring that we have a fairer tax system.

We need to ensure that, rather than seeing this area as a drain on the budget, spending in health for our Aboriginal brothers and sisters is an expression of the value that we place on health. If we are going to extend the improvements we need more consistent quality primary health care that is delivered in culturally appropriate settings. We need more Aboriginal health workers, Aboriginal nurses and Aboriginal physiotherapists and doctors, and thankfully we are starting to see some change. We need to provide basic essential primary health care to prevent disease and to diagnose it early and treat it when it is picked up. We need to address the social determinants of health. That means addressing, again, the huge disparities that exist when it comes to income.

If we are going to do that, we need to have effective strategies to create jobs for Aboriginal people. We know that employment for Aboriginal and Torres Strait Islander people is linked to completion rates at school and higher education—vocational education and university. That means we need more effective education strategies. We need to support role models, those people who are doing incredible work in this space, not just the sporting heroes—the Adam Goodeses and Cathy Freemans—of the world but the workers who are caring for country through their terrific ranger program, and people who are coaching sporting teams and the like. Role models are critical. The story of Adam Goodes is significant. He is a proud Aboriginal man, a leader in his field, and through the embrace of his culture he has brought to the surface some of the issues that we as a nation need to tackle. He has shown that racism does need to be addressed, that much more work needs to be done, and that as part of our education response and employment response tackling racism is critical. It needs to be called out and addressed wherever it is. We have to encourage more innovation in the health space—new ideas; something that we know can be driven by Aboriginal and Torres Strait Islander people.
In the end, this is a question of will. As a parliament we can do something about this—I just hope that this Prime Minister is not going to join the long line of Prime Ministers who finish their term and say, 'I wish I could have done more.'

Senator SINGH (Tasmania) (20:03): This is the 10-year anniversary of closing the gap. This year we should take stock not only of what we have achieved but also of how far we still have to go. I have heard some of the contributions already made by senators tonight on that. The fact is we have made some long-term gains, but this report also shows that progress in closing the gap in a number of key areas still remains to be met, including employment, life expectancy, literacy and numeracy and other health parameters, which have all stagnated. In fact, there is just one target which Australians can be confident is on track to be met, and that concerns the progress made in reducing infant mortality rates by more than 33 per cent. Out of seven targets, two are almost on track but only one is completely on track.

I attended, with many others in this place, the closing the gap breakfast and I also sat in the House of Representatives to hear the speeches by both the Prime Minister and the Leader of the Opposition. They had a very clear message—there are no results without cooperation and without respect. We cannot address the issues of closing the gap with any kind of politics in mind—there needs to be goodwill and good heart by all members and senators. I think the Aboriginal and Torres Strait Islander Social Justice Commissioner, Mick Gooda, articulated this when he said at that breakfast that government has all the resources but they don't have all the knowledge. Noel Pearson said years ago that the problem is that the people and the communities, who have 80 per cent of the knowledge, only have 20 per cent of the power, whereas government, who has 80 per cent of the power, only has about 20 per cent of the knowledge, so somehow we have to recalibrate those figures show there is real power sharing. That is a stark reminder of how we do need to move away from the top-down policy implementation approach. Only if we take that approach will we really move towards truly reconciling.

There are a number of ways we can move towards reconciliation, and a lot of those have been adopted over a number of years. The apology to the stolen generations by the then Prime Minister, Kevin Rudd, is a case in point. I hope that in the not too distant future an amendment to our Constitution to recognise Aboriginal and Torres Strait Islander people will be another symbolic moment which moves us towards reconciliation. We also need to ensure that Aboriginal people, with the knowledge they hold, make the decisions. That is why Labor in our address committed very much to setting new targets to close the gap, to focus on addressing the unacceptable incarceration rates among Indigenous Australians and on increasing safety in those communities.

Out of a number of statistics or parameters or factors that could be highlighted, in the short time that I have in this place I want to highlight what is so meaningful for me about Closing the Gap. I want to highlight the issues of justice and incarceration rates. Half of all Aboriginal prisoners in custody are under the age of 30. The re-imprisonment rate for Aboriginal young people is higher than the school retention rate. This is simply not acceptable. In the last decade, imprisonment rates have more than doubled, growing faster than the crime rate. And for Aboriginal women, there has been a 74 per cent increase in the past 15 years, meaning they make up one-third now of our female prison population. These are very stark statistics.
We in this place have a policy decision role to listen to Aboriginal people and to invest in the services that are required to turn these statistics around. One of the ways we can do that of course, is by funding adequately, appropriately, Aboriginal and Torres Strait Islander legal services. Unfortunately, that has not occurred and there has been a continual cut in those NATSILs over the last couple of years. I think that is one very easy and small budget way in fact, that we can turn around and try to support those people that are in need of these NATSIL services that are provided through legal services.

These kinds of new issues around justice and incarceration must be tackled. As my friend and colleague Senator Nova Peris stated, 'We walked free many years ago on this country. Now all my mob are locked up.' I think it is time we moved past the politics and ensured that those front line legal services are funded and that we have an emphasis on diversion programs rather than on locking them up. Wayne Muir, the National Aboriginal and Torres Strait Islander Legal Services chairperson said:

It is about justice reinvestment and, as I think I heard Mr Shorten say, this isn't about being soft on crime, this is about creating safer communities and reducing the recidivism long-term.

When I was once minister for corrections I learnt these tough statistics in my home state of Tasmania. However, in that state we did not have a high percentage of Aboriginal and Torres Strait Islander people. But when I learnt of these statistics during the Closing the Gap 10-year anniversary report, of so many young Aboriginals under the age of 30 who happened to be in our prisons, in custody, it simply made me feel very sad inside. I think that if there is anything out of the targets that need to be met, that is the one that I really wanted to share and focus on tonight.

Of course there are so many others: closing the life expectancy gap within a generation by 2031 is not on track; halving the gap in reading, writing and numeracy achievements for children within a decade by 2018 is not on track; halving the gap in employment outcomes between Indigenous and non-Indigenous Australians within a decade by 2018 is not on track; 95 per cent of all Indigenous four-year olds enrolled in early childhood education by 2025 is the new target—the original target was to ensure all Indigenous four-year olds in remote communities had access to early childhood education by 2013, but that was never met. There are so many other stark reminders in those seven targets that make up the Closing the gap report that need all of our attention in this place, no matter what side of the parliament you sit on. It is our duty and it is the respect that we definitely owe to Indigenous Australians to ensure that we close the gap.

**Senator LINES** (Western Australia) (20:11): I acknowledge that tonight I am speaking on the lands of the Ngunawal and Ngambri peoples, and I pay my respects to leaders past and present and emerging leaders. As Stan Grant in his book *Talking with my Country* says:

I grew up to understand that conflict doesn't end when the guns stop. That its legacy is passed through generations. I learned how it casts a shadow, and that shadow doesn't recede, and no matter how far we travel from the battleground that shadow hovers still.

For as long as these unacceptable gaps in key health and other indicators are there, those gaps between Aboriginal and non-Aboriginal peoples continue, that shadow will remain.

In 2008, Prime Minister Kevin Rudd delivered the national apology to Aboriginal and Torres Strait Islander peoples, in particular to the stolen generation. Those words that Aboriginal people had waited so long to hear were followed by Labor's commitment to close
the gap on Indigenous disadvantage. In March 2008, we signed a statement of intent to close the gap—one of the few times that parliament has come together as one, as it did on that occasion and continues to do so, marking the importance of everyone in this place recognising that we must close the gap.

Labor's Closing the Gap framework provided, for the first time in our nation's history, a clear, properly funded framework that holds us all accountable to making progress. The framework was supported by the then opposition and by all Australian governments through the COAG process. Then in April 2008, the Labor Australian government, once again supported by the then opposition, agreed that the Prime Minister would provide an annual report to parliament on progress towards closing the gap.

It is worth revisiting some of this statement of intent, the commitment between the government of Australia and the Aboriginal Torres Strait Islander peoples of Australia. Two of these commitments in particular resonate:

… ensuring the full participation of Aboriginal and Torres Strait Islander peoples and their representative bodies in all aspects of addressing their health needs

… supporting and developing Aboriginal and Torres Strait Islander community controlled health services in urban, rural and remote areas in order to achieve lasting improvements in Aboriginal and Torres Strait Islander health and wellbeing.

Over the past weeks, we have heard many Aboriginal and Torres Strait Islander leaders saying their voices are not being heard and their solutions are not being implemented. Like Stan Grant, they know that the shadow of the past does not recede while the gap continues. Indeed, in some areas the gap has widened. That inequity is widening. We now have some Aboriginal and Torres Strait Islander leaders saying that they have lost faith in the Close the Gap targets, and it is not working. But that is a view that is not shared by all.

The chair of the Close the Gap Campaign Steering Committee, Dr Jackie Huggins, said:

In my working life, I have never seen Aboriginal affairs at such a low point … There is no engagement, there is no respect and I agree with Patrick and Noel—

Patrick Dodson and Noel Pearson—

that we are in deep crisis.

Dr Huggins went on to say:

Sometimes I don't feel part of this society because it breaks my heart to see the conditions my people are continually left in without any leadership from the top.

Governments would be well advised to listen and to act on the recommendations of the Close the Gap Campaign Steering Committee.

The warning signs that we were not on track were there in the steering committee's 2015 report. Indeed, in the executive summary of the 2015 report, the committee states that there must be a clearer connection between the Indigenous Advancement Strategy and closing the gap. The committee raised further concerns that Aboriginal and Torres Strait Islander health gains could be 'negatively impacted' by measures in the last budget which cut funding to programs that target smoking rates, healthy eating, nutrition and physical activity. We all know that primary prevention through Aboriginal controlled health organisations must be the starting point. A year on, the campaign steering committee's 2016 report states, again:
Another area of concern for the Campaign Steering Committee is the impact of the Indigenous Advancement Strategy … on the social determinants of health.

It believes:

… the IAS should be nationally coordinated along with state and territory governments, and demonstrate how it will contribute to achieving the Close the gap targets.

Of course it should, and we must ask and demand why the Indigenous Advancement Strategy does not reflect the Close the Gap targets.

In 2015, we saw the launch of the Implementation Plan for the National Aboriginal and Torres Strait Islander Health Plan. This must now be appropriately funded. The committee is calling for ‘an overall increase in resources directed towards Aboriginal and Torres Strait Islander health’ and the committee once again stresses the plan should support the preferred model for health services—that is, delivered by Aboriginal controlled health organisations.

If we look back over the last 10 years, there have been some improvements, but those improvements are too slow and, without increased focus, respectful engagement and solutions led by Aboriginal and Torres Strait Islander organisations, we will fail to meet our targets.

We know that Aboriginal Australians die about 10 years earlier than non-Indigenous Australians, on average. I was shocked to hear Dr Huggins say at the launch of the report last week that, in fact, Aboriginal and Torres Strait Islander peoples have the shortest life expectancy across the world's indigenous peoples. I saw her later in the day and I asked, 'Is that correct?' and she said, 'Yes, it is.' I said, 'I didn't know that stat. What a shameful stat. for Australia to have.' We know that there has been some decline in Aboriginal and Torres Strait Islander infant mortality rates, but again that is not fast enough to meet our goals. Sadly and significantly, employment gaps have increased rather than narrowed.

Labor is calling for justice to be part of the targets. It is very sad day when we hear the Turnbull government’s Minister for Indigenous Affairs say he will not consider including justice targets and he believes that in fact they would single out Aboriginal and Torres Strait Islander people. Well, they are singled out. They are absolutely over-represented currently in the justice system. In my state of Western Australia, around six per cent of juveniles are Indigenous, yet they make up almost 80 per cent of the prison population. They are singled out, and we desperately need to look at better solutions. It is absolutely horrific that a young Aboriginal person has more chance of being locked up than completing their schooling—significantly more chance. Those are not statistics that we should be proud of or that we should allow to continue. Some of that has to do with the harsh mandatory sentencing laws in Western Australia, but that stat. is repeated across the country. I would urge the minister to really take a look at what is happening and to inform himself of the appalling imprisonment rates, which are very high for women and very high for juveniles. This is not something that we should allow to continue.

The steering committee retains its optimism that we can achieve health equality in the future, but to do that we must be ambitious. This generation can and should be the generation to finally close the appalling life expectancy gap between Aboriginal and Torres Strait Islanders and non-Indigenous Australians, but it requires a new vision, it requires solutions that are led and implemented by Aboriginal and Torres Strait Islander peoples and it requires respect and appropriate action from governments and oppositions.
Senator O’NEILL (New South Wales) (20:21): I too rise to make remarks on the Closing the gap: Prime Minister’s report 2016. I attended the House of Representatives and listened with a very keen ear to the report from both the Prime Minister and the Leader of the Opposition. I want to put some remarks on the record about the devastating reality that still presents for our first peoples in term of the terrible gap in life expectancy. I would like to reflect in this contribution this evening on the appalling statistics that we are hearing put before us.

Senator Lines’ presentation just moments ago talked about the level of imprisonment amongst young Indigenous people across Western Australia. When we go to these areas we hear stories about the fact that imprisonment often happens to these young people because they have not been able to learn to read, so they drive without a licence and they end up in jail with a series of fines. Part of the reason they have not learnt to read is that they could not hear properly at school. Funding for health matters in profound and possibly transformational ways. The reality is the gap is still far too large. That is what I took away from listening to the contributions of the Prime Minister and the Leader of the Opposition this year in the other place.

There are initiatives that change how our first peoples, the Indigenous peoples of this country—Aboriginal and Torres Strait Islanders—can think of themselves and share what they understand with the rest of us. I want to pay tribute to the investment made by a number of governments, but particularly the Rudd/Gillard government, in making a home for the Aboriginal and Torres Strait Islander Dance and Skills Academy, known as NAISDA, which is in the seat of Robertson where I live on the Central Coast.

Last year young people from right across Australia who attended NAISDA gave an end-of-year performance. At the end of the very first half of that performance, which was entitled collectively as Kamu and was directed by Frances Rings, there was a dance called ‘To Close A Gap?’ It was part of a larger work that was envisioned by the choreographer Ian RT Colless. Some of the AV and the audio that they used was from Queen Elizabeth’s 1954 visit to Australia. They positioned ‘closing the gap’ in its historical frame about this ongoing silencing and description based on Australian law about what Aboriginal people are and who they are at the heart of their identity. The dance that they shared with us was a powerfully political statement about exactly what Senator Lines closed her contribution with—Aboriginal and Torres Strait Islander people have had, and continue to have, so much done to them rather than by them, and that it is not just for the benefit of the Aboriginal and Torres Strait Islanders, but for the rest of us that we need to lift our vision of ourselves as Australia about what is possible, what is right and what is fair.

This type of artwork and telling of what might be possible and reflecting on what has gone wrong is very powerful. That those young people chose the words ‘to close the gap’ tells us that something important is going on every year in this parliament when this report is handed down. It is a report card for a nation—a report card that reminds us that we are failing. We are failing to achieve equity and fairness for the first peoples of this nation. If our desire is really—genuinely—to close the gap, I think we could say that this government proceeds at its peril with the continuing cost-cutting drive in such important areas as health and education, because these are vital and transformative elements of anything that is going to improve the life outcomes of Aboriginal and Torres Strait Islander people.
When we in this place hear talk of millions and billions of dollars being slashed here and there, the message does become unwieldy and lost in the huge list of zeros and figures in question. But when we talk about things in smaller amounts it means that those cuts become more tangible on the ground. I was recently given an anecdote by far-south-west-Sydney doctor, Dr Fred Betros, who likened the health system to a flowing river. He said that people move through the health system to the areas that they need: into the emergency department, if need be, through wards out into the community. That connection can only work for all people if there are no logjams. But cuts have been felt most deeply in the areas of community nursing and mental health, in which the illnesses of Aboriginal and Torres Strait Islanders are profoundly overrepresented.

We have seen community nurses' cars taken away because of cuts inflicted on them through this government's austerity drive. As those nurses and mental health workers are less mobile and can only see 40 patients a week instead of the 100 that they were seeing, for many of these elderly and Indigenous people a simple procedure like having a dressing changed once a week has now become impossible. In the grand scheme of things, when billions and billions of dollars are being talked about, a simple procedure such as that might seem inconsequential, but it is something that is connected back into the hospital system. Back at the hospital the doctors are reluctant to release elderly, immobile patients who they feel will not be able to have access to proper and regular visitation by community nurses, particularly if they are not able to do that with cultural safety for the Aboriginal and Torres Strait Islander people of our country. Consequently we have people staying in hospitals, and bed block follows. Bed block connects to the hospital emergency department out through the door into ramping—all these things are linked.

The statistics that we saw in the report to the parliament just a little over a week ago reveal the impact of federal government cuts to these vital services that are absolutely at the heart of what is required to close the gap. This year's Close the Gap report reveals that just two of seven targets are on track to be met. This is a sobering reminder that the uncomfortable and persistent gap remains when it comes to Indigenous disadvantage. Progress in closing the gap should always be celebrated and in key areas—including employment, life expectancy, reading and numeracy—sadly, we find stagnation. This year's report is a clear warning to the Turnbull government that if they continue to cut and pay lip-service to genuine engagement and authentic partnership with Aboriginal and Torres Strait Islander people, the risks to closing the gap are only going to increase.

There is just one target that Australians can be confident is on track, and that is the reduction in infant mortality rates by more than 33 per cent. I truly celebrate this. In terms of long-term progress there has been a narrowing in the gap in year 12 attainment, with a significant boost to the rate of Aboriginal and Torres Strait Islander students completing secondary schooling. I note today that Stan Grant, himself a graduate of high school, who was inspired by a teacher and went on to do amazing things, is an inspiration to young people to take up the opportunity of education and further education. But I have to say to you, Mr Acting Deputy President, that an Aboriginal child facing the thought of a $100,000 degree is not going to see that as being very appetising or very accessible to them. Those gaps in what young people think of as possible are the barriers between where they are now and where we might hope they will be.
It is very important to note the announcement that Labor will invest an additional $9 million for optometry and ophthalmology services and prevention activities to close the gap in eye health and eliminate trachoma. We cannot close the gap while Indigenous incarceration and victimisation rates are at national crisis levels. So between health, incarceration and education we need to do much better as a nation, and I look forward to the 2017 report. (Time expired)

Senator IAN MACDONALD (Queensland) (20:31): I just want to make a brief contribution to this debate. I thank the minister for his statement today and congratulate him on the work that he has done and the care and concern that he has shown for Indigenous people. To all of the contributors to the debate today, I thank them for their accounts of what they believe to be the situation. I must say I have a more positive view of Indigenous Australians than those who have spoken tonight. I look forward to the day when there is no difference at all between how all Australians are treated and how they exercise their rights and their opportunities in this great land. The speeches I have heard, mainly from the other side, have highlighted the negatives. There are many positives, and real progress has been made, and, again, I congratulate the minister for that.

I like to concentrate on the success stories—and there are many, but I just want to mention a couple of people. The trouble with mentioning a couple of people is that you always leave out many other deserving people. I know the mayor of the Carpentaria shire, Fred Pascoe. He is chairman of a council in Queensland. He just happens to be Indigenous, Aboriginal, but very proud of it. He is a great man, a great visionary. He has done a lot of thing in his life, and it would take me more than my 10 minutes to even go through half of them. He has shown what Indigenous people can do, given the opportunities. He does not class himself as being any different from anyone else. He is a genuine success story—and there are many like him. I mention also Alf Lacey, the mayor of Palm Island. Alf has had a colourful life. Again, he is doing things.

I am conscious that I live in North Queensland. I am interested in the stories and accounts from other senators about where they live in capital cities and major regional towns, and I appreciate what they say. I understand and accept their concern and their view on what is happening, but I live up there with these people. I know that Senator Scullion is the senator for the Northern Territory, where a great percentage of our Indigenous population live. I know that my Liberal colleague Warren Entsch represents the electorate of Leichhardt, where a great many of our Torres Strait Islanders and Aboriginal people live. I know that my Liberal colleague Melissa Price represents the north-west of Western Australia, where there is a huge number of people of Indigenous descent. I know that it is an area that you, Mr Acting Deputy President Back, represent with skill and compassion. The federal seat of Kennedy, for which I have the honour of being the patron senator for our party, is again an area where there are a lot of Indigenous people. While you can get up in this chamber and highlight some of the negatives—and I accept that that is done with some genuineness—I would like to hear about the positives: the people who are succeeding, how things have changed and how the gap has been closed. As I say, I look forward to the day when there is no difference. Maybe that is a pipe dream, but I do not think so. There are people like Freddy Pascoe and Alf Lacey and, as I say, there are 12 other Indigenous mayors, or mayors from Indigenous backgrounds, who have been elected by the people of their shires, which do not necessarily have Aboriginal
majorities. These people were elected because of their ability, because they are good administrators and because they are doing the right thing.

I have a concern with my own government that sometimes we rely too much on other Indigenous leaders. I know of 13 Indigenous mayors from across the north of Queensland who were elected by the people in their councils. As I say, whether they are Indigenous or non-Indigenous does not really matter. They are real leaders. They are accountable for their financial administration, because, as local government leaders in Queensland, they are regularly subjected to Auditor-General’s reports.

They are also accountable to the people they represent, because every four years, as it is now in Queensland, they face elections, and if they are not doing the right thing by the community they represent they are voted out. So I think they are the people that we have to look to, have to encourage, have to talk about and have to highlight their successes—rather than hearing in this chamber, as we always do, about the negatives and the downsides of the way Indigenous Australians are going on. I am not for a moment suggesting that there are not negatives and downsides, but I think the country would be far better off if we encouraged those who are 'doing the right thing', those who are succeeding and those are who are making themselves role models for others of our original and First Australians.

Minister, congratulations on what you have been doing. It is not easy. You have a lot of pressure coming on you from everyone, including me. But you have done a great job, and I think we are getting there. I think if you are able to continue and promote the direction that you are set on, all Australians will find the real harmony and success that we deserve in this country. Thank you.

Senator GALLAGHER (Australian Capital Territory) (20:38): I also rise to speak briefly on the Closing the gap report. In doing so, I also acknowledge the traditional owners of the land on which we gather here this evening, the Ngunnawal and Ngambri people, and I pay my respects to elders both past and present.

There is certainly a lot to be proud of in Australia but, as many speakers here tonight have said, the record of governments at all levels over many, many decades in regard to the First Australians and in relation to services to Indigenous people in this country is not one of them. Many gaps remain, and that is why it is important that this annual report come to the national parliament and be discussed openly and at length. There is no doubt that, as a nation, we have let down the First Australians. It is only now and in recent times, through mapping the gaps, that we are able to look at progress towards improving life expectancy, health outcomes, involvement in education, and employment opportunities between Indigenous and non-Indigenous Australians. It is true that the movement in the right direction is not happening perhaps as fast as we would like, but it is going to take the coordinated approach of governments at every level and communities at every level working together on the solutions in order to start and continue to reap results. But there is a long way to go.

As many speakers tonight have touched on, one of the main areas of concern in closing the gap is, of course, health outcomes across Aboriginal and Torres Strait Islander communities. Overall life expectancy remains 10 years shorter for Indigenous Australians when compared to non-Indigenous Australians. When we look at the reasons behind that, we see very deeply entrenched social issues that disproportionately affect Aboriginal and Torres Strait Islander communities. We know, for instance, that smoking rates remain still at very high levels.
despite some progress over recent years. We know that the level of chronic disease in Indigenous communities is also disturbingly high and higher than in non-Indigenous populations. These are just two areas where we very clearly see such a difference in rates and prevalence when comparing Indigenous to non-Indigenous Australians. We also know that Indigenous babies are more likely to be born with low birth weight and that children with hearing problems may not get the treatment and the services that they need. That, in turn, affects their experience at school and through early childhood programs. We know that by addressing some of these issues in children at a very young age, the disproportionate effect of those issues through their life is reduced and their ability to access appropriate education is greatly improved.

It is worth noting that there have been concerns raised by some of the Aboriginal controlled health organisations around some of the changes that this government has been looking to introduce, particularly around access to bulk-billing and to general practice. That particularly concerns Aboriginal controlled health organisations. I know that talk of the GP co-payment had an almost immediate effect on the number of patients wanting to come through the door at Winnunga Nimmityjah in the ACT. They had to do quite a lot of community education to inform people that those changes were just being discussed at the time and that they had not been passed. Knowing that you can visit the doctor or your local Aboriginal controlled health organisation and access health care at no cost is very important when those organisations are reaching out to their local communities.

In relation to mental health, there are significant issues in Aboriginal and Torres Strait Islander communities. They show up in statistics like the suicide rate. It is really concerning that Indigenous Australians are twice as likely as to complete suicide as non-Indigenous Australians. This is something that needs a very concentrated and consistent effort to address the needs of Aboriginal and Torres Strait Islander people and provide programs in a culturally appropriate way. I think we need to start measuring this very closely and making sure that services are provided and that the Aboriginal controlled health organisations are given the support and resources to be able to provide those services out in local communities. We know that this is an area that could do with a lot more resources. I have certainly heard representations from Aboriginal-controlled health organisations about the support that they need to address and turnaround some of the presentations that they are seeing through their organisations in relation to the mental health and wellbeing of the Aboriginal and Torres Strait Islander community.

I am not for a moment saying that these are easy issues to address or that there has not been goodwill on all sides of politics to address it, but the statistics remain very clear and I think we need to do a lot more in this area. I know that, under the mental health reforms that the health minister is pursuing, there is some unallocated funding that is being used to focus in on providing resources for services like this. I have not seen where that is going to yet, but it is an acknowledgement that it is there. It is not new funding; it is coming from somewhere else. But I think that will certainly be well used. I am not sure it will fill the gap from where some of the savings have been generated from to pay for the ice task force; but, again, any effort we can put into improving the mental health outcomes of Aboriginal and Torres Strait Islander people would be very welcome.
Here in the ACT, a relatively affluent community, I think it is difficult to acknowledge that Aboriginal and Torres Strait Islander people face many of the same issues here in the ACT that they do around the country, whether it be in health outcomes, education or even in areas like corrections and juvenile justice. I know from my previous role that we put in incredible amounts of effort to resource those areas appropriately and see improved outcomes. We certainly did see improved outcomes in education. I know that at the juvenile detention centre here in the ACT on any given night several years ago—I think has improved now—anywhere from 25 to 50 per cent of the young people in that detention facility were of Aboriginal and Torres Strait Islander backgrounds. It is not as if anyone in the ACT can pretend for a moment that these issues that are affecting first Australians around the country are not issues here.

I would just like to finish on the fact that the ACT did keep in place an elected body, the Aboriginal and Torres Strait Islander Elected Body, which we put in place in 2008. This is elected by the Aboriginal and Torres Strait Islander community members in the ACT. The elections are run every three years by Elections ACT. Those elected members meet with the cabinet twice a year, they hold their own estimates hearings with heads of departments and they provide a report on the budget every year.

I know for a fact—from being in those meetings and from having those shared cabinet meetings and shared engagement with those leaders that have been elected by the local community—that we got very good insights. The cabinet ministers were directly briefed by the Indigenous elected body. It certainly provided a channel where the Indigenous elected body was given the respect that it deserved, the community had a way in that did not have to come through government and then that elected body could negotiate directly with the government and tell us exactly what their priorities were. It was a good model, it was a respectful model and it acknowledges their right to engagement with government at the highest level. I think that is something that could be looked at more broadly, if not across the country then in other jurisdictions.

Question agreed to.

BILLS

Australian Crime Commission Amendment (National Policing Information) Bill 2015

Australian Crime Commission (National Policing Information Charges) Bill 2015

First Reading

Bills received from the House of Representatives.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (20:49): I move:

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

Question agreed to.

Bills read a first time.
Second Reading

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (20:49): I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

AUSTRALIAN CRIME COMMISSION AMENDMENT (NATIONAL POLICING INFORMATION) BILL 2015

CrimTrac and the Australian Crime Commission (ACC) are two of Australia’s most important national law enforcement bodies, created to provide police with access to national policing information and intelligence. Both agencies are shared national assets that reflect the cooperative approach between jurisdictions that is central to Australia’s response to crime.

The Australian Crime Commission Amendment (National Policing Information) Bill – or the merger Bill – implements the historic decision of all of Australia’s Attorneys-General, police and justice ministers to bring CrimTrac and the ACC together under one banner.

This Bill forms a package with the Australian Crime Commission (National Policing Information Charges) Bill, which will allow the merged agency to continue the self-funded model that has supported CrimTrac's services for over a decade at no cost to the Budget.

The merged agency would be supported by a new Intergovernmental Agreement to ensure that it maintains a focus on providing national information systems to police, as CrimTrac currently does.

These systems and services are critical to supporting day-to-day policing and the investigation of all forms of crime, from terrorism to street crime to drug trafficking to domestic violence.

Australia has first-rate police and intelligence agencies that are highly capable, professional and committed to protecting the community.

We need to make sure that these agencies continue to have access to the tools and information they need to do their job.

Merging CrimTrac with the ACC continues this Government’s commitment to ensuring Australian law enforcement agencies are in the best possible position to protect us from criminal and national security threats.

A merger will enrich the ACC’s critical intelligence function with direct access to CrimTrac’s national police information holdings and sophisticated information technology capabilities.

This will improve the quality, access and timeliness of the intelligence that the merged agency provides to law enforcement and intelligence agencies.

Improved intelligence will better equip these agencies to detect and disrupt significant threats, such as terrorism, international drug trafficking and cybercrime.

Key measures

The Merger Bill contains a number of amendments to give effect to the proposed arrangements for the merged agency.

Primarily, the Merger Bill amends the Australian Crime Commission Act 2002 (ACC Act) to enable the merged agency to carry out all of CrimTrac's functions. These functions will be referred to as 'national policing information' functions under the merged agency structure. This includes making national information sharing systems available to police and providing nationally coordinated criminal history checks.
The Merger Bill will also change some of the merged agency's governance arrangements. Currently, the ACC and CrimTrac are both governed by Boards. Following a merger, there would be a single Board overseeing the merged agency.

The amendments enable the Board to set high-level priorities for the merged agency's new national policing information functions. They also provide the Board with additional, specific functions currently exercised by the CrimTrac Board.

Amongst other things, this includes making recommendations to the relevant Commonwealth Minister about expenditure from the National Policing Information Systems and Services Special Account.

The Special Account was established under the Howard Government to support CrimTrac to develop and maintain new and existing information sharing systems for Australia's police forces.

These amendments will ensure that state and territory Police Commissioners will continue to play a key role in decisions that directly affect their agencies.

The Merger Bill will also make changes to the merged agency's information disclosure regime. These ensure that the merged agency can continue to share national policing information, in the same way as CrimTrac currently does, and provide nationally coordinated criminal history checks to a range of stakeholders.

Continuing the CrimTrac funding model

CrimTrac is entirely self-funded through revenue generated primarily from criminal history checks. This has allowed CrimTrac to provide services to police and the community at no cost to the Budget.

The measures in these Bills will ensure the continued financial security of policing information services.

The Charges Bill will allow the merged agency to impose charges for certain services, in order to fund or subsidise the provision of other services to police and the community.

The Merger Bill will provide a mechanism for the Board, which comprises representatives from each jurisdiction, to make recommendations to the Commonwealth Minister regarding these charges. This reflects the national nature of the merged agency and its national information holdings.

The Merger Bill will also allow the merged agency to charge fees on a cost recovery basis for discrete services, separate to the revenue mechanism in the Charges Bill.

The revenue that CrimTrac currently generates accrues into the National Policing Information Systems and Services Special Account.

This allows revenue generated by CrimTrac to be kept separate from other Commonwealth funds and readily invested in national policing information services.

The Merger Bill will continue the Special Account, set out the funds that must be credited to the Account, and the purposes for which the Account may be debited.

These provisions ensure that the Special Account will continue to support the provision of information sharing systems and services to police.

Consistent with this, the merged agency will only be able to use the Special Account for CrimTrac-type, national policing information purposes.

Conclusion

These Bills implement an important merger of Australia's two key law enforcement information and intelligence agencies. The merged agency will be better able to fulfil its role as Australia's national criminal intelligence agency, supporting and informing the efforts of law enforcement agencies around Australia.
At the same time, the merged agency will continue to provide nationally coordinated, high quality information technology systems and services to Australian police, which are critical to supporting day-to-day operations.

AUSTRALIAN CRIME COMMISSION (NATIONAL POLICING INFORMATION CHARGES) BILL 2015

This Bill forms a package with the Australian Crime Commission Amendment (National Policing Information) Bill – or the merger Bill, which implements the historic decision of all of Australia’s Attorneys-General, police and justice ministers to bring CrimTrac and the ACC together under one banner.

CrimTrac’s success as a cooperative federal scheme supporting the information needs of police has been built on its self-funded business model.

This Bill will allow the merged agency to impose charges for certain services, in order to fund or subsidise the provision of other services to police and the community.

This reflects CrimTrac’s current arrangements, where criminal history checking provides most of the funding for other services. However, the Bill will also enable the merged agency to charge for new services in the future, should this be desirable. This will ensure that the business model can adapt to meet emerging police and government needs.

The Bill will create a mechanism to allow the Minister to specify in a legislative instrument the services that the merged agency will charge for, who has to pay the charges, and the amount of each charge.

This provides the merged agency with the flexibility to impose different charges for different classes of persons, such as reduced charges for volunteers seeking criminal history checks.

Conclusion

This Bill is a key ingredient in the merger of CrimTrac and the ACC.

CrimTrac’s nationally coordinated, high quality information technology systems and services are critical to supporting day-to-day policing operations. The importance of these services will only grow, as crime and criminal methodology change.

This Bill will allow the merged agency to continue to provide these services to Australian police in an adaptable and fiscally sustainable way.

The ACTING DEPUTY PRESIDENT (Senator Back): In accordance with standing order 115(3), further consideration of these bills is now adjourned to 10 March 2016.

Tax Laws Amendment (New Tax System for Managed Investment Trusts) Bill 2015

Income Tax Rates Amendment (Managed Investment Trusts) Bill 2015

Medicare Levy Amendment (Attribution Managed Investment Trusts) Bill 2015

Income Tax (Attribution Managed Investment Trusts—Offsets) Bill 2015

First Reading

Bills received from the House of Representatives.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (20:50): I move:

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

Question agreed to.
Bills read a first time.

Second Reading

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (20:51): I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

TAX LAWS AMENDMENT (NEW TAX SYSTEM FOR MANAGED INVESTMENT TRUSTS) BILL 2015

This bill is part of a broader package of bills that amend various taxation laws to introduce a new system for taxing managed investment trusts (MITs).

The new rules will modernise the tax rules applying to eligible MITs, increase certainty for MITs and their investors, and reduce complexity. It will reduce compliance costs by $30 million per year for MITs and their investors. These reforms will enhance the competitiveness of Australia’s funds management industry.

Our managed funds industry is one of the largest and most sophisticated in the world. As of 30 June 2015, Australia had $2.6 trillion in funds under management, larger than Australia’s gross domestic product and the capitalisation of the Australian Stock Exchange. It is one of the largest pools of managed funds in the world, and contributes jobs to the broader financial and insurance services industry, which employs over 400,000 people in Australia. We need to ensure that this industry continues to support Australian jobs, and remains efficient and internationally competitive.

Managed investment trusts are used by many Australians. Most of us are investors in MITs, either directly or indirectly through our superannuation funds. MITs are used to invest in a diverse range of assets, including shares, property, bonds and cash.

The current taxation arrangements applying to trusts are complex and uncertain. This is unacceptable for an industry so significant to the economy and the financial security of Australians. This bill will ensure that the funds management industry is able to operate more effectively through trust structures.

This new tax system will also provide an opportunity for Australia’s managed funds industry to grow by exporting more of its expertise and attracting additional international investment. This will in turn increase growth and jobs.

The Government’s new tax rules for eligible MITs follows recommendations made by the Board of Taxation in its Report on the Review of the Tax Arrangements Applying to Managed Investment Trusts.

In its review, the Board found that current tax arrangements applying to trusts create undue complexity and uncertainty for MITs. Specifically, trust tax rules have not kept pace with the growing use of trusts as collective investment vehicles. The Board recommended the creation of new tax rules for eligible MITs.

The new tax system has been actively sought by the funds management industry. Key stakeholders have been extensively consulted during the development of the new tax system.

The new rules will apply from 1 July 2016. However, trustees can choose to opt in earlier and apply the rules for income years starting on or after 1 July 2015.

The new tax system will apply where the members of the trust have clearly defined interests in relation to income and capital of the trust and the trustee of the MIT makes a choice to apply the new rules.

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Trusts that are not eligible or choose not to apply the new tax system will continue to apply the general trust tax rules.

The Bill will provide for taxation at the investor level, rather than at the entity level. Investors will generally be taxed on amounts as if they had derived the income directly.

Members will be taxed only on amounts 'attributed' to them. This amount is determined by the trustee according to the member's interest as set out in the constituent documents of the trust. The tax characteristics applying to that income will flow through to members.

The introduction of the attribution model will provide greater certainty for trustees and members, by more closely aligning the commercial and tax consequences of activities of a managed investment trust.

Under the new rules, trustees will continue to provide statements to their members shortly after the end of each income year to assist members to complete their tax returns. However, trustees may not have final information from entities that they invest in by the time they have to report to members. This means they often need to make estimates in the statements issued to members and then make adjustments at a later point in time when more information is available.

This can be administratively onerous. Because of this these bills will give the trustee a choice to reconcile the variance in the income year it is discovered, or to reissue statements to members for the income year to which the variance relates. If the trustee reconciles the variance in the discovery year, members will not have to seek amendments to their income tax assessments. This will reduce compliance costs for MITs and their members, as well as administrative costs for the ATO. This approach is consistent with current industry practice. Associated integrity rules will encourage MITs to bring income to account in a timely way.

These bills also introduce a new rule so that multi-class MITs will be able to elect to treat each class as a separate trust for the purposes of the new MITs tax system. The effect is that gains and losses within a class will be quarantined to those members. Currently, gains and losses relating to one class can affect another class of interests within the same trust. This amendment means that fund managers will be able to offer a range of different investment options through a single trust, rather than incurring higher costs from establishing multiple trusts to achieve the same outcome.

These bills also remove the incidence of double tax for members of attribution MITs that currently arises under the capital gains tax rules. Where amounts distributed to members differ to the taxable income of the MIT, members will now be able to adjust the cost base of their investments so that they are not taxed twice. The current law required reductions in cost base where amount received by the member exceeds the taxable component of the distribution. However, there is no corresponding upwards adjustment to the cost base if the amount received is less than the taxable component of the distribution. The amendments will now allow upwards adjustments to the cost base in certain situations.

The Government will also introduce transitional provisions and consequential amendments as part of this package of bills relating to the new tax system for MITs. This includes consequential amendments to ensure the MIT withholding tax rules apply appropriately under the new attribution model of taxation.

In addition, this package contains an arm's length rule that was recommended by the Board of Taxation. This rule will discourage MITs from shifting profits from an active business of a related party to the attribution MIT. The Commissioner of Taxation will be given powers to make a determination where a MIT has derived non-arm's length income. The trustee of a MIT will be liable to pay tax at the corporate rate on this income and other administrative penalties may apply. This will protect the integrity of the corporate tax base.

The 20 per cent tracing rule applying to certain unit trusts will also be amended so that superannuation funds and certain other exempt entities will be excluded. This will reduce compliance
costs and allow trusts to avoid being taxed as a company simply because certain entities, such as superannuation funds, own more than 20 per cent interest in the trust.

Further, rules that tax corporate unit trusts as companies will be repealed. These rules were introduced when Australia had a classical tax system to discourage companies from restructuring as trusts. Companies had an incentive to restructure as shareholders faced the prospect of double taxation, due to the lack of imputation. Since the introduction of imputation, the integrity rules for corporate unit trusts are considered to be no longer necessary and will be repealed.

Together, the measures contained in this package of bills will reduce complexity, increase certainty and minimise compliance costs.

In conclusion, this package of bills recognises the commercial needs of the industry and the growing use of trusts as commercial investment vehicles. Greater certainty will benefit investors and the managed fund industry.

It will improve the attractiveness of Australian MITs to international investors. It will assist our managed funds industry to develop and export more of their services. This should increase growth and jobs.

The new tax system for MITs has been actively sought by the managed investment funds industry. The Government has listened to this. The Government has undertaken extensive consultation with industry representatives and other key stakeholders in the development of this new MITs tax system.

The new rules will ensure that the managed funds industry is able to continue to operate through trust structures having regard to the commercial needs of industry, the needs of investors, and the need to ensure appropriate integrity, and minimise compliance and administrative costs.

As a result, the Government is confident that these new amendments will modernise the tax law applying to MITs. The measures contained in these bills are vital to ensuring that Australians have the best opportunity to grow their income. The measures will also enhance Australia's managed funds industry and promote the greater export of Australia's funds management expertise.

Full details of the new tax system for MITs are contained in the explanatory memorandum.

Income Tax Rates Amendment (Managed Investment Trusts) Bill 2015

Income Tax Rates Amendment (Managed Investment Trusts) Bill 2015 forms part of a package of bills to introduce a new system for taxing managed investment trusts (MITs).

This bill specifies the rate of tax payable by trustees of attribution MITs in some circumstances. Under the new tax system, investors are generally taxed on amounts attributed to them by the trustee of a MIT, as if they had invested directly. In limited circumstances, tax may occur at the trustee level instead of at the investor level to ensure that correct tax outcomes occur. This primarily occurs if the trustee does not attribute all income to members. In this case, the trustee is taxed on the unattributed income, to ensure that this income does not escape taxation. The unattributed income is generally taxed in the hands of the trustee at the highest individual marginal tax rate, plus Medicare Levy.

Further details of the bill and the new tax system applying to MITs are set out in the explanatory memorandum for the Tax Laws Amendment (New Tax System for Managed Investment Trusts) Bill 2015.

Medicare Levy Amendment (Attribution Managed Investment Trusts) Bill 2015

The Medicare Levy Amendment (Attribution Managed Investment Trusts) Bill 2015 forms part of Bills to introduce a new system for taxing managed investment trusts (MITs).

This Bill amends the Medicare Levy Act 1986 to impose the two per cent Medicare Levy on trustees of attribution MITs in some circumstances. Under the new tax system, tax is generally applied at the investor level. However, tax may be applied at the trustee level to ensure that correct tax outcomes
occur. This primarily occurs if the trustee does not attribute all income to members. Where this is the case, the trustee will be taxed on the unattributed income at the highest individual marginal tax rate plus the Medicare Levy in certain circumstances. This operates to ensure that income does not escape taxation.

Further details of the Bill and the new tax system applying to MITs are set out in the explanatory memorandum for the Tax Laws Amendment (New Tax System for Managed Investment Trusts) Bill 2015.

**INCOME TAX (ATTRIBUTION MANAGED INVESTMENT TRUSTS-OFFSETS) BILL 2015**

The Income Tax Rates Amendment (Attribution Managed Investment Trusts-Offsets) Bill 2015 forms part of a package of Bills to introduce a new system for taxing managed investment trusts (MITs).

This Bill imposes income tax on trustees of attribution MITs where they attribute excess tax offsets to members in some circumstances. This can happen if the trustee overestimates the amount of offsets it has available to attribute to members in an income year. This means that members are able to reduce their tax liability more than they otherwise would, had they not been attributed excess offsets.

Tax will be payable by trustees of attribution MITs on the amount of the excess tax offsets at a rate of 100 per cent. This has the effect of clawing back excess tax offsets and neutralising the impact on tax revenue. This is consistent with outcomes that arise when a company passes out excess franking credits.

Further details of the Bill and the new tax system applying to MITs are set out in the explanatory memorandum for the Tax Laws Amendment (New Tax System for Managed Investment Trusts) Bill 2015.

**The ACTING DEPUTY PRESIDENT:** In accordance with standing order 115(3), further consideration of these bills is now adjourned to 10 March 2016.

**Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill (No. 2) 2015**

**First Reading**

Bill received from the House of Representatives.

**Senator SCULLION** (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (20:52): I move:

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

Question agreed to.

Bill read a first time.

**Second Reading**

**Senator SCULLION** (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (20:52): I move:

That this bill be now read a second time.

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

Leave granted.

*The speech read as follows—*

SOCIAL SERVICES LEGISLATION AMENDMENT (FAMILY PAYMENTS STRUCTURAL REFORM AND PARTICIPATION MEASURES) BILL (NO. 2) 2015
In conjunction with the original Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill 2015, this bill introduces a package of new reforms that help us support families while encouraging parents' participation in the workforce.

The new package will supersede measures stalled in the Senate, including:

- Maintaining FTB payment thresholds where savings were estimated at $525m;
- Maintaining FTB payment rates where savings were estimated at $1b;
- Limiting FTB Part B to families with children under six where savings were estimated at $1.8b; and
- Revising the FTB end of year supplements to their original value of $600 and $300 per year, where savings were estimated at $1.3b.

The two bills anticipate withdrawal of the measures relating to FTB from the 2014-15 Budget and instead propose changes which focus squarely on the principles of structural reform of the social welfare system by simplifying the payment structure of Family Tax Benefits. At the same time, the bills provide more assistance to families when they need it most, and it is fiscally responsible.

The new package has been introduced in order to pay for the Jobs for Families package. The package contains the required savings from Family payments to offset the additional investment in the childcare package which will help families and encourage workforce participation.

The Government believes that workforce participation is fundamental for creating prosperity which allows families to create a better life for themselves and their children. That is why this Government places an emphasis on the importance of childcare, which 165,000 Australians say is of critical importance in order for them to return to work or increase their work hours and grow their household wealth.

The Jobs for Families package makes childcare simpler and less inflationary - which is in contrast to the Rudd-Gillard-Rudd Government who oversaw a 50 per cent increase in childcare fees during their tenure.

While the Family Payments Structural Reform in this bill will pay for the Jobs for Families package, it will also simplify the Family Tax Benefit system and provide more money on a fortnightly basis to those families who need it the most.

The government is increasing the fortnightly payment rates of Family Tax Benefit Part A by $10.08 for each FTB child in a family aged up to 19. This is worth an extra $6,000 over the lifetime of a child. What this means is that around 1.2 million lower income families (including income support families) who receive Family Tax Benefit Part A for around 2.2 million children – will now receive higher fortnightly payments from 1 July 2018. The increase in their fortnightly payments will help families better manage their day-to-day budgets by providing them with timely, regularised assistance when they need it the most.

We will also provide an additional $10.44 per fortnight for under 18 year old Youth Allowance recipients who are living at home, bringing the payments to the same standard rate as a Family Tax Benefit Part A child aged between 13 and 19.

Aligning these two rates of payment, is in itself a much needed part of the reform process to simplify payments where possible. These reforms will avoid confusion for families, and make sure there are no perverse incentives for them to change payments. Just as workforce participation is key to growing wealth, educational attainment is key to getting a job. The Government understands this and increasing the fortnightly rates of these payments will encourage children to stay in school. This is fundamental to giving children a good start in life so that they become productive, contributing members of our society.

Importantly this alignment reform will also flow on to people who are on disability support under the age of 18, special benefit and ABSTUDY. These changes will cost around $584.2 million over the forward estimates.
These changes are based squarely on the McClure reform recommendations; they simplify the system, making it easier for parents and their older children to navigate the system in order to get the assistance appropriate to their circumstances.

This bill will also provide for the phase-out of both the Family Tax Benefit Part A supplement and the Family Tax Benefit Part B supplement.

The Part A supplement will reduce to $602.25 a year from 1 July 2016, and to $302.95 a year from 1 July 2017. The Part B supplement will reduce to $302.95 a year from 1 July 2016 and to $153.30 a year from 1 July 2017. Both supplements will then be withdrawn from 1 July 2018.

This measure will save $4.06 billion dollars over the forward estimates. This is again a sensible reform which saves the Government money on Family Tax Benefits in order to fund the Jobs for Families package. This change will encourage workforce participation, and assist in reducing deficits that we inherited from the previous Government.

The Family Tax Benefit Part A and B supplements were introduced at a time when under the Howard Government, there was an anticipated surplus of $13.6 billion dollars in 2004-05. The supplements were introduced to be used as an offset for potential Family Tax Benefit overpayments arising from underestimation by FTB families of their annual income.

With the Australian Taxation Office introducing a single-touch payroll system, a system which will allow for accurate reporting of income by 2018-19, the changes will significantly reduce the problem of Family Tax Benefit debts.

In an era of responsible spending, it is also important to highlight how poorly targeted the FTB supplements actually are – much like the Schoolkids Bonus which Labor introduced and paid for by the non-existent money collected from the Mining tax. It is entirely feasible for a family on income support and low income to receive exactly the same amount in their Supplements as it would be for a family on a higher income. We have thankfully managed to cease the Schoolkids Bonus, an unfair payment and one that was not paid for - now we want to phase out the Family Tax Benefit A and B Supplements; payments which are neither well targeted nor has a useful purpose in the near future.

While no family, whether they are higher or lower income would be individually enthusiastic about these supplements ending, like the Schoolkids Bonus it is very difficult to justify borrowing money from overseas to pay for payments that we cannot afford. Further, the FTB supplements are meant to help pay for debt that 75% of families already never accumulate.

 Crucially these changes are consistent with the critical reform recommendations of the McClure Review to reduce the number of ill targeted and convoluted supplements in the system. McClure emphasised that there are far too many payments and supplements – in fact there are some 20 main payment types and 53 supplements (that second figure has been reduced from 55 because the Government has already removed the Seniors Supplement and the Low Income Supplement). This measure will further reduce the amount of supplements in the system (as will the associated reform measures in child care). The third measure in this bill will introduce a new rate structure for Family Tax Benefit Part B, and make other amendments to the rules for Part B, from 1 July 2016.

Firstly, the maximum standard rate will increase by $1,000.10 per year for families with a youngest child aged under 12 months of age. This will provide more choice for families when their children are very young because the Government recognises the importance of families having choice on how they wish to spend their time when their children are very young.

A new Family Tax Benefit Part B rate of up to $1,000.10 per year will be made available for single parents under the age of 60 with a youngest child aged 13 to 16. Eligibility for single parent families under the age of 60 will cease when the youngest child turns 16. This measure will save $781.1 million dollars over the forward estimates.
The combined effect of the two bills is to encourage greater workforce participation as children enter secondary schooling. At the same time the Government recognises that sometimes it is difficult for single parents to transition into work even when their youngest children are in secondary school. This is why we are applying different payment assistance for these categories once their children turn 13. We will provide them with some additional appropriate assistance as they prepare to re-enter the workforce.

The Government also recognises that Grandparent carers and single parents who are 60 and over take on a big responsibility when caring for children but also are less likely to be working and/or more likely to be retired. That is why they are exempt from these reforms. The Government acknowledges the unique role that these individuals play in society in raising children in circumstances that none of us would count as ideal.

These reforms are a critical part of efforts to enhance the long-term sustainability of the social security system. This is a Government which places fairness and equity at the centre of our social security system. That is why we are taking proactive steps to ensure that the system is affordable now and for future generations. Without sensible, measured reform, savage cuts would have to be made later on. That is something this Government does not want to see happen.

As a share of GDP, Government spending on family assistance in Australia has tripled from 0.9 per cent in in 1980 to 2.7 per cent in 2012 and higher than the average for OECD countries.

The number of families who receive Family Tax Benefit has declined over time, down from 1.72 million in 2010-11 to 1.62 million in 2012-13. Yet despite this decline in the number of recipients, the cost continues to rise with expenditure increasing by almost a billion dollars over the last three financial years for which full data is available, up from $18.9 billion in 2010-11 to $19.8 billion in 2012-13.

A decade ago, the Social Services portfolio had $83 billion worth of expenditure. Today, it has $154 billion worth of expenditure. In 2026, that will blow out to $277 billion worth of expenditure.I think we should take very close care and attention to these types of projections. I think, one thing historically that people in public finances will find is that projections of expenditure are usually fairly good. These projections of expenditure are basically showing that the welfare bill is going to grow at around about 3.4 per cent a year above the inflation rate. The rate of growth above inflation is to be taken as a sign of concern. This year we will spend around $20 billion on FTB Part A and B. This represents the second biggest item of expenditure in the Social Services portfolio and the fourth largest in the Commonwealth budget.

That is why this Government is taking proactive steps to address the sustainability, viability and longevity of our system before it is too late. The 2015 Intergenerational Report identified, the number of people of traditional working age (being 16 to 64 years old) for every person aged 65 and over has fallen from 7.3 people in 1974-75 to an estimated 4.5 people today. By 2054-2055, this is projected to nearly halve again to only 2.7 people. This means that the number of taxpayers funding FTB Parts A and B is also in free fall. Without any change, the cost of our social security will continue to rise whilst the number of working age taxpayers is falling. This coupled with the ballooning Government deficits left by those opposite meant that this Government has had to take sensible steps to address this issue. This reinforces the Government's commitment to pursuing rational policy objectives aimed at ensuring the sustainability of our social security system. This will ensure that Australia, in the words of the Prime Minister will continue to provide "a generous social welfare safety net".

In the context of the current Budget position these figures highlight the need for the targeted savings proposed in this bill.

In summary, the package of Family Tax Benefit and dependent youth measures enhances support for families with their day-to-day living expenses and so helps them support their children from birth through education and the transition to independence. This increase in day-to-day support has been achieved through reforming the supplements and increasing fortnightly payments including aligning the rates of youth payments.
Together, the revised package demonstrates the Government's commitment to assisting families:

- providing additional assistance to families when they need it most;
- supporting family choice to spend more time with their children when they are very young if they wish to do so;
- recognising that grandparent and great-grandparent carers and single parents aged 60 years or over with children in secondary schooling may have limited capacity to increase workforce participation.

At the same time, these reforms will improve the sustainability of family payments ensuring we can achieve three important goals:

1. continue to assist families in raising their children over the long-term;
2. fund the Child Care reforms designed to enable and encourage greater workforce participation; and
3. continue a deservedly needed process of simplifying FTB, consistent with the recommendations of the McClure review which highlights the unworkability of a system that maintains 20 main payment types with in excess of 50 supplement categories.

These measures are sensible, practical and aimed at ensuring the sustainability of our system, and guarantee that payments are targeted to those most in need. Sustainability and fairness are at the heart of these reforms and I urge all members to support these measures to ensure that the Government can continue to support those most in need now and into the future.

The ACTING DEPUTY PRESIDENT: In accordance with standing order 115(3), further consideration of this bill is now adjourned to 1 March 2016.

Social Services Legislation Amendment (Miscellaneous Measures) Bill 2015
Water Amendment (Review Implementation and Other Measures) Bill 2015
First Reading

Bills received from the House of Representatives.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (20:53): These bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (20:53): I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

SOCIAL SERVICES LEGISLATION AMENDMENT (MISCELLANEOUS MEASURES) BILL 2015
This bill introduces a number of minor 'housekeeping' amendments in the Social Services portfolio – contributing to general maintenance of the substantial suite of legislation administered by the portfolio.

In this case, amendments will be made to the social security law and family assistance law. The amendments will correct technical errors and clarify intended policy by removing minor ambiguities and anomalies.

The measures in this bill are technical in nature. These amendments are an important part of the ongoing management of these legislative frameworks.

One of the amendments in this bill will clarify that people serving an Income Maintenance Period for a mainstream income support payment, such as Newstart Allowance, cannot access special benefit during that period.

An Income Maintenance Period is a period of time during which payments, for example, redundancy or leave payments, are apportioned and treated as income for certain social security payments.

The effect of the Income Maintenance Period is to either reduce the person's payment rate, or fully preclude them from receiving a social security payment for the period that the termination or leave payment represents. During this period the person is expected to draw on the resources provided by their other payment.

A single person without children would be fully precluded from receiving Newstart Allowance if their termination payment is equivalent to at least $1014 per fortnight. This amount is higher if the person is paying rent.

In addition to Newstart Allowance, the Income Maintenance Period applies to Youth Allowance, Partner Allowance, Austudy Payment, Widow Allowance, Parenting Payment, Disability Support Pension and Sickness Allowance.

A person who is required to serve an Income Maintenance Period may have it reduced or waived if he or she is in severe financial hardship due to unavoidable or reasonable expenditure.

Unavoidable or reasonable expenditure includes, but is not limited to, things such as the reasonable costs of living such as food, rent and utilities bills, as well as school and funeral expenses, essential repairs to the home, whitegoods and car, insurance premiums, medical expenses and any other costs that are considered unavoidable or reasonable taking into account the individual circumstances of the person.

Special Benefit is a discretionary income support payment available to people in severe financial hardship who are unable to earn a sufficient livelihood for themselves, due to reasons beyond their control. Special Benefit is generally paid at the same rate as Newstart Allowance but is not subject to an Income Maintenance Period.

However, it has been longstanding policy that a person who is unable to have an Income Maintenance Period for another income support payment waived or reduced, because the expenditure of their funds is neither unavoidable nor reasonable, should not be paid Special Benefit instead, as this circumvents the purpose of the Income Maintenance Period and may encourage people to spend their termination payments too quickly.

This amendment confirms this policy position – people should use their own resources before drawing on taxpayer-funded support.

A further amendment in this bill will realign the time period for income reconciliation for certain Family Tax Benefit recipients. That is, for families who are not required to lodge a tax return, or have types of income not included in a tax return, the bill will introduce a one year timeframe for individuals to notify their non-lodger status or provide income details. This is consistent with the equivalent timeframe currently applying to families who are required to lodge a tax return.
The reduction to the timeframe from two years to one year is also consistent with the intent of the family assistance programme, which is to deliver financial assistance to families to help with the cost of raising children when it is needed.

One year is considered a reasonable amount of time for families to notify Centrelink that they are not required to lodge and/or provide details of types of income not included in a tax return in order for reconciliation of their Family Tax Benefit entitlement to occur.

It is also important to note that this amendment will have very little practical effect on families, as the one year timeframe for to provide income details or notify of non-lodger status has been communicated to recipients since the implementation of the broader realignment of time periods amendments in 2013.

As such, these amendments will not result in any unexpected or unforeseen outcomes for families, as they have been familiar with the rules for some time. However, the amendments will ensure it is clear that all Family Tax Benefit recipients have the same time period to meet the reconciliation conditions to receive supplements and top-up payments.

This bill will also make several amendments to the administration of certain student payments.

Firstly, the student payment eligibility criteria will be changed to remove the current requirement for new apprentices to have a Commonwealth Registration Number. The amendment alters payment eligibility criteria so that the requirements for new apprentice can be determined by the Minister in a legislative instrument.

This administrative detail has proved to cause delays in accessing and cancelling payments for apprentices. For example, an apprentice who is receiving Austudy payment ceases his apprenticeship and leaves his employer, but there is a delay in cancelling his Commonwealth Registration Number which means he continues to be paid Austudy.

There can be delays of weeks or even months before a Commonwealth Registration Number is cancelled, which means when his Austudy payment is cancelled, he may have been overpaid and incur a debt. The change in definition of new apprentice removes any link to the person having a Commonwealth Registration Number which removes the delay in cancelling payment and avoids incurring a social security debt.

Removing the requirement is a sensible improvement. This change ensures payments are not unduly delayed to new apprentices needing financial support and that payments cease promptly when they cease to be apprentices so debts do not occur. This is expected to benefit all new apprentices seeking financial support through Youth Allowance or Austudy payments.

The change is also needed in light of Commonwealth Registration Numbers being replaced from 1 July 2016 as part of the Department of Education and Training's apprenticeship reforms.

The second student payment amendment is to clarify that only one course of education is taken into account in assessing 'undertaking full-time study' or 'undertaking qualifying study' for student payments at the same institution or across multiple institutions.

This measure aims to prevent students from being supported financially to undertake multiple unrelated courses of education that do not contribute to their employment or career prospects. It is estimated that this measure will affect only a small number of individuals.

It has always been the intention that students are only assessed against one course of education under the full-time study requirements of Youth Allowance (Student) and the qualifying study requirements of Austudy. The amendment will make the law clearer in this area, so that students are not assessed as undertaking full-time study on the basis of more than one course of education during a single study period.
The third amendment relating to student payments is to clarify exemptions from the Austudy assets test for people with a partner receiving a relevant payment.

A person is intended to be exempt from the Austudy assets test if their partner is receiving a relevant pension, benefit, allowance or compensation payment. The exemption is not intended to apply if the partner has received the relevant payment at any time in the past, unless the payment relates to lump sum compensation received as an armed services widow or widower under the Military Rehabilitation Compensation Act 2004, which has been received in the past.

This will ensure the appropriate application of the assets test to the assets of partners of individuals receiving financial support through Austudy payments.

The bill will also make a series of other minor amendments, clarifying and simplifying matters such as the indexation of Pharmaceutical Allowance, the allowable income limits for the Health Care Card, and certain decision-making and delegation framework provisions.

In the case of Pharmaceutical Allowance, the bill will make some small corrections and additions to cross-referencing in the indexation tables to ensure the legislation accurately reflects long-standing indexation policy. Pharmaceutical Allowance, which is added into the rate of some social security payments, or may in some circumstances be paid as a separate payment, is indexed or adjusted each year under Part 3.16 of the Social Security Act 1991. No change is proposed to current policy and practice.

The Social Security Act 1991 does not currently specify exactly what components of Newstart Allowance are to be included in the calculation of allowable income limits for the Health Care Card but current and past policy and practice is, and has been, to include only the maximum basic rate and energy supplement.

The amendment contained in this bill seeks to clarify the components of Newstart Allowance to be included in the calculation of allowable income in a way which gives undoubted legislative support to the current and past practice of calculating allowable income. That is, the amendment seeks to make it clear that the Pension Supplement, Pharmaceutical Allowance and Rent Assistance are all to be excluded from that calculation.

Nobody currently holding the Health Care Card will lose it because of this amendment. This is because the amendment contained in the bill does nothing more than provide clearer legislative support for the current practice of calculating allowable income. Furthermore, nobody acquiring the card in the future will be prevented from doing so because of the same amendment. This is because in the future the law will be applied as it is currently.

The amendments regarding the delegation framework will remove the requirement for the Secretary of the Department to seek the agreement of the Secretary of the Department of Human Services to the delegation of the Secretary's powers to officers of the 'Human Services Department' under the family assistance law. Departmental officers would continue to consult closely to ensure delegation instruments drafted are in line with the Human Services Department requirements.

These amendments will reduce the administrative burden and the time taken in the making of instruments of delegation under the family assistance law. It will also bring the relevant delegation provisions in the family assistance law into line with those in the Social Security (Administration) Act 1999.

Lastly, there are a small number of technical amendments.

These technical amendments include amending paragraph 8(8) (z) of the Social Security Act 1991 to change incorrect references in the note of the paragraph and repealing clause 49 of Schedule 1A of the Social Security Act 1991. These technical amendments will allow for corrections to cross-references, which will make the law easier to understand for individuals, and will repeal a spent clause from the legislation which is no longer used.
While these amendments are minor in nature, they are worth bringing forward to minimise confusion for payment recipients and stakeholder groups contending with legislative provisions that are sometimes unclear.

Such amendments are also an important part of ongoing responsible management of this important core legislative framework, and within the established policy to ensure consistency and clarity.

**WATER AMENDMENT (REVIEW IMPLEMENTATION AND OTHER MEASURES) BILL 2015**

The Australian Government is committed to implementing the Basin Plan in ways that deliver the best social, economic and environmental outcomes for the Basin and its many industries and communities. Water lies at the core of agricultural production and the associated wealth supports regional communities and the nation.

The Water Amendment (Review Implementation and Other Measures) Bill 2015 further delivers on the Government's commitment to support communities, businesses and the environment in the Murray-Darling Basin. It also shows that the Government takes the opportunities that arise from ongoing statutory reviews to consult the community and respond to their concerns.

The main purpose of this Bill is to implement the recommendations of the *Report of the Independent Review of the Water Act 2007*, following extensive consultation with state and territory governments and stakeholders across the irrigation, community, Indigenous and environment sectors. Of the 23 recommendations made by the Panel, 21 have been accepted in full and two have been accepted in part.

The Government thanks the Review Panel members – Mr Eamonn Moran, PSM QC; Mr Peter Anderson; Dr Steve Morton; and Mr Gavin McMahon – for their efforts in reviewing the Water Act, their consultative approach, and for identifying a package of balanced and sensible amendments.

The amendments proposed by the Panel support this Government's approach to delivering the Water Act's objectives, including:

- ensuring that environmental water is managed as efficiently and effectively as possible;
- supporting a transparent and effective water market;
- monitoring and evaluating the social, economic and environmental effects of the Basin Plan; and
- reducing regulatory burden and minimising red tape for farmers.

This Bill supports each of these objectives, and in doing so underpins the Government's aim of delivering water reform in ways that support communities, businesses and the environment.

**Water recovery – background**

The Government's approach to achieving the sustainable diversion limits outlined in the Basin Plan is to prioritise investment in productivity-enhancing water infrastructure and cap surface water buybacks at 1,500 gigalitres. The Government recently enshrined the 1,500 gigalitre cap in the Water Act. This provides vital reassurance to communities by limiting any potential economic impacts associated with water purchases.

Capping water buybacks provides greater certainty to Basin communities that the Government is focused on water recovery through investment in infrastructure as a priority to bridge the gap to the sustainable diversion limits. Indeed, the Government is undertaking the most significant water infrastructure programme in Australian history, investing over $2.5 million per day in the future sustainability of irrigated agriculture out to 2019. A total of almost $13 billion has been committed to Basin initiatives out to 2024, with the majority of funds assisting irrigators and communities to make more efficient use of the Basin's water resources in the production of food and fibre. To put that into perspective, this expenditure represents a bigger investment in real terms than that made by the Commonwealth to build the Snowy Hydro scheme. These investments are already delivering very good
results from both off-farm and on-farm infrastructure projects, with more than 10,000 individual irrigators benefitting from infrastructure renewal and upgrades.

The Government, through the Commonwealth Environmental Water Holder, is now the largest license holder in the Basin, for the purpose of sustaining environmental assets.

The Government is committed to delivering the maximum outcome from the Sustainable Diversion Limit Adjustment Mechanism. Delivering the same environmental outcomes with less water is common sense and will reduce the impact on Basin communities. We have already seen projects – such as pumps at Hattah lakes and regulators at Perricoota forest – markedly improving our environmental water use efficiency.

There are significant opportunities in the Gunbower forest, Chowilla floodplain, Burra creek floodplain and Lindsay Island for works and measures to deliver environmental benefits with less water. And then there is the Menindee Lakes. This is a great opportunity to undertake environmental works that actually provide more water to the Basin without removing water from productive use.

Basin water ministers continue to strive towards a supply contribution of up to 650 gigalitres. In other words, and noting that over 70 per cent of the Basin Plan water recovery target has already been achieved, the adjustment mechanism will see the 2,750 gigalitre water recovery target fall to as low as 2,100 gigalitres, reducing the socio-economic impacts of implementing the Basin Plan.

Separately, the Northern Basin Review, which is supported by all Basin water Ministers, is re-examining sustainable diversion limits set for the northern Basin in light of new and additional scientific and socio-economic information. The Government is looking forward to considering the outcomes of the Northern Basin Review when its findings are released next year. We must identify detrimental economic impacts as a result of the reduction of water available for agricultural production and determine whether substantial environmental outcomes have been achieved as a result of that reduction.

Efficient and effective management of environmental water

We know that farmers and irrigators are working hard to ensure that their use of water is as efficient and effective as possible, and so too is the Commonwealth Environmental Water Holder.

One way in which Commonwealth environmental water can be used more efficiently is through trade. Trade opportunities for the Commonwealth Environmental Water Holder can arise when, for example, the annual allocations associated with permanently held entitlements are not needed in one part of the system, and water could be used more effectively elsewhere or at another time. To date, the Commonwealth Environmental Water Holder has traded water for this purpose in a number of catchments, such as the Gwydir in New South Wales. This has assisted those communities to finish crops.

Recently, the sale of 20 gigalitres of environmental water allocations in the Goulburn catchment – the first in the southern Murray-Darling Basin – represented a good outcome for irrigators, who purchased over 20 billion litres of water for agricultural use at a time when prevailing seasonal conditions are dry.

This Bill amends the Act to provide greater flexibility for trade while ensuring that the environmental outcomes sought by the Basin Plan are maintained or improved. This Bill enables the Commonwealth Environmental Water Holder to use proceeds from the sale of water allocations to invest in activities that improve the effectiveness of Commonwealth environmental water use and help to achieve Basin Plan environmental outcomes. This flexibility will enable the Commonwealth Environmental Water Holder to get the best environmental outcomes possible, as efficiently as possible.

This recognises that achieving environmental outcomes in the Basin will often require both water and complementary environmental activities. We know it is not just about adding water, because the
lack of environmental works and measures, such as fish ladders and carp screens, can be a real barrier to maximising environmental outcomes.

The Bill also implements important safeguards recommended by the Review Panel including:

- Only the proceeds from the sale of temporary water – that is, allocations, and not entitlements – can be used for environmental activities. Proceeds cannot be used to meet the costs of the Commonwealth Environmental Water Holder's operational requirements, such as fees and charges from the use of environmental water.

- Proceeds can only be used for environmental activities if the Commonwealth Environmental Water Holder is satisfied that the catchment in which the allocation is to be sold has complied with its sustainable diversion limit.

The scope of potential environmental activities that can be funded through water sales is broad, but must be tied to improved outcomes from the use of Commonwealth environmental water. This enables targeted investments that complement, rather than duplicate, existing environmental programmes. The Government wishes to make it clear that the Commonwealth Environmental Water Holder will not use this new flexibility to invest in natural resource management activities that are already being funded by other programmes, whether at the local, state or federal level.

A further change in this Bill is to bring the conditions on the sale of water allocations in systems with continuous accounting into line with systems which have an annual accounting framework. This means that if water is not required to meet environmental objectives in a water period, the Commonwealth Environmental Water Holder will have an option to sell the water rather than forego allocations due to account limits.

Flexibility and practicality are central to these amendments, and key to achieving positive environmental outcomes in the Basin, in ways that also deliver social and economic benefits to Basin communities.

The Government also recognises that there are many other stakeholders besides the Commonwealth Environmental Water Holder that are working to improve environmental outcomes in the Basin. For example, the development of a biological control agent for European carp, which comprise over 70 per cent of all fish in the Basin, could deliver transformative change to our most iconic river system. This collaborative work – between federal and state governments, research and development corporations and universities – has the potential to massively reduce carp populations and significantly improve the health of the Basin's rivers and wetlands.

Transparent and effective water markets

In a drought-prone country with a highly variable climate, it is particularly important that water has a market price that reflects its changing value, and that farmers can realise that value through a transparent and effective water market. It is clear that the development of a water market has made a significant difference in helping Basin industries to get the most out of their water assets, and to navigate their way through the worst of our dry times. However, while trade is vital to many agricultural industries, it is apparent there are some concerns within the Basin community in regards to how the water market operates.

In line with the recommendations of the Review Panel, the Government will encourage water market industry representative bodies to establish industry-led self-regulation of water market intermediaries. Commonwealth regulation will be considered if evidence emerges that this would alleviate or remove risks in the water market and provide an overall net benefit to business, individuals and community organisations.

The Review Panel made a number of other recommendations which aim to improve water market transparency. Two recommendations were accepted immediately on release of the Panel's report – a review of the water charge rules and a review of water information reporting requirements.
The ACCC is undertaking extensive consultation across the Basin as part of its review of water charge rules and released draft advice on 24 November 2015 for comment. Among other things, the review is considering how best to ensure consistency in the application of national water charging objectives and principles across the Basin. The review of water information reporting requirements was completed in June this year and is due for release in coming months.

The Bill also ensures transparency and accountability in the trade of Commonwealth environmental water, requiring it to publish details of all water it sells and the purpose for which the proceeds are used.

Separate to the review of the Water Act, but complementary to its aims, the Government is also improving transparency in the water market by agreeing to introduce legislation to Parliament by December 2016 to establish a register of foreign ownership of water entitlements. Foreign investment plays an important role in funding the development of many industries in Australia, including the agricultural sector. A register of foreign ownership of both land and water will provide more reliable and transparent information to the public, participants in the water market and the agricultural sector about the value and extent of foreign investment in the sector, as well as trends. Improved oversight of foreign ownership is in response to a wide public call.

The Government is aware there is some anxiety in the Basin about speculators in the water market and will be looking at further options that improve transparency in the water market.

Monitoring and evaluating Basin Plan impacts

Aside from monitoring and evaluating the environmental outcomes of the Plan, this Bill amends the Act to improve monitoring of the social and economic impacts of the Basin Plan. This is an important amendment that responds to many stakeholders' concerns that insufficient attention is being paid to the social and economic impacts of implementing the Basin Plan. This recognises that community confidence and support is integral to the attainment of triple bottom line outcomes in the Basin.

This Bill will also provide further certainty to stakeholders about the direction and pace of water reform. In line with the Review Panel's recommendations, a further review of the Water Act will be conducted in 2024. Furthermore, the first legislated review of the Basin Plan, previously set for 2022, will now take place in 2026, with 10-yearly reviews thereafter. This strikes the appropriate balance between regulatory certainty and allowing the Basin Plan to be reviewed when its outcomes can be better assessed.

Reducing the regulatory burden

A key focus of the Review Panel's Terms of Reference was to identify opportunities to reduce or simplify the regulatory and reporting burdens imposed by the Water Act. Even small changes in regulatory burden can have a large productivity effect on the many small- and medium-sized businesses that operate in the Basin, leading to improved farm gate returns.

In this respect, the Bill makes several important amendments that will streamline the Water Act by improving regulatory clarity, simplifying the process of water resource plan accreditation and repealing redundant provisions.

The Water Act empowers a number of water agencies to provide and collect information on Australia's water resources and to monitor Australia's water markets. The Review Panel recommended that the Government consider the regulatory burden on industry and water managers in respect of water information requirements, while ensuring that critical information on Australia's water resources continues to be collected. As mentioned earlier, this multi-agency review has now been completed and will be released in coming months. Some of the measures proposed by this review will streamline data collection and reporting requirements, further reducing the regulatory burden on stakeholders and cutting red tape.

Indigenous engagement
Indigenous Australians have a long, rich and close association with the rivers and wetlands of the Murray-Darling Basin. As the submission to the Review from the Northern Basin Aboriginal Nations noted, “water is our lifeblood, and all of us depend on healthy rivers and wetlands.” Accordingly, this Bill includes in the Water Act the existing Basin Plan requirement to have regard to social, spiritual and cultural matters relevant to Indigenous people in the preparation of water resource plans.

The Bill also clarifies that one of the functions of the Murray-Darling Basin Authority is to engage with the Indigenous community on the use and management of Basin water resources.

The Bill adds an additional field of expertise that can be considered for potential appointment to the Murray-Darling Basin Authority's six-person board. For the first time, 'Indigenous matters relevant to Basin water resources' will be a recognised field of expertise that can qualify a person for appointment to the Authority.

Further, the Bill amends the Act to specify that the Basin Community Committee must be comprised of at least two Indigenous persons with expertise in Indigenous matters relevant to Basin water resources.

Summary

The Coalition has a strong track record of delivering water reform for the benefit of the nation. Under the Howard Government, the Council of Australian Governments agreed in 2004 to the National Water Initiative, laying the foundation for nationally consistent water planning and management for rural and urban use, and delivered balanced economic, social and environmental outcomes.

The Coalition also introduced the $10 billion National Plan for Water Security in 2007 and enacted the Water Act, establishing a framework for water reform that included infrastructure modernisation, increased agricultural production and significant environmental improvements.

And earlier this year, the Government announced the establishment of the National Water Infrastructure Development Fund to start the detailed planning needed to build or upgrade dams and pipelines and undertake managed aquifer recharge. This will help secure the nation's water supplies and deliver strong economic benefits for Australia, while also protecting the environment.

This Bill continues the Coalition's longstanding commitment to sensible and balanced water reform that boosts agricultural production, strengthens communities in our food and fibre producing regions, and delivers environmental outcomes.

The ACTING DEPUTY PRESIDENT: In accordance with standing order 115(3), further consideration of these bills is now adjourned to 10 March 2016.

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

Corporations Amendment (Crowd-sourced Funding) Bill 2015

First Reading

Bill received from the House of Representatives.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (20:54): I move:

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

Question agreed to.

Bill read a first time.
Second Reading

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (20:55): I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

CORPORATIONS AMENDMENT (CROWD-SOURCED FUNDING) BILL 2015

This Bill sets out amendments to the Corporations Act 2001 and consequential amendments to the Australian Securities and Investments Commission Act 2001 to facilitate crowd-sourced equity funding in Australia. It implements the commitment made by the Government in the 2015-16 Budget as part of our Growing Jobs and Small Business package.

Crowd-sourced equity funding is a relatively new and innovative concept. It allows businesses to obtain capital from a large number of investors through an online platform, where each investor typically contributes a small amount of money in return for an equity stake in the business.

In 2014, the Corporations and Markets Advisory Committee, otherwise known as CAMAC, completed a review into the crowd-sourced equity funding landscape in Australia. It found this form of fundraising is costly and impractical for businesses, largely due to regulatory impediments in the Corporations Act that imposed an excessive compliance cost for start-ups and other small businesses.

The Government acknowledges the detailed recommendations put forward by CAMAC. This Bill responds by establishing a legislative framework for crowd-sourced equity funding that addresses the regulatory impediments identified in CAMAC's report.

The framework the Government is introducing will enable public companies that are issuing equity through crowdfunding to do so with reduced disclosure than what is required under a full public equity fundraising. It provides, for newly registered public companies that meet the assets and turnover tests, concessions from some corporate governance and reporting obligations. To ensure investors are able to make informed investment decisions and not exposed to excessive potential losses, the framework sets out the minimum disclosure requirements and a $10,000 per issuer per 12-month period investor cap for retail investors. It also sets out a number of obligations that intermediaries will need to perform as part of providing a crowdfunding service.

It is not the Government's role to pick winners, but creating the right economic conditions for small businesses and start-ups to grow and thrive and taking steps to remove unnecessary regulatory barriers are. The framework set out in this Bill will enable Australia's innovative early-stage businesses to obtain the capital they need to turn good ideas into commercial successes.

Crowd-sourced equity funding will offer a new funding option for small businesses. It complements other forms of crowdfunding already available, such as rewards-based crowdfunding and peer-to-peer lending, to offer start-ups choice in how they fund their operations. It will serve as both a complement and a source of competition to more traditional funding options for small businesses, including bank debt products.

The Government has consulted extensively on the design of the proposed crowd-sourced equity funding framework. The model detailed in this Bill strikes the right balance between supporting investment, reducing compliance costs and maintaining an appropriate level of investor protection.

In December 2014, the Government released a discussion paper that raised options for a potential crowd-sourced equity funding model for Australia. The Government consulted on this over early 2015,
including through two industry roundtables. Over forty submissions were received as part of this process.

The Government also took into consideration the recommendations of the CAMAC review, including specific requirements for businesses, intermediaries and investors. International experience was also taken into account, in particular the framework in New Zealand, which has been in operation for nearly two years.

The consultation process indicated broad stakeholder support for a regulatory framework for crowd-sourced equity funding. Many stakeholders also recommended adoption of a framework quickly, noting that delays would risk impeding the development of the crowdfunding market in Australia. A number of crowdfunding platform operators also indicated interest in becoming licensed to provide platform services in Australia.

Stakeholder views were more varied on the specific model to be implemented. Some indicated support for the CAMAC model, others for adopting the same approach as taken in New Zealand. There were also views that a hybrid of the two was preferred. Concerns were raised that the CAMAC model would increase the complexity of the regulatory regime and may be burdensome for smaller companies. Others considered that the New Zealand model provides flexibility for companies to raise funds but may not provide enough protection for investors.

In August 2015, the Government released an outline of its proposed framework for public companies, reflecting many of the key aspects of New Zealand’s approach, such as licensing and other gatekeeper obligations for intermediaries, reduced disclosure for companies raising funds, and a liberal approach to retail investor caps along with investor protections such as risk warnings for investors. Following a four week consultation period, over fifty submissions were received.

The Government undertook targeted consultation on the draft legislation prior to its introduction into Parliament, making a number of improvements to the draft legislation on the basis of this feedback.

The Government has also consulted with State and Territory governments, which have agreed to these amendments to the Corporations Act and consequential amendments to the ASIC Act, in accordance with the Corporations Agreement 2002.

I would like to thank all of the stakeholders who participated in these consultations over the past year. It is important that the regulatory framework for crowd-sourced equity funding operates effectively in order to maximise the benefit to businesses, intermediaries and investors. Stakeholder feedback has assisted with development of a framework that achieves this.

I would now like to turn to the provisions of the Bill.

Schedule 1 to this Bill inserts a new Part into Chapter 6D of the Corporations Act. This sets out the various elements that comprise the crowd-sourced equity funding framework.

Australia’s crowd-sourced equity funding regime will allow eligible companies to fundraise up to $5 million per year from retail investors. This amount is higher than that allowed under both the New Zealand framework and the model recommended by CAMAC. The ability to raise higher amounts will enable entrepreneurs of innovative early-stage businesses in Australia to obtain the capital they need to turn good ideas into commercial successes.

To ensure the regime is appropriately targeted, companies will be required to meet turnover and assets tests before they are eligible to fundraise under this Part. The threshold is set at $5 million. As the market develops, the ongoing appropriateness of these thresholds can be reviewed.

Unlike some overseas jurisdictions, in Australia there has been a historical distinction between public and proprietary companies. Proprietary companies are generally relatively small and closely held, and have low corporate governance and reporting obligations. They are limited to having no more than 50 non-employee shareholders, and are generally prohibited from offering shares to the general public. Public companies do not have these limitations, but have greater corporate governance and
reporting obligations to ensure that their broader shareholder base has ongoing access to information about the company. It is important to note that public companies are not automatically listed on the ASX; a public company may be unlisted.

For small business people, time spent on regulatory compliance is time not spent working to ensure the success of their business. While businesses wishing to access crowd-sourced equity funding must be public companies, the Government is conscious that the demands involved in transitioning to a public company structure and complying with the corporate governance and reporting obligations, for the amount of funds that an early-stage business would typically seek, can be onerous. As such, the Government is providing a holiday of up to 5 years from these key requirements which is set out in Schedule 2.

Schedule 2 to this Bill sets out a number of concessions for newly registered public companies that have restructured in order to access crowd-sourced equity funding. Provided a company undertakes crowd-sourced equity fundraising within 12 months of registering as a public company, it is eligible for exemptions of up to five years from requirements to:

- hold an annual general meeting;
- have annual reports audited if it has raised less than $1 million from crowd-sourced equity funding; and
- provide its annual reports to investors, other than by publishing it on its website.

Further, companies fundraising under this framework will be able to offer equity securities to retail investors with lower disclosure than currently required. This will improve access to crowd-sourced equity funding for small businesses and start-ups as a full disclosure document can be costly and time consuming to prepare.

The Government recognises that reducing disclosure may also diminish investors' confidence about their capacity to make informed decisions about an offer. The Government proposes to set out disclosure requirements in the regulations that will ensure that investors have access to the key facts about the company, its structure and the fundraising. Investors will also be able to interact directly with the company to ask questions relating to an offer and the company will be able to respond to any questions. This is consistent with the approach in New Zealand.

The Government has listened to stakeholders on how to best balance the fundraising needs of businesses and investor protection. The framework in this Bill permits retail investors to invest up to $10,000 per issuer per 12-month period, allowing investors the opportunity to make substantial investments in a product, while also seeking to mitigate the size of their exposure. The Bill also provides a regulation-making power to amend this amount as the market develops. Retail investors will not be limited in the total amount of investment in crowd-sourced equity funding they can undertake, allowing them to diversify their investments. Investors will also be protected in the form of cooling off rights for a period of 5 days after making an investment.

The final element of the Bill I would like to highlight is the importance of intermediaries to the operation of an equity crowdfunding market. As a gatekeeper, intermediaries provide an important quality assurance role, and in recognition of this intermediaries will be required to hold an Australian Financial Services Licence.

Requiring intermediaries to be licenced provides issuers and investors alike with confidence in the integrity of the intermediary and their capacity to carry out the obligations of operating a crowd-sourced equity funding platform. The framework sets out certain obligations that intermediaries will need to perform, including the requirement to conduct checks on issuers before listing their offer.

Ongoing responsibility for issuing licenses and monitoring the operation of the framework set out in this Bill will sit with the Australian Securities and Investments Commission, commonly referred to as ASIC. To support this, ASIC was provided with $7.8 million in funding through the 2015-16 Budget.
This Bill also makes amendments to Chapter 7 of the Corporations Act, to ensure the Australian Market Licensing regime can, in the future, be tailored to intermediaries operating crowd-sourced funding platforms. Schedule 3 to this Bill provides the Minister with an exemption power to exempt certain market operators, including intermediaries, from specific obligations under the Australian Market Licensing regime. This will enable the Government to further reduce the compliance burden for operators of emerging and specialised markets, such as the crowdfunding market, as it matures. These amendments commence on the date this Bill receives Royal Assent.

The full details of the amendments are contained in the explanatory memorandum. The Government proposes to make regulations to support the operation of the measures in this Bill.

Introducing this Bill today delivers on the Government's Budget commitment. It helps to deliver on the Government's commitments to foster innovative economic activity, unlocking a new source of funding. The crowd-sourced equity funding framework will take effect six months from the date the Bill receives Royal Assent.

The ACTING DEPUTY PRESIDENT: In accordance with standing order 115(3), further consideration of these bills is now adjourned to 29 February 2016.

Criminal Code Amendment (Firearms Trafficking) Bill 2015
Social Services Legislation Amendment (Budget Repair) Bill 2015
Social Services Legislation Amendment (Family Measures) Bill 2015
Tax Laws Amendment (Implementation of the Common Reporting Standard) Bill 2015

First Reading

Bills received from the House of Representatives.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (20:56): These bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (20:56):

I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

CRIMINAL CODE AMENDMENT (FIREARMS TRAFFICKING) BILL 2015

The Coalition Government at the 2013 election made a commitment to the Australian people to implement tougher criminal penalties for gun-related crime.
The criminal misuse and trafficking of firearms is a deadly crime and an ongoing threat to the safety of our communities.

Although there is no single group which dominates the sale and supply of firearms to the illicit market, the illicit use and possession of firearms is a significant element of organised criminal activity in Australia.

We all know that money and power are key drivers for organised crime. Firearms are regularly used as an enabler to protect interests and commit acts of violence.

The imperishable nature of firearms and the ongoing supply of firearms to the illicit market mean they remain a serious threat to the Australian community.

Now, more than ever, we must do everything in our power to ensure the ongoing safety and security of all Australians.

That is why the Government is introducing increased penalties to disrupt the illicit firearms market in this country.

This Bill will introduce a mandatory minimum sentence of five years imprisonment for offenders convicted of trafficking firearms or firearms parts under the *Criminal Code Act 1995*.

Mandatory minimums send a strong and clear message that gun-related crime and violence will not be tolerated.

The mandatory minimums will capture all offenders who engage in the illicit firearms trade, not just those who trade in large numbers of firearms or parts.

Regardless of the number of articles they have trafficked, it is vital to put in place substantial penalties on all trafficking offenders with the aim of preventing even one more firearm from entering the illicit market.

However, these mandatory minimum sentences are not without safeguards. They do not include specified non-parole periods, nor do they apply to minors, which means the courts will retain the discretion to set custodial periods consistent with the particular circumstances of the offender and the offence.

In addition to the mandatory minimum sentence, the Government is also increasing the maximum penalties for firearms trafficking from 10 years' imprisonment and/or 2,500 penalty units to 20 years' imprisonment and/or 5,000 penalty units.

The increased maximum penalty is necessary to ensure that the serious offences of trafficking firearms within Australia, and into and out of Australia, are matched by appropriate punishments.

**Conclusion**

This Bill introduces amendments to reflect the seriousness with which this Government views gun-crime, and the gravity of supplying firearms and firearm parts to the illicit market.

The combination of mandatory minimum penalties and increased maximum penalties will send a strong message to the community that the illegal trafficking of firearms will not be tolerated and will act as a strong disincentive for people seeking to illegally import firearms and their parts into Australia.

**SOCIAL SERVICES LEGISLATION AMENDMENT (BUDGET REPAIR) BILL 2015**

The Government outlined its fiscal strategy in the 2014–15 Budget, and reaffirmed it in the 2015-16 Budget: the aim is to strengthen the Government's balance sheet by redirecting spending to boost productivity and workforce participation, while maintaining strong fiscal discipline.

This is augmented by the Government's budget repair strategy which holds the objective of achieving – on average – budget surpluses over the course of the economic cycle.

We are committed to fiscal discipline in the Social Services portfolio. While significant savings from this portfolio have been secured through recent Federal Budgets, we must continue with our efforts to
spend our Social Services budget more effectively to reduce the long-term pressures, to make available resources that will better target support to those who need it most, and to ensure that Australia's social security safety net is sustainable for future generations.

This Budget Repair bill gives further active support of our Government's collective efforts towards budget repair, including through implementation of savings measures to secure the Budget position.

The bill will reintroduce several measures improving the fairness and sustainability of the pension system.

The first measure was announced in the 2015 Budget. From 1 January 2017, the bill will reduce from 26 to six weeks the length of time the Age Pension, and a small number of other payments with unlimited portability, will generally be paid at the basic means-tested rate while the person is outside Australia.

After six weeks, payment will be made on a proportional basis according to the length of the pensioner's Australian working life residence – a concept representing the length of time the person has resided in Australia between age 16 and Age Pension age.

Pensioners overseas on the implementation date will stay under the current 26-week rule until they return to Australia. Subsequent trips will be under the new six-week rule. Those pensioners with 35 years or more of Australian working life residence, and those already exempt from the proportional payment rules – such as some recipients of the Disability Support Pension – will not be affected.

It is not considered reasonable for taxpayers to pay pensions indefinitely to people outside Australia, without regard to their period of residence in Australia, for anything other than short absences. This measure will therefore reinforce and strengthen the residence-based nature of Australia's social security system.

This bill also takes the opportunity to reintroduce some measures from the 2014 Budget, all of which are currently before the Senate in the Social Services and Other Legislation Amendment (2014 Budget Measures No. 4) Bill 2014. The reintroduced measures will no longer proceed as part of that 2014 bill.

Two of these reintroduced measures are to cease the Pensioner Education Supplement and the Education Entry Payment.

Pensioner Education Supplement was introduced in 1987 to assist single parents with the ongoing costs of education. At the time, this was in recognition of the difficulties single parents experienced in obtaining employment after being in receipt of the then Sole Parent Pension for up to 16 years. Since then, eligibility has been selectively extended.

Despite its name, the Pensioner Education Supplement is not available to people receiving the Age Pension. The most common payment type whose recipients also receive Pensioner Education Supplement is Parenting Payment Single (43 per cent), followed by Disability Support Pension (41 per cent) and Carer Payment (9 per cent).

As at the end of September 2015, Pensioner Education Supplement provided fortnightly payments to around 46,000 people studying full-time or part-time in secondary or tertiary education while on income support payments.

The Education Entry Payment was introduced in 1993 to help remove financial barriers to education by providing assistance to certain long-term payment recipients with the up-front costs of study when they begin approved education courses. In 2014-15, around 83,000 recipients received an Education Payment worth $208 per year, paid annually as a lump sum.

When they were introduced, both of these payments aimed to assist long-term income support recipients who had been out of the workforce for a long period of time by helping them improve or re-build their skills to be more competitive in the labour market.
However, since the introduction of these payments, several policies have been introduced to reduce the length of time that income support recipients, including single parents who have capacity to work, remain out of the workforce. Policy changes include varied eligibility and participation requirements for Parenting Payment, recognising that, as their children age, parents' capacity to work increases.

There have also been a number of changes to assessment and eligibility criteria for payments for people with reduced capacity to work, requiring these people to work or look for work in line with their capacity. These individuals are assisted into the workforce through services, such as jobactive, which can help jobseekers develop skills that they need to look for, find and remain in work.

The Government remains committed to providing incentives for income support recipients to improve their employment prospects through study or training. However, more appropriate channels of Government-funded study and training assistance for income support recipients are available through employment service providers, the Higher Education Loan Programme, FEE HELP and VET FEE HELP tuition loan programmes.

Additionally other income support payments, including Youth Allowance (student) and Austudy, are particularly targeted towards students, taking into account their particular circumstances and needs. These student payments will continue and will not be affected by the removal of the Pensioner Education Supplement and Education Entry Payment.

The removal of the Pensioner Education Supplement and Education Entry Payment will contribute to ensuring the long-term sustainability of the income support system by improving the Commonwealth's fiscal position. The measure to cease Pensioner Education Supplement is expected to save $252.4 million over the forward estimates, and the cessation of Education Entry Payment is expected to save $64.4 million over the forward estimates.

Ceasing these supplements will also help to simplify the income support system by reducing the number of payment supplements, consistent with the recommendations of the McClure review of welfare, *A New System for Better Employment and Social Outcomes*. The review highlighted that the current 20 main payment types and 53 payment supplements result in an income support system that is complex, confusing and difficult for individuals to understand.

This bill also reintroduces elements of the 2014 Budget measure, *Maintain eligibility thresholds for Australian Government payments for three years*. These changes will:

- maintain at level for three years the income free areas for all working age allowances (other than student payments) and for Parenting Payment Single – from a new start date of 1 July 2016; and
- maintain at level for three years the income free areas and other means test thresholds for student payments, including the student income bank limits – from 1 January 2016.

Under the current rules, income free areas and means test thresholds are indexed annually in line with movements in the Consumer Price Index. Not indexing the value of these free areas and thresholds for three years will mean that increases to payments that would have occurred on either 1 July or 1 January of each year of the three-year period will not occur. The specific customer impacts of pausing these various means test thresholds depend on payment type and people's circumstances. Payments will not be reduced unless customers' circumstances change, such as their income or assets increasing in value.

The indexation of these thresholds will recommence in 2019.

Of course, pausing indexation is a lever that has been used by successive governments to realise Budget savings and help slow the growth in social security expenditure.

These changes will help achieve the long-term sustainability of the payments system, while ensuring Australia has a targeted means-tested income support system that provides financial assistance to those most in need, while encouraging self-provision.
Reintroducing the amendments in this new bill reflects the Government’s ongoing commitment to the measures. All of the changes in this bill are important measures to support the sustainability of the social security system and the nation’s Budget.

SOCIAL SERVICES LEGISLATION AMENDMENT (FAMILY MEASURES) BILL 2015

This bill will introduce two family-related measures from the 2015 Budget, which will simplify the family payments system and achieve combined savings of $219.4 million over the forward estimates.

Firstly, from 1 January 2016, families will be eligible for Family Tax Benefit and additional payments that rely on Family Tax Benefit eligibility for a period of six weeks when outside of Australia. Currently, Family Tax Benefit Part A recipients who are overseas are able to receive their usual rate of payment for six weeks, and then the base rate for a further 50 weeks. This change will achieve savings of $42.1 million over the forward estimates.

This measure will align the portability rules for Family Tax Benefit Part A with those for Family Tax Benefit Part B and most other income support payments. It is consistent with the principle that the primary purpose of family assistance payments, which is to assist Australian families with the costs of raising children in Australia.

At the same time, the Government acknowledges that families have business to attend to overseas from time to time – such as going on vacation, visiting family members and therefore an appropriate amount of time will still be allowed overseas while retaining eligibility for their payments. Families will also be able to remain overseas for a further 13 weeks without needing to reapply for their FTB.

However, these measures make clear that for payments to continue, families in receipt of Family Tax Benefit A will need to maintain a strong connection to Australia.

Family Tax Benefits are linked to other payments, this measure will have flow-on effects to other payments that rely on Family Tax Benefit eligibility including Child Care Benefit, Child Care Rebate, Double Orphan Pension, Schoolkids Bonus and Single Income Family Supplement if the family is outside the portability period.

Importantly, this change will not impact individuals who are members of the Australian Defence Force or Australian Federal Police who are deployed overseas, assisted by the Medical Treatment Overseas Program, or unable to return to Australia for a specified reason (such as a serious accident, or natural disaster). The Secretary of the Department of Social Services will retain discretion to increase the six week timeframe, up to three years. This ensures those who serve our country overseas, travelling for medical reasons or delayed for reasons not of their own doing are not unfairly impacted by these changes. This ensures that equity remains at the heart of our social security system and continues to support those most in need and provides peace of mind for people serving our country overseas. This will ensure that their families will not be worse off whilst they selflessly serve all of us abroad.

The second measure in this bill will seek to wind back the Large Family Supplement from 1 July 2016. This will help the Government achieve savings of $177.3 million over the forward estimates.

The Large Family Supplement is only a small component of the overall Family Tax Benefit Part A currently around $12.46/fortnight for the fourth and each subsequent child thereafter.

Evidence from the National Centre for Social and Economic Modelling in 2002, 2007 and 2013 consistently found that each additional child in a family costs less than a first child. The most recent research found that, on average, a second child costs 83 per cent of the cost of the first, while a third child costs 69 per cent of the cost of the first. The reason for this is that families experience ‘economies of scale’, in which fixed costs are spread among more children. That is, after the first child, many items have already been purchased and can be reused by subsequent children. This highlights the appropriateness in this modest change to the FTB Part A payment structure.

Removing the Large Family Supplement has also been supported by both the Henry Review and the National Commission of Audit.
The Henry Tax Review in 2010 recommended that the Large Family Supplement be abolished, as the policy rationale behind the payment was not strong. The National Commission of Audit reiterated this position in 2014 by stating that the basic rates of FTB Part A payment were sufficient for the costs of raising children.

Ceasing the Large Family Supplement delivers on the recommendations of both of these reviews and the change therefore achieves a legitimate objective of better targeting family payments to those most in need of assistance by removing a non-essential component of FTB Part A. This again reinforces the logical and evidence based approach that the Government takes to achieving policy outcomes.

Importantly, this change is also in line with the recommendations of the McClure Review. As noted above, this removes a non-essential component of FTB Part A. This is at the very heart of what the McClure Review stated. The removal of one supplement helps to simplify what is such a complicated system for families. These families are often left confused about what social security payments they are eligible for. Whilst this is a small start, it highlights the Government’s commitment to undertaking meaningful welfare reform and simplifying the system in a coherent manner. This will ensure those eligible for income support payments, family assistance payments and other forms of social security will be able to better understand the system.

Despite the reduced costs associated with successive children, the Government acknowledges the significant costs incurred when raising children. Therefore families affected by this change will continue to receive per-child Family Tax Benefit Part A payments. This will continue to help cover the costs associated with raising children.

These provisions ensure that fairness remains at the centre of these reforms. Fairness has been and always will be at the heart of our social security system. This realignment of the portability rules is a logical change. It ensures that portability rules for most income support payments remains consistent across the board. This is important in simplifying what is already a confusing social security system.

These two Budget measures, along with the reform package introduced recently by the Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill 2015, will improve the sustainability of family payments, while providing continued support to those most in need of assistance.

In 2015-16, the Government will provide around $20 billion in Family Tax Benefit payments the second biggest item of expenditure within the Social Services portfolio, and the fourth biggest in the Commonwealth Budget. A modest save of $177.3 million is a reasonable and prudent measure to help ensure Family Tax Benefit remains affordable and the Government can continue to assist families in raising their children.

These measures are sensible, practical and aimed at ensuring the sustainability of our system, and guarantee that payments are targeted to those most in need. Sustainability and fairness are at the heart of these reforms and I urge all members to vote for these measures to ensure that the Government is in a position to support those most in need now and into the future.

I urge those opposite to listen to the evidence found within the Henry Tax Review and National Commission of Audit report and to ensure the sustainability of our social security system. These measures will also ensure portability measures for FTB Part A recipients are in line with most other income support and family assistance payments.

TAX LAWS AMENDMENT (IMPLEMENTATION OF THE COMMON REPORTING STANDARD) BILL 2015

Mr Speaker, I am pleased to introduce this Bill to implement the Common Reporting Standard for the automatic exchange of financial account information.

This Bill is a key part of the international fight against tax avoidance; and a key component of this Government’s commitment to ensure Australians pay their fair share of tax.
The Common Reporting Standard is an international framework developed by the Organisation for Economic Co-operation and Development (OECD), working with non-OECD G20 countries, to tackle and deter cross-border tax evasion.

Cross-border tax evasion is a problem faced by jurisdictions all over the world. International cooperation and sharing of information between tax authorities is essential to tackling it.

By participating in this international effort, we are enabling the Australian Tax Office to gather information on Australians who may choose to dishonestly hide foreign income offshore.

Globalisation and other technological advances have made it easier for individuals to hold investments in offshore financial institutions, which increases the opportunity for tax evasion.

The Standard will help ensure all taxpayers pay their fair share of tax by providing tax authorities with information on individuals with offshore accounts, regardless of where their financial accounts are located.

When the Standard is implemented certain financial institutions in Australia will collect information on foreign residents’ accounts and report it to the Australian Taxation Office. The Australian Taxation Office will provide the information to the foreign resident’s tax authority.

In return, the Australian Taxation Office will receive information on Australian residents’ offshore accounts. It will use this information to verify if the offshore income has been declared.

The Standard is comprehensive in the different types of investment income to be reported, such as interest, dividends, and income from certain insurance contracts. In addition, financial institutions will also report account balances and sales proceeds from financial assets.

The Standard is also comprehensive in the different types of account holders covered, such as individuals and the controlling persons of companies, partnerships and trusts.

The Standard will build on the Australian Taxation Office’s current information exchanges. In 2014–15, total tax liabilities raised as a direct result of exchange of information with Australia’s treaty partners was approximately $255 million.

G20 Leaders endorsed the Standard under Australia’s Presidency and committed to begin to exchange information by 2017 or end-2018.

To date, over 95 jurisdictions have committed to implement the Standard, including former tax secrecy jurisdictions, such as Luxembourg, Switzerland, the British Virgin Islands, the Cayman Islands, the Isle of Man, Guernsey and Jersey.

People that do not comply with their Australian tax obligations undermine the integrity of the tax system. The Standard will improve the integrity of the tax system by engendering confidence in the community that taxes are not being evaded.

The Standard will also encourage greater voluntary compliance as taxpayers will now be safe in the knowledge that it has just got a whole lot harder to hide funds offshore without the Tax Office tracking you down.

I commend the Bill to the House.

Debate adjourned.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.
Joint Standing Committee on Electoral Matters;
Joint Select Committee on Trade and Investment Growth; and
Joint Standing Committee on Treaties

BILLS

Commonwealth Electoral Amendment Bill 2016

Reference to Committee

Message received from the House of Representatives acquainting the Senate with a resolution relating to the reference of the Commonwealth Electoral Amendment Bill 2016 to the Joint Committee of Public Accounts and Audit for inquiry and report by 9 am on 2 March 2016.

COMMITTEES

Electoral Matters Committee

Membership

Message received from the House of Representatives transmitting for the concurrence of the Senate the following resolution:

That for the purposes of the Joint Standing Committee on Electoral Matters' inquiry into the Commonwealth Electoral Amendment Bill 2016:

(1) Participating members may be appointed to the committee on the nomination of the Leader of the Government in the Senate, the Leader of Opposition in the Senate, or any minority group or independent Senator;

(2) Such participating members:

(a) shall be taken to be a member of the committee for the purposes of forming a quorum if a majority of members of the committee are not present; and

(b) may participate in hearings of evidence and deliberations of the committee and have all rights of a committee member except that a participating member may not vote on any question before the committee.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (20:58): by leave—I move:

That the Senate concurs with the resolution of the House of Representatives contained in message no. 550 relating to the participating membership of the Joint Standing Committee on Electoral Matters for the committee's inquiry into the Commonwealth Electoral Amendment Bill 2016.

Question agreed to.

BILLS

Assent

Messages from His Excellency the Governor-General reported informing the Senate of assent to the bills:

10 February 2016—Message No. 1—

Aged Care Amendment (Red Tape Reduction in Places Management) Act 2016 (Act No. 1, 2016)

11 February 2016—Message No. 2—
Statute Law Revision Act (No. 1) 2016 (Act No. 4, 2016)
Australian Institute of Aboriginal and Torres Strait Islander Studies Amendment Act 2016 (Act No. 6, 2016)
Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Act 2016 (Act No. 7, 2016).

COMMITTEES

Community Affairs Legislation Committee
Report
Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (20:59): On behalf of the Chair of the Community Affairs Legislation Committee, I present the report on the Social Services Legislation Amendment (Family Measures) Bill 2015 [provisions] (pursuant to Selection of Bills Committee report) and submissions.

Environment and Communications Legislation Committee
Report
Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (20:59): On behalf of the Chair of the Environment and Communications Legislation Committee, I present the report on the Telecommunications Legislation Amendment (Access Regime and NBN Companies) Bill 2015 [provisions] (pursuant to Selection of Bills Committee report), Hansard record of proceedings, additional information and submissions.

NOTICES
Postponement
Senator SIEWERT (Western Australia—Australian Greens Whip) (20:59): by leave—I move:
That general business notices of motion nos 1004 and 1005 standing in the name of Senator Lambie for today, relating to nuclear programs in North Korea and Iran and to poker machine licensing, be postponed until the next day of sitting.

BILLS
Crimes Legislation Amendment (Proceeds of Crime and Other Measures) Bill 2015
Second Reading
Debate resumed on the motion:
That this bill be now read a second time.
When this debate was interrupted by question time some hours ago I was talking about the report of the Senate Legal and Constitutional Affairs Legislation Committee looking into the Crimes Legislation Amendment (Proceeds of Crime and Other Measures) Bill 2015. We had reached a stage where I was indicating the committee's view on new proposed section 319. Senator McKim, who is a member of the committee and who discussed this in his contribution, indicated that the Greens had some difficulty with this and would be moving amendments. I might say that these were amendments and issues that were not raised with the committee when it tabled what I assumed was a unanimous report but which has turned out, from what the Greens have told us, not to be so. I was indicating that the new proposed section 319 said that a court may under the Proceeds of Crime Act delay any proceedings if the court considers it to be in the interests of justice to do so. But then proposed section 319(2) said that a court may not stay any proceedings on any of the grounds listed, and Senator McKim has gone through those.

I will just reiterate what I was saying when the debate was interrupted, and that is that these grounds set out in proposed subsection (2) are designed to prevent a respondent from claiming merely a generalised risk of prejudice to support a stay of proceedings which would have flow-on effects for the availability of evidence, would impede the operation of the non-conviction based scheme and would frustrate the objects of the Proceeds of Crime Act. I was indicating that this is all about serious criminal activity by organised criminal gangs and by terrorists, and the government is introducing this amending bill as part of its overall fight against crime, particularly organised crime, and crime that supports terrorism around the world.

I do not want to keep the Senate too long but I can refer senators interested in this particular piece of legislation to the report of the committee, which has been tabled in the parliament. There were a number of interesting matters raised by the committee. I refer senators to the amended definition of ‘manufacture’ in proposed section 305.1(1) which specifies that it includes any process other than cultivation of a plant by which a substance is produced, extracted, refined or transformed into a different substance or converted from one form to another. That amendment responds to a 2013 case in the Victorian Court of Appeal where it interpreted the definition of ‘manufacture’ to require that the process produce a new substance, not merely convert a substance from one form into another. It is these sorts of legal technicalities that some of this bill is introduced to address.

This bill was looked at by the Scrutiny of Bills Committee—and that has been referred to by previous speakers—a well as the Senate Legal and Constitutional Affairs Legislation Committee. The committee has gone into the bill in some detail. I will mention just some parts of the committee's investigation in relation to the civil forfeiture scheme. The committee took seriously the concerns raised in submissions regarding the fundamental rights and constitutional principles that may be impacted on by these proposed amendments, but at the same time the committee was cognisant of the importance of an effective proceeds of crime regime in combating serious crime and those who benefit from crime, as emphasised by the department and supported by a number of other submitters.

The committee acknowledged the department's advice that these amendments were developed in consultation with key stakeholders, with a view to striking the appropriate balance between effectively combating crime on the one hand and on the other hand
respecting the fundamental rights and principles underlying the Australian criminal justice system. The committee noted that the amended legislation will, if necessary, be tested in the courts, which the committee believes will be well placed to determine the questions of constitutionality and fundamental rights that have been raised in this inquiry.

I draw the Senate's attention to the section of the bill relating to intention and recklessness. The committee joins submitters from both within and outside government in welcoming these proposed new offences which will not only support Australia's compliance with its international obligations but go further in helping combat a range of financial crimes. The committee regarded the breadth of the proposed offences and the potentially serious penalties for those who commit them as appropriate in the circumstances.

The committee looked at the possibility of retrospectivity in relation to schedules 4 and 5. The Law Council had raised a concern about the potential with retrospective operation of both those schedules to permit the use and disclosure of personal information collected prior to the passage of the bill. The department, when questioned about this, did not agree with the Law Council's concern that the provisions may have retrospective effect, stating that the proposed amendment does not seek to retrospectively alter legal rights or obligations; it simply seeks to provide legislative certainty regarding the scope of existing powers under the money laundering act. The department advised that AUSTRAC already provided information about access to and disclosure of information on its website.

I might say that the committee always looks closely at possible retrospective impacts—they are something that I personally believe are anathema to any parliament. In this instance the committee was satisfied by the department's explanation that the legislative certainty and clarity for information sharing by AUSTRAC and AusCheck with other agencies would be achieved by schedules 4 and 5. The department emphasised the importance of the interagency information sharing for the work of the Australian Border Force, including in light of its counterterrorism role and the detection of increasing attempts to take undeclared currency out of Australia.

In all, the committee was of the view that the bill, because it seeks to combat a number of serious and complex criminal activities within Commonwealth jurisdiction, including organised crime, bribery and duplicitous financial conduct, trade in illicit drugs, money laundering and financing of terrorism, deserved the support of the parliament.

In concluding I emphasise that this is all part of the government's ongoing campaign against serious organised crime and the financing of terrorism. The committee did have some queries, which we raised in writing with the department, but with the assistance of the information and clarifications provided by the department and others on these questions the committee is satisfied that the bill strikes the appropriate balance within each of its legislative schemes, bearing in mind the important matters of criminal justice and national security that are at stake. For those reasons the committee recommended that the bill be passed. I urge upon the Senate a consideration and acceptance of the committee's recommendations.

**Senator SCULLION** (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (21:10): I thank honourable senators for their contributions to the debate on this bill, which will make significant improvements to the Commonwealth criminal justice arrangements. Serious and organised crime poses a significant threat to
Australian communities. The government is committed to ensuring our nation is safe and secure and to taking tough steps to strike at the heart of organised crime.

The Commonwealth proceeds of crime scheme is an effective weapon in the fight against serious and organised crime. This scheme allows law enforcement agencies to confiscate illicit proceeds from a person to prevent them reinvesting these funds in further in illegal activities. Confiscation proceedings often take place at the same time that criminal charges against a person are being pursued. In response to recent court decisions, this bill clarifies that authorities may proceed with confiscation action under the Proceeds of Crime Act where there are related criminal matters on foot. The amendment seeks to ensure that confiscation proceedings are only stayed where absolutely necessary, as staying proceedings until after a criminal trial is complete would create a significant delay and would undermine the intention of a non-conviction-based forfeiture scheme under the act. This measure is supplemented by additional protections that aim to reduce the risk of prejudice to an accused in relation to criminal proceedings. The bill also makes a technical amendment to the Proceeds of Crime Act that will clarify that matters relating to restraint of assets should be heard and finalised before forfeiture applications are heard.

A robust proceedings of crime scheme is vital in the fight against crime. This bill takes a balanced approach to maintaining the resilience of the Commonwealth proceeds of crime laws, whilst ensuring that a respondent's rights are appropriately protected.

The bill will also introduce two new offences of false dealing with accounting documents. These measures reflect the government's zero-tolerance approach to bribery and corruption in all its forms. The new offences will implement Australia's obligations under the OECD anti-bribery convention. In particular, they will implement a recommendation of the OECD Working Group on Bribery that Australia should increase the maximum sanctions available against legal persons for false accounting under Commonwealth legislation. By creating these two new offences the government is demonstrating its commitment to stamping out white-collar crime.

The bill also makes new amendments to improve the clarity and efficacy of the serious drug offences. They will ensure that these offences apply to all substances that are structurally similar to listed illicit drugs and to all manufacturing processes, irrespective of whether they create a new substance or convert a substance from one form to another. These amendments will make the legislative framework for serious drug offences stronger, clearer and more effective. They will assist our law enforcement agencies in their important work to stop the supply of illicit drugs and bring traffickers and manufacturers to justice, forming another part of the government's continuing work to tackle serious and organised crime, including serious drug offending.

The bill also contains a number of amendments to the Anti-Money Laundering and Counter-Terrorism Financing Act to remove operational constraints identified by law enforcement agencies, facilitate access to financial intelligence information and improve information sharing. The financial intelligence information obtained by the Australian Transaction Reports and Analysis Centre plays a central role in identifying and preventing terrorist and criminal activity. Recent terror events across the world have highlighted that very little is required to conduct an attack and that the time frame between planning an execution and execution is shrinking. In this environment, the ability to share information quickly
between those who need it is critical to preventing the loss of innocent lives. By enabling information to be shared faster and more easily, including with key agencies such as Interpol and Europol, this bill will maximise intelligence value and assist regional and international partner agencies in the early identification, targeting and disruption of terrorism and transnational crimes, where time is often of the essence. By providing the Independent Commissioner Against Corruption of South Australia with access to AUSTRAC's financial intelligence data holdings, this bill will also considerably enhance the commissioner's ability to investigate serious and systemic corruption and misconduct in public administration.

The amendments made by schedule 5 of this bill will ensure that AusCheck's information-sharing provisions are better suited to the current law enforcement and national security environment. It is important that AusCheck can share information with relevant and accredited Commonwealth, state and territory agencies for law enforcement and national security purposes. Information shared by AusCheck is already protected by strong and appropriate safeguards. These safeguards will continue to apply to information shared under the revised provisions.

Bill read a second time.

In Committee

Senator McKIM (Tasmania) (21:15): I mentioned in my second reading contribution that the Australian Greens have significant concerns about the proposed new section 319. I want to going to a bit more detail about those concerns now. The government is effectively proposing to trade away people's rights to a fair trial in order to expedite proceeds of crime proceedings. This concern is held not just by the Australian Greens but by many organisations, including, as I said in my speech on the second reading, the Victorian Bar and Criminal Bar Association, the Law Council of Australia and the Australian Human Rights Commission.

I would like to place a few detailed matters on the record from some of those organisations. The Australian Human Rights Commission, in its submission to the Senate Legal and Constitutional Affairs Legislation Committee on 6 January this year, said:

The second issue of concern for the Commission is that some of the grounds which the proposed new s 319 would require a court to ignore are highly likely to result in prejudice to an accused person and increase the risk that their trial would not be fair.

The Law Council of Australia's submission makes their view very clear, stating:

A relevant question that may be required to be answered is whether limiting the discretion of a court as to when it may order a stay of proceedings in the manner proposed by the Bill is accompanied by adequate safeguards to ensure the:

• Constitutionally protected fair trial of an accused will not be prejudiced; and
• The court retains power over its processes thereby preserving the separation of powers as required by the Constitution.

The Victorian Bar and Criminal Bar Association submission is critical of the explanatory memorandum circulated by the government in support of this legislation. Paragraph 34 of their submission states:

Paragraph 49 of the Explanatory Memorandum states:
"The amendments clarify that proceedings under the Act may only be stayed where the granting of a stay is the only means of addressing the circumstances (i.e. the prejudice that may result to a concurrent or subsequent criminal trial)."

Paragraph 35 states:
It is submitted the proposed amendments do not achieve that purpose. To the contrary, the proposed amendments proscribe the Court's inherent power to order a stay where there is a risk the concurrent POC proceedings would prejudice a pending criminal trial.

Paragraph 36 then states:
It is submitted the proposed amendments amount to a grave infringement of the rights of an accused to a fair criminal trial. The proposed amendments will compel a person charged with a criminal office, who wishes to defend POC proceedings, to give evidence in the POC proceedings in advance of his or her criminal trial about matters to which the criminal trial about matters to which the criminal trial relates.

When you have a good look at proposed new section 319, you see that it does give rise to significant questions for the government. During the committee stage of this bill, I would appreciate a response to these questions from the minister if possible.

We need to place on record that we understand that the first part of proposed new section 319 provides that a court may stay proceedings under the Proceeds of Crime Act that are not criminal proceedings if the court considers that it is in the interests of justice to do so. However, proposed new section 319 then goes on to provide a list of grounds on which a court must not stay Proceeds of Crime Act proceedings. This is the first question I have for the minister: is it the government's intent that, even though a court may decide that it has grounds to stay proceedings because it is, in the court's view, in the interests of justice to do so, it is prevented from staying proceedings on the grounds listed in subsections (2), (3) and (4) of proposed new section 319? If it is the case that the court cannot stay proceedings on grounds that are listed in (2)(a), (2)(b), (2)(c)(i) and (2)(d), even if the court believes that it is in the interests of justice that the proceedings be stayed, I think the government has a constitutional issue on its hands, and that is the constitutional protections around the right to a fair trial in this country. That is the first question: is it the government's intent that the grounds laid out in section 319(2) would prevent a court from staying proceedings, even if the court formed a view that those grounds constituted reasons to stay the proceedings in the interests of justice?

The other question I would like to ask while I am on my feet is: can the minister provide any advice to the Senate on the grounds it might be open to the court to stay proceedings in the interests of justice? To describe the provisions of the proposed new section 319(2) as broad does them a disservice. They are massively wide grounds that the government is seeking courts from using to stay proceeds of crime proceedings. In the new section 319(2)(c)(ii), it becomes clear from reading that subsection that the court must not stay proceeds of crime proceedings on the ground that 'evidence is, or may be, relevant to a matter that is, or may be, at issue in criminal proceedings that have been, are proposed to be or may be instituted or commenced'. Basically, the court is going to have to form a view of the likelihood of criminal proceedings which may or may not be commenced at some time in the future before it can to decide whether that subsection becomes a trigger for the substantive provision in subsection (2), which is that the court must not stay Proceeds of Crime Act proceedings on those grounds.
To describe them as broad, as I have said, is doing them a disservice; they are incredibly broad provisions. They are so broad that I am forced to ask the minister: can he possibly come up with a reason that a court may reasonably consider it in the interests of justice to stay proceedings that is not covered by the proposed new section 319(2)? Can we collectively in this place conceive of a reason that proceedings can be stayed by a court because the court considers that it is in the interests of justice to stay proceedings that are not caught by subsection (2)? I am personally struggling to come up with a reason that a court might reasonably use that it is in the interests of justice that proceeds of crime proceedings be stayed that has not been ruled out by the proposed section 319(2). That is how broad that subsection is.

I would also like an answer, Minister, if possible—I am not asking for the Solicitor-General's advice to be tabled—to the question: was the constitutionality or otherwise tested through the Solicitor-General prior to this legislation being introduced? If so, what matters were raised? It was the view of some submitters to the committee process that this legislation could lead to circumstances where a right to a fair trial, which is a fundamental right in this country, would be prejudiced. That is something we ought to avoid at all costs in this place. I heard earlier today from the minister who has carriage of this bill reference to the fact that stays of Proceeds of Crime Act proceedings can frustrate the intent of the Proceeds of Crime Act legislation, but, surely, it is more important that someone get a fair trial in this country than that those proceedings be handled expeditiously so that the Commonwealth can get its hands on any assets which may be delivered to the Commonwealth off the back of proceeds of crime act proceedings.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (21:28): I thank the senator for the questions—they were comprehensive—but in my answer, being a bloke, I might not have picked up on all of them. So if you can ask the question again for anything I have not covered, I would appreciate that. You start of making the assertion that we seek to remove the rights to a fair trial. I hope that was just a glib throw-in there, because that is not what we are motivated by. We are actually motivated to ensure that if there is a particular mischief where someone can continually delay proceedings and, whilst those proceedings are being delayed, they are separated by some sort of lean being placed over disposal of assets or spending of assets and that has seen to be done, then we need to ensure that the court has some guidelines around the nature of the circumstances where a stay in proceedings may take place.

I note that Senator McKim has quoted from the Victorian Bar Association, and I note, without giving him too hard a time on it, he is in fact a member of the committee. I looked carefully at the committee report and I note there is no dissenting report from the Greens. That is okay, we are all busy in this place, so I am not giving you too tough a time. I understand this amendment arrived just before question time, and sometimes it is difficult to deal with these things. This is quite a simple amendment to speak to, but given the amount that the committee put into this, it has not been done in a way that has been glib or flippant. A lot of people have put a lot of time into this. Two committees, both the Legal and Constitutional Affairs Committee and the Senate Selection of Bills Committee, reported on the bills. The Senate Scrutiny of Bills Committee provided further information that has now
been included as an addendum to an explanatory memorandum to explain those matters. We have comprehensively looked into this.

The challenge is, fundamentally, that if we accepted the amendments the Greens are putting forward it would protect the mischief that this legislation seeks to remove, which is why we would not support them. But we should look to the answers to Senator McKim's specific questions so that we can make that case. He asks if the court could use its discretion on all matters not described. The most important point is that the proposed subsections 319 (2), (3), (4) and (5), which are all the matters he was talking about, are in fact matters that would limit but not remove the overarching discretion of the court under proposed subsection 319(1) to stay proceedings. So it only limits it. The proposed changes would not remove the discretion to grant a stay, but they have the effect of ensuring that a person who is seeking a stay of proceedings has to explain to the court the risk of prejudice in the circumstances, rather than simply stating that they or another person may face charges or may have to give evidence in relation to a criminal matter at a future date. So they cannot just assert that—they have to require a person seeking that to explain it to the court. It is quite clear that it does not remove the overarching discretion of a court under proposed subsection 319(1).

Senator McKim also mentioned that the court may reasonably have a view not to stay proceedings and what were the circumstances under which that would happen. As I have said, they are not prescribed. Outside of the matters in section 319, which describes what a person is required to provide, the legislation is silent on the remainder. The court would have complete purview over the remainder to make a decision on those matters. Constitutionality has been tested, and I am advised it has been tested with the Solicitor-General. The government takes comfort from that advice.

Senator McKIM (Tasmania) (21:33): I thank the minister sincerely for his responses, particularly his willingness to make it clear to the Senate that there was advice sought from the Solicitor-General and that the government has taken comfort from the advice. I will place a couple of matters on the record in response to the minister and then perhaps ask a couple of follow-up questions. Firstly, I make it very clear that I may be a relatively new member of this place but I am well aware that there is nothing that would prevent me from moving amendments to a piece of legislation even if, as is the case in this circumstance, I was the member of a committee that had reported on a piece of legislation without a dissenting report. Parliamentary committees are here to advise the parliament, not to dictate to us what we should do.

I have to take slight issue with the minister's language. These are not guidelines—and that is in fact the problem here. These are not guidelines for courts; this is not a list of things that a court must consider before determining whether or not Proceeds of Crime Act proceedings should be stayed. They are not at all a list of grounds on which a court must not stay Proceeds of Crime Act proceedings. That is very different from guidelines. What the Greens are asking the Senate to do here tonight is agree to include in the Proceeds of Crime Act 2002 a list of grounds on which a court must not stay Proceeds of Crime Act proceedings.

Some might think that we are having a semantic debate here, but I do not think we are having just a semantic debate. I want to gently remind you, Minister, of one of the questions you may not have retained—because you are a bloke!—which was that I asked for
clarification on the legislation on this hypothetical ground: if a court formed a view that in the interests of justice it should stay Proceeds of Crime Act proceedings on one of the grounds contained in subsection (2), is it able to act in what it considers to be the interests of justice or not?

I think you will find the answer to that is 'no'. If that is the case, we need to be very clear about what we are doing here. We are preventing a court in Australia from acting in what it believes is the interests of justice. That is almost Monty Pythonesque in its absurdity. You are basically saying to a court: 'You, Justice, can form a reasonable view that in the interests of justice certain proceedings should be stayed, but we are actually going to prevent you from doing that by inserting a list of grounds on which you cannot stay Proceeds of Crime Act proceedings even if you think such a stay is in the interests of justice.' And that is the matter I am trying to explore here, because that is a very serious matter that you are asking the Senate to consider here. Effectively, you are asking us to agree with your proposal that a court be prevented from staying proceeds of crime proceedings even if that court has reasonably arrived a view that it is in the interests of justice to stay the proceedings. I can see you have a response, Minister, so I will sit down and hand over to you.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (21:38): First of all, can I correct an answer that I gave you. In error, I indicated that the advice had in fact come from the Solicitor-General. What I should have told you was that it was the Australian government solicitor. My apologies. In your hypothetical, you are suggesting that a court may in some circumstances be compelled to do a particular thing. It is a balancing act, but I think without a doubt proposed section 319(1) is the overarching discretion of the court to make a decision on the stayed proceedings. It still will lie with the court. And please accept my apologies and retraction for the information I provided in error.

Senator McKIM (Tasmania) (21:40): Thank you for the clarification, Minister. That is appreciated. You have bounced us back to the proposed section 319(1), which I accept gives power to the courts to stay proceedings that are not criminal proceedings if the court considers that it is in the interests of justice to do. It is worth reflecting on previous High Court decisions, one in particular that has actually supported that power of certain courts in Australia. Even though we welcome it being explicit in this legislation, we would argue that in jurisprudence that power already has been confirmed by the High Court. But I am specifically asking about a court which reasonably forms a view that it is in the interests of justice to stay a Proceeds of Crime Act proceeding on one of the grounds contained in proposed subsection (2). At the moment, given your responses, I think we have some drafting ambiguity here—in fact that term was used in at least one of the submissions to one of the committee inquiries in relation to this legislation. Again, Minister, I draw your attention to the hypothetical circumstance where a court forms a view that it is in the interests of justice to stay a Proceeds of Crime Act proceeding on one of the grounds in proposed subsection (2). Can the court stay the proceeding or not? That is the question.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (21:42): As I have already indicated, the amendments in proposed subsections (2) to (5) are basically saying what is not sufficient. The case is quite explicit. It is not for a person to simply state if this is the case. All they are asking to do is
rather than just simply saying, ‘There is another person that may face charges or might have to give evidence in relation to a criminal trial at a future date,’ these amendments have the effect of requiring a person seeking that stay to actually explain to the court the risk of the prejudice in the circumstances. But again, we have comfort from proposed section 319(1) that the final overarching discretion of the court is we rely on proposed section 319(1) to stay proceedings.

As I indicated and you would know from the report, this area was covered significantly in evidence and in the report. I will not assert something I do not know, because I am not sure about the Australian Government Solicitor’s report. I am not familiar with the legal advice, but I think it is a reasonable assumption that these would be matters that they would all have focused upon, and given the comfort that I am advised the government has from the advice from the Australian Government Solicitor, I would think that the advice I am provided with, the proposed subsections (2) to (5) limit but certainly do not remove the overarching discretion of the court under the proposal section 319(1) to stay proceedings. I hope that is clear.

Senator McKIM (Tasmania) (21:43): That is clear as far as it goes. The proposed new section 319(2) certainly does limit the capacity of courts to stay Proceeds of Crime Act proceedings. I have heard a few times that one of the government's intents here is to ensure that someone just cannot claim a general need to stay proceedings; they need to be more precise about arguing their reasons. I accept that to a degree, but I have to point out that a person could argue detail on one of the grounds contained in the proposed new section 319(2) till the cows come home and the courts still would not be able to stay the proceedings, no matter how much detail was provided. That section is explicit. If that is not the case, Minister, please stand up and say so, so that we can move on to other matters in this legislation. But we have not yet had an answer to the very simple question: if a court formed a reasonable view that in the interests of justice it should stay Proceeds of Crime Act proceedings on one of the grounds in proposed subsection (2), could it stay the proceedings or not? It is actually a 'yes' or 'no' question.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (21:45): Again, I will in a more general sense say that the overarching discretion of the court under proposed section 319(1) preserves the court's rights of overarching discretion and that is in a very lay sense—even I can understand that. I think that deals with this. The amendments clarify that proceedings under the act may only be stayed where the granting of a stay is the only means of addressing the circumstances—that is, potentially the prejudice that may result from a concurrent or subsequent criminal trial.

Senator McKIM (Tasmania) (21:46): I am genuinely not trying to be difficult here. A couple of times now in response to that question, you have referred me back to the proposed new section 319(1), which you described as—I do not think I am misquoting you—an overarching discretion of the court. It might be worth referring you to the Australian Human Rights Commission’s submission to the Senate Legal and Constitutional Affairs Committee section 5.1, which starts at paragraph 33. It is actually headed: Ambiguity in drafting. This is the point I am trying to make. What I am trying to do here is place on the record the government's intent because that may become a question in subsequent High Court proceedings. So is it the government's intent that a court that is hearing a Proceeds of Crime Act matter can in fact stay proceedings on grounds contained in the proposed new section 319
subsection 2? Does that overarching discretion of the court retained even on grounds that are listed in proposed subsection 2—in other words, does proposed 319(1) override proposed 319(2) or does proposed 319(2) override proposed 319(1)?

My reading of this is pretty clear, as someone who has sat for through an awful lot of similar debates in the Tasmanian parliament for well over a decade as the Greens justice spokesperson. My reading of this legislation is that the court retains an overarching discretion to stay proceedings but not on any of the grounds contained in the proposed new section 319(2). That would be my reading of this legislation. I am simply trying to distil the government's intent here. Is it the government's intent that a court cannot stay proceedings on grounds listed in proposed section 319(2) even if it believes that it is the interests of justice to stay those proceedings?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (21:48): The court is not able to stay proceedings merely on the grounds on proposed section 319(2). The court will need to consider, as it does in almost every case, individual circumstances of the case. To determine whether there are reasons on that ground, such as the risk of prejudice, which is what it is about, to determine a stay is necessary in the interests of justice.

Whilst I am on my feet, we thought it was important in the context of the amendments that you have moved, you have effectively removed subsections 319 (2) and (5), and I understand why that is the case. The challenge is that that would not then be able to prevent a respondent from obtaining a stay and delaying the determinations of a proceeds-of-crime proceeding simply put simply by claiming there was a risk of prejudice in a related or concurrent or subsequent criminal proceedings. As I started off in response to you, I will describe what I thought was— (Time expired)

Progress reported.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Lines) (21:50): Order! I propose the question:

That the Senate do now adjourn.

Safe Schools Coalition Australia

Senator BERNARDI (South Australia) (21:50): Tomorrow morning I will be presenting a petition to the Senate which calls on the government and the education minister to remove all federal funding from the Safe Schools Coalition program because it goes beyond education and compels students into advocacy of a social engineering agenda. In less than a week, 9,499 concerned Australians signed the petition demonstrating that there are many that are worried about this propaganda in our schools.

Let us have a look at some of the examples that the All Of Us teaching resource, which is aimed at children as young as 11 years old, contains. It invites these 11-year-olds to imagine themselves in the role of a young person who is 16 years or older and going out with someone that they are really into. It tells students on one side of the room that their character is going out with someone of the same sex while the characters of those on the other side of the room are going out with someone of the opposite sex—these are 11-year-old children. It tells these children they have got to respond to 10 questions which they need to answer. If they do not
answer in the affirmative, they are left standing humiliated in front of the class. Let us remember this program is designed to stamp out bullying, yet it bullies and intimidates children into giving the answers demanded by the authors.

They ask children to imagine that they have no genitals when they are talking about their gender. It says that most students will mention their genitals when identifying themselves as male or female and it extends this discussion by asking students what it would mean in terms of their gender if they were to lose that part of themselves. It beggars belief that we are asking 11-year-olds to identify themselves or imagine themselves as having no genitals. There are so many alarming aspects to these teachings, because it isolates children in front of their class. It bullies them and intimidates them if they do not comply with what is a very clear LGBTI agenda. It is a form of bullying. It is intimidation of students. It is pushing them to conform to a certain world view. It asks children as young as 11 to imagine themselves in a sexualised, or hypersexualised, environment.

One psychologist, Dr Nick Kowalenko, the head of child psychiatry at the Royal Australian and New Zealand College of Psychiatrists said that it might be helpful for children experiencing identity issues, 'but if you're talking about every kid in the community, it might not be appropriate at 11'. I am going to back him up and say it is not appropriate at 11 for any child.

Equally alarming is the fact that the federal government is contributing $8 million to this propaganda, thanks initially to the Labor government in 2013 but continued under the current government. Quite frankly, our schools are in crisis. There is no doubt about that. The level of numeracy and literacy is declining and that is what schools are meant to be teaching: reading, writing and arithmetic. Schools should be places of learning not of propaganda. Children should be children. They should not be enlisted as political activists.

One extreme example of the political agenda that Safe Schools embodies is this concept of 'heteronormativity.' It is yet another concept created by the LGBTI advocates to denigrate the majority view. The Safe Schools teaching resources argue that even asking new parents whether their baby is a boy or a girl reinforces a 'heteronormative' worldview. Imagine that! Asking whether your newborn child is a boy or a girl is somehow some crime against progressive politics. These advocates say that reducing heteronormativity in schools can have good outcomes for everyone. I say that is bollocks.

We should, of course, remind children that just because someone is different from the majority it does not make them any less than anyone else, it does not make them inferior; it just makes them different. Regarding the majority view—the status quo, if you will, that has permeated centuries of human life—as some sort of evil concept that must be quashed by social engineering in the extreme has no place in our schools. It reflects a much broader social engineering agenda of the political left. It is an agenda that seeks to radically change Australian society.

Ms Roz Ward, one of the authors of the All Of Us teaching resources and coordinator of the Safe Schools Coalition in Victoria, spoke at last year's Marxism conference about what she regards as the cultural and social norms that capitalists have imposed on society, thereby stifling sexual freedoms. She said: To smooth the operation of capitalism the ruling class has benefited, and continues to benefit, from oppressing our bodies, relationships, sexuality and gender identities alongside sexism, homophobia and
transphobia; both serve to break the spirits of ordinary people, to consume our thoughts, to make us accept the status quo and for us to keep living or aspiring to live, or feel like we should live, in small social units and families where we must reproduce and take responsibility for those people in those units.

Imagine that! Most people would not regard the most basic and fundamental principle of our society as a construct to be toppled, but one of the leaders of the Safe Schools Coalition does. This is a political agenda they are seeking to drag into our schools—and drag our children into too. They want to make schools a part of an ideological revolution to free us from the horrors of capitalism and the constraints of family life.

As one commentator put it, 'Will parents of Australian children in schools really give their approval to a program that, on the pretext of preventing bullying, is really about deconstructing the moral and social fabric of our society, including the family?'

At this point I would like to mention a quote regarding schools and agendas. Here it is: … it is completely inappropriate to enlist young people as the couriers of its prejudice. …

Any principal or teacher who exposes vulnerable children to such damaging messages not only violates their duty of care, but is a danger to students …

Some may think that is a quote from me, but it is not—far from it. These words were said by Mr Rodney Croome, one of the key drivers for homosexual marriage in Australia. He was criticising the Catholic Church who dared to stand up for their own beliefs amongst their own flock. A comment like this illustrates the double standards that are absolutely rife in this debate. On the one hand, Mr Croome is upset about the Catholic Church teaching Catholic views to students in Catholic schools. A transgender activist is even taking the Catholic Church through the courts in Tasmania because they were offended by the material. Yet, on the other hand, they expect schools to support the extreme LGBTI agenda of the Safe Schools Coalition.

As a side note, I wonder what this activist thinks of the teachings in this area by other schools such as Islamic schools. Unfortunately, they are all silent in that space. The political left's version of tolerance only extends to those who agree with them. It is almost a foreign concept to them that there are people out there who may have different views.

Here are a few more quotes. You might like to hear this Senator Simms—

The ACTING DEPUTY PRESIDENT (Senator Lines): Through the chair, Senator Bernardi.

Senator BERNARDI: Thank you, Madam Acting Deputy President. 'Children should never be subjected to any form of pressure or indoctrination while they were in a government school.' 'Children are being forced into classes that do not reflect the values of their parents.' 'We want to make public schools safe places for parents who don't want their children indoctrinated.' 'The wishes of parents should not be compromised.' Guess where those quotes came from? Who would have thought? That is the New South Wales Greens quoting about indoctrination in schools. But judging by these comments, the Greens are against any form of pressure or indoctrination unless it is what they endorse. They want religion removed from schools unless it is their type of religious proselytising. They are against any pressure when it is an issue that they do not agree with, but they seem to have no problem with the pressure
being applied to our children through the Safe Schools Coalition. Such hypocrisy is mind-boggling, but not unknown, from the political left.

Some will argue none of this really matters because the Safe Schools materials are voluntary. But by 2019 government schools in Victoria will be forced to join this program, and the pressure on other schools is increasing.

How long before independent and religious schools are forced to adopt the teachings that have already permeated our public school system? It is a valid question. We are seeing Catholic bishops being taken to the anti-discrimination commission for promoting Catholic thought and teaching. We are seeing concerted efforts to stop religious schools hiring teachers who do not share the same faith. So it is reasonable to ask: what attack is next for these schools? The Safe Schools Coalition goes beyond simply seeking to make schools safer places. It promotes a radical political and social agenda and seeks to indoctrinate students to make them its advocates.

Aged Care

Senator POLLEY (Tasmania) (22:00): I rise to speak on the Liberal government's continued lack of vision when it comes to aged care and issues of ageing in this country. It would seem that the government is out of ideas. It does not know what it wants or which way to go. There is division in this government, and Australians are still waiting for it to actually deliver on something—in fact, to deliver anything. It is visionless, and the same goes for its treatment and handling of aged care and ageing.

This was very evident during the Senate estimates two weeks ago when the government confirmed it was walking away from its promise to develop an aged-care workforce strategy and would be outsourcing its leadership to the sector. The Liberal government confirmed that there had been no movement in the development of an aged-care workforce strategy, promised over 500 days ago, and said:

… the government wants to assist industry in them leading the development of a strategy.

Older Australians in this country deserve so much more. Those working in the sector deserve so much more. The providers, the leaders in the sector, deserve so much more. It should be the other way around. The government should be leading workforce development. That is what it promised when it came to government.

And let us remember that it was the former Labor government that led the way with the Living Longer Living Better package. This government did not have to show any vision, but it needed to roll those changes out. The vision was already there. The consultation with the sector was already there. The plan was there for this government. But it could not manage that. It took its eye off the ball, and all it has done since it has been in government is to take money away from the aged-care sector. It has ignored and neglected aged-care workforce development for two years, and now it is looking to outsource its leadership because it does not have a solution. The Abbott-Turnbull government already has a shameful record of mishandling the aged-care workforce issues, and now it is putting this in the too-hard basket.

It is unacceptable. Aged-care workforce development is one of the biggest challenges currently facing the sector and is not an optional policy area for the Turnbull Liberal government; it is a necessity. I have said many times in this place that in my home state of
Tasmania, just in that state alone, over the next five years—that is five years; that is not very long—we need an extra 5,000 people to work in the sector to support older Tasmanians.

The government have a responsibility to produce a plan to ensure that the demands of our ageing population are met by an adequately skilled and equipped workforce. This is something that they—that is, the government—must show leadership on. The lack of vision on the topic during Senate estimates certainly leaves a lot to be desired when it comes to the care of vulnerable older Australians. They are giving older Australians every reason to fear getting older.

The government's consultation with the sector in the past two years has been dismal. It is not just us on this side of the chamber saying that; that is what the sector tells us. And nothing has changed in recent times. During the Senate estimates they demonstrated that once again they have taken their eye off the ball, and they were left red faced after they were unable to name one aged-care facility visited by the Minister for Aged Care, Sussan Ley. I started my estimates questioning with what I thought was a pretty easy question, and that was: could they inform the committee as to what aged-care facilities the minister had visited; how many; what was the purpose of the visits; and what were the outcomes? But to my amazement—and shock, quite frankly—there was no answer. They had to take it on notice.

It is clear from the minister's social media platforms that she has been busy with visits relating to other areas of her portfolio, like sporting events. I love sport, but I also love and have a passion for the aged-care sector in this country. But there is no evidence that we could find that she has actually visited any aged-care facilities outside her own electorate.

Here we are, almost at the end of the Liberal government's term, and not only has it failed to address workforce issues; it has broken every promise it made to older Australians and aged-care workers and providers. What we want to see is change. We want to see this government give aged care the priority that it needs.

Labor, as I said, developed the Living Longer Living Better reforms with wide-ranging consultation with the sector, but what we have seen from this government is that it has taken its eye off the ball. The hard work was done for it, but it has dropped the reform process and left not only the sector but the community really concerned about the future of aged care in this country.

This brings me to the revolving doors of Malcolm Turnbull's ministry. We saw Assistant Minister for Health Ken Wyatt add aged care to his list of duties last week. Of course, Labor welcomes the clarification of Mr Wyatt's duties, which comes after months of confusion over ministerial responsibilities within the aged-care portfolio. For a long period of time now, we on this side have been urging the Abbott-Turnbull government to give ageing in Australia the attention it deserves—because aged care is not the only facet of ageing policies that need to be developed by the current government. We have been asking for clarification of the roles and responsibilities of Minister Ley, Minister Nash and Assistant Minister Wyatt for almost six months. Quite frankly, there was not even an adequate explanation at estimates. So, as I said, we welcome that we finally now have an indication of who has responsibility.

There are lingering concerns. Ageing was not initially prioritised by the Prime Minister in his first ministry. He neglected to appoint anyone with direct responsibility for ageing or aged care. This, along with the belated appointment of Mr Wyatt, has caused confusion within the
sector and is indicative of the Abbott-Turnbull government's record for ignoring and neglecting the aged-care issues that are confronting this country. The biggest challenge they have ahead of them now is the workforce: where are the workers going to come from, what skills do they have, what training opportunities do they have and what career path will they have in the future?

Along with a new portfolio, the new Assistant Minister for Health and Aged Care will also inherit a list of unfinished business. The heat is certainly on for the new Assistant Minister for Health and Aged Care to do a better job providing leadership and consulting with the sector than his Liberal predecessors did. Renaming a ministry is completely pointless if there is no intention of giving ageing and aged care the attention and priority that were lacking for the past two years. The government needs to change its attitude towards ageing and aged care because right now it would appear that social policy and supporting the vulnerable, the weak and the marginalised are not big priorities for this government.

We know that the issues confronting this sector are huge. It is not just the workforce; it is also about ensuring that older Australians do not fear getting older. They need to be reassured that the government of the day has the vision and the strategy to ensure that they are well cared for and well supported in the community. Those working in the sector deserve nothing less. Those providers and investors who are putting infrastructure into aged care deserve nothing less. Those people living with dementia and their families deserve nothing less. Older Australians in this country deserve nothing less. It is the responsibility of those elected to government to show the leadership that we all believe is in the best interests of this country.

Safe Schools Coalition Australia

Senator SIMMS (South Australia) (22:10): I was about to leave for the night and then I saw Senator Bernardi jumping to his feet and launching into yet another of his famous diatribes about the Safe Schools Coalition and diversity within the schoolyard and I felt compelled to respond. Of course this is not an isolated attack from Senator Bernardi on the Safe Schools Coalition or the idea of even talking about differences in sexuality or gender identity within our schools; it is part of an ongoing crusade. I think it is important to put some of the facts on the table here.

Let me say that I find absolutely ridiculous the repeated suggestion from Senator Bernardi and other conservatives that somehow by talking about differences in sexual orientation and talking about differences in gender identity you are going to recruit children at school. It is a laughable proposition yet it gets bandied around this chamber and in the News Limited press consistently. It is an absolutely ridiculous comment and Senator Bernardi needs to stop pedalling that ridiculous line.

This program is not about trying to encourage any particular sexuality or gender identity; it is about recognising that—newsflash—some people are gay and some people are transgender and, despite Senator Bernardi's efforts at social engineering and efforts to deny that reality exists within our schoolyard, there are gay and lesbian kids at school. There are people at school who have issues with their gender identity who may well be transitioning. Those people deserve to have their experience recognised within the schoolyard. I have a message for Senator Bernardi: we are queer and we are here. That is the reality—newsflash. Not talking about it is not going to change that reality. Denying that reality in schools does nothing other than create more human misery.
I have talked about this a little bit in this chamber. I was a young man growing up in Adelaide. I was in the closet until I was in my early 20s. Had a program like this been around when I was at school it would have helped me a lot because I felt pretty isolated when I was growing up in the suburbs of Adelaide. I did not think there were any other people that I was familiar with that were gay and I was not sure about the kind of life that I would lead. It would have been pretty helpful to learn at school that I was not alone and I could have a happy life as a gay person or a transgender person. That message being taught at schools would have helped me a lot.

Really it is ridiculous to hear the constant refrain that somehow by talking about difference we are going to be promoting one particular form of sexuality over another. How ridiculous! As I said, this social engineering concept is really something that is being fanned by conservatives, like Senator Bernardi, who want to push people into the closet, who want to create this atmosphere where people cannot talk about diversity and where we go back to the old days where this is a love that does not speak its name. Senator Bernardi needs to recognise the reality that he is now in the 21st century. The era that he and former Prime Minister Tony Abbott might hark back to is long gone. I am certainly thankful for that. If only this world view would also be consigned to the history books. That will happen. I have no doubt about that, because society is changing, and certainly the views that Senator Bernardi espouses are becoming increasingly marginalised.

But let me say that we need to get to the point, in discussing these kinds of issues, where we move away from this ridiculous assertion that middle-class, heterosexual, white men are some kind of oppressed group that are being persecuted in some way. I mean, really! What a ridiculous proposition that is. Senator Bernardi needs to drop that crusade. It is getting pretty tired. I think people can see through it.

Let's have a debate where we actually look at how we can support and encourage diversity within our schools. But this program, the Safe Schools Coalition, is also about addressing issues of persecution and bullying, and the human consequences of that are pretty profound. Can you imagine—and I know my colleague Senator Janet Rice has been doing a lot of work on these issues—how difficult it might be for a young person to deal with issues around their gender identity at school, how difficult it might be for a young person who may be transgender to deal with those issues, and the huge difference that a program like this would make in the school environment in terms of breaking down discrimination, overcoming some of the stigma that might be experienced by those young people, tackling bullying head-on and creating more safe and inclusive environments? That is a pretty powerful thing, and it is something that should be encouraged and supported, but instead we see that program being maligned constantly by people like Senator Bernardi.

So it is time to get with the program and recognise we are in the 21st century. Talking about sexual difference and differences in gender identity does not promote one form of sexuality over another. It simply recognises the reality of the world in which we live, and it is time for Senator Bernardi to really get with the program and drop this stale crusade. It is getting so old.

Senate adjourned at 22:17
The following documents were tabled by the Clerk pursuant to statute:

Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.

Acts Interpretation Act 1901—Subsection 34C(6)—Statements relating to extension of time for presentation of periodic reports—

Northern Territory Fisheries Joint Authority, Queensland Fisheries Joint Authority and Western Australian Fisheries Joint Authority—Reports for 2014-2015.

Torres Strait Protected Zone Joint Authority—Report for 2014-2015.


Australian Prudential Regulation Authority Act 1998—Australian Prudential Regulation Authority (confidentiality) determination—No. 1 of 2016 [F2016L00093].


Carbon Credits (Carbon Farming Initiative) Act 2011—
Carbon Credits (Carbon Farming Initiative) Amendment (Extended Accounting Period) Rule 2016 [F2016L00099].


Civil Aviation Act 1988—Civil Aviation Safety Regulations 1998—
Direction—conduct of parachute training operations—CASA 06/16 [F2016L00088].

Manual of Standards (MOS)—Part 60 Amendment Instrument 2016 (No. 1) [F2016L00087].


Commissioner of Taxation—Public Rulings—
Class Rulings—
Addendum—CR 2013/96.
Goods and Services Tax Advice—Notice of Withdrawal—GSTA TPP 003.
Goods and Services Tax Determination GSTD 2016/1.
Miscellaneous Taxation Ruling—Notice of Withdrawal—MT 2005/1.

Corporations Act 2001—
ASIC Corporations (Amendment) Instrument 2016/45 [F2016L00104].
ASIC Corporations (Amendment) Instrument 2016/103 [F2016L00121].


Environment Protection and Biodiversity Conservation Act 1999—
Amendment of List of Exempt Native Specimens—Queensland Fin Fish (Stout Whiting) Trawl Fishery (12 February 2016)—EPBC303/DC/SFS/2016/05 [F2016L00110].
Amendment of List of Exempt Native Specimens—Queensland River and Inshore (Beam) Trawl Fishery (15 February 2016)—EPBC303DC/SFS/2016/02 [F2016L00119].


Fair Work Act 2009—
Fair Work (State Declarations—employer not to be national system employer) Endorsement 2016 (No. 1) [F2016L00085].
Fair Work (State Declarations—employer not to be national system employer) Endorsement 2016 (No. 2) [F2016L00086].

Food Standards Australia New Zealand Act 1991—
Australia New Zealand Food Standards Code—Standard 1.4.2—Maximum Residue Limits Amendment Instrument No. APVMA 2, 2016 [F2016L00096].
Food Standards (Proposal M1013—Schedule 20—MRLs—Consequential & Corrective Amendments) Variation [F2016L00118].

Higher Education Support Act 2003—
Revocation of Approval as a VET Provider (Training and Development Australia Pty Ltd) [F2016L00091].
Suspension of Approval as a VET Provider (Phoenix Institute of Australia Pty Ltd) [F2016L00092].


Jervis Bay Territory Acceptance Act 1915—Administration Ordinance 1990—Water and Wastewater Services Fees Determination 2016 (Jervis Bay Territory) [F2016L00100].

Low Aromatic Fuel Act 2013—Low Aromatic Fuel (Designated Areas) (Barkly Region) Instrument 2016 [F2016L00111].


My Health Records Act 2012—
My Health Records Rule 2016 [F2016L00095].


*Parliamentary Service Act* 1999—Parliamentary Service (Remuneration) Amendment (Secretary, Department of Parliamentary Services) Determination 2016.


*Royal Commissions Act* 1902—Royal Commissions Amendment Regulation 2016 (No. 1) [F2016L00113].


*Taxation Administration Act* 1953—PAYG withholding—Variation and exemption of withholding requirements for certain payments made to religious practitioners [F2016L00107].


**Tabling**

The following documents were tabled pursuant to standing order 61(1) (b):

[Documents presented since the last sitting of the Senate, pursuant to standing order 166, were authorised for publication on the dates indicated]


Auditor-General—Audit reports for 2015-16—

No. 20—Performance audit—Defence industry support and skill development programs: Department of Defence.


No. 22—Performance audit—Supporting the Australian Antarctic Program: Department of the Environment.

Australian Human Rights Commission—Reports—

No. 98—Kong v Commonwealth of Australia (Department of Immigration and Border Protection).
No. 99—CM v Commonwealth of Australia (Department of Immigration and Border Protection).

Business of the Senate—1 January to 31 December 2015.


Commonwealth Electoral Act 1918—2016 Redistribution into electoral divisions—Reports, together with composite maps and compact discs of supporting information—

Australian Capital Territory.

Western Australia.


Departmental and agency appointments and vacancies—Additional estimates 2015-16—Letters of advice pursuant to the order of the Senate of 24 June 2008—

Defence portfolio. [Received 8 February 2016]

Health portfolio. [Received 10 February 2016]

Indigenous Affairs. [Received 8 February 2016]

Departmental and agency grants—Additional estimates 2015-16—Letters of advice pursuant to the order of the Senate of 24 June 2008—

Defence portfolio. [Received 5 February 2016]

Department of Employment. [Received 5 February 2016]

Department of Health. [Received 5 February 2016]

Indigenous Affairs. [Received 8 February 2016]

Organ and Tissue Authority. [Received 8 February 2016]

Entity contracts for 2015—Letter of advice pursuant to the order of the Senate of 20 June 2001, as amended—Infrastructure and Regional Development portfolio. [Received 11 February 2016]

Estimates hearings—Unanswered questions on notice—Budget (supplementary) estimates 2015-16—Statement pursuant to the order of the Senate of 25 June 2014—Foreign Affairs and Trade portfolio. [Received 8 February 2016]

Environment—Phytophthora dieback management—Letter to the President of the Senate from the Minister for the Environment (Mr Hunt), dated 4 February 2016, responding to the resolution of the Senate of 30 November 2015.


Fair Work Act 2009—Fair Work Commission—General Manager’s reports for the period 2012-15—

Developments in making enterprise agreements, dated November 2015.

Individual flexibility arrangements, dated November 2015.

Operation of the provisions of the National Employment Standards relating to requests for flexible working arrangements and extensions of unpaid parental leave, dated November 2015.


Report by the Hon. Roger Gyles AO QC, dated January 2016. [Received 5 February 2016]

Indexed lists of departmental and agency files for the period 1 July to 31 December 2015—

Statement of compliance pursuant to the order of the Senate of 30 May 1996, as amended—Employment portfolio. [Received 10 and 18 February 2016]

Indigenous Australians—Imprisonment rates—Letter to the President of the Senate from the Queensland Minister for Aboriginal and Torres Strait Islander Partnerships (Mr Pitt), dated 11 February 2016, responding to the resolution of the Senate of 2 December 2015.
Mid-year economic and fiscal outlook—2015-16—Statement by the Treasurer (Mr Morrison) and the Minister for Finance (Senator Cormann).
Migration Act 1958—Section 486O—Assessment of detention arrangements—Personal identifiers 1001934, 1002000, 1002052, 1002120, 1002134, 1002151, 1002152, 1002160, 1002222, 1002238, 1002282, 1002313, 1002314, 1002318, 1002330, 1002362, 1002372, 1002376, 1002383, 1002391, 1002458, 1002505, 1002530, 1002534, 1002548, 1002591, 1002651, 1002653, 1002671, 1002737, 1002757, 1002794, 1002803, 1002822, 1002830, 1002838, 1002853, 1002854, 1002871, 1002883, 100295, 1003030, 1003032, 1003034, 1003035, 1003052, 1003056, 1003059, 1003065, 1003066, 1003169, 1003176, 1003199, 1003209, 1003216, 1003299, 1003301 and 1003370—Commonwealth Ombudsman’s reports, dated 10 February 2016.
Questions on notice summary—12 November 2013 to 31 December 2015.
Torres Strait Regional Authority (TSRA)—Report for 2014-15.

Tabling

The following government documents were tabled pursuant to standing order 61(1)(b):

**DOCUMENTS PRESENTED OUT OF SITTING SINCE 4 FEBRUARY 2016**

**Government documents (pursuant to Senate standing order 166)**


Statesments of compliance with Senate orders (pursuant to Senate standing order 166)

35 Indexed lists of departmental and agency files (continuing order of the Senate of 30 May 1996, as amended)

Comcare and Seafarers Safety, Rehabilitation and Compensation Authority. [Received 18 February 2016]

Department of Employment. [Received 10 February 2016]

36 Lists of entity contracts (continuing order of the Senate of 20 June 2001, as amended) Infrastructure and Regional Development portfolio. [Received 11 February 2016]

37 List of departmental and agency appointments and vacancies (continuing order of the Senate of 24 June 2008, as amended)
Defence portfolio. [Received 8 February 2016] Health portfolio. [Received 10 February 2016] Indigenous Affairs. [Received 8 February 2016]

38 Lists of departmental and agency grants (continuing order of the Senate of 24 June 2008)

Defence portfolio. [Received 8 February 2016]

Department of Employment. [Received 5 February 2016] Department of Health. [Received 5 February 2016] Indigenous Affairs. [Received 8 February 2016]

Organ and Tissue Authority. [Received 8 February 2016]

39 Statements of departmental and agency unanswered estimates questions on notice (continuing order of the Senate of 25 June 2014)

Foreign Affairs and Trade portfolio. [Received 8 February 2016]

COMMITTEE REPORTS AND GOVERNMENT RESPONSES TO PARLIAMENTARY COMMITTEE REPORTS PRESENTED OUT OF SITTING SINCE 4 FEBRUARY 2016

[reports and responses will be recorded in the Journals of the Senate and available for consideration on Tuesday under standing order 62(4)]

Committee reports (pursuant to Senate standing order 38 (7))

40 Rural and Regional Affairs and Transport References Committee—Australian grape and wine industry—Report, dated February 2016, Hansard record of proceedings, additional information and submissions. [Received 12 February 2016]

41 Intelligence and Security—Joint Statutory Committee—Counter-Terrorism Legislation Amendment Bill (No. 1) 2015—Advisory report, dated February 2016. [Received 15 February 2016]

42 Legal and Constitutional Affairs Legislation Committee—Migration Amendment (Complementary Protection and Other Measures) Bill 2015 [Provisions]—Report, dated February 2016, Hansard record of proceedings, additional information and submissions. [Received 18 February 2016]