COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES

Senate

Official Hansard

No. 15, 2015

Wednesday, 2 December 2015

FORTY-FOURTH PARLIAMENT
FIRST SESSION—SEVENTH PERIOD

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SITTING DAYS—2015

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FORTY-FOURTH PARLIAMENT
FIRST SESSION—SEVENTH PERIOD

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

Senate Office holders

President—Senator Hon. Stephen Parry
Deputy President and Chair of Committees—Senator Gavin Mark Marshall
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—Senator Scott Ludlam and Senator 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 Catriona Louise Bilyk and Anne Elizabeth Urquhart
Australian Greens Whip—Senator Rachel Siewert

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

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<th>Party</th>
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<td>Peris, N.M.</td>
<td>ALP</td>
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(1) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice R. Carr), pursuant to section 15 of the Constitution.
(2) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice J Faulkner), pursuant to section 15 of the Constitution.
(3) Chosen by the Australian Capital Territory Legislative Assembly to fill a casual vacancy (vice K. Lundy), pursuant to section 15 of the Constitution.
(4) Chosen by the Parliament of Queensland to fill a casual vacancy (vice B. Mason), pursuant to section 15 of the Constitution.
(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
Acting Secretary, Department of Parliamentary Services—D Heriot
Parliamentary Budget Officer—P Bowen
# Turnbull Ministry

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<tr>
<td><strong>Prime Minister</strong></td>
<td>Hon Malcolm Turnbull MP</td>
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<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senator Hon Nigel Scullion</td>
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<tr>
<td><strong>Minister for Women</strong></td>
<td>Senator Hon Arthur Sinodinos AO</td>
</tr>
<tr>
<td><strong>Cabinet Secretary</strong></td>
<td>Senor Hon Michaelia Cash</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for the Public Service</em></td>
<td>Senor Hon Michaelia Cash</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for Digital Government</em></td>
<td>Senor Hon Michaelia Cash</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for Counter Terrorism</em></td>
<td>Senor Hon Michaelia Cash</td>
</tr>
<tr>
<td><strong>Assistant Minister to the Prime Minister</strong></td>
<td>Hon Alan Tudge MP</td>
</tr>
<tr>
<td><strong>Assistant Minister to the Prime Minister</strong></td>
<td>Senator Hon James McGrath</td>
</tr>
<tr>
<td><strong>Assistant Minister for Productivity</strong></td>
<td>Hon Dr Peter Hendy MP</td>
</tr>
<tr>
<td><strong>Assistant Cabinet Secretary</strong></td>
<td>Senator Hon Scott Ryan</td>
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<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
<td>Hon Alan Tudge MP</td>
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<tr>
<td>(Deputy Prime Minister)</td>
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<tr>
<td><strong>Minister for Resources, Energy and Northern Australia</strong></td>
<td>Hon Josh Frydenberg MP</td>
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<tr>
<td><strong>Minister for Territories, Local Government and Major Projects</strong></td>
<td>Hon Paul Fletcher MP</td>
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<tr>
<td><strong>Assistant Minister to the Deputy Prime Minister</strong></td>
<td>Hon Michael McCormack MP</td>
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<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
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<tr>
<td><strong>Minister for Trade and Investment</strong></td>
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<tr>
<td><strong>Minister for International Development and the Pacific</strong></td>
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<tr>
<td><strong>Minister for Tourism and International Education</strong></td>
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<tr>
<td><em>Minister Assisting the Minister for Trade and Investment</em></td>
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<tr>
<td><strong>Attorney-General</strong></td>
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<tr>
<td>(Vice-President of the Executive Council)</td>
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<tr>
<td>(Leader of the Government in the Senate)</td>
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<tr>
<td><strong>Minister for Justice</strong></td>
<td>Hon Michael Keenan MP</td>
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<tr>
<td><strong>Assistant Minister for Multicultural Affairs</strong></td>
<td>Senator Hon Concetta Fierravanti-Wells</td>
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<tr>
<td><strong>Treasurer</strong></td>
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<tr>
<td><strong>Minister for Small Business</strong></td>
<td>Hon Kelly O’Dwyer MP</td>
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<tr>
<td><strong>Assistant Treasurer</strong></td>
<td>Hon Kelly O’Dwyer MP</td>
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<tr>
<td><strong>Assistant Minister to the Treasurer</strong></td>
<td>Hon Alex Hawke MP</td>
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<tr>
<td><strong>Minister for Finance</strong></td>
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<tr>
<td>(Deputy Leader of Government in the Senate)</td>
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<tr>
<td><strong>Special Minister of State</strong></td>
<td>Hon Mal Brough MP</td>
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<tr>
<td><strong>Minister for Agriculture and Water Resources</strong></td>
<td>Hon Barnaby Joyce MP</td>
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<tr>
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<td><strong>Minister for Industry, Innovation and Science</strong></td>
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<td>(Leader of the House)</td>
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<td>Hon Karen Andrews MP</td>
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<td><strong>Assistant Minister for Innovation</strong></td>
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<td><strong>Minister for Immigration and Border Protection</strong></td>
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<tr>
<td>Minister for the Environment</td>
<td>Hon Greg Hunt MP</td>
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<tr>
<td>Minister for Cities and the Built Environment</td>
<td>Hon Jamie Briggs MP</td>
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<tr>
<td>Minister for Health</td>
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<tr>
<td>Assistant Minister for Health</td>
<td>Hon. Ken Wyatt MP</td>
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<tr>
<td>Minister for Sport</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.*
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Wednesday, 2 December 2015

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

DOCUMENTS

Tabling

The Clerk: I table a document pursuant to statute. The list is available from the Table Office or the chamber attendance.
Details of the document also appear at the end of today's Hansard.

BILLS

Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015

Second Reading

Debate resumed on the motion:
That this bill be now read a second time.
to which the following amendment was moved:

At the end of the motion, add:
"but the Senate calls on the Government to:

(a) appoint a National VET Ombudsman who would have the power to investigate consumer complaints and order the refund of course fees where Registered Training Organisations (RTOs) have been found to act unscrupulously, either to the student directly or the Government, whichever is applicable, resulting in the student discharging any related VET FEE-HELP debt;
(b) support the call for the Auditor-General to conduct an audit on the use of VET-FEE-HELP;
(c) amend the Higher Education Support Act 2003 to impose caps on tuition fee amount similar to the student contribution caps for HECS-HELP;
(d) reduce the lifetime loan limit for VET FEE-HELP to half the current amount;
(e) ban or directly regulate brokers or marketing agents; and
(f) provide the Department and Minister with the necessary statutory powers to suspend VET FEE-HELP payments to providers which are under investigation."

The PRESIDENT: The question is that the second reading amendment be agreed to.

Question agreed.

The PRESIDENT: The question now is that the motion, as amended, be agreed to.

Question agreed.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (09:32): by leave—I move government amendments (1) to (13) and (15) to (25) and request (14) on sheet GZ155 together:
1A At the end of section 137-18

Add:

(5) A person’s *VET FEE-HELP debt in relation to a *VET unit of study is taken to be remitted to the extent that the person’s *FEE-HELP balance is re-credited under clause 46B of Schedule 1A in relation to the unit.

(2) Schedule 1, item 3, page 3 (lines 9 to 20), omit the item, substitute:

3 Paragraph 6(1)(c) of Schedule 1A

Repeal the paragraph, substitute:

(c) the body is a *registered training organisation, as listed on the *National Register, that has been a registered training organisation since at least 1 January 2011; and

(ea) the body has been offering:

(i) at least one *qualifying VET course continuously since at least 1 January 2011; or

(ii) one or more series of qualifying VET courses since at least 1 January 2011, with each course in a series superseding the other without interruption; and

(3) Schedule 1, page 3 (after line 22), after item 4, insert:

4A After paragraph 6(1A)(d) of Schedule 1A

Insert:

(da) the body has been offering:

(i) at least one *qualifying VET course continuously since at least 1 January 2011; or

(ii) one or more series of qualifying VET courses since at least 1 January 2011, with each course in a series superseding the other without interruption; and

4B After subclause 6(2) of Schedule 1A

Insert:

(2A) For the purposes of (but without limiting) paragraph (1)(g) or (1A)(i), the requirements set out in the *VET Guidelines can include requirements relating to a body's capacity to satisfactorily and sustainably provide *VET courses of study.

Note: These requirements could, for example, relate to the stability of the body's ownership and management, its experience, its business relationships with particular kinds of educational institutions and its record in providing quality student outcomes.

(4) Schedule 1, item 7, page 5 (lines 2 to 4), omit subclause 23B(4), substitute:

(4) For the purposes of subclause (3), the *VET Guidelines may empower:

(a) a person or body:

(i) to decide whether to approve a particular tool for use when assessing whether a student is academically suited to undertake a *VET course of study; and

(ii) to charge a fee for making such a decision; and

(b) a person or body to charge a fee for the use of a tool for such an assessment.

A fee so charged must not be such as to amount to taxation.

(5) Schedule 1, page 6 (after line 2), after item 7, insert:

7A Subclause 26(1) of Schedule 1A

Repeal the subclause, substitute:

(1) The Minister may require a *VET provider to be audited:
(a) about compliance with any or all of the following requirements:
   (i) the *VET financial viability requirements;
   (ii) the *VET fairness requirements;
   (iii) the *VET compliance requirements;
   (iv) the *VET fee requirements;
   (v) other requirements for VET quality and accountability set out in the *VET Guidelines; or
(b) about any or all of the following matters relating to *VET courses of study provided by the VET provider:
   (i) the approaches used to recruit or enrol students (or potential students) of those courses who receive (or who could receive) *VET FEE-HELP assistance for *VET units of study forming part of those courses;
   (ii) the veracity of enrolments in those courses of students who receive VET FEE-HELP assistance for VET units of study forming part of those courses;
   (iii) the level of teaching resources, or the quality of those resources, for any of those courses;
   (iv) the level of engagement in any of those courses of students who receive VET FEE-HELP assistance for VET units of study forming part of those courses;
   (v) the completion rates for any of those courses of students who receive VET FEE-HELP assistance for VET units of study forming part of those courses.

(6) Schedule 1, page 6 (after line 4), after item 8, insert:

8A Before subclause 36(1) of Schedule 1A

   Insert:

   Suspension pending revocation

8B At the end of clause 36 of Schedule 1A

   Add:

   Suspension for poor performance

   (5) The *Secretary may, in writing, suspend a body's approval as a *VET provider if:

   (a) an audit of the body has been conducted about any or all of the matters in paragraph 26(1)(b); and

   (b) the audit identified one or more concerns; and

   (c) those concerns have yet to be resolved as described in paragraph (6)(b).

   (6) The suspension:

   (a) starts on the day of the decision under subclause (5); and

   (b) ends on the day (if any) that the *Secretary notifies the body, in writing, that the Secretary reasonably believes that those concerns have been satisfactorily resolved by the body in accordance with a plan agreed between the body and the Commonwealth.

   (7) Before making a decision under subclause (5), the *Secretary must give the body a notice in writing:

   (a) stating that the Secretary is considering making the decision; and

   (b) stating the reasons why the Secretary is considering making the decision; and

   (c) inviting the body to respond to the Secretary, in writing, within 14 days; and

   (d) informing the body that, if no response is received within the 14 day period, the Secretary may proceed to make the decision.
(8) In deciding whether to make the decision under subclause (5), the Secretary must consider any response received from the body within the 14 day period.

(9) The Secretary must give written notice of a decision under subclause (5) to the body. The notice must be given within 14 days after the day the decision was made.

8C Before subclause 37(1) of Schedule 1A

Insert:
Suspension pending revocation

8D Subclause 37(1) of Schedule 1A

Omit "clause 36 is of no effect for the purposes of", substitute "subclause 36(1) is of no effect for purposes of or relating to".

8E At the end of clause 37 of Schedule 1A

Add:
Suspension for poor performance—no impact on existing students

(6) A suspension of a body's approval as a VET provider under subclause 36(5) is of no effect for purposes of or relating to assistance payable to the body's students under Part 2 to the extent that the assistance relates to students of the body who have not completed the VET courses of study in which they were enrolled with the body before the day the suspension starts (see paragraph 36(6)(a)).

Note: One consequence of this subclause is that clauses 45E and 46B (which apply if the body's VET FEE-HELP account is in deficit at the end of a calendar year) will continue to apply to the body during the suspension.

(7) Schedule 1, page 6 (before line 5), before item 9, insert:

8F Subclause 39(1) of Schedule 1A

Omit "may revoke", substitute "must revoke".

8G After subclause 39(2) of Schedule 1A

Insert:

(2A) The revocation is subject to the condition that, after the revocation:

(a) clauses 45E and 46B continue to apply to the body as if the body were still approved as a VET provider; and

(b) other provisions of this Act, or the VET Guidelines, that:

(i) relate (directly or indirectly) to entitlements to VET FEE-HELP assistance arising before the revocation; and

(ii) are specified in the notice of revocation under subclause (3) of this clause;

continue to apply to the body as if the body were still approved as a VET provider.

(8) Schedule 1, page 6 (after line 12), after item 10, insert:

10A After paragraph 43(1)(f) of Schedule 1A

Insert:

(fa) in a case where the student is not already entitled to VET FEE-HELP assistance for another VET unit of study forming part of the course—the body with whom the student is enrolled is approved as a VET provider:

(i) for the day of the enrolment; or

(ii) if that day falls within a period when the body's approval as a VET provider is suspended under subclause 36(5)—for a later day because that suspension has ended; and
(9) Schedule 1, page 6 (before line 13), before item 11, insert:

10B Before paragraph 43(1)(g) of Schedule 1A

Insert:

(b) if the VET provider was approved as a VET provider after 2015, the course is:

(i) one of the *qualifying VET courses that enabled paragraph 6(1)(ca) or (1A)(da) to be satisfied for the purposes of that approval; or

(ii) a qualifying VET course that superseded such a course directly or indirectly without interruption; and

(10) Schedule 1, page 6 (after line 16), after item 11, insert:

11A Subclause 43(1) of Schedule 1A (note)

Repeal the note, substitute:

Note 1: For the purposes of paragraph (e), clause 45A affects whether a person undertakes a VET unit of study as part of a VET course of study.

Note 2: For the purposes of paragraph (fa), a body’s approval as a VET provider ceases while the approval is suspended (see clause 29). If this approval is suspended when the student first enrols in units forming part of the course, the student can only become entitled to VET FEE-HELP assistance when that suspension ends.

(11) Schedule 1, item 12, page 7 (after line 8), after paragraph 45C(1)(b), insert:

(ba) if the student enrols in the course after the day the Higher Education Support Amendment (VET FEE-HELP Reform) Act 2015 receives the Royal Assent—the student being entitled to the VET FEE-HELP assistance for the unit:

(i) would not cause the VET provider's *VET FEE-HELP account to be in deficit at the end of that census date (see subclause 45D(7)); and

(ii) would not cause or contribute to that account being in deficit at the end of 2016 or a later calendar year; and

(12) Schedule 1, item 12, page 7 (lines 11 to 24), omit subclause 45C(2), substitute:

If VET provider incorrectly treats student as being entitled

2 However, for the purposes of this Act (other than clause 39DH), if:

(a) either or both of the following things happen:

(i) the student fails to comply with paragraph (1)(a) of this clause by not giving the request at least 2 business days after the enrolment referred to in that paragraph;

(ii) paragraph (1)(ba) of this clause is not complied with; and

(b) the *VET provider treats the student as being entitled to *VET FEE-HELP assistance for the unit;

those paragraphs of this clause are taken to have been complied with.

Note 1: The VET provider should not treat the student as being entitled to VET FEE-HELP assistance:

(a) if the student requests the assistance during the 2 business day cooling-off period after the enrolment; or

(b) if being entitled would cause or contribute to the provider's VET FEE-HELP account being in deficit.
Note 2: However, if the provider does treat the student as being entitled, the provider will contravene subclause 39DH(1) (a civil penalty provision), and the student may still be able to receive the assistance.

(13) Schedule 1, item 12, page 7 (after line 24), after clause 45C, insert:

**45D Notional VET FEE-HELP accounts**

(1) There is a notional VET FEE-HELP account for each *VET provider.

Note 1: The VET provider will need to monitor the balance of its account, as it will have to repay an amount to the Commonwealth if the account is in deficit at the end of 2016 or a later year.

Note 2: This account applies in relation to all students entitled to VET FEE-HELP assistance for VET units of study with census dates on or after 1 January 2016 (whether or not the student received VET FEE-HELP assistance for earlier units before that day). See subclause (7).

Credits to the VET provider's VET FEE-HELP account

(2) A credit arises in the *VET provider's *VET FEE-HELP account as follows:

(a) if the VET provider is already a VET provider on 1 January 2015, a credit arises on the first day of each later calendar year that is equal to the amount worked out under subclause (3);

(b) if the VET provider becomes a VET provider during 2015, a credit arises on the first day of each later calendar year that is equal to the amount worked out under subclause (4);

(c) if the VET provider becomes a VET provider on a day after 2015, a credit arises on that day that is equal to the amount worked out under subclause (5);

(d) if the VET provider pays on a particular day any part of any amount that becomes due under subclause 45E(2), a credit arises on that day that is equal to the amount of that payment;

(e) if another body ceases to be a VET provider, a credit may arise in accordance with a determination under subclause (6).

A credit that arises as described in paragraph (e) arises at the time of the cessation, and is equal to the amount worked out under that determination.

(3) For the purposes of paragraph (2)(a), the amount to be credited is the amount equal to:

\[ \frac{3}{2} \times \text{VET provider's adjusted 2015 total loan amount} \]

where:

VET provider's adjusted 2015 total loan amount means the sum of the amounts of *VET FEE-HELP assistance paid for students undertaking, with the *VET provider, *VET units of study that had *census dates during the period starting on 1 January 2015 and ending on 31 August 2015.

(4) For the purposes of paragraph (2)(b), the amount to be credited is the amount equal to the sum of:

(a) the *VET provider's fee revenue for the period:

(i) starting on 1 January 2015; and

(ii) ending on the day before the VET provider was approved as a VET provider;

for *domestic students undertaking *qualifying VET courses in that period; and

(b) the sum of the amounts of *VET FEE-HELP assistance paid for students undertaking, with the VET provider, *VET units of study that had *census dates during 2015.

(5) For the purposes of paragraph (2)(c), the amount to be credited is the amount equal to the *VET provider's fee revenue for the 2015 calendar year for *domestic students undertaking in that year the *qualifying VET courses that enabled paragraph 6(1)(ca) or (1A)(da) to be satisfied for the purposes of the VET provider's approval as a VET provider.
(6) The Minister may, by legislative instrument, determine:

(a) whether credits arise in the *VET FEE-HELP accounts of specified *VET providers when another body ceases to be a VET provider; and
(b) the amounts of such credits.

Debits to the VET FEE-HELP account

(7) A debit arises in the *VET provider's *VET FEE-HELP account if a student is entitled to *VET FEE-HELP assistance for a *VET unit of study:

(a) that is to be undertaken with the VET provider; and
(b) that has a *census date on or after 1 January 2016.

The debit arises at the end of that census date, and is equal to the amount of that assistance.

45E Effect of VET FEE-HELP account being in deficit at the end of a calendar year

(1) If:

(a) a *VET provider's *VET FEE-HELP account is in deficit at the end of a calendar year; and
(b) the *Secretary gives the VET provider a written notice about the deficit;

the VET provider must pay to the Commonwealth an amount equal to the amount of the deficit (the excess loan amount).

(2) The excess loan amount is due on the seventh day (the due day) after the day the notice is given.

Late payments of the excess loan amount attract the general interest charge

(3) If some or all of the excess loan amount remains unpaid after the due day, the *VET provider must pay to the Commonwealth an amount (the general interest charge) relating to the unpaid amount for each day in the period that:

(a) starts at the beginning of the day after the due day; and
(b) ends at the end of the last day on which, at the end of the day, any of the following remains unpaid:

(i) the excess loan amount;
(ii) general interest charge on any of the excess loan amount.

(4) The general interest charge for a particular day is worked out by multiplying the general interest charge rate for that day by the sum of so much of the following amounts as remains unpaid:

(a) the general interest charge from previous days;
(b) the excess loan amount.

(5) The general interest charge for a day is due and payable to the Commonwealth at the end of that day.

(6) The *Secretary may give written notice to the *VET provider of the amount of the general interest charge for a particular day or days. A notice given under this subclause is prima facie evidence of the matters stated in the notice.

(7) The *Secretary may remit all or a part of the general interest charge payable by the *VET provider if the Secretary is satisfied:

(a) that:

(i) the circumstances that contributed to the delay in payment were not due to, or caused directly or indirectly by, an act or omission of the VET provider; and

(ii) the VET provider has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; or
(b) that it is otherwise appropriate to do so.

(8) An amount payable under this clause may be recovered by the Commonwealth from the *VET provider as a debt due to the Commonwealth.

(14) Schedule 1, page 9 (after line 30), after item 15, insert:

15A Clause 60 of Schedule 1A
Repeal the clause, substitute:

60 Time and manner of payments

(1) Amounts payable by the Commonwealth to a *VET provider under this Schedule are to be paid in accordance with an applicable determination under subclause (2) or (3).

(2) The Minister may, by legislative instrument, determine the way (including payment in instalments or in arrears), and the times when, amounts payable by the Commonwealth under this Schedule are to be paid to specified kinds of *VET providers.

(3) The Minister may, in writing, determine the way (including payment in instalments or in arrears), and the times when, amounts payable by the Commonwealth under this Schedule are to be paid to a particular *VET provider.

(4) A determination under subclause (3) is not a legislative instrument.

(15) Schedule 1, page 10 (after line 25), after item 20, insert:

20A Clause 91 of Schedule 1A (after table item 1B)
Insert:

1C A decision to suspend a body's approval as a *VET provider subclause 36(5) the *Secretary
1D A decision that concerns have not been satisfactorily resolved in accordance with a plan agreed with the Commonwealth paragraph 36(6)(b) the *Secretary
1E Refusal to remit the general interest charge subclause 45E(7) the *Secretary
1F Remitting part of the general interest charge subclause 45E(7) the *Secretary

(16) Schedule 1, page 11 (before line 1), before item 22, insert:

21A Before clause 98 of Schedule 1A
Insert:

97A Compensation for acquisition of property

(1) If the operation of this Schedule would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.

(2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

(3) In this clause:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

(18) Schedule 1, item 22, page 11 (before line 3), before the definition of responsible parent, insert:
general interest charge rate has the same meaning as in section 8AAD of the Taxation Administration Act 1953.

qualifying VET course means a structured and integrated program of vocational education or vocational training, usually consisting of a number of modules (units of study) or shorter programs, and leading to the award of a *VET diploma, *VET advanced diploma, *VET graduate diploma or *VET graduate certificate.

(19) Schedule 1, item 22, page 11 (after line 9), after the definition of student entry procedure, insert:

VET FEE-HELP account has the meaning given by clause 45D of Schedule 1A.

(20) Schedule 1, item 24, page 11 (lines 13 to 16), omit subitem (1), substitute:

(1) The amendments of clause 6 of Schedule 1A to the Higher Education Support Act 2003 made by this Schedule apply in relation to decisions whether to approve bodies as VET providers made on or after 1 January 2016.

(21) Schedule 1, item 24, page 11 (after line 23), after subitem (3), insert:

(3A) Paragraph 26(1)(b) of Schedule 1A to the Higher Education Support Act 2003 (as inserted by this Schedule) applies to matters happening before, on or after 1 January 2016, to the extent that those matters are relevant to VET courses of study provided wholly or partly on or after 1 January 2016.

Example: When auditing a VET provider about a 2016 VET course of study, the audit could look at:

(a) any approaches used in 2015 for recruiting students to the 2016 course; or

(b) teaching resources, student engagement or completion rates for the corresponding course provided in 2015.

(3B) The amendments made by this Schedule of clause 39 of Schedule 1A to the Higher Education Support Act 2003 apply in relation to requests for revocation made on or after 1 January 2016.

(22) Schedule 1, item 24, page 12 (after line 2), after subitem (6), insert:

(6A) Subclause 45E(1) of Schedule 1A to the Higher Education Support Act 2003 (as inserted by this Schedule) applies in relation to the 2016 calendar year and later calendar years.

(23) Schedule 1, item 24, page 12 (after line 5), at the end of the item, add:

(8) Clause 51A of Schedule 1A to the Higher Education Support Act 2003 (as inserted by this Schedule) applies in relation to the re-crediting of FEE-HELP balances on or after 1 July 2016.

(9) Clause 60 of Schedule 1A to the Higher Education Support Act 2003 (as inserted by this Schedule) applies in relation to amounts payable on or after 1 January 2016.

(24) Schedule 1, Part 1, page 12 (after line 5), at the end of the Part, add:

24A Transitional—pending applications

For the purposes of subclause 11(3) of Schedule 1A to the Higher Education Support Act 2003, any period referred to in that subclause that was underway on 2 December 2015 is taken to have paused at the end of that day until the end of 21 January 2016.

(25) Schedule 1, item 26, page 23 (lines 22 and 23), omit "an APS employee in the Department", substitute "a person".

(14) Schedule 1, page 9 (before line 28), before item 15, insert:

14A Before clause 47 of Schedule 1A

Insert:
46B Re-crediting a person's FEE-HELP balance—VET FEE-HELP account in deficit at the end of a calendar year

Main case

(1) A *VET provider must, on the *Secretary's behalf, re-credit a student's *FEE-HELP balance with an amount if:

(a) the student receives *VET FEE-HELP assistance in a calendar year for a *VET unit of study undertaken with the VET provider; and

(b) under subclause 45E(1), the Secretary notifies the VET provider that the VET provider's *VET FEE-HELP account was in deficit at the end of the calendar year; and

(c) the VET provider reasonably believes that some or all of that assistance caused or contributed to the deficit.

(2) The amount to be re-credited is equal to so much of that assistance as the *VET provider reasonably believes caused or contributed to the deficit.

Note: A corresponding amount of the student's VET FEE-HELP debt relating to the unit will be remitted (see section 137-18).

(3) The *Secretary may re-credit the student's *FEE-HELP balance under this subclause if:

(a) the *VET provider is unable to do so under subclauses (1) and (2); and

(b) the Secretary knows how much of that assistance that the VET provider reasonably believes caused or contributed to the deficit.

If not all of the deficit can be re-credited under subclauses (1) and (3)

(4) If the deficit exceeds the total amount able to be re-credited under subclauses (1) and (3) for all of the *VET provider's students who received *VET FEE-HELP assistance in the calendar year for *VET units of study undertaken with the VET provider, the *Secretary may re-credit the *FEE-HELP balance of each of those students with the amount equal to:

\[ \text{That excess} \times \text{Student's percentage of the total assistance} \]

where:

*student's percentage of the total assistance* means the percentage equal to the percentage that the student's *VET FEE-HELP assistance referred to in paragraph (1)(a) is of the total VET FEE-HELP assistance received by students of the *VET provider in the calendar year for *VET units of study undertaken with the VET provider.

14B At the end of Subdivision 7-B of Schedule 1A

Add:

51A Implications for the student's liability to the VET provider for the VET tuition fee

If a student's *FEE-HELP balance is re-credited in accordance with this Subdivision with an amount for a *VET unit of study, the student is discharged from all liability to pay or account for so much of the student's *VET tuition fee for the unit as is equal to that amount.

Parliamentary Counsel

Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015

GZ155

Statement of reasons: why certain amendments should be moved as requests

Section 53 of the Constitution is as follows:
Powers of the Houses in respect of legislation

53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

Amendment (14)

The effect of this amendment is to provide for the re-setting of the cap on the total amount of VET FEE-HELP assistance payable for a student. It is covered by section 53 because it will allow further payments of assistance to be made for the student from the Consolidated Revenue Fund under the standing appropriation in section 238-12 of the Higher Education Support Act 2003, and so will increase a "proposed charge or burden on the people".

Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015

SHEET GZ155

Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000

Amendment (14)

The effect of this amendment is to allow a student's VET FEE-HELP assistance to be re-credited in certain circumstances. Although the assistance is capped, the re-crediting is a further payment of assistance available to students. If such a further payment of assistance is made, the increased expenditure would be met directly from the standing appropriation in section 238-12 of the Higher Education Support Act 2003.

The Senate has long followed the practice that amendments which "clearly, necessarily and directly" affects an appropriation is regarded as an increase in a charge or burden on the people within the meaning of section 53 of the Constitution (Odgers' Australian Senate Practice, 13th edition, p. 394). On the basis that this amendment would result in increased expenditure under the standing appropriation in the Act, it is in accordance with the precedents of the Senate that this amendment be moved as a request.

In my summing-up speech last night in relation to this VET FEE-HELP reform bill, I outlined the range of government amendments that have been proposed. These are significant additions to the arrangements that the government has proposed for this legislation. They are important additional arrangements that are being put in place. Firstly, it is important for the chamber to appreciate that these amendments will put a very clear cap on the rate of growth in the VET FEE-HELP loan scheme. We have all acknowledged that there have been problems
in relation to the way this scheme has been administered, and I thank all parties in the Senate for their support of the second reading and their indication of support overall for the government's measures.

What we are proposing to do through these amendments is, firstly, to stop any further growth in the VET FEE-HELP loan scheme by capping the loan amounts available to VET FEE-HELP providers in 2016 at 2015 levels. This will ensure that providers cannot continue to expand at the rate at which they have been, and they will, therefore, need to focus their activities on existing students. Importantly, within that, priority will be given to existing students in terms of the loan cap that will be applied to individual providers, making sure, therefore, that those who are already enrolled, should they still need to draw down further on their loans to conclude their studies, will have priority to be able to do so.

The next measure that the government is introducing is some further restrictions on approvals for new VET FEE-HELP providers to come into the system. In this space, we are seeking to make sure that only those who have a very strong and proven track record are able to still enter. There is a significant backlog of applications for new VET FEE-HELP providers. This measure will ensure that anybody who is a fly-by-nighter, or anyone who is a new entrant into this space, will not be able to listed as a new VET FEE-HELP provider. Instead, through this amendment, only those who have a strong trading history of at least five years in offering VET courses as a registered training organisation will be able to be registered as a VET FEE-HELP provider. They will only be able to offer the course through VET FEE-HELP that they have a history of providing and, consistent with the freeze on the total loan amounts, they will only be able to offer loans up to the value of their existing fee-for-service operations. So this is a very narrow process for any new providers to come into the system, but it does reflect, importantly, that there are some very high-quality providers who did not rush to become VET FEE-HELP providers but who have suffered damage on multiple fronts as a result of the problems with this system. They have suffered damage—as has everybody in the VET sector—to reputation, but of course they have also suffered a threat to their market share, because they are still only offering fee-for-service operations, whereas others are able to offer the very generous VET FEE-HELP loan. So this will provide a narrow window through which only those with a very strong and credible history would be able to come in the system now, and even then only to the extent to which they have operated previously in the fee-for-service market.

The further amendments that are proposed are to provide capacity for the minister to pause payments for poor performance. This is a very important reform; perhaps one of the most important now in the overall legislative package—because, by pausing payments for poor performance, the government will be empowering the minister to be able to step in where there are relevant concerns about the way in which an entity is operating, and to stop them from being able to enrol new students under the VET FEE-HELP scheme. The only new students they would be able to enrol while such a pause were in place are students who actually pay for their services themselves. So the only opportunity for new student enrolments while a pause on payments for any new enrolments occurred would be fee-for-service students. This is a very significant power for the minister to have, and it will enable the minister to be able to step in areas where there are concerns about completion rates for some providers, or about other dubious activities that may be occurring.
I should stress in relation to this measure—and indeed in relation to the final measure that I
will highlight, which is the measure that provides for a payment-in-arrears system—that it is
not the government's intention that these measures would apply to well-performing providers.
We do not envisage they would apply to public providers such as TAFEs, nor to others who
have taken a more cautious approach in this sector. But that does lead me into that final
significant measure in the government's reforms, which is to also give ministerial discretion to
shift some providers—it would be intended that these be the major, high-volume providers—
to a payment-in-arrears structure. This will enable the department and the government greater
opportunity to scrutinise the activities that these providers are undertaking prior to payments
being made, and will of course put an additional impost into their business operations, to
make sure that they are managing their cash flow and their operations in an appropriate and
responsible way.

It is the government's view that these measures complement the existing legislation and
build upon it; and that they are obviously additional, by their very nature—which is
something we have flagged an openness to at all stages of the VET FEE-HELP debate to date.
We have always been very open, and we were very open right through the drafting of this
legislation, that if additional measures were warranted the government would pursue and
implement those additional measures. That is exactly what we are doing through these
measures.

Importantly, the freeze on total loan payments to providers is of course a temporary
measure, in the sense that we have committed to a wholesale revamp of the VET FEE-HELP
scheme next year to try to ensure that we have a scheme that works in terms of providing
quality training with good value-for-money outcomes for those participants. It is not expected
that such a freeze would apply year on year, because obviously that is an administratively
difficult thing for the organisations in the VET FEE-HELP space, but it is an important signal
that we are going to stop the growth and stop the expansion of the loan scheme while we
undertake this rewrite during next year. I commend the amendments to the Senate.

The CHAIRMAN: Is it the wish of the committee that the statements of reasons
accompanying the request be incorporated in Hansard immediately after the request to which
they relate? It so ordered.

Senator BIRMINGHAM (South Australia—Minister for Education and Training)
(09:41): I table a supplementary explanatory memorandum relating to the government
amendments to be moved to this bill.

Senator KIM CARR (Victoria) (09:41): I indicate to the minister, for the Hansard
record, my profound disappointment that the government has so
ought to present these
amendments in this way. This is a matter that has been the subject of two Senate inquiries.
The measures in this bill were the subject of a report tabled on Monday which contained the
immortal recommendations from government senators that things were just fine and, on the
next day, the government took those amendments to its party room and publicly released
them, just as I was about to speak on the second reading debate. You will say, 'So what?' It is
a hell of a way to consider such fundamental and far-reaching proposals and it should have
been done much earlier. I understand they were with the Parliamentary Draftsman at least on
Friday last week, so one presumes they were with the government prior to that. The normal
process is that these matters would go to cabinet. Instructions would have to have been
prepared prior to that, and you would have thought it would be at least a courtesy to engage the opposition in the government's proposals. It may well have been the case that you would get a better result.

As I read it, there has been no consultation outside of the department on these proposals. There has been no consideration of the impact of these proposals within the sector itself. Well may it be that the government is now acknowledging the central truth of the opposition's claims on this matter, that we have to turn off the tap. I welcome the government's acknowledgement of that matter. I am concerned about the nature of these amendments and the extent to which they will indeed fix the problem. My concern also is that the implementation of these measures will be a continuation of the shambolic and chaotic approach that we have seen to date. I will have more to say on this theme, but I ask the minister whether he can enlighten me and the chamber: what is it that the department will need to do between now—that is, 2 December—and the implementation of this matter on 1 January? What will the department actually need to undertake to implement these emergency measures?

**Senator BIRMINGHAM** (South Australia—Minister for Education and Training) (09:44): I will not repeat my closing remarks of last night except to note that the government has, through the course of this year, acknowledged the importance of turning off the tap in relation to the way this scheme has worked. I also commented last night that in many ways those opposite are like an arsonist who has lit a fire and now complains that the fire brigade is taking too long to get here. We have long acknowledged the problems in this scheme. We have been working to try to resolve and rectify them. We have conceded now that to rectify them is going to require a wholesale rewriting of Labor's scheme, and we are committing to do so.

In relation to the measures that apply to the pausing of payments for new enrolments or to moving to payment in arrears for certain providers, those measures are powers that are to be provided to the minister and would be exercised on a case-by-case basis. In those instances there is not necessarily a specific time line for departmental implementation but advice will be received on a case-by-case basis.

In relation to the new entry requirements for an RTO wishing to become a VET FEE-HELP provider, if anything this will ease the administrative workload of the department. As they have indicated, there are hundreds of outstanding VET FEE-HELP applications. The passage of those amendments will allow the department to discard a number of those applications who do not meet the very clear terms that are set out in the amendments.

In relation to freezing the total loan limit for existing VET FEE-HELP training providers, that is a relatively simple measure. That amendment essentially takes payments over the first eight months of this year and averages them into a 12-month cap. The department already has data across that eight month time horizon for the 260-odd VET FEE-HELP providers who are registered, so it will be able to fairly neatly average out that eight months into a 12-month cap on what they would be eligible to claim as payments in 2016.

**Senator KIM CARR** (Victoria) (09:47): The payments that are made to providers at the moment are, of course, based on claims that are actually made by the providers—I trust that that is the case. Is it not the case that claims for payments may still be made—and, in fact, are
still being made—after 1 January and that you are averaging arrangement will not necessarily
take that into account?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (09:48): If I understand your question correctly, yes, providers are still receiving payments now as they do during the course of this year. What our legislation is saying is that, in relation to calculating a 12-month cap on payments, we are taking the first eight months of payments for 2015 and extrapolating that into a 12-month payment. Essentially, we will average those eight months into the average monthly payment across those eight months and multiply that by 12 to establish a 12-month cap. I have an important clarification there: it is not necessarily the actual payment transaction within those eight months; it is the data in applications lodged by providers in that eight-month period. In a sense, that is a time sequencing matter, probably, as much as anything, in that payments lag applications, so payments that would have been made in January may well apply to applications made in December or November or the like. So—whatever—in a sense, it is simply just applying what seems to be the administratively simplest means by which the department can quickly establish a 12-month per-provider cap for 2016, essentially using 2015 data, albeit using the first eight months of 2015 data.

Senator KIM CARR (Victoria) (09:50): I think I understand what you are trying to do here, Minister. Is it the case that the current arrangement depends on estimates of enrolments, not actual enrolments? And will that still apply?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (09:50): Payments made in advance, as they are at present, are made on estimates—that is correct, Senator Carr. The data method proposed in terms of setting this cap is data informed by actual enrolments. So there is a distinction between those two. Of course the other amendments that seek to make payments in arrears mean that those payments would shift to an actuals versus an estimates basis.

Senator KIM CARR (Victoria) (09:51): What is the appeal mechanism here, given that there is quite a lot of money involved and it is likely that people will dispute the department's assertions? What is the appeal mechanism?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (09:51): Because it is a rule set out in a strict formula in the legislation, the only appeal mechanism that would be provided for would be for a provider to pursue some court challenge.

Senator KIM CARR (Victoria) (09:52): If I might just clarify 'court challenge'—does that mean administrative appeals or does it mean that I would have to sue the Commonwealth?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (09:52): They would have to sue the Commonwealth.

Senator KIM CARR (Victoria) (09:52): What do you think the implications of that are going to be, given that there are 260 providers there? Perhaps you could refresh my memory in the answer to that question: what is the total amount at stake here? What is the total freeze which you are establishing?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (09:52): Just for clarity, Senator Carr: it is around 264 providers, I believe, and the total
freeze is expected to be a value of around $3 billion when the sums are finally calculated. As we have all discussed during the debate, the very rapid growth that occurred after the changes that opened the scheme up occurred in 2012, which is exactly why we are seeking to stymie that growth. It is a relatively straight formula that is being applied here, so the expectation is that—while anybody is, of course, free to seek to bring forward court proceedings—the grounds on which somebody may wish to pursue those proceedings would have some limitations, given the very clear and prescriptive formula that we are seeking for the parliament to apply.

Senator KIM CARR (Victoria) (09:53): I take it that legal advice has been sought on the validity of that approach?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (09:53): Yes.

Senator KIM CARR (Victoria) (09:53): In the considerations of the preparation of this formula, has there been any assessment as to whether or not it would be possible for providers who are intent on rorting the scheme—and remember: of those 260 providers, we do know there are rorters that will be locked into this system; this is freezing the rorters into the system itself—and would it not be more efficient for such providers intent on rorting the system to actually enrol more students at higher prices within their cap?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (09:54): Providers seeking to rort the system will, if you look at the collective amendments that are proposed, run the risk of finding that their provision and ability to enrol more students could be withdrawn at any time, based on ministerial discretion, as a result of the pause in payment provisions being applied. Providers may wish to contemplate how to rort the system further, if they are of that nature, but there are serious consequences for them.

The greatest problem we have had in this scheme is not, necessarily, that legitimate students have been signed up at too high a price in relation to their cost—and it is legitimate students who a provider incurs a cost to teach, because those students are engaged in the teaching and learning process. The primary problem we have faced is that students with little or no intention, and little or no likelihood of ever engaging in the teaching, learning and training process, have been signed up.

That is the practice, overall, that the government's changes through the course of this year have sought to stamp out. I make that point because if those students are not seeking to undertake training or otherwise they come out at relatively low per-person cost to the training provider. The need or incentive to try to sign up fewer people at greater price, for profit motivation—if that is the argument you are making—is not really where the prime problem has tended to be. The prime problem has been a willingness to sign up people with no intention or likelihood of undertaking the study, regardless of the price, knowing the cost of teaching those people is negligible because they are never going to turn up to anything.

Senator KIM CARR (Victoria) (09:57): I do appreciate that point very much. The problem is, then, catching them out because of the audit processes being structured in such a way. That has been a profound difficulty, because of the available resourcing. I acknowledge that the government has increased resourcing for this particular regulator, but there is this huge problem of identifying colleges that have a quality provision. It is not, usually, until you
establish that only one in 10 students is actually completing—that is a post-factor analysis, that you discover there has been this type of rorting going on. The qualified teachers, the quality of the programs and the contact hours are all measures that have been the subject of substantial public criticism. This is particularly difficult to identify when we are dealing with online courses.

There are no provisions in these amendments to deal with this and no way of really checking to see the quality of the teaching undertaken until such time as you look at the completions. Under this range, we are locking in this very poor performance of completions for the next year. Where would I find, in this series of amendments, reference to the fact that this is a temporary measure? Where would I find that reference, the sunset clause in these amendments, that says these are temporary measures to allow the government time to, essentially, revamp the whole scheme? Where do I find that in these amendments?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (09:59): I will directly answer your question, Senator Carr, and then I want to touch on some of the preceding remarks. You will not find a sunset clause in the amendments. The government has made a public commitment and a commitment in the chamber that it is our intention to revamp the scheme next year. I imagine that providers of all shapes and sizes would expect to be holding the government to account in that regard to make sure that new arrangements are put in place, otherwise the 2015 cap will carry forward indefinitely. That is not something that the providers, the states or others would want to have. In some ways I think a sunset clause would be counterproductive. By having a sunset clause for that one provision we would, in a sense, remove the gun to the head that would make us get on with making sure that, overall, the scheme is rewritten and new arrangements are put in place. So I would caution the Senate against the concept of a sunset clause there and I urge the Senate to join, no doubt with others, in holding the government to account to make sure that a new scheme that rewrites all of these rules in a much more effective manner is operational from 2017.

Senator Carr, I want to pick up on your comments about completion rates and whether or not there is effective regulation of teaching practices, completion rates and other factors. I acknowledge that you have acknowledged the extra resources that have been provided to both ASQA and the Department of Education and Training to enhance audit activity and compliance. I also draw the Senate's attention to some of the provisions that would, potentially, lead to the pausing of payments for poor performance to providers. These are quite broad provisions and they touch on some of these significant quality issues. I draw the Senate's attention to amendment (5), which inserts item 7A. In particular, I draw attention to the proposed changes to subclause 26(1)(b) of schedule 1A of the act:

(i) the approaches used to recruit or enrol students …
(ii) the veracity of enrolments …
(iii) the level of teaching resources, or the quality of those resources, for any of those courses—which I think is a particularly important component for consideration, in relation to how some of the online enrolments may occur—
(iv) the level of engagement in any of those courses of students who receive VET FEE-HELP assistance—
again, a very important provision that means swift action could be undertaken were enrolments to be proceeding but students not turning up or participating, in any way, in those courses—

(v) the completion rates for any of those courses …

The government does have profound concerns about some providers and the very poor completion rates that are in place. We equally have concerns about the level of engagement in a number of courses and we have spent much time talking about recruitment and enrolment practices of providers during this year. We want to make sure that the provisions are there that enable us to take swift action in response to those concerns. In terms of the power of the different amendments we are proposing, this one is most notable. Providers should expect that the government would be looking to use these provisions, if they are passed, in a relatively swift time line, and if you are out there with poor levels of engagement of students in your courses or poor completion rates it is highly probable that we are looking at you.

Senator KIM CARR (Victoria) (10:03): These are matters that provide powers for the department, in regard to all VET providers. Is that the case? That is how I read it. That is the first question. Secondly, what is the appeal mechanism here, given the far-reaching nature of these powers? I am indicating to you that I support the Commonwealth having those powers, but what is the appeal mechanism for those parties that feel aggrieved by an unjust determination by a departmental official?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (10:04): Senator Carr, these are provisions that apply only to VET FEE-HELP providers, as distinct from all VET providers, so in that regard we are talking about the 264 or thereabouts VET FEE-HELP providers as distinct from the some 4,700 or thereabouts registered training organisations. These provisions—the pausing of payments provisions, which are subject to a ministerial discretion or determination—are also subject to AAT appeals mechanisms as well. So—as distinct from the earlier provisions, which are a clear rule that applies consistently across all VET FEE-HELP providers in terms of a calculation of an annualised cap on their loan limit—because these are individual, subjective decisions that are undertaken in accordance with an assessment and against the terms of the amendments, there are appropriate appeals mechanisms through the AAT provided for.

Senator SIMMS (South Australia) (10:05): I want to take this opportunity to put the Greens' position on these amendments on record, and we certainly welcome the government coming to the table and putting forward some amendments that will improve the protections for students within this space. We welcome that. Like Senator Carr from the Labor Party, we do have some frustrations around the process. It would have been useful to have had more of an opportunity to consider these amendments. Given the significance of these to the sector and given the community interest in this issue, it would have been very beneficial for us to have the opportunity to consult with the community around that and to have more of an opportunity to consider what the government has put forward.

Nonetheless, we do welcome the fact that the government has finally recognised that there is a need to act on this issue. Of course, we know this is a system that the Labor Party put in place. They set the ball in motion for what has been a complete calamity, but the government have sat on their hands for the last two years and have really failed to take action. So we do
welcome the fact today that finally it appears that we might be about to introduce more rigour into this sector and ensure that there are better protections for students.

From the Greens' perspective—and we have made this point throughout—we do not support public funding going to for-profit providers. That has always been our view. So, whether it is the Labor amendments, the Liberal amendments or the whole bill, we do not believe that, fundamentally, this is going to be adequate in terms of addressing the needs of students in this space, because when you have for-profit providers that are focused simply on making money—that is their business model—you are setting up a recipe for disaster in terms of preying on vulnerable students, and we are very concerned about that. We would like to see public money being redirected to our TAFE system. It is a quality education provider in this country. It is accountable to the taxpayer, and we know that it is able to deliver quality outcomes. But, unfortunately, we recognise that that is not the space we operate in, because of the position of the Labor and Liberal parties, so we do welcome the opportunity to strengthen the protections for students within the VET FEE-HELP model.

I also have a few questions for the minister. I have heard talk today—and certainly the minister has talked a little bit about this—about this idea of a new model for VET FEE-HELP that will come into effect in 2007, but I am still very unclear about what exactly will be the characteristics of this new model. What will it look like, and what consultation will the government conduct with the sector and the community in developing and shaping this new model that will take effect from 2017?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (10:09): Senator Simms, what the government is proposing is that we will look at how we would reconceive of VET FEE-HELP as a means that provides for a higher quality of training outcomes, is more directly relevant to likely employment outcomes and has mechanisms in place to try to drive efficiency in the cost and pricing of delivery of those courses.

We are committed to consulting with the sector. I note that both TAFE Directors Australia and ACPET, representing private providers, welcomed the government's additional amendments that were introduced this week. We would work with them along with community colleges and all other providers. We would consult with the states and territories as we would with industry, employers and students to make sure that the system applied in future is one that people can have confidence in.

The principles behind an income-contingent loan scheme are sound principles of equity. That is why the Howard government proposed to apply the expansion of income-contingent loans to students in this vocational education sector, but it did so in a cautious way that required courses to have an articulation agreement with universities. The previous government, as has been well canvassed in this debate, removed that requirement and opened up some of the other measures of access to it, which has led to the very rapid rate of growth. That does not change the fact that income-contingent loans are good, equitable means of avoiding people having to pay up-front fees.

While noting the Greens' philosophical objection to private education, I would encourage Senator Simms, over the Christmas break, to have a look at the total VET activity reporting data released in the last few weeks. It is quite striking. If you have a look at the fee-for-service VET market—those providers outside of VET FEE-HELP and those providers operating outside of state government subsidy arrangements—some of the strongest completion rates
and some of the strongest employment outcomes are derived by private providers and evidenced by the total VET activity reporting.

There is a challenge, Senator Simms, as to how we make sure we get those high-quality outcomes for training and employment—that those private providers have demonstrated they deliver—expanded in areas where the government wants to apply a subsidy but without the type of sorting we have seen to date. TAFE does an outstanding job, in many instances, but there have been widely acknowledged problems over the years that without some semblance of competitive pressure, without some degree of contestability, TAFEs may not be as driven to change their ways—to focus on delivering good value-for-money outcomes—as they should be. Equally, the sorry saga of the VET FEE-HELP episode demonstrates that without appropriate safeguards in place you will see profiteers, shonksters and fraudsters stepping into the mix and ripping off the taxpayer.

It is knowing all of those lessons the government embarks upon—saying we want to try to reconceive this scheme in 2017. We will consult with all the relevant stakeholders in doing so, and we will do so very well aware of the problems. In my changed capacity, over the last couple of months, in having responsibility for higher education, I have acknowledged, in talking at higher education fora, that I have been somewhat burnt by the VET FEE-HELP saga and the experiences I have seen here on how you might expand access and structure arrangements. They are lessons that, equally, I take in contemplating where higher-education reform might go. They are lessons that we, the government, have at the forefront of our minds when reconceiving the scheme in 2017. I welcome your contributions and inputs, just as I will Senator Carr’s. I know Minister Hartsuyker will be happy to hear from all those who have ideas.

Senator Kim Carr interjecting—

Senator BIRMINGHAM: Senator Carr, as I have said in this debate before, has been big enough to acknowledge the mistake that happened in 2012 and where things went wrong. He, at least, acknowledges some of the mistakes and lessons that need to be learnt as well. We may not agree on all the benefits of some of the competition that, perhaps, we should find ways to preserve in any new model but, if he has innovative ideas in that space, I am happy to hear them.

Senator SIMMS (South Australia) (10:15): I thank the minister for his reply and for the suggestion of some Christmas reading. I look forward to undertaking that, particularly on nights when I have difficulty sleeping. I will certainly follow that up. In terms of the timetable around this exercise of envisaging a new scheme, which the minister has touched on, are there some actual time frames in place? I know the minister has talked about 2017, but what consultation time frame do you have in place or are working towards? Are there particular milestones in what we can expect in the lead-up to the announcement of this new model?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (10:16): Senator, I would expect that, in the next couple of weeks, Minister Hartsuyker will meet and discuss with some of the first-tier stakeholders exactly how the approach will play out, if I can put it that way, in terms of those who represent the various VET providers and other key players. The first point of those consultations will, indeed, be to, perhaps, set down some of the benchmarks and time lines that you ask about, so that it is developed in a
cooperative manner. We have, perhaps too much so in not having brought this legislation to the Senate earlier, sought to be very consultative in our approaches.

In March, when I announced the suite of eight reforms to the VET FEE-HELP scheme that we applied then, I established, working within the department, a VET FEE-HELP working group. That working group brought together TAFE directors, ACPET and the community colleges. It brought in representatives of industry and consumer affairs. I think we had the New South Wales consumer affairs commission represented. We had Gerard Brody from the Consumer Action Law Centre in Victoria, who I had not met at that point in time, but who I had noted, through media, as being one of the strongest critics of the way the scheme was operating, so I wanted to have his input around that table as well on the reforms that are contained in this legislation.

The government, I think, has shown a strong commitment to consultation and a consultation which does stretch beyond the immediacy of providers and tries to make sure it has representatives, importantly, of both student and employer interests around the table, because we should never lose sight of the fact that we are debating vocational education and training. The outcome and objective we seek is that students are trained and skilled for jobs.

Senator SIMMS (South Australia) (10:19): I have just one final question. Will the minister include unions in that consultation as well?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (10:19): I met with some delegations of unions, when I was the vocational education minister, to talk about how the system was working. I am sure we would be happy to hear their views as well.

Senator KIM CARR (Victoria) (10:19): I will follow through on the theme. The process has been haphazard and piecemeal, and of course it has followed the long tradition in this area—that is, there is usually a scandal brought about by public exposure of corruption in one form or another, and I regard what is happening here as corruption. Unfortunately, we have a continuation of that theme developing. I remind senators—and I acknowledge the minister's comment that John Howard started this process—that it is all very well to point to the previous government—

Senator Birmingham: With articulation through university—

Senator KIM CARR: I will ask you a specific question, but I want to make a few comments. On the question of articulation, since you have raised it—and I acknowledge that you have raised it—is it your intention to revisit the question of the restoration of credit transfer arrangements? The reality is that, under that scheme, universities had a stake in quality assurance, because they did not want to be associated with crooks and shysters. All too often, I have had to point out in this chamber and at estimates that universities have let themselves down by being associated with such disreputable elements. They have subcontracted out their scripts and they have engaged brokers who behaved in a shocking way. One of their fundamental assets is their reputation for quality. I ask the minister specifically: are you prepared to consider the issue when you go to the issues of the design of the new scheme?

The view was taken at the time, in 2009—they have acknowledged that this is one of the unintended consequences—that the TAFE system was given too strong a position as a result
of the credit transfer and there was reliance upon a quality assurance regime based on reputation and based on experience. The view at the time was generated from within the bureaucracy. The same bureaucracy that I have no doubt is advising you on these matters now advised the previous government that there needed to be an evening up by allowing the rapid expansion of the private sector, which of course has produced these, as said, unintended consequences.

I cannot possibly believe that an official would recommend or that a minister would agree to a proposition knowing that these types of events would occur—that has to be acknowledged—any more than I can blame John Howard for some of the abuses that occurred. The reality is that all of us in government have to take responsibility for what is on our plate at the time. It is a very short-sighted view to simply say, 'The previous government made some errors.' It is the nature of government, of course, that there is always a need to update, modernise and take into account learned experience. This area in particular has been a product of that. In the over 20 years that I have been engaged in these issues, that has been the pattern, irrespective of which government is in office.

The big difference here is that, in philosophical terms, in general, you could say that conservative governments have sought to deregulate because they want to see a higher level of private engagement in the provision of these services. The real irony is that this is a government that has pursued vigorously a deregulation agenda in education, and now it finds itself heavily regulating. That is what we have before us: a series of measures which have probably the most onerous regulatory powers that we have seen in the sector for a Commonwealth official with regard to a Commonwealth program. I take the view that, in fact, this could go much further and should go much further. I do not think these measures are adequate in terms of dealing with the problem.

I think, Minister, if I might offer this advice: you are about to discover just how inadequate these rearrangements will be. Even if you do think they are very robust at this time we will be back to actually have to enlarge these powers because there will be very smart folk out there who will find a very easy way to get around many of these provisions. And the same officers who have advised you, advised previous ministers responsible for vocational education.

I must say to you—I will make this observation—I never had the privilege of actually administering the vocational education system in my time in government; I had all the others. But I have had a deep interest—a profound interest—in this area and so I am familiar with the consequences. That is why I am concerned by your response on the question of the design of the new program that you are envisaging. It is my suspicion that there are very few real elements of the architecture prepared at this time. That is my suspicion.

I would be very pleased to hear if you are actually moving to a contract based arrangement which, of course, the states rely upon, so that individual providers actually have to have a direct contract with the Commonwealth. That would provide the Commonwealth with much greater capacities to manage this expenditure. But I am particularly concerned that any consultations that are undertaken are not limited to a series of informal discussions. There is a grave danger that proposals which involve the expenditure, as you have indicated to us today—even with your attempt to put a cap on this at $3 billion—involve just the VET FEE-HELP working group. There should be a much more formal process for discussion of specific proposals that the government has. It may be that you do not have time to do a green-and-
white paper process, but that to me is the gold standard. That is the approach that we are taking with regard to the university system.

I believe that if you were actually advancing your thinking you could put out a government discussion paper outlining what you are actually seeking to do and getting people across the board to make comment upon that in an open and transparent way. The groups that have a profound interest in it are, as you said, student groups and employer groups. After all, this is the vocational education system—as you made the point. But there are also state governments, and the unions have a profound interest.

My understanding of the conversations you had with unions when you were minister for vocational education is that they were about the destruction of union involvement in the skills councils. Historically, there was a tripartite approach to these issues, which this government has sought to overturn. So those representatives of workers should have an opportunity here, because there are profound levels of expertise within the trade union movement on the questions of vocational education. But the idea of crisis management, whereby you have a meeting with this group and that group to try to shut up one group or another which makes a complaint is no way to redesign a program of this importance.

I make this observation, Minister: the Commonwealth is seeking to take over the entire VET sector. It has put those propositions to state ministers. There is no way—there is just absolutely no way—you are going to get the states to sign up to a transfer of responsibilities for vocational education to the Commonwealth when this sort of shambolic behaviour is going on. There is absolutely no way that the minister in Victoria, for instance—Steve Herbert, the minister for training—who has led this campaign to clean up the system is going to recommend to the Victorian government, as I said, to transfer powers to the Commonwealth when this sort of shambolic behaviour is in play. And there will need to be a demonstration that the states actually have a capacity to provide substantive policy advice on the administration of any new scheme.

Now, we have already indicated that there is no suggestion within these amendments that these measures are in fact temporary. I am deeply suspicious that what this program is really all about is getting past the next election. We will see what happens after that. It may well be that there will be a change of government at the next election, and there may well be an entirely different approach to the way in which these questions are dealt with.

Minister, I ask you, when you are considering these questions: will you look at the issue of the restoration of the credit transfer? I will leave it at that.

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (10:30): Let me deal with a few of the issues that Senator Carr has raised. He quite rightly indicated that the government of the day needs to take responsibility for the circumstances that it finds. This government has been very clear that it takes responsibility for seeking to clean up the mess that it has discovered in the VET FEE-HELP scheme. It has been a process of attempting to apply reforms that we think will fix it. We have acknowledged this week that we think it will take a profound overhaul and rewrite of the scheme to address it, but we completely take responsibility for fixing the mess we inherited. That is exactly what we have been doing, and that is exactly what we are doing through this debate today.
Senator Carr may never have been the minister responsible for VET FEE-HELP or vocational education, but, of course, he was a minister in the government that did enact the various changes that opened this scheme up. It is important that we recognise the history of the scheme. Senator Carr is right: the idea of having an income contingent loan scheme was conceived by the Howard government, but it was with very tight arrangements in place. It was with a requirement that an articulation agreement and credit transfer agreements were in place with universities and that those universities therefore acted as a quality control measure in relation to the VET FEE-HELP providers.

Senator Carr asks me whether reintroducing any provisions in that regard is something that we would consider in rewriting the scheme. I say to Senator Carr: yes, we may consider that in certain circumstances. I think it is important when we consider access to public subsidy, be that public subsidy directly paid as a subsidy or be it paid indirectly via an income contingent loan, that we consider the thresholds of standards that providers need to meet. In the VET sector we have 4,700 registered training organisations. They need to meet a standard to be an RTO, and that should be a strong standard that gives people confidence in the qualifications that are delivered. But, of course, if you are dealing in public funding then it is not unreasonable that a much higher standard is expected, because the fee-for-service market, which I was talking to Senator Simms about before, is far better able to self-regulate itself in many instances because people are making fully informed value judgements about the service they are purchasing. Whether it is an employer paying for the training or an individual paying for the training, they are assessing the value and merit of that training at the time they part with their hard-earned cash. But if they are not parting with hard-earned cash—because they are racking it up on a student loan or because the taxpayer is paying for it—then, unfortunately, we do not seem to see that same serious, informed decision making by individuals occur before they sign on the bottom line, so we do need to expect, therefore, a higher standard from those providers.

What that higher standard may be in a new model is something that we are open to. Articulation agreements may be a means—I say ‘may’, in a hypothetical scenario—by which you may be able to access whatever a new VET FEE-HELP model looks like, without perhaps having to jump through other hoops. So you might conceive of a model where that is one criterion of high-performance recognition that could be met that saves you having to jump through or demonstrate other hoops—that saves you, perhaps, from having to enter into a contract arrangement if that was something else that was conceived of. These are all scenarios that could be contemplated.

In terms of the process that may be undertaken and your statement that we will be back here, we certainly will be back here because to conceive of a new model will require change to this legislation. So we will be back here to rewrite this legislation under the terms of a new model. But, before that occurs, I am happy to give the Senate the commitment that we will make sure the approach that will be taken is spelt out in a manner that provides an opportunity for public commentary and feedback and that we will not be just rushing through informal consultations to a point of legislation. There will be an opportunity for informed public comment in relation to what changes may look like, not just through an informal consultative mechanism.
Lastly, I will touch on the comments around a takeover of VET. That is an idea that is encouraged by the South Australian government and the South Australian Premier as part of a grander bargain in relation to federation responsibilities that he has publicly spoken about: enhanced opportunities for the states to pursue options in early learning in return for the Commonwealth undertaking an enhanced role in vocational education and training. I think there is a real problem that the VET sector is seen, all too often, as the poor cousin of the university sector and particularly perceived, sadly, by parents, perhaps by teachers, as students are making their postschool decisions, as being something of the poor cousin. I think the inconsistencies that occur from state to state, the inconsistent policies within states and, indeed, challenges with the VET FEE-HELP system all help to plague those perception problems, whereas, notwithstanding various changes in debates over the time, we have had relatively continuous arrangements and certainty for universities since the advent of HECS. Throughout those decades, students have had confidence with how they access a university place, what the funding support for them will be and, indeed, the quality arrangements that should sit alongside that. In an ideal world, students would have the same type of confidence and the same type of certainty built up in the VET sector over a period of time.

Whether or not those discussions proceed, absolutely the Commonwealth needs to look like it would be a competent and responsible steward of the sector were we to have a greater role in funding, noting that we already have the primary national role in the setting of qualifications and the regulation of RTOs. Those two responsibilities are already largely nationalised in any event, and it is only the funding and the student support that now have this odd arrangement where the Commonwealth is the primary agent for student support for high-level VET qualifications, in the diploma and advanced diploma space, while the states are the primary provider of support through the certificate level qualifications—yet another complication to the way the whole scheme works. A federation solution might provide a better outcome. Those are discussions that will be had between the Prime Minister and the state premiers, and the questions will resolved through that context, not here. I am very open to making sure that, if they are progressed, we then get a model that works for all qualification levels settled in a very sensible and careful way that ensures we do not repeat any of the mistakes we have seen in this qualification level.

**Senator KIM CARR** (Victoria) (10:38): I just indicate for the benefit of the chamber that I have been a supporter of a national vocational education system since Paul Keating's efforts. I was working in the office of the Victorian education minister at the time, Joan Kirner. So this has been a long-cherished objective of many—to build a national vocational education system. I understand there is actually a working group; it is not just a question of the South Australian Premier. The vocational education ministers have actually established a working group, and I believe the Commonwealth may well be involved with that as well.

*Senator Birmingham interjecting—*

**Senator KIM CARR:** You are not involved? It is just the states? I understand there is a working group, but it will not happen if (1) you cannot organise a proper funding regime and (2) you cannot demonstrate capacity. This is what really disturbs me about these provisions. I am still not satisfied that the capacity is there. I am not criticising individual officers—we have got officers in the box here at the moment. This is not a suggestion about their personal integrity or abilities, but I am just saying that the Commonwealth bureaucracy does not seem
to me, at this time, to have the capacity. This is part of the problem we have had with this arrangement, not to mention the problems with ASQA not being fit for purpose.

These proposals that we have before us will provide greater opportunities to extend the reach of the Commonwealth—I acknowledge that—but it is only to the 260 VET FEE-HELP providers. I reiterate that the fact that we have had 18 pages of explanatory memorandum and 13 pages of amendments dropped on us in the manner we have means that one cannot be confident that these measures are going to be able to do the job. The Labor Party will be supporting these amendments, but with a caveat that these provisions have been put together in such a rushed manner that one cannot be certain that they are going to do what the government is seeking to be done, even if we take at face value the minister's good intentions in the matter.

While I am on my feet, I want to acknowledge the minister's efforts yesterday in calling together a conference to discuss these matters last night. I approached the minister and I indicated that he acted very promptly to at least get a conference of senators to allow us to consider these matters in more detail. I acknowledge that that action was entirely appropriate. It is just that it is not adequate to deal with the questions that we have before us. But it was certainly a better approach than we have seen from your junior minister, publicly announcing these at a press conference and seeking senators to go along with that, without any discussion or opportunity to go through the detail in any manner.

You have indicated that these measures are not intended to apply to TAFE, but that is not the way I read the amendments. TAFE is picked up in these questions. Can you confirm that? While I am on my feet, the second area that I would ask you to consider is clause 36(5), which allows the secretary to suspend a provider's approval. I just want the government's response formally on the record about the secretary's capacity to suspend a provider. There are provisions for the Commonwealth to establish a plan for the provider if there are problems, but the amendments do not seem to allow for the re-crediting of VET FEE-HELP funds and the wiping-out of student debts. Can you please explain to the chamber how it is that students could actually have their debts wiped off, forgiven, under these arrangements, where it is demonstrated that there has been malfeasance by a provider? Thirdly, what is the retrospectivity in regard to these measures for students who can now demonstrate that they have been badly treated and abused? What recourse do they have?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (10:44): I thank Senator Carr for acknowledging the bringing together of different parties for discussions yesterday. I again apologise for the fact that, having called the meeting swiftly, I was stuck here for half an hour of the meeting because of the proceedings of the chamber. But so be it.

I will answer the TAFE question first and I might need to seek a bit of extra advice in relation to the repayment arrangements. You are correct that the amendments that the government has brought forward apply equally to all VET FEE-HELP providers. That does mean that, in terms of the value of loans that a provider can receive payment for in 2016, all providers will be capped at their 2015 level, including TAFEs. I note that the growth in TAFEs has been pretty astronomical in this space as well. My recollection is that New South Wales TAFE went from receiving VET FEE-HELP payments in 2013 of about $90 million to receiving VET FEE-HELP payments in 2014 of about $190 million. So they have by no
mean been exempt from the phenomenal rates of growth that we have seen and, I am sure, can comfortably live within the proposed caps for 2016, given the huge expansion in growth that they have undergone.

It is not the government's intention or expectation that the provisions in relation to payment in arrears or the provisions in relation to pause in payments would be likely to or need to be applied to those TAFEs. There are no foreseeable circumstances where that would arise, given that we think that the administration and the capability are there and that the oversight applied by the state governments is sound enough. I guess there is always a risk that a provider somewhere may undertake some sort of egregious activity and could prompt such intervention, but there is no intention by the government to use those provisions for that category of provider.

Your questions then shifted to student reimbursement and how that applies. I assume, Senator Carr, you are asking about the substantive bill as distinct from the amendments that we are currently debating. The provisions there are prospective so they apply to students who are enrolled in future, not to students who may have been enrolled in the past. It is another sad failing of the way the legislation was structured that there are limited provisions to be able to wipe clear a student's debt and for the Commonwealth to be able to recover payments from providers. Our intention through these amendments is that we will in future have some provisions to be able to do that. I do note that a number of providers, where individual complaints have come forward, have been reasonable and even generous in taking the step of wiping a student's debt, of repaying the funding to the Commonwealth for the wiping of that student debt in relation to a concern or a complaint about the enrolment practices that have occurred. That has probably been the largest category of reason or cause for providers to repay debts to date. But, rather than that being essentially a voluntary activity on the part of the provider, we are looking for it now to be something where, if the Commonwealth is satisfied that a provider has acted in breach of the VET FEE-HELP guidelines in the recruitment or the treatment of a student, the Commonwealth would have the capacity to recoup those payments from the provider and to refund the student to ensure that they are treated fairly in future.

Senator LAZARUS (Queensland) (10:49): I, and also on behalf of Senator Muir, move amendment (1) on sheet 7835:

(1) Amendment (13), item 12, omit subsection 45D(2), substitute:

Credits to the VET provider's VET FEE-HELP account

(2) A credit arises in the *VET provider's* VET FEE-HELP account as follows:

(a) if the VET provider is already a VET provider on 1 January 2015, a credit arises on the first day of each later calendar year that is equal to the amount worked out under subclause (3);

(b) if the VET provider becomes a VET provider during 2015, a credit arises on the first day of each later calendar year that is equal to the amount worked out under subclause (4);

(c) if the VET provider becomes a VET provider on a day after 2015, a credit arises on that day that is equal to the amount worked out under subclause (5);

(d) if the VET provider pays on a particular day any part of any amount that becomes due under subclause 45E(2), a credit arises on that day that is equal to the amount of that payment;

(e) if another body ceases to be a VET provider, a credit may arise:
(i) in accordance with a determination under subclause (6) at the time of the cessation; and
(ii) that is equal to the amount worked out under that determination;
(f) if the *Secretary, on application by the VET provider, is satisfied on a particular day that:
(i) the VET provider is offering a VET course of study that confers skills in an identified area of national importance; and
(ii) the course is relevant for employment in a licensed occupation; and
(iii) one or more students are unable to readily access training places in courses of this kind with any other VET provider; and
(iv) insufficient credits have arisen in the VET provider's VET FEE-HELP account for an appropriate number of students to undertake the course with the VET provider; and
(v) granting an extra credit of a particular amount is appropriate (which need not be the amount specified in the application);
the Secretary may grant a credit, which arises on that day, that is equal to the amount considered appropriate under subparagraph (v).

I support the bill because I want to curb the rorting that is happening in this sector, but I am concerned about the impact of the bill on important and honest operators and training sectors in this country. This bill may have unintended consequences on industry training sectors such as the aviation training sector. The world is experiencing exponential growth in the aviation sector. The demand for qualified commercial pilots is expected to double in the years to come. Australia is considered one of the best providers of commercial pilot training in the world. We have eight commercial pilot training schools in Australia, several of which are based in my home state of Queensland. The aviation sector is highly regulated and unique. Due to the nature of the industry and the growing demand for pilots, the aviation training industry is expensive and in a strong growth phase. It is therefore important that this bill includes a provision for the secretary of the department to have the discretion to provide additional credits to industries and/or organisations which are considered to be of national importance and which meet certain requirements.

I would like to thank the minister for listening to my concerns in relation to the aviation training sector and for committing to support my amendment. It is imperative that we support this sector and that we ensure it is exempt from the potentially harmful, unintended impacts of the bill. We need to ensure that the sector is allowed to grow, that Australian men and women are able to pursue careers as commercial pilots, and that we support an important and growing training industry which provides jobs and economic benefits for this great country, Australia.

Australian men and women pay a lot of money to undertake training to become commercial pilots. The first stages of training involve undertaking a recreational pilots licence and then a private pilots licence, all of which are funded by the student. These are very expensive courses and can cost students up to $30,000 or more. These courses are funded by students, out of their own pockets—not by the taxpayers. Once students have completed these courses, they can then undertake a commercial pilots licence course, which is eligible for funding under VET FEE-HELP. Commercial pilots licence courses can cost up to $90,000. There is no doubt the level of safety, compliance and risk associated in deliver of the commercial pilots licence course results in high costs. Despite this, Australia is still much cheaper in this area of training than the rest of the world, and people come from all over the world to undertake commercial pilots licence training in Australia.
It is for this reason that I will not be supporting Labor's amendments, which seek to put a cap on VET FEE-HELP for students. The cap will cripple the aviation and training sector and put aviation completely out of reach for most Australians. This means that men and women and boys and girls across the country will no longer be able to undertake a commercial pilots licence training. Only the ultra-rich and famous will be able to become commercial pilots in this country. The pipeline of Australian pilots will definitely dry up. Our airlines will no longer be able to source Australian pilots. Our airlines will be forced to employ overseas pilots. The aviation sector is a unique sector and, unfortunately, it will be hardest hit by this bill. If we look at the aviation training sector we see that most course providers generate less than 30 per cent of the revenue from VET FEE-HELP compared to other providers and industries that generate 100 per cent of their revenue through the VET FEE-HELP scheme.

In summary, I will not be supporting Labor's amendments. I thank the government for supporting my amendments, which will ensure that the aviation sector, and every Australian's dream of becoming a commercial pilot, is not inadvertently damaged as a result of this bill. I commend my amendments to the Senate.

Senator KIM CARR (Victoria) (10:54): I am very disappointed to hear that Senator Lazarus is not supporting our amendments in return for the government supporting his amendments. That is essentially what you have said. You have misunderstood our amendments. Our amendments provide for a discretion but on a more rational basis than the way this has been written up. Our amendments actually authorise the secretary to be able to be provided with the power to set caps, as happens in the university system. We already have caps in place for the most privileged. Your concern is about justice issues. In the university system, doctor's fees are set by the way in which the HEC scheme is administered for medical students, and it is within three broad bands of student contribution. Our amendments would actually allow you to have some discretion, but the amendments moved by Senator Lazarus provide for a carve-out, I presume.

Senator Lazarus interjecting—

Senator KIM CARR: That is what the implication is, Senator—a carve-out. Minister, does that carve-out apply just to aviation? If so, where do I find that in these amendments?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (10:55): I am very happy to point Senator Carr to the details of the amendments. The amendments amend the government's amendments. We have been discussing this morning the fact that one of the government's amendments provides a cap on the value of loans that a provider may write in 2016 and caps that value of loans at a 2015 level. These amendments provide scope for limited exemptions to that cap. The scope is very tightly controlled, though.

The VET provider, having demonstrated that they are going to hit the cap and not be able to enrol anymore students under VET FEE-HELP must then demonstrate that they are, firstly, offering a course of study that confers skills in an identified area of national importance; secondly, that the course is relevant for employment in a licensed occupation. So just highlight that one, Senator Carr.

Senator Kim Carr: I certainly will.

Senator BIRMINGHAM: A licensed occupation, Senator Carr—a very narrow band in that category. Then, of course, they must also demonstrate that the students are not able to
readily able to access training places in courses of this kind with any other VET provider. So if, Senator Carr, you are living in Brisbane—seeing as these are Senator Lazarus’s amendments—and you are a student who wishes to study aviation and the aviation providers in Brisbane have already hit their cap in relation to the number of places they can offer under VET FEE-HELP, those providers would be able to make application to the secretary to have that cap lifted for a specified amount—not unlimited, by any means, but a specified amount. This is very much akin to the kind of contracting arrangement for such an extension that you might have encouraged me to contemplate before. So they can make application to have that cap lifted for a specified amount if they can demonstrate that the skill is in an area of national importance, that it is relevant for employment in a licensed occupation, that students cannot access it anywhere else and, of course, that they have hit the cap.

So insofar as this creates an opportunity for exemption to the overall cap, it is an incredibly tightly prescribed exemption that really is only to ensure that we do not end up with the type of scenario that Senator Lazarus has described in his comments, where we had an inadvertent consequence of insufficient pilot training, for example, occurring in Australia.

**Senator KIM CARR** (Victoria) (10:58): Perhaps you could advise, Minister, whether it is the case that there are a whole range of licensed occupations that might well fit within a designation, if a secretary so wished, of national importance? For instance, what about licensed aircraft engineers or enrolled nurses? They are licensed. We could talk about the security industry. We could even talk about aspects of the transport industry. These are all licensed occupations contained within those industries which could be designated as being in an area of national importance should a secretary in the future choose to do so. Is that not the case?

**Senator BIRMINGHAM** (South Australia—Minister for Education and Training) (10:59): Senator Carr, you can draw out the hypothetical of what could be designated as an area of national importance if you wish. Of course, there needs to be some rationale as to why something might be designated as an area of national importance, and the skills demand for such categories would be an obvious area of consideration in such a determination. I think you are mischievously attempting to create fear around Senator Lazarus’s very well intentioned amendment, and the well-intentioned amendment is only intended and expected to have very narrow scope. Overwhelmingly, the government expect that the fee cap that we are proposing will apply to the vast majority of, if not all, VET FEE-HELP providers.

**Senator KIM CARR** (Victoria) (11:00): I do not doubt the good intentions of Senator Lazarus. This is not a point that has been raised by anyone other than you, Senator Birmingham. I have raised the simple question about what happens when you try to do these sorts of things on the fly, overnight, without proper consideration of the consequences. I know what the deal is here. Senator Lazarus has been decent enough to outline it. The government will vote for this amendment no matter how ill conceived and no matter what the technical problems are, which the department knows only too well and the minister knows only too well. The government will ask Senator Lazarus to vote against our propositions, which actually do fix the problem properly in a coherent way, in return for this proposition, which I say is not just for this minister—you might have an undertaking with this minister—but for the secretaries and secretaries to come.
Remember, there is no provision in this bill for a sunset clause. These provisions will stay until such time as we have to rewrite the bill at some point in the future. I think this minister is going to have some trouble getting together a new package within a year, given that we will have an election in the middle of it, which of course is the real question we have before us today. What is the real issue here? Why have we got all these amendments so late? It is because the government wants to close down public debate about these issues in the run-up to the election.

What we have, though, is a proposition, Senator Lazarus, that I do not think meets your criteria but will open up a whole series of other abuses in the future, so I am a bit concerned about that. I do not know if I could support, or recommend to my colleagues to support, such a proposition, given the way it has just been dropped on us now. That follows the pattern that I think we have seen from the government—this colossal amount of new material being presented to us today.

Senator SIMMS (South Australia) (11:03): I also have some concerns about this amendment. I have to say that the assurance of the minister that it is well intentioned does nothing to allay those concerns. I am certainly not being critical of Senator Lazarus here. I understand he is concerned about a particular aspect or potential implications of the legislation and is seeking to address that, but this amendment is very, very broad. The fact that it might have consequences that may be unintended seems to be being dismissed by the minister with a fairly cavalier attitude, saying that it is well intentioned. The road to hell is paved with good intentions, as we know from the scandal that has unfolded within the VET sector.

I very much doubt that, when the Labor Party put this scheme in place and set this train in motion when they were last in government, they could foresee that there would be this conga line of scandals, rorts and stuff-ups that would eventuate. I very much doubt that anyone thought that that would be the case when this was put in place. But this is what has happened, and now we are talking about looking at an amendment that potentially leaves the door open for a whole range of exemptions well beyond the aviation industry.

We have spent the last two days talking at great length about wanting to turn off the tap, wanting to crack down on rorters and wanting to ensure that there is more rigour in this process, and now we are dealing with an amendment which will potentially be opening the door for a whole range of exemptions, and we are being told to just accept that because it is well intentioned: 'Let's just suck it and see how it goes.' That has been the problem with the way that this whole scandal has unfolded. We cannot afford to just go with it on a wing and a prayer. We need to make sure that we have appropriate safeguards in place.

I feel very concerned that this amendment will have unintended consequences that extend far beyond the aviation industry. It is not difficult to conceive of a situation of the government of the day saying: 'Okay, this is something that is of public importance. We've got a shortage in this particular area. Let's loosen some of these restrictions.' As a result, we would find ourselves in a situation of dealing with more scandals and more exploitation of vulnerable young people. I am very concerned about this. I encourage crossbench senators to think very carefully about going down this path and the implications of what we may be doing here as a Senate should this be supported.
After this huge debate, after months of debate within the public and now days of discussion here in the chamber, the community are looking to the Senate to take action and to ensure that, heading into the new year and the new academic year, there are appropriate safeguards in place. I do not want to see any loopholes in this legislation that are going to give potential rorters and shysters a get-out-of-jail-free card. I do not want to see that, so we need to think very carefully about what we are doing today.

Senator XENOPHON (South Australia) (11:06): I indicate that I support the amendment moved by Senator Lazarus and Senator Muir. I think this amendment was born out of concerns that Senator Lazarus has principally in relation to aviation training colleges. There has been a huge increase in the demand for aviation training. Australia is acknowledged as a world and regional leader in terms of high-quality aviation training. The scandals involving a number of colleges have not touched on aviation training colleges—that is my understanding. So that if there is a demand for aviation training, for pilot training, which goes well in excess of the cap that has been proposed, there is a discretion contained in this amendment that does allow an application to be made by the provider that the section needs to be satisfied of a number of particular criteria, including skills in an identified area of national importance, being a licensed occupation and the like. So it gives a discretion to the department to be used, I hope appropriately and rarely, where there is a genuine bottleneck, for a demand for something like pilot training.

I think Senator Lazarus and Senator Muir are doing the right thing by their states and this will also have a significant flow-through benefit in South Australia where there are aviation training schools. All I ask my crossbench colleagues to consider is that, when Senator Carr's amendment is being considered shortly in relation to the issue of giving discretion to the secretary to cap fees, that it be considered seriously because I see that amendment being in the same vein, in a sense, to allow a discretion but it would not be proper for me to debate Senator Carr's amendment now. I understand what Senator Lazarus and Senator Muir are trying to do. I will support the amendment but I ask my colleagues on the crossbench to keep an open mind to Senator Carr's amendment in relation to that.

No doubt we will have an opportunity to discuss this with the minister. I think we all in this room want to get rid of the rorters, the shysters and the sharks in vocational training. It has turned into a multibillion-dollar mess that is costing taxpayers and exploiting and letting down students who want to do a course and get appropriate qualifications. I support this amendment. I just ask that, when we deal with Senator Carr's amendment, it is given due consideration. I hope I can engage, as I have with the minister on this previously, in a constructive discussion with him in relation to Senator Carr's amendment.

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (11:09): I thank Senator Xenophon, at least in relation to Senator Lazarus's amendment, for bringing some common sense back to the debate. I think we saw a level of scaremongering being attempted by Senator Carr and Senator Simms in terms of the Lazarus amendment. Senator Lazarus's amendment sensibly provides provisions for determinations on a case-by-case basis. Let us be crystal clear here. It is not a proposal that would mean that for a category of qualification or a category of occupation that there would suddenly be some blanket exemption that applied. It is about a case-by-case basis, that an application would need to be made by a provider who had reached their cap and, in reaching their cap, was able to
demonstrate the national interest in extending that cap, the relevancy of the qualification and the fact that the qualification was a prerequisite for the licensing requirements in relation to that qualification, and that they would need to demonstrate the merit and worthiness of the value of the proposed extension of that cap. So the cap itself would in fact just be increased—not lifted by increased—by a fixed and finite number on the case-by-case basis.

Senator Lazarus's amendment is carefully crafted and ensures that, by placing the cap on the total value of VET FEE-HELP loans across the board that the government is proposing, there is scope to make sure, if there are inadvertent consequences in an area—and he has highlighted, as has Senator Xenophon, aviation as a potential area. I do not seek to prejudge that in this chamber. That is a matter that would be judged under the provisions of this amendment by the secretary to the department or his delegate. I would encourage the chamber to view this amendment as in some ways analogous to the way in which the government has crafted the amendment in relation to the admission of new providers of VET FEE-HELP services.

The government has not slammed the door shut on any new providers of VET FEE-HELP because we recognise that there are a small number of longstanding registered training organisations who have long delivered high-quality outcomes, who have applications in, and if we shut the door on every single new application then of course we would be acting to the serious detriment and disadvantage of those providers. So we have provided a test to ensure you must have been in the sector for five years, that you can only do it in relation to the qualifications you have already offered and that you will only be able to offer those qualifications and up to a loan value that is consistent with what the fee-for-service value of your operations had been previously.

This is analogous to that in the sense that it is recognising that in applying a blanket rule, as we seek to, in terms of the application of the cap across the total loan value, this amendment provides very narrow criteria to make sure that we do not end up with circumstances where that is to the detriment of others.

I commend Senator Lazarus for considering the consequences, for bringing this amendment forward and for ensuring that it is tight. I re-emphasise to the chamber, as Senator Xenophon did in his contribution, that this is very limited, that it will only apply on a case-by-case basis, that each one will have to be presented on its merits.

Finally, I take issue with the remarks Senator Carr made in his last contribution that the government is pursuing these amendments overall and our reforms to VET FEE-HELP to somehow close down public debate. Chair, let me assure you and the chamber that the government wants to close down rorting and we want to close down those who are ripping off the taxpayer, who are taking advantage of vulnerable students and destroying the reputation of the VET sector. But we are damned happy to have a public debate on this. We are very happy to have a public debate about the failings of VET FEE-HELP because I think, just like the pink loans scheme, we want to make sure going into the next election that Australians remember that the Labor Party cannot be trusted to set up schemes such as this, cannot be trusted with public policy and programs because when they are, we end up with disasters like pink batts or VET FEE-HELP where huge sums of public money are squandered and where, indeed, Australian businesses suffer as a result because of shonksters and fraudsters who are let in.
We are very happy to continue the public debate, Senator Carr. The only reason we want these measures through this parliament, ideally today, is that we want to clean up the mess we inherited.

Senator KIM CARR (Victoria) (11:14): I want to reiterate that this is not scaremongering. I acknowledge that Senator Lazarus is acting to pursue a particular concern that he has, but my concern is that this amendment does not do what Senator Lazarus was seeking to achieve. So it is not scaremongering. I think this is badly worded. I am going to presume that it was written up on departmental advice from the way it is structured, but it is very badly worded and it is wide open for a future secretary to interpret words such as 'national importance' and 'licensed occupation' to be much broader than airline pilots, much broader.

Senator Birmingham: On a case-by-case basis.

Senator KIM CARR (Victoria) (11:15): On a case-by-case basis. We all know what happens when you have a political problem. A minister in the future—I am not making accusations of this minister—long past this debate will not recall this discussion, will not recall these circumstances and will say to a secretary: 'I want this problem fixed'. A future secretary will be able to go to this clause—and we are talking about the cap on their loans, not their fees, but the cap on their loans—and say 'Oh yes, the case-by-case arrangements demonstrate that this is a matter of national importance and it is towards the employment in a licensed occupation, so this applies to a licensed aircraft engineer or to an enrolled nurse', and a range of other areas can be exempted to fix a political problem for a minister.

The better approach is to go to the question of the cost of the course. What happens here is that you have a loan which then, of course, determines the cost of the course. It is around the wrong way and, of course, this is exactly what has been happening—the fact that you can have up to $97,000 worth of borrowings means that that is where the course rises go to. Whereas the approach that I think needs to be taken, as occurs in the universities, is that you limit the amount of money that a provider can charge the student. That is what happens in universities, and we do that for universities with no great ill effect that I can identify. My proposal allows for the discretion to be with the secretary, agreed, through disallowable instruments so we get to see in detail what it means. This provision is too broad and does not directly meet the criteria that Senator Lazarus, I think in good intent, has sought to present to this chamber in terms of the constituents he is representing in Queensland.

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (11:18): Let me deal with one factual error that is in Senator Carr's argument. He seems to be ignoring the fact that this amendment of Senator Lazarus's is specific to the government's proposal to cap the total loan volume of what a training provider can access. It does not matter what the training provider might be charging for their course under that proposal; the proposal the government is applying is a cap on the total value of the loans that that provider will be able to write. So Senator Lazarus's proposal is for this very narrow, clearly tested exemption to be able to apply.

I think it is scaremongering, Senator Carr, to talk about what a future secretary may or may not do with this provision and to suggest that it might somehow be blown wide open. I think it is also inaccurate to suggest that a cap on fees would negate the need for this amendment. If the government's amendment to cap the total loan value still went through—so think about it
here, Senator Carr and others—and, say, your amendment to cap fees went through, but if the aviation college Senator Lazarus is worried about is charging reasonable fees today, and if that were the cap that was set, then you would still have the problem that Senator Lazarus's amendment is trying to fix and address. It is disingenuous to try to conflate the two issues. They are separate issues in relation to how the cap on fees may work and the issue that Senator Lazarus is seeking to fix today.

I understand you want to have a fulsome debate around a cap on fees and, obviously, we will have that shortly. But I think that, in relation to Senator Lazarus's amendment, he is addressing a particular problem that could arise with the government's amendments to cap the total value of loans. The proposal he has put forward is a rational way of dealing with that. The threat of mass exemptions applying is, I think, quite hypothetical and quite unlikely. But, Senator Carr, were it to occur, I have no doubt that the government of the day, the minister and the secretary providing those mass exemptions would be held to account for their reasoning for doing so. With these arrangements where exemptions are applied, they are usually pretty closely scrutinised by all to assess the reason and rationale for those exemptions. The government of the day would rightly be scrutinised as to on what grounds they had determined the national importance of the qualification, and on what grounds they had determined it was right and proper to be able to lift the volume of loans that that provider could offer.

Senator KIM CARR (Victoria) (11:21): In terms of the approach to these matters, could I advise the chamber that the Labor Party will be supporting the government's amendments. We will be opposing Senator Lazarus's amendment to the government's amendments. We will not be proceeding with amendments to schedule 1, given the conversation we had last night, and I accept the advice that was tendered to us last night. I might remind Senator Lazarus that there was some advice on this matter tendered last night, too. We will be proceeding with schedule 1 after item 8 and we will not be proceeding with the third request that is listed on the running sheet.

In regard to the question of containing the costs to students, I will be seeking to argue the case strongly in regard to those provisions about putting caps on the prices that students are charged as distinct from the ceiling on the loans, which has been the government's approach. I am saying that our amendment to schedule 1 is quite compatible with the government's position—it is not inconsistent with the government's position—but it provides a proper and thorough supporting measure to provide the secretary with the capacity to set prices as occurs within the university system at the moment. I will explain how that can be done and done within the period for the start-up date. I know there has been some advice tendered that this cannot be provided within three weeks. I can show how it can be. The advice that I have sought overnight from state officials has explained how it can be done. I believe the advice the government has received on this matter to be incorrect; that there are schedules that are readily available and there are at least two ways in which this matter can be attended to within the three weeks that this government wishes to introduce these emergency measures. I hope that is helpful to the chamber.

Senator LAZARUS (Queensland) (11:24): I indicate that Senator Muir is also co-sponsoring this amendment.

The TEMPORARY CHAIRMAN (Senator Ketter): Noted, Senator Lazarus.
The TEMPORARY CHAIRMAN: The question is that amendment (1) on sheet 7835 moved by Senator Lazarus be agreed to.

The committee divided. [11:28]

(The Chairman—Senator Marshall)

Ayes ......................37
Noes ......................31
Majority...............6

AYES

Abetz, E
Bernardi, C
Bushby, DC
Cash, MC
Day, RJ
Fawcett, DJ (teller)
Fifield, MP
Johnston, D
Lazarus, GP
Lindgren, JM
Madigan, JJ
McKenzie, B
Nash, F
Payne, MA
Ronaldson, M
Scellion, NG
Sinodinos, A
Wang, Z
Xenophon, N
Back, CJ
Birmingham, SJ
Canavan, MJ
Colbeck, R
Edwards, S
Ferravanti-Wells, C
Heffernan, W
Lambie, J
Leyonhjelm, DE
Macdonald, ID
McGrath, J
Muir, R
Parry, S
Reynolds, L
Ryan, SM
Seselja, Z
Smith, D
Williams, JR

NOES

Bilyk, CL (teller)
Bullock, JW
Carr, KJ
Dastyari, S
Gallacher, AM
Hanson-Young, SC
Lines, S
Ludwig, JW
McAllister, J
McKim, NJ
Moore, CM
Peris, N
Rhiannon, L
Siewert, R
Singh, LM
Whish-Wilson, PS
Brown, CL
Cameron, DN
Collins, JMA
Di Natale, R
Gallagher, KR
Ketter, CR
Ludlam, S
Marshall, GM
McEwen, A
McLucas, J
O’Neill, DM
Polley, H
Rice, J
Simms, RA
Urquhart, AE

Question agreed to.

Senator KIM CARR (Victoria) (11:32): Before we move to the vote on the government’s main amendments, given the second reading amendment to this bill has been carried and we
have an international Ombudsman operating for overseas students, what is the government's intention of applying the principle of the international Ombudsman to domestic VET students?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (11:32): Consistent with discussions that I think our officers have had, Senator Carr, I am happy to give the government's undertaking to progress a model that could see application of an ombudsman. My understanding is that it may require some further referral of powers from the states, if they were to apply in a manner consistent with the international Ombudsman. There may be scope for some narrower application that just deals with VET FEE-HELP-type matters, which could be an alternative.

In light of the constructiveness with which we have dealt with some of the issues at least, the government did not oppose your second reading amendment and is willing to work through those issues.

Senator KIM CARR (Victoria) (11:33): I would remind you that the constructiveness extended right through this conversation. It may well be that we will have a difference of opinion which we have not abrogated our responsibilities to express, particularly on something as significant as these matters.

It would be incorrect for you to suggest that the opposition has not been constructive in these questions. These are matters of deep concern, involving expenditure of $3 billion. I just indicate and repeat that the opposition will be voting in favour of the government's amendments, despite our reservations about the speed with which they have been put together; despite our concerns as to whether or not they will do the job that the government intends them to do. Nonetheless, as I think was put to me yesterday, these amendments are a step in the right direction. I think, however, there may well be a broader application required—I trust I am wrong on this, but my expectation that it will soon become apparent that the private colleges will find ways around these measures. I have no doubt that there will be substantial concerns expressed by some private colleges about the way in which these measures are being brought forward without consultation. There may be well be others that claim that there have been injustices imposed on them and, obviously, the appeal mechanisms, which have been outlined, will mean for many people there will not be an opportunity to appeal them. There are no appeal mechanisms, as far as I can see, for students, and the problem within the scheme is that the Commonwealth's approach is to give priority to company operations rather than the welfare of students. With those reservations, we will indicate our support for these amendments.

Senator LAZARUS (Queensland) (11:37): I, and also on behalf of Senator Muir, move amendment (2) on sheet 7835:

(2) Amendment (16), item 20A, omit the item, substitute:

20A Clause 91 of Schedule 1A (after table item 1B)

Insert:

<p>| | | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>IC</td>
<td>A decision to suspend a body's approval as a *VET provider</td>
<td>subclause 36(5) the *Secretary</td>
</tr>
<tr>
<td>ID</td>
<td>A decision that concerns have not been satisfactorily resolved in accordance with a plan agreed with the Commonwealth</td>
<td>paragraph 36(6)(b) the *Secretary</td>
</tr>
</tbody>
</table>

CHAMBER
1E Refusal to grant a credit for a *VET provider's *VET FEE-HELP account | paragraph 45D(2)(f) | the *Secretary
1F Granting a credit for a *VET provider's *VET FEE-HELP account | paragraph 45D(2)(f) | the *Secretary
1G Refusal to remit the general interest charge | subclause 45E(7) | the *Secretary
1H Remitting part of the general interest charge | subclause 45E(7) | the *Secretary

Question agreed to.

The CHAIRMAN: Amendments (13) and (15) have been amended. So the question is that the government amendments as amended and the request No. 14 on sheet GZ155 be agreed to.

Question agreed to.

Senator KIM CARR (Victoria) (11:38): I move opposition amendment (2) on sheet 7828:

(2) Page 31 (after line 26), at the end of the Bill, add:

Schedule 3—VET FEE-HELP loan limit
Higher Education Support Act 2003
1 Subdivision 104-B (heading)
Repeal the heading, substitute:

Subdivision 104-B-FEE-HELP and VET FEE-HELP balances
2 Sections 104-15 and 104-20
Repeal the sections, substitute:

104-15 A person's FEE-HELP balance or VET FEE-HELP balance
FEE-HELP balance
(1) A person's FEE-HELP balance at a particular time is:
(a) if the FEE-HELP limit in relation to the person at the time exceeds the sum of all of the amounts of FEE-HELP assistance that have previously been payable to the person, being that sum as reduced by any amounts previously re-credited under this Subdivision—that excess; and
(b) otherwise—zero.

Note: If an amount is to be re-credited to a FEE-HELP balance, the balance that is to be re-credited is worked out immediately before that re-crediting. The balance is worked out after the re-crediting by taking account of the amount re-credited. If a person's FEE-HELP limit has been reduced, the balance might not increase, or might not increase by the same amount as the amount re-credited.

(2) To avoid doubt, the sum referred to in paragraph (1)(a) includes amounts of FEE-HELP assistance that have been repaid.

VET FEE-HELP balance
(3) A person's VET FEE-HELP balance at a particular time is:
(a) if the FEE-HELP limit in relation to the person at the time exceeds the sum of all of the amounts of FEE-HELP assistance that have previously been payable to the person, being that sum as reduced by any amounts previously re-credited under Subdivision 7-B of Schedule 1A—that excess; and
(b) otherwise—zero.
Note: If an amount is to be re-credited to a VET FEE-HELP balance, the balance that is to be re-credited is worked out immediately before that re-crediting. The balance is worked out after the re-crediting by taking account of the amount re-credited. If a person's FEE-HELP limit has been reduced, the balance might not increase, or might not increase by the same amount as the amount re-credited.

(4) To avoid doubt, the sum referred to in paragraph (3)(a) includes amounts of *FEE-HELP assistance that have been repaid.

104-20 The FEE-HELP and VET FEE-HELP limits

(1) The FEE-HELP limit is:

(a) $97,728;

(b) in relation to a person who is enrolled in a *course of study in medicine, a *course of study in dentistry or a *course of study in veterinary science, while the person is enrolled in that course—$122,162.

Note 1: A person is entitled to receive both FEE-HELP assistance and VET FEE-HELP assistance up to the relevant FEE-HELP limit.

Note 2: The FEE-HELP limit is indexed under Part 5-6.

(2) The VET FEE-HELP limit is $48,864.

Note 1: A person is entitled to receive both FEE-HELP assistance and VET FEE-HELP assistance up to the relevant FEE-HELP limit.

Note 2: The VET FEE-HELP limit is indexed under Part 5-6.

3 Section 107-10

Repeal the section, substitute:

107-10 Amounts of FEE-HELP assistance must not exceed the FEE-HELP balance

Amount of FEE-HELP assistance for one unit

(1) The amount of *FEE-HELP assistance to which a student is entitled for a unit of study is an amount equal to the student's *FEE-HELP balance on the *census date for the unit if:

(a) there is no other unit of study, with the same census date, for which the student is entitled to FEE-HELP assistance; or

(b) the amount of FEE-HELP assistance to which the student would be entitled under section 107-1 for the unit would exceed that FEE-HELP balance.

Amount of FEE-HELP assistance for more than one unit

(2) If the sum of:

(a) the amount of *FEE-HELP assistance to which a student would be entitled under section 107-1 for a unit of study; and

(b) any other amounts of FEE-HELP assistance to which the student would be entitled under that section for other units that have the same *census date as that unit; and

would exceed the student's *FEE-HELP balance on the census date for the unit, then, despite subsection (1) of this section, the total amount of FEE-HELP assistance to which the student is entitled for all of those units is an amount equal to that FEE-HELP balance.

Example: Example: Kath has a FEE-HELP balance of $2,000, and is enrolled in 4 units with the same census date. Kath's tuition fee for each unit is $600. The total amount of FEE-HELP assistance to which Kath is entitled for the units is $2,000, even though the total amount of her tuition fees for the units is $2,400.
(3) If the student has enrolled in the units with more than one higher education provider and access to none of the units was provided by *Open Universities Australia, the student must notify each provider of the proportion of the total amount of *FEE-HELP assistance that is to be payable in relation to the units in which the student has enrolled with that provider.

(4) If access to some, but not all, of the units of study was provided by *Open Universities Australia, the student must:

(a) notify Open Universities Australia of the proportion of the total amount of *FEE-HELP assistance that is to be payable in relation to units access to which was provided by Open Universities Australia; and

(b) notify each higher education provider at which the student is enrolled in a unit, access to which was not provided by Open Universities Australia, of the proportion of the total amount of FEE-HELP assistance that is to be payable in relation to that unit.

4 Subsection 137-18(4)

Repeal the subsection, substitute:

Remission of VET FEE-HELP debts

(4) A person's *VET FEE-HELP debt in relation to a *VET unit of study is taken to be remitted if the person's *FEE-HELP balance is re-credited under clause 46, 47 or 51 of Schedule 1A in relation to the unit.

Note: The debt is taken to be remitted even if the person's VET FEE-HELP balance is not increased by an amount equal to the amount re-credited.

5 Subsection 198-5 (table item 4)

Repeal the table item, substitute:

<table>
<thead>
<tr>
<th>4</th>
<th>The *FEE-HELP limit</th>
<th>Subsection 104-20(1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>4A</td>
<td>The *VET FEE-HELP limit</td>
<td>Subsection 104-20(2)</td>
</tr>
</tbody>
</table>

6 Paragraph 43(1)(b) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*VET FEE-HELP balance".

7 Subdivision 7-B of Schedule 1A (heading)

Repeal the heading, substitute:

Subdivision 7-B—VET FEE-HELP balances

8 Clause 46 of Schedule 1A (heading)

Repeal the heading, substitute:

46 Main case of re-crediting a person's VET FEE-HELP balance

9 Subclause 46(1) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*VET FEE-HELP balance".

10 Subclause 46(1) of Schedule 1A (note)

Repeal the note, substitute:

Note: For VET FEE-HELP balance, see section 104-15, and for VET FEE-HELP limit, see section 104-20.

11 Subclause 46(2) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*VET FEE-HELP balance".

12 Paragraph 46(2)(d) of Schedule 1A

Omit "FEE-HELP balance", substitute "VET FEE-HELP balance".
13 Subclause 46(2) of Schedule 1A (note)
   Omit "FEE-HELP balance", substitute "VET FEE-HELP balance".

14 Clause 47 of Schedule 1A (heading)
   Repeal the heading, substitute:

47 Re-crediting a person's VET FEE-HELP balance—no tax file number

15 Subclause 47(1) of Schedule 1A
   Omit "*FEE-HELP balance", substitute "*VET FEE-HELP balance".

16 Subclause 47(1) of Schedule 1A (note)
   Omit "FEE-HELP balance", substitute "VET FEE-HELP balance".

17 Subclause 47(2) of Schedule 1A
   Omit "*FEE-HELP balance", substitute "*VET FEE-HELP balance".

18 Paragraph 49(1)(a) of Schedule 1A
   Omit "*FEE-HELP balance", substitute "*VET FEE-HELP balance".

19 Clause 51 of Schedule 1A (heading)
   Repeal the heading, substitute:

51 Re-crediting a person's VET FEE-HELP balance if provider ceases to provide course of which unit forms part

20 Subclause 51(1) of Schedule 1A
   Omit "*FEE-HELP balance", substitute "*VET FEE-HELP balance".

21 Subclause 51(1) of Schedule 1A (note)
   Omit "FEE-HELP balance", substitute "VET FEE-HELP balance".

22 Subclause 51(2) of Schedule 1A
   Omit "*FEE-HELP balance", substitute "*VET FEE-HELP balance".

23 Clause 54 of Schedule 1A
   Repeal the clause, substitute:

54 Amounts of VET FEE-HELP assistance must not exceed the VET FEE-HELP balance
   Amount of VET FEE-HELP assistance for one unit
   (1) The amount of *VET FEE-HELP assistance to which a student is entitled for a *VET unit of study is an amount equal to the student's *VET FEE-HELP balance on the *census date for the unit if:
      (a) there is no other VET unit of study, with the same census date, for which the student is entitled to VET FEE-HELP assistance; and
      (b) the amount of VET FEE-HELP assistance to which the student would be entitled under clause 52 for the unit would exceed that VET FEE-HELP balance.
   Amount of VET FEE-HELP assistance for more than one unit
   (2) If the sum of:
      (a) the amount of *VET FEE-HELP assistance to which a student would be entitled under clause 52 for a *VET unit of study; and
      (b) any other amounts of VET FEE-HELP assistance to which the student would be entitled under that clause for other units that have the same *census date as that unit;
would exceed the student's *VET FEE-HELP balance on the census date for the unit, hen, despite subclause (1) of this clause, the total amount of VET FEE-HELP assistance to which the student is entitled for all of those units is an amount equal to that VET FEE-HELP balance.

Note: Example: Kath has a VET FEE-HELP balance of $2,000, and is enrolled in 4 units with the same census date. Kath's VET tuition fee for each unit is $600. The total amount of VET FEE-HELP assistance to which Kath is entitled for the units is $2,000, even though the total amount of her VET tuition fees for the units is $2,400.

(3) If the student has enrolled in the units with more than one *VET provider, the student must notify each provider of the proportion of the total amount of *VET FEE-HELP assistance that is to be payable in relation to the units in which the student has enrolled with that provider.

24 Clause 56 of Schedule 1A (heading)
Repeal the heading, substitute:
56 Effect of VET FEE-HELP balance being re-credited
25 Subclause 56(1) of Schedule 1A
Omit "*FEE-HELP balance", substitute "*VET FEE-HELP balance".
26 Subclause 56(1) of Schedule 1A (note)
Omit "FEE-HELP balance", substitute "VET FEE-HELP balance".
27 Paragraph 56(2)(a) of Schedule 1A
Repeal the paragraph, substitute:
(a) the person's *VET FEE-HELP balance was re-credited under subclause 46(2) (main case of re-crediting a person's VET FEE-HELP balance); and
28 Subclause 56(3) of Schedule 1A
Omit "*FEE-HELP balance", substitute "*VET FEE-HELP balance".
29 Subclause 89(1) of Schedule 1A (note)
Omit "FEE-HELP balance", substitute "VET FEE-HELP balance".
30 Clause 92 of Schedule 1A (table item 1)
Omit "*FEE-HELP balance", substitute "VET FEE-HELP balance".
31 Subclause 1(1) of Schedule 1 (definition of FEE-HELP balance)
Omit "section 104-15", substitute "subsection 104-15(1)".
32 Subclause 1(1) of Schedule 1 (definition of FEE-HELP limit)
Omit "section 104-20", substitute "subsection 104-20(1)".
33 Subclause 1(1) of Schedule 1
Insert:
*VET FEE-HELP balance has the meaning given by subsection 104-15(3).
*VET FEE-HELP limit has the meaning given by subsection 104-20(2).

This is the substantive opposition amendment and this is the only position I am pursuing in regard to the amendments the opposition had foreshadowed because of the subsequent and late series of amendments that the government has put in, which I have described as somewhat panicked and desperate and rushed. All of those things reflect the current situation, which, of course, was presented to us at the very last minute for this bill. They are clearly an admission of what the Labor Party have been saying for some time: the original bill was inadequate. The government has now made crystal clear the point that its own proposals were
grossly inadequate, and I have some sympathy for Senator McKenzie's role in this matter as
the government chair of the Education and Employment Legislation Committee. The
committee's report, presented to the Senate just on Monday night, told us:

The committee therefore commends the bill as a vital reform that will improve the integrity of the VET
FEE-HELP scheme and restore confidence in the VET sector.

The report also said:

The committee recommends that the Senate pass the bill.

It is clear that the government did not accept that advice, despite the fact that, if normal
custom and practice is followed in this place, the government had actually written the report
that the government senators had relied upon. It is a pity they did not tell the government
senators they were about to abandon them, because that is what the consequences of these
provisions are. On the one hand, the government senators are told to give the scheme a clean
bill of health with this particular bill, and then, as my colleague in the other place, the member
for Cunningham, said, she was summoned to a meeting with the Minister for Vocational
Education and Skills. That meeting took place yesterday at 12.15 pm, and I was on my feet at
12.30 pm.

With that in mind, these complicated amendments which we have just carried—13 pages of
amendments and 18 pages or so of secondary amendments—have been described in this
morning's papers as 'desperate', 'emergency measures' and 'urgent'. One report said it was 'a
dog's breakfast'. If you look at what is actually going on here, with these are measures they
are, in effect, freezing in place the status quo to allow the government time to develop a
whole new scheme, allegedly within one year. As I have indicated before, I think the real
issue here is to get past an election.

The Minister for Vocational Education and Skills has announced that the new scheme will
be in place by 2017. There are no details and no principles. We have probably heard a little bit
more today than we have heard at any other time, and I am sure many senators would be
familiar with these matters because we saw the government's attempts to deregulate the
university sector end in disaster. It strikes me that you have got to have a real leap of faith to
think that in a year's time we are going to end up with a fully formed scheme to replace the
existing scheme within the vocational education system. So I am a little sceptical, to say the
least, and a little cynical about what the government's intentions are here, particularly given
that we are running into an election, which, of course, will take a very substantial period of
time in any process of policy development out of the political year.

Labor are proposing one simple proposition here, and the intent of the amendment is
simple: it gives the minister an additional tool to control the rorts in the VET sector. It allows
the minister, through a delegated responsibility to the secretary of the department, to control
prices, as we do within the universities. The minister could seek to fix the costs of all courses
or only some courses. That discretion would be available, and of course he would be
politically accountable for that. But in no way could we afford the proposition that there needs
to be price controls imposed on the VET sector, because what has happened has been an
explosion in the costs of VET certificates. We know that because of what is published on
TAFE courses, where there used to be fees scheduled, and we now see that the private
colleges are charging three, four or five times what a TAFE college had and in many cases
still do.
Professor Bruce Chapman, who I know is cited regularly in the press as the great architect of HECS, has called for the controls of tuition fees. He said:

You've got to cap prices otherwise people can really rort the system.

Peter Noonan, who is a well-known advocate probably more on the deregulation side of business, from the Mitchell Institute at Victoria University said:

To protect the system from itself, the government has to move in quickly and regulate prices.

The government will no doubt argue that there are technical problems with this approach and that it will take too long to get up and running. I say to you that that is just not right. We have already determined that the government is seeking to establish a new scheme within a year. This proposal that I have put before the chamber can be done very, very quickly. The original bill sought to bed down changes to cooling-off periods, to make providers aware of new prerequisites and to introduce new requirements for parents of those under 18 to sign loan forms. The department will need to put all those things in place within three weeks. It will need to introduce new systems for students to claim refunds, minimum registration periods and the change to VET guidelines for new penalties. So it goes a bit further than what the minister had indicated in a conversation we had had earlier on this matter as to what is actually required—

Senator Birmingham: I was just pointing to the amendments.

Senator KIM CARR: in this bill. The new amendments require a number of new administrative activities in determining the loan balance for each provider. The minister has explained they will do that on the basis of averaging eight months' activity applied over the whole year. That is essentially the principle. They will have to determine what is and is not a qualified VET course. They will have to establish a system of payment to providers for payments in arrears and establish a process to suspend payments to providers who have a record of poor performance, although I believe we will have some real issues about determining that record, particularly given the history in the last two years.

I am told that the new amendment allowed us to carve out providers for courses of particular industries, and we have seen that carried today. I am sure the chamber will excuse me when I treat, with some scepticism, the department's claims, which are reflected in the government's advice to us last night, that this would be too difficult, given all these other things. I have sought advice, overnight, from experts as well, and I am reminded that TAFE prices are already published. Private provider courses are supposed to be published. We had experience of one particular college that said it was a model. It appeared before the Senate inquiry, and we asked the question: where are your prices, and, of course, they could not be found. We now discover that the ACCC is still looking for a whole lot of other things that this 'model provider' claimed it had provided.

It is not hard to establish how it could be put in place, given the current regulations to require the publication of prices, and for TAFE that already occurs. There is a second way that this can be done. Our university students are currently charged according to three broad bands of subjects that they study. At university, in this country, the maximum amount that university students are required to pay is $10,440 per year for law, for commerce, for dentistry, for medicine and for veterinary science. It is $8,900 for engineering, science, allied
health, agriculture and mathematics. It is $6,256 for education, nursing and humanities. It is not hard. Those models are in place now and have been for some considerable time.

There is another little problem with this question about, 'It's too hard for us to work out what prices to charge.' In New South Wales, the Independent Pricing and Regulatory Tribunal currently reviews all VET courses in that state, and their findings are published for every course in the state. In Victoria, TAFEs charge between $5,000 and $7,000 for low-cost courses such as business or IT. There are fee-for-service courses processes. At Holmesglen, one of the more expensive courses, nursing, is at $20,000; early childhood is $10,000; and disability is $9,000. So it strikes me that it is not hard to identify what the prices actually are. But more than that, where else within the Commonwealth do we allow people to charge whatever they like and the Commonwealth picks up the bill? Where does that occur?

There is, of course, a situation now where we are having online business diplomas with minimum operating cost and people being charged up to $20,000 for them. They are actually more expensive under the VET system now than the price people are charged to do medicine. This is particularly the case when you end up with double-diploma enrolments and the like. That is if people actually know they are enrolled. We have at the moment a cost structure which is way over the odds and has increased to extraordinary levels in the last two years.

My proposal here is that we reduce, not increase prices. We put a price cap in to control the cost of running these programs. You can use TAFE as a model. You could use the university system as a model which allows for the provision of quality training which leads to real jobs and real qualifications and still provides a reasonable profit for private operators but not these superprofits these companies have been getting. They are reliant on government subsidies through this scheme for up to 80 per cent of their revenue. You have to remember that it is not just the Commonwealth that is tipping into this; the states are tipping in as well.

The government has a responsibility to ensure the value for taxpayers' money. We in this chamber now all accept that there are abuses and that it is better to seek boundaries for the expenditure of public moneys. We protect the most privileged professions like medicine through setting of fees at universities. We have no trouble with that. Administratively there is no difficulty whatsoever. It may well be that those same schedules could equally be applied in the VET sector with very little modification. But it appears that it is too difficult to protect the most vulnerable in the vocational education system— (Time expired)

**Senator SIMMS** (South Australia) (11:54): The Australian Greens support the Labor amendments. We encourage crossbenchers to do the same. I do not want to talk on this for too long. Indeed, I think my mum would be very unhappy if I didn't make it home for Christmas! I think we are at risk of getting to that point if we continue to debate this, but I do want to make the point that these measures are a really important safeguard to protect students. We do need to have a cap in place to guard against the skyrocketing fee increases that we have seen within the sector. This is an important measure that would provide additional support to students. We support it on that basis and we encourage others to do the same.

**Senator XENOPHON** (South Australia) (11:55): I indicate my strong support for Senator Carr's amendments. I think we need to put these amendments in context. They simply give the power to the secretary of the department to cap fees. They do not mandate the capping. It is an additional tool in the tool kit to sort out the rorting in this sector. With the Chairman's indulgence, I wish to read a brief opinion piece by Natasha Bita in *The Australian* this
morning which I think sums up beautifully what has occurred here. I think it is worth putting on the record. It is called 'Reform dog's breakfast fails to fix VET flaws'.

The Turnbull government has pulled its punch in the fight against financial rorting by private training colleges.

In a belated admission that its planned reforms fall short, the government yesterday introduced 13 pages of amendments to its own legislation in the Senate.

The result is a dog's breakfast of stopgap measures that freeze the status quo while failing to fix basic flaws in the structure of vocational training in Australia.

Training Minister Luke Hartsuyker yesterday declared he had "turned off the tap" of taxpayer funding that will total $2.75bn this year alone.

The government plans to freeze funding at existing levels, to the very same colleges that are pocketing fat profits at taxpayer expense.

Despite two Senate inquiries this year, the government will spend another year consulting with the industry about ongoing reforms to start in 2017. In April, the government banned colleges from offering "free" laptops, smartphones, cash or meals, after The Australian revealed how some colleges were bribing students to enrol in costly courses billed back to the taxpayer through the VET Fee-HELP student loans scheme.

The current bill, which the government hopes will take force on January 1, would ban colleges from charging full fees upfront, give students a two-day cooling off period and require parental consent for teenagers to take out student loans.

But it fails to treat a financially cancerous system that combines open-ended public funding with poor quality control.

The government must regulate the price of training courses, which have trebled in the three years since university-style student loans were made available to vocational training students. It is outrageous that colleges can charge as much for an acting diploma as a university does for a medical degree.

Until the government controls costs — by capping course prices or limiting how much students can borrow for each course — colleges can continue to binge on public funding while schools and universities go begging.

Well said by Ms Bita at The Australian.

I understand the minister's dilemma here. The minister has had to pick up an absolute mess. Without incurring Senator Carr's wrath, I think there was a complete mess of the system. The way the Gillard government handled this was a complete mess that opened up the floodgates to rorting. I understand the government is trying to do something about it, but for the life of me I cannot understand. I believe Senator Birmingham and Minister Hartsuyker genuinely want to do the right thing. I do not feel sorry for Senator Birmingham. I do not want to say that in a patronising way; I actually think he is diligently trying to sort out a mess that he has inherited. I am sorry that he has that role, but—I say this as a compliment to Senator Birmingham—I think he has easily the capacity to deal with this. I have confidence that he will be able to deal with this. I do not understand why the government will not support Senator Carr's amendments—unless there has been a change of heart.

I do not get it. Why wouldn't you have this sword of Damocles hanging over the head of those dodgy private training colleges where you could say to them: 'We can cap fees. We can go through this process'? You do not even have to use it; simply having that mechanism in
place would fundamentally assist the intent of this bill. I commend Senator Carr for moving these amendments.

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (11:59): I thank Senator Xenophon for his very kind words and thank senators for their contribution in relation to this amendment. I think Senator Carr started his remarks by offering sympathy to Senator McKenzie in relation to the Senate inquiry that was undertaken. I think it is important just for the record to be very clear that, yes, Senator McKenzie's inquiry recommended that this bill be carried and the measures within this bill be passed.

Despite the debates we have had on amendments in this chamber today, none of those amendments have, of course, changed any aspects of the actual bill that was presented. They have added to it. They have complemented it. They have built upon it. But that Senate committee was quite right—

Senator Xenophon: They are significant amendments.

Senator BIRMINGHAM: They are significant amendments, Senator Xenophon. They are significant, new and additional amendments, but they are not amendments that in any way vary or undermine the amendments in this substantial bill. So I think Senator McKenzie and her committee did the right thing in arguing for the passage of the bill.

I want to turn now to the particular amendment that is before us, and that is Senator Carr's amendment. In turning to it, I want to reflect on the fact that the arguments that were used particularly by Senator Carr in relation to the government's amendments that were presented in this place were arguments that criticised the government for the timing of the amendments. He quoted and claimed that the timing of the amendments had variously been described as 'panicked', 'desperate' or 'rushed'. I think Senator Xenophon used the word 'stopgap'. Yet, if the government were to now accept the opposition's amendment on this, all of the same arguments could apply. There was no further or earlier knowledge of the opposition's amendment, no further or additional scrutiny provided to the opposition's amendment—in fact, from the government's perspective, less, because we had not seen it until it was introduced into this place. They are not reasons why the government will oppose it. I just highlight the hypocrisy in the arguments that are presented.

But I want to deal with the substance of the amendment and the arguments around the setting of individual course fee caps, whether they are set on an individualised basis or in some type of banding structure, as Senator Carr has suggested. The amendment that is put before us—Senator Xenophon is right—provides the power for the setting of caps without any suggestion as to how or by what means they may be set. Senator Carr made some suggestions in his contribution, which I will touch on shortly, but the amendment does not prescribe in any way how such caps may be applied.

It is important that we remember the diversity of the VET sector when we are discussing this, because in effect the Senate would be asking the government to go away and try to conceive of some process where we would set caps for everything from courses in business administration or marketing to courses in nursing or landscaping, through to courses for pilots or aircraft engineering.

Of course, there are inherent risks that would come if the government were just to trundle along on our own way and set such price caps in relation to those courses. There is the risk of
what happens if you set the price caps too low. Set the price caps too low and essentially you will drive providers out of business. You will stop the offering of those courses. You will force state governments to have to increase subsidies to their TAFEs if they are to continue to offer those courses. You risk creating skills shortages in those areas where you have set price caps too low.

There is an alternate risk if you set a price cap too high. The history of price caps tends to be that the market operates at the price cap. So it is not that you set a price cap and people then differentiate underneath the price cap. That is certainly not the experience in the university sector. It is that, when you set a price cap, everybody simply shifts to the price cap. If you set it too high, you will simply drive providers, most likely, to that maximum price and in fact see the prices in some quarters go up. So by virtue of setting a price cap, because people tend to operate at the cap, we know that we would destroy any sense of pricing competition across the sector and simply be, in effect, establishing a government sanctioned price.

To go through the process of doing so would require extensive consultation. It would require additional regulation to be applied not just in setting the price but in relation to the unit structure of courses and having the government try to ensure some consistency of that unit structure across VET courses and the way in which they are priced. So it is not just as neat as discussing the price itself and how that might be regulated; there would be flow-on implications for doing so as well.

Senator Carr has suggested that perhaps we could simply adopt the price schedules of the states or of the TAFEs. The obvious question that flows from that is: which states or which TAFEs? Would he propose that we adopt one at a lower price than some of the TAFEs and some of the states and therefore force those states which are higher than that to lower their prices through their TAFEs and, if they think those courses are operating at a break-even point at present, to come up with subsidies or to withdraw course places? Or would he propose that we set it at the highest of the TAFE rates amongst the states, thereby giving the green light for the other states to simply increase their fees to be equivalent with that new highest level? Senator Carr suggested that, if we set it at the TAFE rates, providers would still be making a profit from their operations. Is that necessarily the case? The states provide various subsidy arrangements to those TAFEs. I do not think you can come in here and simply say there is an easy solution for how this might be done if it were to be done. It is a much more complicated decision that would require some greater thought than is the case.

Senator Carr makes great play of the fact that university undergraduate places operate within this type of price cap banding structure, and he particularly makes great play of medical places in that debate. Most universities, of course, would say they actually run medical places at a loss, so to draw a parallel between how university medical places are capped and the vocational sector would be to suggest that you would have to somehow then be conceiving of another layer of potential complexity in the setting of these caps—if you wanted to follow the medical example set by Senator Carr—and work out how you applied effective cross-subsidies across the different places that might be offered. That is what universities do: they run medical places largely at a loss and they cross-subsidise them with other courses that they run more cheaply. So that argument in and of itself does not particularly hold up.
I would also point out to Senator Carr and to others in the chamber that universities are but one part of the higher education sector and that we do not seek to cap the prices of other, non-university higher education providers. In fact, the universities are the only part of the education sector where the government and the parliament seek to cap prices as we do for undergraduate courses. We do not do it for other higher education providers. We do not do it for those non-university providers. We do not currently do it in VET. We do not do it elsewhere. We are not in the business of price setting, generally speaking, as a parliament, and yet that is what Senator Carr proposes we seek to do in relation to these courses.

He also highlighted the IPART processes that the New South Wales government uses for trying to set efficient prices. Of the various points you make, Senator Carr, that is one of the interesting ones that I am minded to go away and take a closer look at—it was already on my radar, I have to say—as we contemplate where overall reforms for VET FEE-HELP might go in 2017. But that is not a quick process. That is not a simple process. That is quite a detailed, analytical process.

The point that I would make to the chamber is that what we have achieved today—and pretty much all senators have worked cooperatively to implement a series of reforms—is reforms that stop the growth in the VET FEE-HELP scheme for next year. Yes, they are emergency measures, in the sense that they are trying to put an immediate stop to growth, but by doing that they are giving us the breathing space to be able to go away and design a new scheme that can actually deal with the nuances that might be required in trying to drive more efficient and effective pricing behaviour.

The greatest driver of efficient and effective pricing behaviour should be student choices. I spoke before about the way the full-fee-paying market operates and the high-quality outcomes we seem to see through that sector and the fact that that seems to work because people put a very clear value on what it is that they are buying. Somehow we need to make sure that, when it comes to the operation of income contingent loans, people equally are putting a clear value on what they are buying, because they are still buying it. There is still an expectation those loans should be repaid. They are making a purchasing decision, and they should be making that purchasing decision to undertake that course based on the merits of what they are getting as a value-for-money proposition—the quality of the training, the likelihood of an employment outcome. That is the aspiration that I hope we will be working towards in working towards a model for a reformed VET FEE-HELP scheme.

But it would be a crude and likely ineffective measure today for the parliament to simply pass this amendment, which Senator Xenophon accurately said does not mandate that the government go in and applies fee caps. But I have supreme confidence that, in passing this amendment, we would instantly hear from Senator Carr and those opposite calls for the government to mandate those fee caps and that we would be under pressure to do so and under not unreasonable expectation from people that, if the government accepted this amendment, it was our intention to use those provisions. But the government has real reservations about the impact that the use of such provisions for fee caps would have on the operation of the vocational education and training sector. We have real concerns about the administrative complexity of it.

We do not think the arguments put by Senator Carr today, that there are easy way through this, stand up to any type of rational testing, as I have outlined. And we do have confidence
that the measures we have put in place through this legislation, along with other measures that we have introduced throughout the course of this year, will give us a much better-functioning VET FEE-HELP system, will stop much of the abuse, will empower the minister to be able to step in where abuse is occurring and instantly stop new enrolments and new payments to providers, will make sure that we end the rorting that we have seen and will give us time to write a proper new scheme, rather than what this measure would be, which would be essentially to attempt to apply another bandaid to the program but another bandaid that would distract attention and resources from trying to work out how to set a new scheme in place rather than enabling us to get on with what should be the proper policy task of developing that new scheme. So I urge the chamber to reject this amendment, whilst thanking senators for their cooperation in dealing with the overall suite of reforms that we have proposed today.

Senator XENOPHON (South Australia) (12:14): I genuinely meant it when I said that I think it is terrific that Senator Birmingham is Minister for Education and Training. I think that he does have the smarts and the capacity to do a really good job of this portfolio. But I have got to say the arguments that he has put up against Senator Carr's amendment are so anaemic they are in need of a blood transfusion. This just does not make sense. Let us go through some of these arguments. They do not make sense. Senator Birmingham, the minister, says these are last-minute amendments.

Senator Birmingham: I didn't say that was a reason not to oppose them. I just highlighted the hypocrisy in Kim's argument.

Senator XENOPHON: Sometimes if you highlight what you say is hypocrisy—it sounded like an argument against it. But the fact is: we have had to do this on the run. It is not satisfactory. I was prepared to support Senator Lazarus's and Senator Muir's amendment, in terms of aviation colleges, primarily, because I thought that it had merit because it picked up on an unintended consequence of the legislation. So I am prepared to be flexible. I think the opposition has been pretty flexible with a whole stack of amendments that were thrown into the chamber yesterday, and that is why I thought Natasha Bitters' column was very apposite in terms of what has been going on here. This does not mandate a capping of fees but it gives an additional weapon for the government to deal with dodgy providers. It also sends a clear signal. I think that just having this power would, in itself, have a moderating effect on prices. Simply knowing that the government has this power would give some private college providers that are not ethical, that are not doing the right thing, pause for thought in terms of some of their behaviours. We know that the current system has not worked. We know that this is a stopgap measure to try to deal with it, according to Natasha Bitters in *The Australian*, and I agree with her.

My concern is if the government's argument is that there will be an expectation for us to do something if this amendment is passed. There might be an expectation but the government still does not have to do it. The government has raised a number of concerns about how it would be capped—whether it is too low or too high. Surely it is up to the government to come to the right decision if, in some cases for some courses, there ought to be a cap. I think that it would give a very powerful signal to those operators that are not behaving ethically, in addition to all the other measures in this bill. So I cannot see the harm in the government having this extra bit of power that it could use, should it decide to do so, to deal with this. Minister Hartsuyker said he had turned off the tap of taxpayer funding that will total $2.75
billion this year alone. I am suggesting that we are not turning off the tap, because the tap is still leaking, and this will give the government an opportunity to turn it off for those courses that are not behaving properly. To have the power to cap is absolutely critical for this bill to work. I see this amendment as enhancing the bill in a meaningful way, even sending a signal to those dodgy operators that they need to be aware that the government has the ability to cap their fees. That, to me, is a very useful mechanism.

Senator KIM CARR (Victoria) (12:17): I thank Senator Xenophon for his remarks, but I do think I need to deal with some of the comments the minister has made to try to rebut these propositions. I do not intend to spend a lot of time on this. First of all on the question of timing: this is an amendment that the Labor Party have canvassed for some time. There have been two Senate reports and two Senate inquiries that led to those reports. We established the first inquiry back in October 2014 and it reported earlier this year. The evidence before that inquiry dealt specifically with this issue and this matter was a subject of that report. I remind the senator of the advice from Bruce Chapman, Peter Noonan and others who participated in the public debate about this question. This is not something that has been dropped at the last minute. We canvassed this specifically in the second report, which was tabled on Monday, and I have publicly made numerous interventions in support of this proposition. So for the minister to say, 'we only just heard about this' defies logic, as he says.

If we deal with the issue of price capping as a principle, I think this is significant because the government does not actually like the idea of controlling the costs, which is an essential element. There is a very important philosophical difference. We say these amendments are additional measures, insurance measures, for allowing the Commonwealth to contain the costs of vocational education under this scheme. We know that unless you control the costs—and that is what all the education experts point to—you will not be able to contain the rorting that has been going on. So the government's approach has been inadequate because of a philosophical question about the role of the private sector, and this is why it has dragged the chain so much in all of this. The idea that a panacea will be arrived at by student choice has been demonstrated to be completely wrong. Students have very little choice in this because the fundamental premise of the scheme is that 90 per cent of them will not actually ever have to pay back the loans. It is predicated on the assumption of incredibly small success rates.

The minister suggests that the vocational system is somehow different from universities. Let me tell you, Minister, I am sure you would be aware of this. Your officials will tell you this. There are probably over 10,000 university courses operating at the moment, and they seem to be able to manage with the three broad brands of student contribution being set in regulation. There are in fact 10,000 or so university courses and there are only 6,300 vocational courses. There is actually more activity in the universities, more diversity than in the vocational system. There are 750,000 domestic university students. You say, 'It doesn't regulate in regard to non-university providers.' The truth is that they do not get the level of subsidy so they do not get the Commonwealth supported places subsidies that the universities get. That is all the more reason that you have got to regulate costs of provision. That to me is a really big question, because you are forgetting that in the vocational system there is an additional subsidy that is provided and that is by the states.

They are crying out for this. My conversations suggest to me that states are demanding controls on the prices.
Senator Birmingham interjecting—

Senator KIM CARR: They are providing a subsidy. A huge number of VET FEE-HELP providers also get a state subsidy; they are not relying entirely on Commonwealth monies. Why is it that in Victoria probably up to 10,000 qualifications have had to be withdrawn on—

Senator Birmingham interjecting—

Senator KIM CARR: Because they get state subsidies as well. When it comes to the question of confidence, Minister, you said the same in March when you announced these changes. Much was said about confidence, and we know that the rorting and malpractice continued.

Labor’s amendment is fair, reasonable and necessary. It is necessary to protect the Commonwealth; it is necessary to protect students; and it is necessary to restore confidence. This is where real confidence is required—not by the government but by the public in our VET system. The public needs to be confident that we have reputable, quality provision of training that leads to real qualifications of high standing and real jobs. That is what is lacking at the moment.

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (12:23): I firstly want to deal with the inaccuracy inherent in what Senator Carr was saying about state subsidies. States do provide subsidies in their VET system. Since the expansion of VET FEE-HELP, states have largely withdrawn the rate and the amount of subsidies they provide for diploma and advanced diploma courses. It is important to remember that VET FEE-HELP is only available for those diploma and advanced diploma courses. Overwhelmingly, state subsidies are directed to certificate level courses. The VET FEE-HELP scheme is not generally available to certificate level courses. So, in that regard, Senator Carr, you are quite wrong.

Do the states want to see the rorting in VET FEE-HELP ended? Yes, absolutely. Does the government want to see it end? Absolutely. Do you want to see it end? Absolutely. We all want to see it end, Senator Carr. We might have disagreements on how we can best end the rorting that has occurred, but we all want to see it end. But by no means are the states on the hook for additional payments because of the growth that has occurred in VET FEE-HELP. It is quite the contrary: the states have actually reduced their support as a result of the growth of VET FEE-HELP across those diploma categories since the previous government opened it up.

As I have said before during this debate, the primary problem that we have seen in the way VET FEE-HELP has been used and abused is not the case of good, well-intentioned students seeking employment outcomes being ripped off in terms of the price of the course. The primary problem has been the targeting of vulnerable individuals to sign up for courses that they are either ill-equipped to undertake or have no intention of actually undertaking. Overwhelmingly, the government’s reforms rightly target the primary problem. We are targeting that primary problem in a range of ways. We are making sure that there are minimum prerequisites for students entering into those courses, so that there will be confidence in future that, if you are starting a course, you are in fact capable of being enrolled and completing that qualification.

Of all of the tightening that has occurred in relation to other enrolment practices that we have put in place, importantly, we are also tightening the ability of providers to be in the
system. We have now tightened the value of the loans to stem the growth while we seek to re-write the system and enhance the powers of individual students to be able to seek recourse and get their money back for wrongful practices and enhance the powers of the minister to be able to intervene where wrongful practices occur and to be able to suspend new enrolments and payments to those students. So it is quite a comprehensive reform package. It is a comprehensive range of reforms that are directly targeted to the primary problem of the dubious enrolments that have occurred and the serious malpractice of providers around those dubious enrolments.

Senator Carr, I acknowledge that, on this issue, we differ. That is clear for the Senate and all to see. I want to drive efficiency in pricing across the VET sector, but I do not want to drive out competition in pricing and I do not want to drive out innovation and differentiation in the VET products that are offered. I am afraid that that is what would be the logical consequence of the amendment that you are proposing. That is why the government cannot accept it. As we look to redevelop this scheme in 2017, we will absolutely be looking to find ways to get the most efficient pricing behaviour across both providers and students to occur in the VET sector. But we will not support what we think are measures that would stamp out competition and risk innovation and diversity in the offering that is available to students to help them train and be skilled and secure jobs in the future.

The CHAIRMAN: The question is that amendment (2) on sheet 7800 be agreed to.

The committee divided. [12:33]

(The Chairman—Senator Marshall)

Ayes ...................... 34
Noes ...................... 34
Majority ............... 0

AYES

Bilyk, CL (teller) Brown, CL
Bullock, JW Carr, KJ
Collins, JMA Conroy, SM
Dastyari, S Di Natale, R
Gallacher, AM Gallagher, KR
Hanson-Young, SC Ketter, CR
Lambie, J Lines, S
Ludlam, S Ludwig, JW
Madigan, JJ Marshall, GM
McAllister, J McEwen, A
McKim, NJ McLucas, J
Moore, CM O’Neill, DM
Peris, N Polley, H
Rhiannon, L Rice, J
Siewert, R Simms, RA
Singh, LM Urquhart, AE
Whish-Wilson, PS Xenophon, N

NOES

Abetz, E Back, CJ
Bernardi, C Birmingham, SJ

CHAMBER
Question negatived.

Bill, as amended, agreed to, subject to a request.

Bill reported with amendments and a request; report adopted.

The PRESIDENT (12:37): I advise senators that there will be no third reading because we have a request with this bill which needs to be considered by the House of Representatives.

Australian Citizenship Amendment (Allegiance to Australia) Bill 2015

In Committee

Debate resumed.

The CHAIRMAN: The question is that the bill stand as printed.

Senator McKIM (Tasmania) (12:37): We heard during the second reading debate on this legislation assurances given to the Senate to the effect that, under the provisions of this legislation, no-one will lose their citizenship due to untested suspicions or concerns. Attorney, is it the case that no-one will lose their citizenship due to untested suspicions or concerns? Who will be testing suspicions or concerns and what will be the burden of proof? Will the test applied be that someone has breached the criteria set out, specifically renunciation by conduct in section 33AA? So the first question is: who will test any suspicions or concerns? The second question is: what test will that person or those persons apply? Will they be required to satisfy themselves beyond reasonable doubt or to a comfortable satisfaction that the criteria had been breached or will it be on balance of probabilities?
Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (12:39): In relation to section 33AA, which, as you say, is the renunciation by conduct provision, the only decision which will result in a loss of citizenship is a decision by a person to renounce their allegiance to Australia by engaging in one of the specified forms of terrorist conduct set out in the section. As I explained yesterday, under section 33AA, which is based on a very longstanding provision going back to 1948, no decision is made by a government decision maker which has the result of the person losing their citizenship. The decision to renounce their citizenship is a decision for the person who does the renunciation constituted by the act.

Senator McKim, you asked about burden of proof but I think you meant standard of proof, which is a term used to describe the level of satisfaction that a court must have in judicial proceedings, but section 33AA does not operate as a judicial proceeding—there is no judicial proceeding involved. In fact, as I said to you a moment ago, there is no governmental decision of a legislative, executive or judicial character involved. It is merely the deeming by this provision, were this bill to be passed, of certain conduct to constitute the renunciation of citizenship and the renunciation of citizenship is complete upon the engagement in that conduct. So that issue just does not arise.

Senator McKIM (Tasmania) (12:42): I thank the Attorney for his response but it nevertheless remains the case that, upon renunciation of citizenship, certain other consequences, I would presume, would flow, such as, for example, removal from the electoral roll, should that person be on the electoral roll, or the cancellation of a passport. Could the Attorney please take the Senate through how those subsequent machinery actions, if you like, will be applied by the various agencies that are responsible for those matters? Specifically, Attorney, I absolutely accept, under the terms of this legislation, that citizenship is renounced by conduct. That is clear in section 33AA, but is it not the case that, unless the government knows about the conduct that is relevant and which breaches the criteria established in section 33AA, then all of the subsequent effects that would ordinarily be given to a renunciation of citizenship would not occur if the government does not know that the action has been taken—that is, the action that breaches the criteria set out in section 33AA? Is it not the case, if the government does not know that an Australian citizen has breached the criteria established in section 33AA, notwithstanding the fact that technically their citizenship has been renounced by that action in terms of the provision of this legislation, that a person could still return to Australia with an Australian passport and could still vote in elections in Australia because the government has simply not become aware that the action that breaches the criteria established in section 33AA has occurred?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (12:44): Senator McKim, it is a good question, and I think that your choice of the words 'machinery provisions' is very apt, if I may say so.

The DEPUTY PRESIDENT: Order! It being 12.45, the committee will now report progress.

Progress reported.
STATEMENTS BY SENATORS

The Kurrajongs of Inverell

Senator WILLIAMS (New South Wales) (12:45): I rise today to extend an invitation to everyone in this chamber, and to all Australians, to attend a very special event in my home town of Inverell next month. You ask: 'What is that event?' Before I explain, I want to go back 98 years to the battlefields of Belgium and a young soldier from Inverell, Private Alan James Mather.

Private Mather, who was in his mid-30s, signed up on 10 January 1916 and left Inverell two days later as part of a group of men who were to become known as The Kurrajongs. There were 114 men who marched through the streets of Inverell in that muster, responding to the terrible news coming back from the war front of the horrific casualties, particularly at Gallipoli some eight months earlier. It is said that 5,000 people lined the streets to farewell them. The mayor proclaimed: 'It is one of the proudest days in Inverell's history', and The Kurrajongs marched to the Inverell railway station. At the time this was the largest single group of men to leave a country town for war service. The train collected other recruits along the way at Delungra, Warialda and Moree before setting up camp at Narrabri.

Most of the volunteers, including Private Alan Mather, became members of the 33rd Battalion AIF. The farmland, the livestock, the easy-going rural life enjoyed by Private Mather and his Aussie mates were a world away from what they faced on the battlefield in Belgium. His 33rd Battalion became engaged in the Battle of Messines on 7 June 1917. It was fierce fighting involving 216,000 men from Australia, New Zealand and Great Britain. The following day, 8 June 1917, Private Alan Mather, who was from a small property just to the north of Inverell, lost his life when a German shell exploded near the trench he was in. He was one of 6,178 Australians who served in the Ypres campaign, and his name was added to the Menin Gate alongside those with no known grave.

In August 2008—a long time later—archaeologists, who were combing through the battlefields in Belgium, discovered Private Mather's remains of his rifle, ammunition, corps badges and the contents of his pockets and haversack underneath the site of what had apparently been a big bomb blast. An identification disc was found, but was too corroded to provide any useful information. The Australian Army commissioned DNA testing on surviving relatives. The younger Alan Mather was able to put the investigators on to an even closer relative, Cath Mitchell, a cousin living in Armidale, who was aged 96. When I say 'the younger Alan Mather', he is still alive and well in Inverell today. The identification was confirmed, and you could not begin to imagine the emotions of the Mather family when they heard the news.

On 22 July 2010 Private Alan Mather, service No. 1983, of the property 'Flaggy' at Pindari near Inverell, was formally buried with full military honours at the Prowse Point Commonwealth War Graves Commission Cemetery in Belgium. His great-niece, Kim Blomfield, and nephew, John Mather, joined the Chief of Army, Lieutenant General Ken Gillespie, and the Ambassador to Belgium, Luxembourg and the European Union and NATO, Dr Brendan Nelson, in a solemn remembrance ceremony.

The lady who performed the service at the burial of Private Mather, Katie Inches-Ogden, may attend the very function I spoke about earlier. We are having a march on 10 January in
Inverell, which is a re-enactment of The Kurrajongs march. That may be attended by, as I said, Katie Inches-Odgen. Another special guest will be Dr Kerry Neale, who is a curator at the Australian War Memorial. She will speak on 'Healing a nation—wounded veterans and family caregiving after the First World War'. Dr Neale will recount the stories of wounded soldiers who returned to Australia shell-shocked, disfigured, blinded and suffering the effects of being gassed.

The committee, headed by Private Mather's great-niece, Kim Blomfield, and ably supported by Ann Hodgens OAM, has organised an outstanding program that will be enjoyed by thousands of locals and visitors alike. The big day, as I said, is Sunday, 10 January, when the re-enactment march will be held. An enormous amount of work has gone into tracking down descendants of The Kurrajongs to participate in the march and commemorative events, and already some 220 people have registered to march. On Tuesday, 12 January a service will be held, as well as the re-enactment, of the presentation of the New South Wales Governor's shield. This is very important as this shield was presented to Inverell for providing the most recruits per head of population in New South Wales during a campaign in 1918.

Today a memorial to The Kurrajongs stands proudly among the avenue of Kurrajong trees lining the eastern entrance to Inverell. Inverell shops will be decorated, and the town is really getting into the spirit of this re-enactment. Yesterday there was a bus tour of some of the points of interest hosted by Ian Small, who wrote The Kurrajongs, a book which is a mixture of fact and fiction. I thank the federal government for its contribution to the event through the Anzac Centenary Local Grants Program and the Inverell Shire Council, Inverell RSM Club and Inverell RSL sub-Branch for their outstanding support. Australians are flocking in their many thousands to visit war graves overseas, and I hope to get there myself one day. One Inverell man retrieved a handful of soil from the Oakwood area just to the north of Inverell and sprinkled it on the grave of an Oakwood man who had been killed in World War I and was buried in St Pierre Cemetery in France. It was his way of reuniting the soldier with the land where he had been born and grown up.

We saw a magnificent Anzac Day this year, the Centenary of Anzac. I remember my late father telling me, many years ago, when he was president of the RSL sub-branch in Inverell that there was concern that Anzac Day was waning, it was fading and people were losing interest. That has certainly not been the case and, indeed, it has got bigger and bigger every year. It is great to see the youngsters participating and being involved in that.

Next January the 10th, our hometown of Inverell will host the commemoration for the 100 years since the Kurrajongs marched and headed off to war. They were brave young men—many never returned. Many believed they were going on an exciting journey but found the absolute opposite in the battles they faced, and against the odds. I thank those people who have done so much work to organise the re-enactment: Kim Blomfield and the crew of the committee and Ann Hodgens. They have done a wonderful job, well done. We look forward in Inverell to the big commemoration remembrance of the 100 years of the Kurrajongs on 10 January and the couple of days following that.

**Climate Change**

**Senator McEWEN** (South Australia—Opposition Whip in the Senate) (12:53): In February 2010, a member in the other place said this:
It is our job as members of parliament to legislate with an eye to the long-term future, to look over the horizon beyond the next election and ensure that, as far as we can, what we do today will make Australia a better place, a safer place for future generations to live in. Climate change is the ultimate long-term problem. We have to make decisions today, bear costs today so that adverse consequences are avoided, dangerous consequences are avoided many decades into the future. It is always easy to argue we should do nothing, or little or postpone action. But we are already experiencing the symptoms of climate change, especially here in Australia with a hotter and drier climate in the southern part of our nation.

Almost six years later, the same person who said that has just returned from the 2015 United Nations Climate Change Conference in Paris, having embarrassed Australia by defending his government's inaction over climate change. As our official representative, the Prime Minister, Mr Malcolm Turnbull, travelled to Paris intent on holding Australia back on climate change action. Australia attended the conference in Paris as the only developed nation that has actually gone backwards on climate action in the last two years. It is nothing but an embarrassment, especially given what happened in Australia and around the world on the weekend.

In the 2,300 events that were held across 175 countries, hundreds of thousands of people rallied to urge politicians to act against global warming. At home in South Australia, I joined with my Labor colleagues—the member for Port Adelaide and shadow minister for the environment, Mark Butler; the member for Makin, Tony Zappia; and the ALP candidate for Hindmarsh, Steve Georganas—together with some 6,000 concerned South Australians, who were all determined to deliver the message to Malcolm Turnbull that Australia needs to do more. I did not see any coalition members there.

You would have hoped that with a new Prime Minister, we would have seen new policy and a new direction for the government, moving away from Mr Abbott's viewpoint that climate change is 'absolute crap'. Instead, from the very outset of the Turnbull reign, we have seen a more polished Prime Minister deliver the same dud policies. Paris was not any different. On the world stage, we have seen Mr Turnbull hauling the coalition's Direct Action baggage across the world and half-heartedly attempting to sell it as progress.

Where Australia was leading the world, this year China was tipped as the nation to watch at the Climate Change Conference. China has made a massive about-turn, now lining up as one of the world's leaders in climate policy. Bringing a raft of ambitious commitments, in 2015 China is already developing their green energy industry faster than anywhere else on the planet. Reaching the highest capacity construction of wind power and solar power in the world, last year China spent around $115 billion on forms of renewable energy—far ahead of the EU and the US, and dwarfing Australia's measly renewable investment attempts.

The Clean Energy Finance Corporation's 2014-15 annual report shows clean energy investment in Australia was $3.17 billion last financial year, almost half of the $6 billion investment in 2012-13 under the Labor government. Australia will never again be a world leader in climate change policy if we continue to be led by a government that refuses to act on the facts. Mr Turnbull could have built on the former Labor government's initiatives, but we have seen nothing other than a conservative, conformist agenda by a man desperate to hang on to the top job. Indeed, Australia is now being governed by a man who once said of the coalition's climate credentials:
Any policy that is announced will simply be a con, an environmental fig leaf to cover a determination to do nothing.

As the leader with the ability to make positive changes, Mr Turnbull lacks the courage to change the coalition's pathetic policies and still cannot be trusted.

Mr Stuart Allinson, the acting chair of the Climate Change Authority, said earlier this week that the government's own climate policy is at risk of becoming fiscally unsustainable in the large scale. Mr Allinson went on to say:

The authority is of the view that it is time for a fresh look at the range of policy options, including the various forms of emissions trading schemes with a view to 'resetting' Australia's public discussion. Australians expect their leaders to take suggestions like this seriously and to take climate change seriously, and to rely on the best science when developing their policies, including policies to limit global warming to well below two degrees Celsius on pre-industrial levels. Australians do not expect their elected representatives to stand in this place and ignore the science behind climate change. It is not just the Turnbull government that we have to worry about. Earlier this week, we heard South Australian Senator Bob Day make a complete mockery of climate science. His claims that there has not been any global warming in 18 years are, frankly, ludicrous. I do not know where Senator Day gets his statistics, but I think he had better go back and do some fact checking.

According to genuine research, seven of the last 10 warmest years on record have occurred since 1998. Over the past 15 years, the frequency of very warm months has increased five-fold and the frequency of very cool months has declined by around a third compared to 1951 to 1980.

Since 2001, the number of extreme heat records in Australia has outnumbered extreme cool records by almost three to one for daytime maximum temperatures, and almost five to one for night-time minimum temperatures. There has been an increase in extreme fire weather and a longer fire season across large parts of Australia since the 1970s. I note evidence of extreme fire weather was seen in South Australia, my home state, just last week.

I would like to take a minute to acknowledge the dedication and selflessness of the South Australian and interstate Country Fire Service volunteers during the Pinery bushfires. Sadly, although two people lost their lives in the fires and many more were injured, the toll could have been so much worse. The fires moved at a frightening pace. Homes and farmland were ravaged and a huge amount of livestock was lost. Without the tireless efforts of the CFS, it could have been so much worse, and I pass on my heartfelt thanks to all those who were involved in the firefighting efforts.

Bureau of Meteorology climatologist Ian Barnes Keoghan said, as a result of the increasing El Nino weather pattern, less rainfall and hotter days in spring will result in earlier and more extreme fire seasons becoming the norm. Director of the Institute of Biodiversity and Climate at Curtin University, Grant Wardell-Johnson, echoed those sentiments saying that macro factors like carbon emissions and increasing global temperatures were driving the horror start to the 2015-16 bushfire season. Wardell-Johnson also noted that El Nino weather patterns, resulting in reduced rainfall over a considerable period together with global warming, make the Australian environment much more fire prone earlier in the season.
Is Senator Day completely ignorant of the evidence? He absurdly claimed that a warmer climate would be beneficial. Senator Day, perhaps you should go out to those victims of the Pinery fires and tell them that. Despite the statistics, see what the people who fled for their lives as the fires were racing towards them think about your claims that a warmer climate would be beneficial.

According to the UN, 2015 is set to be the hottest year on record, with both land and sea temperatures likely to exceed those of 2014 as the highest-ever recorded. My home state is taking bold steps to minimise the effects of greenhouse gases on global warming. I would like to congratulate Premier Jay Weatherill for last week announcing a vision for Adelaide to become the world’s first carbon neutral city by 2050. It is a critical role for a state government to play, and I am very proud of the Weatherill government.

If we do not act, Australia will continue to experience an increase in extreme weather events including fires, more severe droughts and rising sea levels. Labor acknowledges the science and we are prepared to take ambitious action on climate change. We want to see 50 per cent of our electricity energy mix generated by renewable energy by 2030. We will put strong renewable energy at the centre of Australia’s response to the challenge of climate change, creating jobs, driving investment and pushing down power bills for families and small business.

Australians know the longer we delay action on climate change, the more severe the cost. Those costs will be felt across the board, to our economy, our environment and our way of life. As President Obama said on the weekend:

That future is one we have the power to change. Right here. Right now.

(Time expired)

Children in Immigration Detention

Senator HANSON-YOUNG (South Australia) (13:03): I rise today to speak on children currently held in Australia’s immigration detention facilities. As I stand here, the latest numbers of children held in detention here in Australia is 112.

Last week in this place, the Senate voted to amend a piece of legislation that would release children within 30 days, ensuring that those children and their families could live safely in the community. The test is now for Prime Minister Malcolm Turnbull: will he agree with the Senate and allow these children to live in the community while their claims for refugee protection are assessed; or will he continue to keep them locked up in prisons in Australia and Nauru? There are another 200 children or thereabouts locked up in detention on Nauru.

It is important to release children in Australia today into the community so they can have proper access to schooling. One of the most important ways of ensuring that these children can integrate into our community is to allow them to have a normal school life. At the moment, out of the 112 children who are locked up by this government in Australia, a number of them are allowed to go to school but only after weeks and months of pressure from advocates to ensure they get access to regular schooling.

The children who attend school, who are in immigration detention, suffer from serious stigmatisation. It often takes weeks, if not months, to get children into school and, because of the ping-pong nature of how the government treats families in detention, they are often moved from detention centre to detention centre—from Nauru to Australia; from Australia back to
Nauru; and within Australia—from Melbourne to Brisbane to Darwin. It is very hard for children in those circumstances to become part of a school community.

One of the saddest things, when you talk to families and children in detention facilities about going to school, is that security guards have to take them to the school gate and classroom. In Australia, security guards in Serco uniforms—the private contractors—accompany them to school. When they get dropped off at the schoolyard, all the other children wonder: why is this student who is in grade 3 with me being accompanied by two guards? What have these children done that is wrong? You can see how the bullying and stigmatisation of being taken to and from school every day accompanied by guards would play very heavily on the minds of these already vulnerable and fragile children.

The children who get to go to school have their school bags searched on their way back into detention. Heaven forbid they may have smuggled some crayons or an extra muesli bar into the detention centre. One 10-year-old girl who lives in the Melbourne detention centre comes home from school in tears each day, her mother has told us. She tells her mum that no children will play with her in the schoolyard, as they think she comes from a prison. The sad truth of that, of course, is that she does—immigration detention centres are prisons for these children.

Many children are bullied. Other children accuse them of being criminals. They are also picked on for their clothing, which is the generic clothing handed out by the private contractor, Serco. It is often not very well suited and often ill-fitting. One teenager currently in detention in Darwin now refuses to go to school because the bullying in the schoolyard as a result of his being a child asylum seeker became so bad. Sadly, that young boy has started to self-harm.

Parents talk of how kids are often hungry after they get home. After they have been picked up by the security guards, brought back to detention and had their bags searched, they get back to their room in the detention centre and there is no kitchen in which their parents can provide meals. They have to wait along with everybody else to line up for mealtime—just like a prison.

Many of these children that I am talking about today have been in detention for two or three years. This is a lifetime for a child. Many of the children received no schooling when they were first detained on Christmas Island, despite the minister's duty to enrol them in school. They have been ping-ponged across the country, flown back and forth from Australia to Nauru. Many of these children have missed out on months and months of education.

The biggest concern right now that these children have is that in two weeks there will be school holidays. For children across the rest of Australia—like my daughter who is in grade 3 and who is eight years old—it is an exciting time having the summer holidays to spend time at the beach and with your friends and family and to be free from the school structure. It is not so for these 112 children currently in detention. These children have 12 days left of school. Those 12 precious days, despite the stigmatisation and despite the bullying, are the only time these children are allowed out of this prison. With the approaching school holidays, those children are filled with dread that, while other children are out playing, while their schoolmates will be spending time at the beach, they will be locked up behind bars for the entire six-week holiday period.
There used to be a designated persons program where those who were designated volunteers could take children and their families from a detention centre on regular visits outside. Sister Brigid Arthur, who is a Catholic nun, is one of the women who used to do this on a regular basis. For a number of years she was one of the few designated persons approved by the immigration department to take people detained from the centre outside for an hour or two. Sometimes she would even get half a day. During the school holidays she would prioritise the children—a trip to the zoo, at visit to the playground or maybe just home for a home-cooked meal. But six months ago, when the Australian Border Force Act started, the designated persons program was suspended without further notice. Now these children have no-one to escort them out, even for a couple of hours a week. They look with dread at the school holidays, when they are going to be locked in this prison for months over the summer break.

Mr Turnbull could change this if he wanted to. At the very least, he could reinstate the designated persons program. But he could do much more than that. He could accept the will of the Senate, as expressed last week. He could release these children and their families from living in this prison hell. He could ensure that they have the opportunity to live in the community safely, to be integrated and to be supported. He could to ensure that these children, for the first time in two or three years, actually get to be children and have the childhoods that so many of us have fond memories of over the summer break. There is a day-and-a-half left of parliament this week and this sitting year. I urge the Prime Minister to not keep these children under lock and key any longer and to ensure that these children have the opportunity to spend the Christmas school holidays being children. Allow them to be set free.

Western Australia: Economic Competitiveness

Senator REYNOLDS (Western Australia) (13:13): I rise today to discuss issues that are near and dear to my heart. Those of you who heard my first speech will know them. They are the concepts of innovation, commercialisation and entrepreneurship. They are all concepts that are firmly embedded in the history and culture of Western Australia. Innovation and entrepreneurship, in particular, have been the backbone of development and prosperity in Western Australia since our colonial days because we have always been a trade exposed economy. These issues today remain critical not only for WA's future growth but also for the growth and advancement of our nation. WA's high-tech manufacturing industries, including shipbuilding, have for too long hidden their light under a very large bushel. This is because they are successfully competing on the world stage. They are successful because they are innovative and productive and, therefore, do not need subsidies.

Our competitive advantage in Western Australia and Australia is not in our labour costs but in the capabilities and the smarts of our people and in our ability to produce high-quality, bespoke goods and services. To put this into context, Australia's national manufacturing growth over the past decade has been about 0.4 per cent per annum. In stark contrast, in Western Australia the manufacturing sector has been growing by 4.8 per cent per annum over the last 14 years and, today, in addition to the development and construction we do for the oil, mining and gas industries, Western Australia are exporting over $20 billion worth of manufactured goods per year. We have nearly 9,000 manufacturing firms who employ 91,000 Western Australians. Another little-known fact is that, after Silicon Valley, Western Australia has the second highest number of engineers per capita in the world.
If you listen to the prevailing eastern-seaboard narrative you would think that manufacturing has no future in Australia, but Western Australia is living proof that this is simply not true. We have the skills, we have the ingenuity and we have always had the roll-up-your-sleeves attitude in Western Australia to elevate our innovation culture into overdrive, but only if the right state and federal policy frameworks are in place. This is why I am so excited about the imminent release of the government's innovation statement.

Today, the issue for all Australian governments is how to enable new ideas to flourish in Australia and then keep them here. While we have hundreds if not thousands of innovators, red tape and bureaucracy stifle their potential, which often sees Australian innovations and innovators move overseas, which, quite frankly, is criminal. Not only must we encourage and support innovation, governments must also be more innovative in their approach to policy development and service delivery. To this end, my Western Australian Senate colleague Zhenya Wang and I co-convened the Parliamentary Alliance for Research and Innovation, or PARI. Through our work with PARI, Senator Wang and I have been exploring the policy settings that enable innovative activity, and we have met with stakeholders across Australia to hear how they innovate, also, importantly, to learn what needs to be done to remove the many barriers they still encounter. We have compiled our findings into a comprehensive report, which we delivered to the Assistant Minister for Innovation, the Hon. Wyatt Roy, and we very much look forward to welcoming the minister to Perth in the coming weeks to see firsthand our innovation ecosystem.

Last week, PARI, in conjunction with the Parliamentary Friends of Defence group, which I co-chair with Gai Brodtmann MP, hosted an event for Mr Avi Hasson, the chief scientist of Israel. Mr Hasson offered his insights into Israel's extraordinary innovation culture and now economy, and the steps taken to get there. Israel is unquestionably an international innovation powerhouse, which is quite remarkable for a nation of only eight million people. Today, Israel invests almost four per cent of GDP into research and development. In comparison, in Australia we invest just two per cent. Israel's per capita levels of venture capital are 2.5 times higher than the United States, and 30 times than Europe. Israel has the highest number of companies listed on the NASDAQ outside of North America, and high-tech companies account for almost 50 per cent of Israel's exports. The key point for us to note here in this place is that Israel's success has not 'just happened', and we have much to learn from them and many other innovative nations who we are now in competition with.

Israel's success has been the result of a determined effort from government, the research sector and its private industry to build a strong culture and a strong economy that supports innovation. Israel's size and geographic location has also meant that it has always had to look further abroad when developing its export markets, which has also compelled it to build a responsive, well-equipped defence force, which is an organisation now embedded in and at the heart of Israel's innovation culture. Israel's chief scientist, Mr Hasson, is a world leader in innovation policy, and he has had a varied career across Israel's finance and business sectors, as well as in the Israeli Defence Force.

In his address, Mr Hasson shared with us some of the driving forces behind the development of Israel's innovation culture, and there were clearly many lessons for the many of us who attended. First of all, he emphasised the importance of collaboration in public-private partnerships. He pointed to the need to embrace risk and, a critical thing for Australia,
the need to accept failure as part of the start-up and innovation culture. Failure is inevitable. Sometimes it takes two or three goes to make a good idea work, and not every project succeeds. That is something we have failed to, culturally and systemically, support in Australia. He also recommended building certainty by implementing a long-term funding model and support for the industries that outlive our current short political cycles.

What are the lessons for Australia today? We must put a long-term, bipartisan innovation policy framework in place that will see the government, the opposition, the private sector and our research institutions collaborate, embrace risk and invest for the long-term in research and development, particularly that which has a focus on commercialisation. If we do nothing as a nation we will continue falling behind the rest of the world, who are in absolutely fierce economic competition with us and each other. We have to innovate to create and sustain new jobs in Australia. If we do that it will improve our living standards and grow our productivity and our economy. In this regard, Mr Hasson's insights are not only valuable but very timely.

I take this opportunity, on behalf on Senator Wang and Gai Brodtmann, to thank Mr Hasson for his attendance and sharing his insights. I also thank the Ambassador of Israel to Australia, Mr Shmuel Ben-Shmuel, and his staff at the embassy. I thank all of my many parliamentary colleagues who attended, in particular the Assistant Minister for Innovation, Wyatt Roy, and our Assistant Minister for Science, Karen Andrews. A special thanks go to my co-convenors, Senator Wang and Gai Brodtmann MP. In conclusion, our national prosperity depends on our ability to work together, to commercialise our innovative ideas, to retain our talented people and also to retain our industries of the future in Australia.

Industrial Relations

Multiculturalism

Senator DASTYARI (New South Wales) (13:22): I rise to speak today about the plight of Korean truck drivers working for Pulmuone, a South Korean company. The Korean Public Service and Transport Workers Union—KPTU—TruckSol Pulmuone Chapter have been striking since September, calling on Pulmuone to take responsibility for union recognition, safety and decent conditions in its supply chain. For the past month two members have been carrying out a peaceful high-altitude protest atop a billboard toward the front of the Korea National Assembly Building in Seoul.

Pulmuone's excessive efforts to cut costs mean drivers are working 12 to 13 hours a day delivering fresh goods all over the country. Forcing drivers to engage in dangerous driving practices has led to accidents and put the public at risk. Pressure on drivers in South Korea is intense, with around 1,200 dying each year in truck related crashes. The company pressures them to illegally alter their trucks so they can overload. Overloading of trucks causes 38 per cent of truck related crashes. In addition, excessive workforce cuts mean drivers now take care of loading and unloading trucks themselves in spite of the significant dangers involved. They frequently become injured or ill as a result of the difficult work and long hours, but Pulmuone drivers have to cover all of their own hospital bills. One worker said recently: 'One of our members fell out of a forklift unloading boxes. They said to him, "If you want to keep your job, you better be out of treatment soon."' This fight is part of KPTU-TruckSol's decade-long struggle for safe rates and client responsibility.
It sounds all too familiar, doesn't it? The Safe Rates campaign that the TWU has been running for many years now is an incredibly important campaign. The Transport Workers Union has been fighting for the past 20 years for truckies to have safe rates. It is a campaign to hold the effective employers in the industry—the clients with the real economic power at the top of the supply chain—responsible for the rights, rates and conditions of the workers who move their freight.

Drivers under pressure due to low rates or impossible deadlines are more likely to skip breaks, speed, drive for longer and to drive rigs that have not been properly maintained. Truckies in this country are 15 times more likely to be killed at work than is the average Australian. Each year around 330 people are killed in truck crashes on Australian roads and thousands more are injured. The passage of the Road Safety Remuneration Act 2012 by Labor and the establishment of the Road Safety Remuneration Tribunal demonstrated legislative acceptance of the need to address the safety crisis.

The TWU leadership, led by national secretary, Tony Sheldon, knows the fight of the KPTU and its truck drivers is a fight for all truck drivers. Recently the International Labour Organization reaffirmed the global fight for Safe Rates and that the Pulmuone drivers' protest is essentially the same everywhere. A resolution passed by the ILO on the issue also recognises the need for 'fair and safe remuneration systems' and highlights that road transport workers in freight and passenger transport have 'some of the highest injury and fatality rates'. It states that the 'multiple supply and contracting chains' in the road transport industry 'often lead to pressures on margins that can leave transport workers unable to exercise their fundamental principles and rights at work'.

The global trade unions, the International Trade Union Confederation and the International Transport Workers' Federation have condemned the events in South Korea against transport workers and have mobilised their global networks of affiliated unions to protest to the Korean government. Today I stand united with the TWU and KPTU calling on the Korean government to stop repressing KPTU-TruckSol Pulmuone drivers and to release the imprisoned union members and officers. Further, the Korean government should facilitate negotiations between Pulmuone and the workers towards a just settlement to the dispute. We want the Korean government to respect the right to freedom of association, including the right to peaceful assembly and to strike, for all workers. For these drivers, no other issue could be as important.

I hate to do this, but I also feel the need to draw the attention of this chamber to what is going on in my hometown of Sydney. Right now there is a scourge amongst us. Today I will outline how the decision of the Mayor of Ryde, a Mr. Jerome Laxale, someone I am ashamed to say I could once call a friend, not to wear mayoral robes will, according to the Liberal colleagues he has on his council, inevitably lead to the imposition of Sharia Law! Some of you may laugh. Some of you may think it is a trivial matter. Some of you may think these robes that are meant to be worn by the mayors are just glorified bathrobes. I can assure you there is nothing funny about this!

As has been bravely pointed out by Liberal Councillor Bill Pickering, Mayor Laxale is on a slippery slope. You see, only Bill has the guts to tell things how they are. Let me quote you some of the passionate statements made by Bill in defence of our important traditions:
Senator Smith: Madam Acting Deputy President, I rise on a point of order. I was confused for a second; this is the Australian Senate chamber, not the local council chambers at—

The ACTING DEPUTY PRESIDENT (Senator Lines): I think that is a debating point. Senator Dastyari.

Senator DASTYARI: Councillor Pickering is quite well known to Senator Sinodinos over there. He is someone he would have known quite well over the years. But Councillor Pickering does say:

I don't care whether the Mayor has personal vanity reasons or some obscure political objection for not following tradition …

I therefore advise that until the Mayor changes his attitude to acknowledge proper tradition and protocols, I will not attend any citizenship ceremony where he is presiding.

That's right: this Liberal Party councillor is such a staunch defender of Australian values that he would boycott Australia Day citizenship celebrations because of the mayor's refusal to wear red bathrobes—because, as we all know in this chamber, there is nothing more Australian than a man wearing a bathrobe covered in gold chains being present at a citizenship ceremony!

But it does not end there. Our Liberal friend knows what this bathrobe boycott is really about. You see, our friend Bill has:

… a deep-seated commitment for preserving our traditions - despite the 'looney left' and anti-establishment anarchists grotesquely tearing apart Australia …

They are his words. He goes on to say:

Next, the Left scumbags will oppose the honouring of the Australian flag, stop singing the national anthem, stop a prayer opening for council meetings and want Sharia Law introduced … or as I suspect, they are already doing that.

We all know what the sequence looks like. We begin with true Australian values. Then we allow civic leaders to stop wearing their bathrobes, and, before you know it, we are all struggling to eat pork-substitute sausages because our burqa is getting in the way! This Senate and this parliament need to acknowledge that Jerome Laxale, the Mayor of Ryde, needs to be stopped in his plans to destroy Australia!

Climate Change

Senator CANAVAN (Queensland—Nationals Whip in the Senate) (13:30): Despite what you might hear in the media—and, indeed, what you heard in this chamber only a short while ago—climate change science has become less certain and gives us less reason to worry since the last major climate conference in Copenhagen six years ago.

Before I expand further on this, and because people are often asked to state their beliefs in this debate—I am not sure why in a policy debate that is necessary—I think it is pretty important that I state my beliefs up front, not that they count for all that much. Having read much of the science, I believe that carbon dioxide has a warming effect on the atmosphere. Taken alone, the best evidence suggests that a doubling of carbon dioxide in our atmosphere—what we are on track for—would lead to a one-degree-Celsius increase in temperature. Higher estimates are the results of second-round effects. The evidence for these is much more thin, and I will expand on that later, but the upshot is that we just do not know
enough about these second-round impacts, because they are projections about a future world that cannot be measured.

I do not want to focus on my beliefs today. I want to focus on the facts and, given that those facts do not lead to conclusive judgements, what the appropriate policy responses are in the face of such uncertainty. What we can measure at the moment is how much temperature has risen for a given level of increase in carbon dioxide that we have witnessed. Over the past 18 years there has been an eight per cent increase in atmospheric carbon dioxide levels, yet there has not been a significant increase in observable temperatures.

There are five main datasets that measure global temperatures, two based on satellite observations and three based on surface or terrestrial observations. The RSS satellite series shows no warming for 18 years and eight months, and the UAH satellite data shows only a minimal amount of warming over that period. A linear regression trend of the mean of the surface based measures—the GISS, the HadCRUT4 and the NCDC measures—shows a warming rate of around one degree Celsius over the 18-year period. But this is far under, far below, the projections of climate models.

An eight per cent increase in carbon dioxide over the past 18 years might not sound like too much, but it represents a third—more than a third, actually—of the increase in carbon dioxide in the atmosphere since the industrial revolution. This is testament to the massive increase in economic growth in China, which has exceeded all expectations. Yet the fact that this strong economic growth and the consequent large increases in carbon dioxide emissions have not led to the kinds of temperature increases that were expected is a perplexing and troubling phenomenon for the conventional climate models.

That fact is not in contention. Indeed, because of that very fact, the recent IPCC report has revised down its assumptions about the sensitivity of the climate to concentrations of carbon dioxide. The fifth IPCC report, released last year, made many changes compared to the fourth assessment report, released in 2007 ahead of the Copenhagen conference. The most significant of these changes related to the equilibrium climate sensitivity, which is defined as a change in global mean surface temperature at equilibrium that is caused by a doubling of the atmospheric carbon dioxide concentration.

The IPCC fourth assessment report in 2007 concluded:

The equilibrium climate sensitivity ... is likely to be in the range of 2 to 4.5°C with a best estimate of about 3°C, and is very unlikely to be less than 1.5°C. Values higher than 4.5°C cannot be excluded ...

That was the story in 2007. Last year, the fifth assessment report concluded:

Equilibrium climate sensitivity is likely in the range of 1.5°C to 4.5°C (high confidence), extremely unlikely less than 1°C (high confidence), and very unlikely greater than 6°C (medium confidence).

The key points are that the IPCC has lowered the bottom of the likely range from two degrees Celsius to 1.5 degrees Celsius, and the latest report does not cite a best estimate, whereas the fourth report cited a best estimate of three degrees Celsius. The reason given by the IPCC for not estimating or citing a best estimate was that there was a large discrepancy between the observation based estimates of climate sensitivity and the estimates from climate models—the exact issue I was referring to earlier.
Those changes in the IPCC report were not unexpected. They were largely expected, given the evidence that was coming in. Indeed, the prominent science journal *Nature*, in 2013, before the IPCC report came out, said:

Unfortunately, one thing that has not changed is that scientists cannot say with any certainty what rate of warming might be expected, or what effects humanity might want to prepare for, hedge against or avoid at all costs.

A major reason for this uncertainty is that climate models make assumptions about the amount of increasing carbon dioxide levels that leads to increases in concentrations of other greenhouse gases, primarily water vapour. But this positive feedback, as it is known, from increasing water vapour is highly uncertain, as it is assumption based, and it ultimately drives the temperature estimates the models generate.

They are not observed results. They are projections based on a set of hypotheses, hypotheses that are legitimately made but must be tested. That is the ultimate way we do science. We test hypotheses. However, if, as seems increasingly likely, the sensitivity is at the lower end of the spectrum to carbon dioxide concentrations then large increases in carbon dioxide will result in much lower temperatures than expected.

It is the same story with extreme weather events and unreliable, circumstantial evidence. There has been much made in the media about these extreme weather events—cyclones, heatwaves, bushfires et cetera—and purported links to climate change, but, again, the evidence is highly uncertain. By definition such events are hard to test, because they are so rare, which makes statistical testing difficult due to a small sample size.

Perhaps the world's foremost authority on these issues is Dr Roger Pielke Jr. He is a professor in the Environmental Studies Program at the University of Colorado. Using data from the IPCC, as well as his own and others' peer-reviewed scientific publications, he demonstrated quite conclusively in his book *The Rightful Place of Science: Disasters & Climate Change* that extreme weather events have not increased due to climate change. His analysis is actually backed up by the latest IPCC report on extreme weather, which states:

Long-term trends in economic disaster losses adjusted for wealth and population increases have not been attributed to climate change, but a role for climate has not been excluded …

Again, evidence is very uncertain in this field.

I only have a limited time available, so I want to just briefly comment on some of the other issues in climate change science. Recent research shows that Arctic sea ice and polar ice caps are not melting at 'unnatural' rates and do not constitute evidence of a human impact on the climate. The link between warming and drought is weak, and by some measures drought actually decreased over the 20th century. The best available data show sea level rise is not accelerating. Local and regional sea levels continue to exhibit typical natural variability, in some places rising and in some places falling.

**Senator Wong:** You just make this stuff up. You know better than the CSIRO?

**Senator CANAVAN:** Through you, Madam Acting Deputy President, Senator Wong should be quite familiar with the fact that, in the Murray-Darling area, there is no evidence that drought has increased over that period. We had large droughts both at Federation and at the turn of the century, but in between we had record rainfalls, as we have also had very recently.
We do face incredible uncertainty about how the climate might be changing and about how sensitive it might be to carbon dioxide levels. We face uncertainty in many parts of our lives and we often do not know what action to take to mitigate the risks. I do not know when I am going to die, but I do have life insurance to mitigate that risk, in case it unfortunately occurs. But, if I received information that I am healthier than I thought, that I do not have as much to worry about, of course I would change how much insurance I buy or make sure the costs of that insurance were not greater than the costs of the actual risk that I faced. The risk of dangerous climate change has reduced since Copenhagen. That is confirmed by the IPCC and by the actual evidence on temperature data, extreme weather events, drought and sea levels. Accordingly it holds that the policy action we should take in response should be less ambitious, less costly and less binding than what was envisaged at Copenhagen six years ago.

I support the moves to make aspects of any new international agreement non-binding and reviewable. There is no clear global solution to this issue. We should instead let nations make their own decisions about how to respond in a cooperative and flexible manner. The evidence that there is dangerous climate change is not as strong and we should therefore not impose large costs on the global economy, especially for developing countries. In addition, rigid policies that are hard to adjust as the evidence becomes more definitive, one way or another, are unwise.

So proposals to introduce economy-wide carbon taxes or emissions trading schemes are not the right solutions. Proposals by the Labor Party to slash our carbon dioxide emissions by almost half in less than 15 years are ridiculous and put at risk major industries and thousands of jobs. Worse, they will do nothing for the environment during this time but cost our economy a fortune. The right approach is to act in a no-regrets manner. We should adopt policies that will have other benefits independent of their impact on greenhouse gases, that are agile and do not impose large costs or transition costs on our economy.

**Liberalism**

**Senator MADIGAN** (Victoria) (13:40): I rise today to speak in support of the core values at the heart of our political, social and economic institutions. While we do not hear too much about morality in this place, everything we do, our system of government and our economy are anchored within a moral code. At the heart of this moral code is the idea that we are all born equal and that we are all free. From these core values come the idea of human rights, most fundamentally the rights to life, liberty and property, and the idea of limited representative government.

In essence, this is a social contract between our people to establish a centralised authority to make and enforce laws to uphold those rights. These values have both religious and secular origins, emerging out of the idea of God-given natural rights in the thinking of John Locke and, later, the secular moral philosophy of Immanuel Kant. These values give rise to our tradition of political and religious freedom, the idea that we are free to live whatever life we choose, so long as we are not harming others and, conversely, that we must not impose ourselves on others in a way that restricts their rights.

While this might seem obscure to some and obvious to others, it is worth restating these values here today. Indeed, the values are constantly under threat. We must be vigilant to guard them. The most obvious threats to our way of life are generally external. Last century we were constantly in fear of the totalitarianism of Soviet communism and other Marxist movements.
When that threat abated as the USSR dissolved, it moved one commentator to famously argue that we had arrived at 'the end of history'. Rather than the classless utopia Marxists had committed tens of millions of murders to bring about, that commentator, Francis Fukuyama, saw this as the final victory of liberal democratic values over all other ideology. However, his declaration has proved to be premature.

Today, Western democracies are once again at war with a movement that completely rejects liberal values. Islamist terrorists, most famously through groups like al-Qaeda and Islamic State, and the fundamentalist interpretations of Islam they subscribe to completely reject liberal democracy and the values it relies upon. And, while toleration of others' views and their right to live the lives they choose is central to our values, this certainly does not extend to the toleration of millenarian sects carrying out odious acts of mass murder or the ideology that underpins their activities.

In the face of this threat, those of us lucky enough to live in societies enjoying the fruits of liberalism must assert our values and ensure that we guard them vigilantly. Unfortunately, the reflex of our governments is often to do the very opposite, and this is what we have all too often seen here in Australia in response to the Islamist threat. Earlier this year we saw a raft of legislation passed by the government that will restrict civil liberties in the name of national security. Some of the measures introduced were sensible in light of the threat we face, but others were a clear case of overreach. Unfortunately, at times we saw the government quite obviously exploiting the situation for its own political ends. This was especially the case when it was deeply unpopular with the electorate. Facing defeat at next year's election, we suddenly had weekly national security briefings and a relentless focus on laws to combat terrorism. This kind of political cynicism has become too common in our political discourse.

Over recent years we have seen both sides of politics exploiting the issue of asylum seekers for political gain, demonising some of the most vulnerable people the government comes into contact with in the belief that this will win votes. We have seen the issue conflated with terrorism and approached in a highly militaristic manner with briefings from military officials and refusals to comment on 'on-water matters', while Customs is now called Border Force.

This is not a matter of national security. There has not been a single case of a refugee coming to this country and going on to commit a terrorist act. They are people just like us—men, women and children, fleeing horrific circumstances, just as we would also do in the same circumstances. Our values require that we treat them with respect and compassion. The government says it is treating asylum seekers especially harshly in order to deter others. But again, this is contrary to our core values.

The major religions recognise every life as sacred, while secular morality requires us to treat every person as an end in themselves, not a means to an end. Government policy treats asylum seekers as a means to an end. This is wrong and everyone in this place who offers support for this policy should think deeply about what it is they are signing up to. They are failing to uphold the values that make us who we are.

On the other side of the coin we have the Greens, who often talk about pluralism and tolerance of others' beliefs. They may recognise our treatment of asylum seekers for the moral outrage it is, yet at other times they fail to uphold liberal democratic values. Last week I gave a speech in this place about the campaign by the Greens to censor the Archdiocese of Hobart from airing its views in relation to marriage. The Greens are, of course, ardent supporters of
same-sex marriage, while the church promotes the traditional view that marriage is only between a man and a woman.

The differences between these two perspectives are stark. However, our core values require each to tolerate the other. Unfortunately, the Greens do not see it this way, and Greens candidate Martine Delaney has complained to the Anti-Discrimination Commissioner that the church's teachings breach the Tasmanian Anti-Discrimination Act. This is unfortunately not an isolated case and is part of a trend that sees leftist movements around the world seeking to use anti-discrimination law to silence views they are opposed to. We also see this in the debate over climate change, if one can call it that. Here, those who subscribe to the idea of impending catastrophic climate change refuse to engage in genuine argument, preferring to deride those who do not agree with them as deniers.

One cannot help but think of the inquisition in the Middle Ages when heretics were burned at the stake for their beliefs. I ask: are what the Greens term 'climate change deniers' the heretics of our contemporary world? Unfortunately, on both sides of politics we see a failure to uphold the values that make us great, at least when it does not suit them. This is no good for anyone, and it is a tendency that must be strongly resisted.

Central Coast: Australian Taxation Office

Senator O’NEILL (New South Wales) (13:48): I rise today to put on the record some detail around the motion which very happily, with thanks to the crossbenchers and the Greens for their support, passed the Senate very convincingly with a vote of 37 to 28 with regard to the imposition of the Australian Taxation Office building on a site on the Central Coast that does not meet with community expectations.

I would like to put on the record some of the details of the motion that passed the Senate yesterday. This is to contrast with some of the fibs or mistruths that have been put on the record with regard to this matter. Clearly the importance of jobs on the Central Coast is cited in the motion as is the vital role that governments can play in delivering those opportunities, stimulating the local economy, stimulating quality infrastructure that benefits workers, business and the broader community. Labor absolutely commits to that. In fact, in the last term of the Labor government we invested $55 million in health infrastructure alone—before we even get to education or major road infrastructure. That $55 million created a cancer centre for the community; a $7 million GP super clinic which the community has access to and which is a great piece of infrastructure; and the Woy Woy rehabilitation centre at $20 million. That $55 million was invested in creating authentic infrastructure that remains with the community and is of service to the community. Labor understands the power of government to invest in the regions and certainly, on the Central Coast, Labor delivered.

What we have with this government is what they call their Central Coast growth plan, which is their entire commitment to the Central Coast and which had more money spent on advertising than on delivery. $21 million was the sum total of a commitment of the Abbott government to the Central Coast in the lead-up to the last election. What we are debating here is a proposal by this government to give $70 million in rent to a private developer from Canberra, who will then own an ugly building on the waterfront, for Gosford. It does not make sense. It is the wrong investment of a large amount of money that needs to go into the community in a way that will create infrastructure that will stay with the community.
I want to put on the record that the tenderer who was closest to receiving the acknowledgement of this government was our local council, in partnership with a private local developer, who would have created a site for the ATO right next to Gosford Council, in an appropriate part of the town, well acknowledged by the local community, and the community would have had the benefit of that infrastructure remaining in the community. And when the tax office decided to move its people out of town, we would have had a place in which to put new jobs and that building would have belonged to the community. Instead, this government has done a dodgy deal in the darkness with the state government and a private developer who does not even come from the Central Coast.

The community's opposition is articulated in the second point of the notice of motion, and the federal government's decision to do this deal is cited in the third point of the motion. The fourth point of the motion is about the lack of clarity around the cost of this land and goes to the fact that the community cannot understand how this process could be done in Gosford with no transparency at all, with the state government allowing this deal with the federal government to occur behind the scenes. If we contrast that with Wyong, we see that the land there was sold off by the New South Wales Department of Education but it happened in an open and transparent way at a public auction. That is not what has happened for the people of Gosford. What is even worse is a school was removed from this site and commitments were made to the community about this being a wonderful site where renewal of the town would happen and where a community precinct for the performing arts would be delivered as part of that.

The community is constantly articulating serious concerns around the whole tender process. Applicants have indicated that some of them received some of the information and others did not receive information. This is another item of concern. The lack of transparency is alarming—and it continues here in the parliament. Last Thursday, Senator Ryan came in and said that there were no documents of communication between the federal and state government on this. By Monday, he had to come in and correct the record and actually articulate that there are in fact some documents showing some contact between the federal government and the state government. This is an indication of an attempt by this government—and they do it in so many areas—to hide the truth from the people of the Central Coast.

So let us get some facts on the table. Six hundred jobs for Gosford: what a great thing! Wouldn't it be fantastic if they were jobs for locals! But what we are talking about here is 600 transfers coming to Gosford. Yes, it will generate some economic activity in the town, if it puts jobs in a building that allows proper growth for Gosford. But let's be clear: we are talking about 600 transfers, not 600 jobs for locals on the Central Coast. The community's outrage resulted in nearly 1,000 people coming out on the Saturday morning of the long weekend to register their protest at this imposition on the coast. That morning, the community made it very clear that this government should halt the process that they are going through and let the community have a say, see what is going on and compare and contrast whether or not we are getting a good deal.

I say again that $70 million is to be paid to a private developer for this four-storey, brown brick building, which is locked up, and people transferring from Canberra into the jobs will use a swipe card to go into that building. It is not accessible to the community and there are
very few local jobs. So $70 million is going to that developer for 10 years—guaranteed income—when the whole commitment from the federal government to the Central Coast is only $21 million. That is not a good deal for the coast, and that is why the community is up in arms about it.

Yesterday we passed the motion calling on the government to abandon its decision to locate the building on the Gosford waterfront and for a new location in Gosford to be determined—one that is chosen transparently; one where the community's concerns have been taken into regard—and certainly not on the site that it has undertaken to proceed with at the moment. I have asked for an immediate halt to all proceedings with regard to the proposed Gosford Australian Taxation Office development on the Old Gosford Public School site, so that this government does not push through and sign documentation in the period between the rising of parliament and next February when we get back. We need to see what is going on. This government needs to pull back from the edge.

We have a new Prime Minister, Malcolm Turnbull—the new salesman for the same product—but what we are seeing here is a man who is doing a lot of talking to but is not listening to the people of Gosford, who have a lot to say about this matter and should be heard. Indeed, in my multiple requests to meet with the Prime Minister, I have been fobbed off to a staffer in the other place. That is not a respectful way to communicate on an issue of such importance to the people of the Central Coast.

The motion called on the federal government to consult with the community in their planning for any infrastructure investment on the Central Coast. In addition, they should apply procurement principles that advantage local developers and builders to build that project in a spot that would provide for genuine local job opportunities. It is about making sure that we stimulate the creation of local jobs for the local community—not 600 transfers from Canberra. The motion also called on the government to honour its commitment to provide $10 million to match equal funds from the local council and the New South Wales State Government to advance a centre for performing arts—about which the community has some considerable expectation—on the very site that they are imposing this ugly four-storey brown brick ATO building. We need an iconic, integrated revitalisation of that site, the Old Gosford Public School site.

I think it is very clear that this government is not listening. I have received a letter from Senator Mathias Cormann indicating that, on behalf of the Assistant Treasurer, he will endeavour to respond as soon as possible to the Senate order and provide receipt of advice from relevant agencies with regard to communication between the federal government and the state government. I hope that that might happen in a timely way—certainly in the next couple of days—so that the community can start to see some of what is going on, instead of this continued obfuscation.

Finally, I would refer senators to an editorial in The Canberra Times of 29 September that calls out this government very much, and I encourage people to have a look at that article about the way in which the government has failed to be transparent about the fact that it is transferring 600 jobs to Gosford, not creating 600 jobs. (Time expired)
Climate Change

Senator BERNARDI (South Australia) (13:59): I thought it timely, in the minute that I have, to reflect on the Paris climate change talks and the passage of time. In 2009, when Copenhagen was being talked about by those on the other side of the chamber, including then Minister Penny Wong, as such a success and how Australia and the rest of the world were going down a great path. I have to say that there was a reality check in these recent talks, because every single commentator reflecting on Copenhagen said that it was an abject failure and a disaster. It reflects so poorly on those on the other side that they tried to hoodwink and snowball the people of Australia by thrusting us into some climate shenanigans to make sure that they could tax the people of Australia for their own indulgences. They were failures in government, they have been failures in opposition and they are failures again today.

The PRESIDENT: Thank you, Senator Bernardi. It being 2 pm, we will now proceed to questions without notice.

QUESTIONS WITHOUT NOTICE

Special Minister of State

Senator JACINTA COLLINS (Victoria) (14:00): My question is to the Attorney-General, Senator Brandis. I refer to the minister's previous statement that he had 'no knowledge of the James Ashby affair beyond what I have read in the media'. Prior to media reports, was the minister aware of the attempt by Mr Brough to procure, from Mr Ashby, extracts from the diary of his employer, the former Speaker?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:00): No.

Senator JACINTA COLLINS (Victoria) (14:00): Mr President, I ask a supplementary question. Prior to media reports, was the minister aware of Mr Brough's statement to Mr Palmer that he needed to destroy the former Speaker?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:01): No, I was not aware of anything prior to media reports, because, as I said to you in an earlier answer, my knowledge of these matters comes from media reports.

Honourable senators interjecting—

The PRESIDENT: Order! We were going so well for the first two questions.

Senator JACINTA COLLINS (Victoria) (14:01): Mr President, I ask a further supplementary question. Prior to media reports, was the minister aware that Mr Brough asked Mr Palmer to fund Mr Ashby's legal case?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:01): No.

Economy

Senator BERNARDI (South Australia) (14:01): My question is to Minister for Finance, Senator Cormann, representing the Treasurer. Would the minister be kind enough to update the Senate on the national accounts data released today and explain what it means for the Australian economic outlook?
Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:02): I thank Senator Bernardi for that question. What the national accounts data released today shows is that the Australian economy is strengthening and that we are successfully transitioning from the record resources investment boom to a broader based growth. What the national accounts released today show is that Australia is now heading in the right direction and that we are making progress.

GDP growth of 0.9 per cent in the last quarter is one of the fastest growth rates in the developed world. It now brings growth over the last year to 2.5 per cent, up from 1.9 per cent in the year to the end of June. Very pleasingly, the very strong result by international standards has been driven by a 4.6 per cent increase in exports. The growth in exports over the last quarter is the strongest growth since 2000, the good old years of the Howard economic partnership.

Senator Conroy interjecting—

Senator CORMANN: I repeat this very slowly for Senator Conroy, who clearly does not get economic data: the growth in exports over this last quarter of 4.6 per cent was the strongest growth recorded since 2000, which was in the good old days of the Howard-Costello economic partnership—that very successful economic partnership.

Furthermore, domestic consumption is up. Dwelling construction is up. Employment growth is up. Job advertisements are up. The unemployment rate is down. So what I would say to the Senate is that, yes, Australia as we continue to work through this transition will continue to face further challenges, but we are getting through it. If you look at the national accounts data for the last quarter, our economy is strengthening and employment growth is strengthening. We have already seen this. We are now heading in the right direction, and we are making progress. (Time expired)

Senator BERNARDI (South Australia) (14:04): Mr President, I ask a supplementary question. I thank the minister, and I ask him: what do the national accounts say about exports, and what impact does this have on jobs and growth in the economy?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:04): As I have indicated, the growth in exports over the last quarter was the strongest growth since 2000. Exports growth in the September quarter was broad based. The increase in exports combined with other positive data released today offers the prospect of increasing profits that will support increased investment and more jobs into the future. If you compare the number of jobs created under this government—more than 300,000 over the past year—with the record in the last year of Labor, more than 13 times as many jobs have been created in Australia over the past 12 months compared to the last year of Labor.

Of course, what Labor used to do was put more and more lead into Australia's saddlebag to slow us down. This government is actually making sure that we are as competitive as we can be, as innovative as we can be and as agile as we can be to take advantage of future opportunities. The data today shows we are heading in the right direction. (Time expired).

Senator BERNARDI (South Australia) (14:05): Mr President, I ask a further supplementary question. I thank the minister for that comprehensive response. I ask: what are the further risks that the minister could identify to jobs and growth into the future?
Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:05): As an open and trading economy we are always exposed to risks related to the state of the global economy, and of course at the moment we are dealing with significant falls in the price we can achieve for our key commodity exports. That is why it is so important for us to continue to pursue reforms that make us more competitive, such as our focus on a growth-friendly tax system for the future.

But the serious risk that our economy faces is that Labor has not learned its lesson from its last period in government. In the last period in government Labor gave us the Gillard carbon tax—at about $30 a tonne when they lost government. And now we are looking at the $200 Shorten carbon supertax, the $200 CST. It would be very bad for the economy. It would hurt jobs. It would hurt investment. It would hurt economic growth. It would shrink the economy by about $600 billion over 15 years. That is the last thing that Australia needs. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT (14:06): Before I call Senator Wong, I acknowledge in the public gallery the presence of former senator Russell Trood. Welcome.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

Special Minister of State

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:06): My question is to the Minister representing the Prime Minister, Senator Brandis. I refer to the minister's statement to the Senate:

Mr Brough would not have been appointed as the Special Minister of State unless the Prime Minister, at the time he made that appointment, had confidence in him.

At the time he made the appointment, was the Prime Minister aware of Mr Brough's confession on 60 Minutes that he asked Mr Ashby to procure the Speaker's diary for him?

Senator Ian Macdonald: Mr President, I rise on a point of order in relation to the question. I refer you to standing order 196, which talks about tedious repetition. In support of my point of order, can I indicate there is no doubt that these questions are repetitive in this chamber and in the other chamber and there can be no argument about them being tedious.

Opposition senators interjecting—

The PRESIDENT: Order! On my left, please. There is no point of order, Senator Macdonald. That standing order relates mainly to rules of debate.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:08): I am very wary, Senator Wong, and particularly chastened by the experience of yesterday, in taking at face value when you quote people. Let me remind you, Senator Wong, what you said yesterday. You asked me two questions on this matter yesterday, Senator Wong, and in the second of them you said this—and I am reading from the Hansard—

Senator Conroy: Mr President, I rise on a point of order as to relevance. It is quite clear from what the minister has said so far that he has no attention of addressing the question he has been asked. He has indicated quite clearly he is going to talk about something completely
different. I ask you to ask him to return to the question and to remain relevant to the question he was asked, not to the one he wanted to be asked.

**The PRESIDENT:** I will remind the Attorney-General of the question.

**Senator BRANDIS:** I will come to the question, I assure you, Mr President. This is what Senator Wong said in the second question—and I am quoting from the *Hansard*:

I refer to the Attorney-General's previous answer to my question in which he claimed not to recall any conversation with the Minister for Justice in relation to the execution of a search warrant on Mr Brough—

**Senator Conroy:** Mr President, I rise on a point of order. He is clearly flouting your request to return to the question. He has continued to read out the *Hansard* from yesterday, which has no relevance to today's question. He is off on his own frolic and I ask you to bring him back to the question.

**The PRESIDENT:** The Attorney-General did indicate in response to the last point of order that he will address the question. I will take the Attorney-General at his word.

**Senator BRANDIS:** Thank you, Mr President. Senator Wong went on to say:

Is the minister aware that, a short while ago—

**The PRESIDENT:** Pause the clock. Order, Attorney-General!

**Senator Kim Carr:** Mr President, I rise on a point of order on direct relevance. You have sought from this minister that he answer the question. He has treated your advice to him with contempt. He has continued with a prepared answer for a question which has not been asked. He is seeking to deal with a problem he got himself into yesterday.

**The PRESIDENT:** Order! Senator Canavan, on the same point of order?

**Senator Canavan:** Mr President, I rise on the same point of order. You ruled and gave the Leader of the Government in the Senate an opportunity to proceed with his answer. The opposition gave him seven seconds to do that. I think that point of order was in defiance of your ruling and the Leader of the Government in the Senate should be allowed to come to the question.

**The PRESIDENT:** In relation to the point of order, with the first point of order I reminded the minister of the question and during his response he indicated he would get to the substance of the question. In fairness to the minister, the matter was about a referral to his previous answer of yesterday.

**Senator Wong:** That was not the—

**The PRESIDENT:** Order! I will not tolerate an argument, Senator Wong. I am not taking any further points of order on this matter. The Attorney-General has the call.

**Senator Wong:** You are not going to call me?

**The PRESIDENT:** Senator Wong, I am not going to argue with you.

**Senator Conroy:** What standing order are you—

**The PRESIDENT:** Senator Conroy, I am not going to argue with you either. I have given the Attorney-General the opportunity. I have reminded him of the question. There have been two successive points of order raised. The Attorney-General has indicated he will come to the
question. He is also referring in his answer to matters that Senator Wong herself referred to in her actual question. Attorney-General, you have the call.

Senator BRANDIS: Thank you, Mr President. Is the—

Senator Conroy: Mr President, I seek clarification.

Senator BRANDIS: You don't want to hear this, do you?

The PRESIDENT: Senator Conroy, I am not going to tolerate points of order that are not relevant.

Senator Conroy: I am not seeking a point of order; I am seeking clarification.

The PRESIDENT: Point of clarification, Senator Conroy.

Senator Conroy: You are refusing to take points of order. Could you quote me the standing order which you have decided you want to assert exists to refuse to take a point of order from the Leader of the Opposition in this chamber? I would like you to specify the standing order on which you are making your ruling.

Senator Bernardi: Mr President, I rise on a point of order.

The PRESIDENT: I will not take any further points of order, Senator Bernardi, not on this matter. I can determine the ruling of a point of order at any place through that point of order.

Senator Conroy interjecting—

The PRESIDENT: Listen, Senator Conroy!

Senator Cormann interjecting—

The PRESIDENT: And you, too, Senator Cormann! I do not have to take a number of points of order on the same issue. I can make a determination on a point of order at any particular time. I have made my determination on this point of order. If all the points of order relate to the same issue, I am not taking any further points of order. I am satisfied that the Attorney-General is in order.

Senator Wong: Mr President—

The PRESIDENT: Senator Wong, this is going to get tedious. Is this a new matter, Senator Wong?

Senator Wong: Mr President, I asked to bring to your attention, on the basis of your ruling, as I understood you to indicate, that we quoted from an answer given yesterday. That is erroneous. I would ask you to reconsider your ruling. Given from what you have said, Mr President, it appears it is predicated on an erroneous fact.

The PRESIDENT: I have made my ruling on this matter.

Senator Colbeck: Mr President, I rise on a point of order.

The PRESIDENT: Unless this is a fresh point of order, Senator Colbeck, I do not intend to take any further points of order on this matter.

Senator Colbeck: Mr President, I do not want to test your patience on this—

The PRESIDENT: Well you are.

Senator Colbeck: and I know that I clearly am.

The PRESIDENT: Is this the same matter, Senator Colbeck?
Senator Colbeck: It is the same matter.

The PRESIDENT: I am not taking any further points of order on this same matter. Attorney-General, you have the call.

Senator BRANDIS: Thank you, Mr President. Senator Wong said:

Is the minister aware that, a short while ago, the Justice Minister informed the other place that he told the Attorney-General the warrant would be executed?

Both of those propositions were false, something I pointed out to the chamber yesterday but without the benefit of the Hansard. Now with the benefit of the Hansard, it is perfectly apparent that those propositions were false. The question that was asked of me by Senator Wong was:

Did the Minister for Justice inform his senior minister, the Attorney-General, of the AFP's—

Senator Wong interjecting—

The PRESIDENT: Order! Before you raise a point of order, Senator Wong, Attorney-General, I did give you the opportunity to come to the question. You did inform me that you would come to the question. You are now three-quarters of the way through the question. I now ask you to come to the question.

Senator BRANDIS: Senator Wong said:

… of the AFP's intention to execute a search warrant to the home of Mr Brough?

The point I would make is that Senator Wong yesterday misquoted my answer. If it had time, I would point out—

The PRESIDENT: No, Attorney-General. Pause the clock.

Senator Jacinta Collins: If he wants to make a statement, he should do so!

The PRESIDENT: Order, Senator Collins!

Senator Cameron: Mr President, I rise on a point of order. This is in relation to your advice to the Attorney-General. He is contumaciously ignoring your instructions to come to the point and he is deliberately, deliberately, challenging your authority, and you should deal with it.

The PRESIDENT: Thank you, Senator Cameron. I believe the Attorney-General, in the last few seconds, was coming to the question.

Senator BRANDIS: Senator Wong, in the question she has now asked me today, has quoted some words from Mr Brough during a 60 Minutes interview. I have seen that interview, and those are not the words Mr Brough used. So, just as she misquoted me yesterday, just as she misquoted Mr Keenan yesterday, she—

The PRESIDENT: Pause the clock. Order, Attorney-General.

Senator Conroy: Mr President, I rise on a point of order. You invited, cajoled and suggested he might come to the question. He is now quoting a different question and, again, the content which he is referring to was not asked. He has actually, again, refused to come to the question, and has defied your rulings, again. I ask you, with two seconds left, if he can possibly come close to referring to the question he was actually asked, not the one he pre-prepared to answer.
Senator BRANDIS: On the point of order, I know I have only two seconds remaining for my answer, so let me make the point in speaking to the point of order.

Honourable senators interjecting—

Senator BRANDIS: The point of order is a relevance point of order. The answer was relevant to the question because the question attributed certain words to Mr Brough during a 60 Minutes interview that was broadcast some time ago. Just as Senator Wong, yesterday, misquoted me and misquoted Mr Keenan, in her question she has misquoted what Mr Brough said in the 60 Minutes interview.

The PRESIDENT: Thank you, Attorney-General. The Attorney-General is correct in relation to the question and the reference to Mr Brough and the 60 Minutes interview and the confession made in that interview. Attorney-General, you have two seconds left to continue answering.

Senator BRANDIS: I have finished.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:17): Mr President, I ask a supplementary question. Given that the minister did not answer this, I am asking him about the Prime Minister's state of awareness of Mr Brough's confessed actions. Mr Brough has stated publicly that he asked Mr Ashby to procure the Speaker's diary for him. I am asking if the Prime Minister was aware of that at the time he appointed him to the ministry.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:17): First of all, the question is based on a false premise, because I asked Senator Wong across the table whether she was actually reading Mr Brough's actual words. She was not reading Mr Brough's actual words. Mr Brough did not say what Senator Wong has attributed to him—

Senator Wong: The entire country has seen it on national television!

Senator BRANDIS: any more than I said what Senator Wong attributed to me yesterday, any more than Mr Keenan said what Senator Wong attributed to him yesterday.

Senator Wong: Did you see Laurie Oakes?

Senator BRANDIS: Mr Brough gave an interview to the 60 Minutes program—

The PRESIDENT: Pause the clock!

Senator Cameron: Mr President, I rise on a point of order on relevance. Again, this Attorney-General is refusing to answer questions in this place, and he is denying the fact that the whole country knows. It is about time he actually got back to some reality on this and answered the questions. He continues to defy you, and you should stop it.

The PRESIDENT: Thank you, Senator Cameron. There is no point of order. The Attorney-General, at the very commencement of his answer, indicated that he rejected the premise of the question.

Senator Wong: It was on national television!

The PRESIDENT: Order! Irrespective of whether it was on national television or not, the Attorney-General has rejected the premise of the question. I am not here to adjudicate content.
Senator Ian Macdonald: Mr President, I rise on a point of order. I did not want to interrupt the minister, not that I could hear him. My point of order is that I am sitting less than two metres from the Attorney and I cannot hear him because of the screeching of the Leader of the Opposition, Senator Wong. I would ask that you ask her to stop screeching and yelling so the rest of us can hear the answer.

Senator Cameron: Mr President, I rise on the same point of order. I must say that you are sitting there and you know that what hast just been put to you is an absolute untruth. You should not allow senators on the other side, especially Senator Macdonald, to make unsubstantiated allegations against the Leader of the Opposition with impunity. It is just unacceptable.

The President: In relation to both of those points of order, I remind all senators, as I did yesterday, that interjections are disorderly and it is very difficult for me in particular to listen to both the question and the answer with the level of noise in the chamber. Attorney-General, you have 24 seconds remaining.

Senator BRANDIS: It is not in dispute—

Senator Conroy: He confessed!

Senator BRANDIS: that Mr Brough gave an interview to the 60 Minutes program in which he addressed the Ashby matter. That is not controversial. But what Senator Wong has done—

The President: Pause the clock. Order, Senator Brandis.

Senator Wong: Mr President, I rise on a point or order on direct relevance. I asked about what the Prime Minister knew. If this question time is going to have any credibility, he should be asked to respond to the question.

The President: Again, I say that the Attorney-General indicated at the commencement of his answer that he rejected the premise of the question.

Senator BRANDIS: What Senator Wong has done is attributed words to Mr Brough that are not the words he used.

Senator Conroy: He confessed!

Senator BRANDIS: And because what is said is very consequential, the only fair way to ask that question is to quote Mr Brough's words, which said—(Time expired)

Senator Conroy: Laurie Oakes has a spot for you on the show tonight. It will be a classic!

The President: Order, Senator Conroy.

Senator Conroy: Better than metadata, George.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:21): Mr President, I ask a further supplementary question. Does the Prime Minister maintain confidence in the Special Minister of State?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:21): Yes.

Aboriginal and Torres Strait Islander People: Criminal Justice System

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:21): My question is to the Minister for Indigenous Affairs. Given that, when the Royal Commission into
Aboriginal Deaths in Custody was established Aboriginal and Torres Strait Islander peoples were seven times more likely to be incarcerated than non-Indigenous Australians, that Aboriginal and Torres Strait Islander peoples are now 13 times more likely to be incarcerated, and that there has been an 88 per cent increase in Aboriginal incarceration in the last 10 years, will the government establish a national whole-of-government approach to addressing Aboriginal incarceration as called for by the Change the Record coalition and, if not, what is the government doing to address the appalling rates of Aboriginal and Torres Strait Islander peoples’ incarceration?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:22): I thank the senator for the question. The levels of incarceration of our First Australians is a disgrace. I do not think there would be any argument from any Australian about that. There is broad agreement that we should move in every way to try to deal with that matter. I am aware of the Change the Record program, calling for a justice target. I also know that the Leader of the Opposition also calls for a justice target. The challenge with both the report and the submission from the Leader of the Opposition is that the calling of a target is all very good; in fact, we could probably all agree now—it would probably take us about a minute or so. The circumstances of people going into incarceration will not change a bit and, frankly, just having a justice target without a passage to get there is a bit lazy and a bit trite. And, Senator, I am not accusing you of that. But we know the circumstance is—

Senator Siewert: Mr President, I rise on a point of order. I think the minister is in fact pre-empting another question that I might ask. I actually asked about a whole-of-government approach, which is a very different question to justice targets. Could you ask the minister to address the issue of a whole-of-government approach?

The PRESIDENT: Thank you, Senator Siewert. I will remind the minister of the question.

Senator SCULLION: Thank you for getting me back on track. Of course, there is a whole-of-government approach. We have said across the board that we need to ameliorate the challenges that poverty provides. You have two choices—you go to school, you have a chance of an education; or you do not go to school, you go to jail—and the Indigenous statistics are exactly that. So we are encouraging kids to go to school.

We know that for the demographic who have a purpose, who have a job and who are engaged have a much lower likelihood of getting engaged in the justice system. That is why we are introducing new mechanisms and we are working with all parts of parliament to ensure that people get into work so they have a purpose in life. Right across government, we have ensured that we need to lift the number of people who are employed. So we have actually employed and engaged 50 people a day—that is right, 33,000 people since I have had this job. That is ensuring that we are not only providing leadership but providing a purpose in life for those Australians. (Time expired)

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:24): Mr President, I ask a supplementary question. Minister, does the government know how many of the recommendations from the Royal Commission into Aboriginal Deaths in Custody have been implemented and does the government have a plan to implement the remainder of the 339 recommendations?
Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:25): I would like to take the answer to the first part of your question on notice, Senator. I am not aware of exactly where we are up to with all of those recommendations, but I think it deserves an answer on notice. In terms of those recommendations, this government and jurisdictions at state, territory and local government level have been informed by them and, where they can, I think, governments are certainly moving towards ensuring that the issues associated with preventing people from being incarcerated are more and more becoming a part of the fabric of government instead of being something you do as a special thing.

This government do everything it can. When we are dealing, for example, with the Queensland government or some other jurisdiction about building roads, we are actually hypothecating our values into the contracts so that we ensure that they also have the same employment outcomes. (Time expired)

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:26): Mr President, I ask a further supplementary question. As I touched on earlier, the minister in fact preempted a question about the justice targets. Minister, why is the government refusing to consider justice targets when, in fact, they are supporting the other Closing the Gap targets and have actually put in place an education target? Why won't the government commit to a justice target, as every group and organisation involved in this issue is calling for?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:26): First of all, can I make it plain that the government does not agree with all the groups that are calling for the target. The reason we are not moving a target is that a target is supposed to focus government's efforts in a particular area. If we are just sticking targets everywhere, the whole point of a target is missed. Our target about getting kids to school will provide them with a pathway that does not end up in the justice system. Our process of engaging people in purposeful and respectful activity will ensure that they are gainfully employed and they have a purpose, and they will not end up in the justice system. For those people who run foul of the justice system because of their relationship of self-medication and drug and alcohol, we are ensuring that we have lots of investment in those areas to ensure that they do not run into the justice system. All of these are practical issues that are going to stop people from interacting with the justice system.

Employment

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (14:27): My question is to the Minister for Employment, Senator Cash. Can the minister update the Senate on the ways the government is assisting young Australians into employment?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:27): I thank Senator Smith for the question. The government recognises that we need to provide assistance to support young Australians into employment and also to ensure that they have the skills and the support that they need to do this. One of the things that we have done as a government is to release our Growing Jobs and Small Business package. That makes it easier for small business to flourish. In particular, it makes it easier for job seekers, particularly young job seekers, to get work.
We also have a $300 million Youth Employment Strategy. This introduces new initiatives that provide incentives to employers because it is the employers who have the jobs. So it provides incentives to employers to take on unemployed job seekers. It also builds on young job seekers' employability skills because we know they sometimes need assistance in this regard. It also strengthens job seekers' obligations to reinforce the community expectation that young people should be doing all that they can to find themselves a job.

I have also recently been able to invite organisations to apply for funding under our new Empowering YOUth Initiatives. This is going to allow those organisations to deliver proposals that help young people, in particular those young people who are at risk of long-term unemployment. I have also invited not-for-profit community organisations to put forward proposals for innovative ideas to help vulnerable young Australians to not just find but also keep the jobs that they find. What we are looking at from these organisations are ideas that are slightly different approaches to those that are currently available. We are all about getting people into jobs and ensuring that, as a government, we provide them with the requisite tools to do this. (Time expired)

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (14:30): Mr President, I ask a supplementary question. Can the minister advise the Senate how the Transition to Work service will help younger Australians find work?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:30): Thank you. We, on this side of the chamber, believe that the best form of welfare is a job and that is why, as a government, we are doing everything that we can to ensure that Australians are able to find work.

The Transition to Work service is specifically designed to help young people between the ages of 15 to 21 who are out of work and are not engaged in education. We are investing $322 million—so a significant investment—into the Transition to Work program to find the best organisations to deliver results for not just young people but the Australian taxpayer.

This service is going to provide intensive pre-employment support to improve the work readiness of young people and then help them into work or education. We know that young people are the future of our society and we need them to be in a job so that they can be productive. (Time expired)

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (14:31): Mr President, I ask a further supplementary question. Can the minister advise the Senate how the National Work Experience program will help build skills younger Australians can use to find work?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:31): One of the things that the government is aware of is that employer surveys show that often insufficient work experience prevents many job seekers, but in particular young job seekers, from getting and then keeping a job. So on 1 October, we launched the National Work Experience program. The program aims to build the confidence and real-life work experience of job seekers so that we can better prepare them for what it is like to be in the workforce and ensure that employers' expectations are managed.
Employers who participate in the program, who go on to offer a young person paid employment after their placement, may be eligible to receive a wage subsidy of up to $6½ thousand over 12 months. The program is focused on getting young job seekers the right experience so that we can get them into sustainable employment.

Migration

Senator LAZARUS (Queensland) (14:32): My question is also to the Minister Assisting the Minister for Immigration and Border Protection, Minister Cash. As a senator, I regularly visit rural and regional Queensland to meet and talk with people in local communities. Last week I toured businesses and community groups in Cairns, Townsville and Mackay. The main issue affecting the region is of course lack of jobs.

I spoke with abattoir workers from a rural town where many people are out of work and want jobs. The local abattoir, which should be the main employer for the town, is employing few locals. Instead, 75 per cent of the workers are 457 visa holders who are brought in, because they are cheaper to employ. What is the government doing to stop the rorting of the 457 visa system to ensure Australians are given the first opportunity to secure jobs across our country?

Senator Di Natale: Mr President, on a point of order: I find it really hard. Even though Senator Lazarus is just here, the yapping from Senator Canavan over there makes it almost impossible to hear the question.

The PRESIDENT: Again, I remind all senators that interjections are disorderly.

Senator Cameron: Mr President, I rise on a point of order on this very issue. Senator Canavan accused Senator Lazarus of lying in that same outburst and he should withdraw.

The PRESIDENT: Senator Canavan: if anything unparliamentary was said—

Senator Canavan: Thank you, Mr President. Just to clarify, I said: 'That is a lie.' I did not accuse Senator Lazarus of being a liar but that what was said was untruthful.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:34): I thank Senator Lazarus for his question. In the first instance in answering your question, the government always believes that, where there is an Australian who is ready, willing and able to undertake a job, an employer should always look to that person first. That is the basic principle under which this government works.

In relation to employment growth under this government, since the government came to office in September 2013, the level of employment has risen by 3.2 per cent—that translates into approximately 366,400 jobs. So there has been a rise in employment growth under this government.

In relation to the 457 program, you will also be pleased to know that, under this government—compared to the former government—there has been a decrease in the number of 457 visa holders in Australia. Under the former government—Minister O’Connor, in particular—there was a rapid escalation in the number of 457 visa holders coming to Australia and it peaked at approximately 110,000. Under this government, you have seen a decrease in the number of those people.
In relation to the exploitation of any worker—and your question is also about foreign workers—we do not tolerate the exploitation of workers. I know that you have previously asked questions about a dob-in line—and certainly the government does have a particular line that people are able to call, if they believe that exploitation of workers is occurring.

So, in answer to your question, Senator Lazarus, where there is an Australian who is ready, willing and able to perform a job, we absolutely stand by the principle that an employer should look to them first. Where there is no-one, we believe that there does need to be a program, because an employer who has no-one—\(\text{(Time expired)}\)

Senator LAZARUS (Queensland) (14:36): Mr President, I ask a supplementary question. I understand the government has lists which are used for the issuing of 457 visas and special purpose visas. How often are these lists reviewed against Australia's national interests, jobs, information and the employment needs of rural and regional communities across Australia?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:37): Thank you, Senator Lazarus. I believe you may be referring to the skills lists. You will be interested to know that when I was the Assistant Minister for Immigration and Border Protection there was a body referred to as MACSM, the Ministerial Advisory Council on Skilled Migration, which is a body which represents not just employers but unions as well. In fact, Ged Kearney, the head of the ACTU, is on this body. MACSM is looking at the varying skills lists that are chosen when looking for 457 visa holders. The 457 visa program is very much a demand driven program. So if there is a shortage somewhere and the skill is on the relevant skills list, the employer is, subject to fitting in with all the criteria, able to bring someone in. But going back to the general premise—\(\text{(Time expired)}\)

Senator LAZARUS (Queensland) (14:38): Mr President, I ask a further supplementary question. Given there appears to be clear evidence of rorting and of employers doing the wrong thing in rural and regional Queensland, will the government introduce a 457 visa dob-in line and increase resources to deal with complaints and compliance issues?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:38): Thank you. Again, Senator Lazarus, I confirm that the government condemns any form of exploitation. We already have a dob-in line that people are able to access if they believe that there is exploitation. You would also be aware, though, that recently this place—and I understand it was last week—passed a piece of legislation which will mean that you are now unable to charge for a migration outcome, and we have introduced exceptionally hefty penalties for those who are doing this. You may also be aware that it is this government that stood up Taskforce Cadena. That is a very specific task force that is looking at addressing worker exploitation. I have also stood up a ministerial working group on worker exploitation. We see this as a whole-of-government issue. It is not necessarily limited to one portfolio. That is why we have the ministerial working group. We have it so that a number of us can come together and look at ways we can work across government to ensure that workers are not being exploited.\(\text{(Time expired)}\)

Honourable senators interjecting—

Senator Back interjecting—

CHAMBER
The PRESIDENT: Order on my right and my left! Senator Back!

Child Care

Senator LINDGREN (Queensland) (14:39): My question is to the Minister for Education and Training, Simon Birmingham. Will the minister update the Senate on how the government is delivering fairer childcare support for families?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:39): I thank Senator Lindgren for her question and her very strong interest in and commitment to effective childcare policies and effective early learning support for children and families. Today, the Turnbull government introduced into the House of Representatives the new childcare reform legislation. Our Jobs for Families package is about making Australia’s childcare system simpler and fairer for the 1.2 million families who access child care in Australia. We want to ensure that we get the best possible outcome from the $40 billion that we will invest in supporting child care and early learning over the next four years. We want to make sure that we get the best outcome for taxpayers. But, most importantly, we want to make sure that we get the best outcome for the families who rely upon child care and for the children who attend childcare services, because they are our No. 1 priority.

We are committing some $3.2 billion in additional funding to our childcare reforms. This is funding that will help to ensure we can deliver a simpler system of child care—simpler, because we are taking more than three different payment structures and arrangements and converting them into one new child care subsidy, and fairer, because at the heart of our new child care subsidy is the premise that the more a family works the greater the hours of subsidised care they are entitled to and the less a family earns the greater the rate of subsidy they are entitled to. I would have thought that those opposite would welcome the very premise that the more you work the greater the hours of child care you can get and the less you earn the greater support you are provided with. That is what this government is committed to. It is committed to complete fairness in our childcare system, with a strong safety net in place to ensure early learning opportunities for preschool children, for children in lower income families, for children who are at risk and for children whose grandparents are the primary carer. It is committed to strong safety nets and strong and fair policies that ensure those who most rely on child care get the most support. (Time expired)

Senator LINDGREN (Queensland) (14:42): Mr President, I ask a supplementary question. Minister, how will the Jobs for Families package help make child care more affordable for working parents?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:42): I am very pleased to inform Senator Lindgren and other senators that, for Australian families earning between $65,000 and $170,000, when the new childcare subsidy is put in place, they will be around $30 a week better off when paying their child care. That is around $1,500 per annum that those families who are working and who are reliant upon child care will save on their childcare bills. But, importantly, our activity test is a light-touch activity test for child care. It is not just those families in work who benefit. Families who are studying will benefit. Parents who are engaged in volunteering activities will benefit. Those who are looking for work will benefit. There are a range of activities that can meet the activity test to ensure that families who need to access child care are able to access it. But, importantly,
under our fair reforms, the less somebody earns the greater the support they will get from the Turnbull government.

*Government senators interjecting—*

*Senator Williams interjecting—*

The PRESIDENT: Order on my right! That is you too, Senator Williams.

Senator LINDGREN (Queensland) (14:43): Mr President, I ask a further supplementary question. Minister, how is the government funding this childcare package?

Senator Cameron: By an increase to the GST.

The PRESIDENT: Senator Cameron!

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:43): The Turnbull government recognises that if you are going to implement new policies they have to be paid for. Some of those opposite seem to say they acknowledge that—I know that Ms Macklin acknowledges the childcare package must be paid for somehow. But, unlike those opposite, we actually have a plan and proposals for how our new childcare arrangements will be paid for. So, importantly, we have detailed how they will be paid for. But, equally importantly, they are paid for by fair means that ensure those working families are net beneficiaries. I invite those opposite to look at the family tax benefit changes in conjunction with the childcare subsidy changes. You can look at the case of a single mum earning $68,000 per year, working four days a week with a three-year-old in long day care. Under our reforms, in net terms, she will be some $2,845 better off per annum.

*Senator Lines interjecting—*

The PRESIDENT: Senator Lines!

Senator BIRMINGHAM: These are real benefits for real families who are really there, relying upon childcare support into the future. *(Time expired)*

**Trade**

Senator LEYONHJELM (New South Wales) (14:44): My question is to Senator Sinodinos as Cabinet Secretary and Minister representing the Minister for Trade and Investment. It concerns a large multinational business based at the North Pole but with significant turnover in Australia. If we impose tax transparency on such a business, won't a certain gentleman who wears red suits prefer to do business elsewhere, where he is able to preserve his privacy? If we require this foreigner to get FIRB approval before he can invest in landing sites in Australia, won't this threaten his arrival here on Christmas Eve? Won't the removal of GST-free status for low-value imports see fewer toys arrive from the North Pole? And won't the tariffs on toys mean children receive gifts of lower value?

Senator SINODINOS (New South Wales—Cabinet Secretary) (14:45): Sadly, I did have notice of this question, I have to say. This is the great nature of our democracy and we all love it, and I thank the honourable senator for his question, indeed. The first point that the honourable senator is seeking to make via his question is that Santa Claus, otherwise known as Father Christmas, is the poster boy for free trade. He has been trading across national boundaries for centuries without tariffs, quotas or other barriers. The North Pole has embraced this competitive advantage and is focused on its strengths.
Senator SINODINOS: Now, this is serious. The Foreign Investment Review Board, I am advised, says that Mr Claus would be able to invest in developed landing sites in Australia without FIRB approval, provided his investment did not exceed $55 million. But, of course, if he is flying across Sydney, Santa will have to obey the curfew and not make any landings after 11 pm, unless, as my colleague the defence minister would remind me, we get the new airport at Badgerys Creek.

The GST was referred to in the question. It is, of course, an ad valorem tax, and because Mr Claus gives his goods and services away to Australian children free of charge there is no GST applicable. Also, as he does not charge for his goods and services in Australia, I can confirm that he does not generate any income in Australia for taxation purposes. This means he does not engage in any profit-shifting behaviour and would not be subject to any of the proposed tax transparency regime. (Time expired)

Senator Cameron interjecting—

The PRESIDENT: Order on my left! Dare I ask, do you have a supplementary question, Senator Leyonhjelm?

Senator LEYONHJELM (New South Wales) (14:48): You dare ask, Mr President? I have a supplementary question. Senator, can you assure the parents of Australia that the gifts Santa imports meet Australia's exacting standards, including bans on inappropriate toys like toy guns and country-of-origin labelling and assurances regarding the source of any wood products? Regarding the lollies Santa will stuff into our stockings, will they be certified kosher and halal, free of contaminants and given a health star rating?

Senator Lines: Arthur, just take it on notice.

Senator SINODINOS (New South Wales—Cabinet Secretary) (14:48): I feel I should deal with it now rather than take it on notice. In my capacity representing the Minister for Industry, Innovation and Science I can confirm that we are working with industry on a new country-of-origin labelling framework. We will reform the labelling to enable consumers to make informed choices about food they buy. While we do import foodstuffs from across the world, including candy canes from our north, we are a net exporter in this sector, so it is important for us to have a very strong labelling regime.

The Department of Agriculture and Water Resources has been working closely with parents Australia-wide for many years to ensure our strict biosecurity requirements are met when delivering presents. Our import requirements, biosecurity and otherwise, apply to all equally—Santa, the tooth fairy, the Easter bunny, commercial importers, travellers and online shoppers. I have been advised that the health star rating is a voluntary initiative, as well as kosher and halal certification. It is entirely a matter for Santa to decide if his products are participants. (Time expired)

Senator LEYONHJELM (New South Wales) (14:49): Mr President, I ask a further supplementary question. I hear that some of our trading partners with jurisdiction over the North Pole have adopted Australia's workplace laws. All elves now have a right to strike, to flexible work, to the world's highest minimum wages and to penalty rates for weekend work—

Senator Cameron interjecting—

The PRESIDENT: Senator Cameron!
Senator LEYONHJELM: I also hear that, as a result, gift production is way behind schedule and Christmas may have to be cancelled. Can the secretary please assure Australia's children that this is not the case?

Senator SINODINOS (New South Wales—Cabinet Secretary) (14:50): Whether, through the public media or our cables, I have not received any information that Christmas is going to be delayed. You can rest easy, honourable Senator. On workplace laws, let me make this point: it does raise the question of having nimble, agile elves of the 21st century to assist Santa. If we have labour market arrangements that do that, we will all be much better off. What I fear is that, if we were employing Australian elves, there would be some people in this parliament who would seek to make them members of some of the unions represented in this chamber.

Defence Facilities: Contamination

Senator McALLISTER (New South Wales) (14:51): My question is to the Minister for Defence, Senator Payne. I refer the minister to an article in today's Newcastle Herald, titled 'Defence blocks access'. The article reports that Defence has repeatedly refused the New South Wales Environment Protection Authority access to the contaminated RAAF Base Williamtown. The media report also states that Defence has ignored repeated requests for information pertaining to control of chemicals exiting the base and contaminating the surrounding environment. Minister, will you direct Defence to allow the EPA access to RAAF Base Williamtown so that the leaking contamination can be controlled and the local community protected?

Senator PAYNE (New South Wales—Minister for Defence) (14:52): I thank Senator McAllister for her question. In fact, when the EPA requested access to the Williamtown RAAF base to undertake a site inspection, in addition to that request they asked some very specific questions which Defence wanted to be able to provide a response to them on before the visit was made. That information, I understand, is now ready to be given to the New South Wales EPA, and the visit will be organised in the near future. The issues were around aspects of soil containment—as opposed to contamination—in this case.

The EPA in New South Wales does not usually as a normal practice inspect Commonwealth property, but Defence does intend to allow for this inspection to occur. We are endeavouring to ensure that they are as well informed as they can possibly be of the operations of RAAF Base Williamtown and its practices before that site inspection occurs.

Senator McALLISTER (New South Wales) (14:53): Mr President, I ask a supplementary question. The New South Wales Premier, Mike Baird, met with local residents yesterday and expressed serious concerns regarding the handling of the issue, which he promised to take up directly with the Minister for Defence. Has Premier Baird contacted you regarding his concerns with Defence's handling of the RAAF Base Williamtown contamination issue?


Senator McALLISTER (New South Wales) (14:53): Mr President, I ask a further supplementary question. Premier Baird also said that he was 'very disappointed in the progress' and that the excuses given to the affected communities do not wash with him. Do you agree with Premier Baird that Defence's handling of this issue is not good enough?
Senator PAYNE (New South Wales—Minister for Defence) (14:53): No, I do not agree with the Premier, and I am also quite disappointed that Defence was not invited to participate in the reference group meeting yesterday as would normally be the case.

Trade

Senator McKENZIE (Victoria) (14:54): My question is to the Cabinet Secretary, Senator Sinodinos, representing the Minister for Trade and Investment. Can the Cabinet Secretary inform the Senate of the benefits Australian exporters are delivering for the Australian economy?

Senator SINODINOS (New South Wales—Cabinet Secretary) (14:54): I thank Senator McKenzie for her question and her great advocacy for rural and regional Australia. Yes, Australian exporters are a key component of our economy. That was exemplified in today’s national accounts, where the largest contributor to growth in the September quarter was net exports, with a contribution of 1.5 percentage points to GDP growth.

The excellence of our exporters was on display at the 53rd annual Australian Export Awards gala, held in Melbourne last Friday and attended by the Minister for Trade and Investment and my colleague the Minister for International Education and Tourism—at least, according to the tweets he was there—to celebrate the achievements of Australia’s finest export businesses. The Export Awards are co-presented by Austrade, ACCI and CPA Australia. ANCA was awarded the honour of Australian Exporter of the Year by the Minister for Trade and Investment in front of more than 500 attendees.

Senator McKenzie will be happy to know that ANCA is a Victorian success story. Founded and still headquartered in Melbourne, specialising in high-tech tool and cutter grinders, ANCA was also named the winner in this year’s manufacturing category. ANCA has been a leader in this field for more than 40 years, having been founded in 1974 by two enterprising engineers with a desire to develop world-leading, computer controlled machinery. Since then, ANCA has gone from strength to strength and is now a significant Australian exporter, selling its products across the world and on track for a record year of growth. ANCA has hired 160 new employees to meet the increasing demand for their products. ANCA is proof that Australia has a very healthy manufacturing future with high-quality, innovative, value-adding products.

Senator McKENZIE (Victoria) (14:56): Mr President, I ask a supplementary question. Will the Cabinet Secretary inform the Senate of other success stories amongst the Australian exporters?

Senator Ian Macdonald: He only has 60 seconds.

Senator SINODINOS (New South Wales—Cabinet Secretary) (14:56): Senator Macdonald is right: I only have 60 seconds. Including ANCA, there were 12 category winners selected from 74 finalists covering sectors such as agribusiness, business services, the creative industries, education and training, environmental solutions, health and biotechnology, information and communications technology, minerals and energy, online sales, regional exporters and small business. These categories cover many of the key sectors Australia has a competitive advantage in.

These awards are a great initiative of the Australian government in conjunction with ACCI and CPA to put on show the best of Australian industry. I congratulate Austral Fisheries,
Senator McKENZIE (Victoria) (14:57): Mr President, I ask a further supplementary question. Those are great stories. What is the government doing to support these award-winning exporters and Australian exporters in general?

Senator SINODINOS (New South Wales—Cabinet Secretary) (14:57): If there is one Santa Claus in this parliament, it is the Minister for Trade and Investment, who has delivered in spades this year for the exporters and traders of Australia. This government has concluded three free trade agreements with our largest trading partners—China, Japan and South Korea—and the historic Trans-Pacific Partnership, an unprecedented trade agreement covering 13 regional nations and 40 per cent of global activity. Yes, Virginia, there is a Santa Claus; his name is Andrew.

But we are not resting on our laurels as a government. The trade minister is off to India next week, and the Prime Minister and the trade minister recommenced talks with Indonesia on a comprehensive economic partnership. This followed on from the minister leading a record 360-member business delegation to Indonesia. We are also hosting fora and working with foreign investors to generate investment in the vast potential of Australia's north.

Research and Development

Senator KIM CARR (Victoria) (14:58): My question is to the Minister representing the Minister for Industry, Innovation and Science. I refer to the Prime Minister's remarks in Paris on the importance of science and innovation in addressing global challenges like climate change and to the imminent release of the government's innovation statement. Can the minister confirm that the Abbott-Turnbull government has cut funding for science research and innovation by more than $3 billion? Will the upcoming statement restore the innovation capacity lost as a result of these cuts?

Senator SINODINOS (New South Wales—Cabinet Secretary) (14:59): I can confirm we are spending $9.7 billion a year on investing in innovation, science and research. I can confirm that we have restored some of the cuts and made up some of the money that you did not leave in the till when you left—when you started to cut innovation, investment and research you did not provide any money for the new RV Investigator, and you also cut the CSIRO in your time in government.

Senator KIM CARR (Victoria) (14:59): Mr President, I ask a supplementary question. Minister, will the upcoming innovation statement restore the $115 million cut from the CSIRO, the $16 million cut from Geoscience Australia and the $20 million cut from the Bureau of Meteorology—all critical agencies in the study of the impact of climate change?

Senator SINODINOS (New South Wales—Cabinet Secretary) (15:00): In only a few more sleeps, Senator Carr will see for himself, he does not have to take my word for it, a major statement on innovation and science going forward—a down payment on creating an innovation ecosystem. That will address all his issues and take innovation and science in this country to a new level.
Senator KIM CARR (Victoria) (15:00): Mr President, I ask a further supplementary question. Does the government expect to be congratulated on doubling funding for clean energy research under 'mission innovation' when it had previously halved the clean energy research funding and still plans to slash $300 million from university research?

Senator SINODINOS (New South Wales—Cabinet Secretary) (15:00): I believe that the Turnbull government will be remembered as the best friend clean energy technology has ever had in this country.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Aboriginal and Torres Strait Islander People: Criminal Justice System

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (15:01): Earlier today, Senator Siewert asked me a question about Aboriginal and Torres Strait Islander incarceration. The Royal Commission into Aboriginal Deaths in Custody made 339 recommendations and published its national report in 1991. The recommendations covered a broad range of areas, including health, education, employment and justice, reflecting the commission’s finding that the overrepresentation of Indigenous people in the justice system was a result of underlying socioeconomic disadvantage. All governments agreed to report on their efforts to implement the royal commission’s recommendations. After five years of reporting on that, from 1993 to 1997, governments ceased the annual reporting process. Governments no longer collect or publish consolidated advice on the continued implementation of the recommendations. However, I can report that the last of these reports stated that, at the time, the Commonwealth considered it had implemented all of the recommendations that it supported. However, I am happy to provide a further briefing to the senator should she wish. As Senator Siewert would be aware, many of the recommendations are also the responsibility of state and territory governments.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Special Minister of State

Senator JACINTA COLLINS (Victoria) (15:01): I move:

That the Senate take note of the answers given by the Attorney-General (Senator Brandis) to questions without notice asked by Senators Collins and Wong today relating to the Special Minister of State (Mr Brough).

The first point I would like to make about question time today is to reflect on the disappointment that the standing orders regarding question time were not upheld. Senator Brandis knows full well that there are other opportunities in our program to deal with matters such as those he was dealing with in response to Senator Wong's question. He deliberately and unconscionably avoided responding to her question and used all of the time to avoid dealing with the important matters that were before us. But that is, of course, not the first time that Senator Brandis has done that. He did that yesterday, as I reflected in taking note of answers.

Let me go to yesterday's example, now that I have had the opportunity to look at the Hansard—although, in making that point, I should highlight the fact that his criticism of
Senator Wong, whilst allowing himself the opportunity to reflect on yesterday's _Hansard_ in relation to Mr Keenan in the other place, did not acknowledge that Senator Wong had not had that opportunity either. But he should have dealt with those issues at another time in our program rather than—quite unrelated to the standing orders—during question time in answers to a question. Let us look again at the question he avoided answering, as an example. Yesterday, he was asked:

Did the Attorney General speak to anyone else about the execution of a search warrant on the home of Mr Brough? If so, whom did he tell and when?

What is interesting about his answer—once you get through points of order and other distractions that, unfortunately, have been allowed in the course of this debate—is his final sentence. I have to say, his contempt is audacious. His answer was:

I may well have done.

That is it—full stop. 'I may well have done.' He was asked whom he told and when, and his answer to the Senate was: 'I may well have done.' I am sorry, but that is completely inadequate.

We wonder why Senator Brandis is being so sensitive. I think it is quite clear. I think that, for example, Malcolm Farr got it right yesterday when he said:

The personal and political destruction of Liberal-turned-independent Peter Slipper was so complete and vicious it seems unlikely Mal Brough was the only senior political figure involved.

I thought that I would reflect on a bit of history here. I can recall that, back in around 2004 or 2005, Senator Brandis was very keen to claim credit for Queensland preferencing in the Senate election. He was quite chuffed to accept some responsibility there. I remember that, in 2008, Senator Brandis, now the Senate leader, was up to his neck in the Liberal National Party merger discussions and Senate preferencing. In fact, he made himself No. 1—

**Senator Heffernan:** I rise on a point of order. Is there any need to shout? Why do you have to shout?

**The DEPUTY PRESIDENT:** That is not a point of order, Senator Heffernan.

**Senator JACINTA COLLINS:** The point I am making is that Senator Brandis, back in 2008, was up to his neck in the Liberal-National Party merger discussions and up to his neck in the new Senate preference arrangements, and it is very hard to believe that he had no knowledge of matters around Peter Slipper in 2012. Then again, Senator Brandis knows all about metadata these days. We will see what metadata does in fact reveal, unless he has taken Malcolm Turnbull's advice and started using unofficial means of communication. What is the concern here? It is best reflected today, in this case, by Laura Tingle. She says:

As so often happens with such political controversies, the problem for Malcolm Turnbull in the Brough affair is that it is rapidly shattering from one unpleasant political problem into a collection of equally dangerous shards.

I could not have said that better.

What is unfortunate, though, as I said, is how the Leader of the Government in the Senate is treating question time. It is not only him; it is also other government senators, who either seek to portray Labor senators as shrieking or screeching or shouting, or indeed refuse simply—

**Senator Ian Macdonald:** Shrill.
Senator JACINTA COLLINS: Shrill—thank you; I will take that interjection, Senator Macdonald—or simply refuse to answer—(Time expired)

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:08): The Labor Party is plainly embarrassed by Senator Wong's performance yesterday. I want to begin this contribution by saying—

Senator Jacinta Collins: You should have told her you're doing this.

Senator Conroy: You are a coward.

Senator BRANDIS: May I predict that throughout this contribution there will be attempts—

Senator Jacinta Collins: Did you tell Senator Wong you were doing this or are you being a coward?

Senator Conroy: You didn't even have the guts to tell her.

Senator Jacinta Collins: You didn't tell Senator Wong you were doing this. You're a coward.

The DEPUTY PRESIDENT: The Senate needs to come to order.

Senator BRANDIS: I do predict that I will be shouted down throughout this contribution by Senator Collins and Senator Conroy. However, I do want to address the matters raised by Senator Collins. Senator Wong asked me a question today in which she referred to an interview that Mr Brough gave during a 60 Minutes program some time ago. There is no dispute that Mr Brough did give that interview. The subject of that interview was what has come to be called 'the James Ashby affair'. Senator Wong attributed some words to Mr Brough in her question and it was not a quote from anything Mr Brough said in that interview. It was not a quote from anything Mr Brough said in that interview, and yet Senator Wong attributed those words to him and stated a conclusion on the basis of the attribution to Mr Brough of words that he did not use. Let me say that again: she announced a conclusion about Mr Brough on the basis of attributing to him words that he did not use. The reason I approached the answer to that question in the way that I did is that Senator Wong did the same thing to me yesterday when she attributed to me words that I did not use and she attributed to Mr Michael Keenan, the Minister for Justice, words that he did not use.

Senator O'Neill: The President called it a confession. She told the truth and you are trying to cover up. The Attorney-General is hiding from the truth.

Senator Conroy interjecting—

Senator Jacinta Collins interjecting—

Senator Ian Macdonald interjecting—

The DEPUTY PRESIDENT: The Senate needs to come to order. There is far too much interjecting.

Senator BRANDIS: What is being suggested against Mr Brough by the Australian Labor Party is serious, and we know that there is a police investigation, which means that it is even more important than it ordinarily would be that senators who wish to make allegations against
him and wish to make those allegations on the basis of his words should quote those words accurately. That is what was not done on this occasion. That was not done.

Senator Fawcett: Mr Deputy President, I rise on a point of order. Standing order 203 goes to persistently and wilfully continuing to refuse to conform to standing order 197, which you have requested the senators to observe.

The DEPUTY PRESIDENT: I accept that point of order, Senator Fawcett. Again, I ask senators to cease interjecting and come to order.

Senator BRANDIS: What Senator Wong put to me yesterday in the second of two questions she asked me is this, and I read from the H<em>Hansard</em>:

I refer to the Attorney-General's previous answer to my question in which he claimed not to recall any conversation with the Minister for Justice in relation to the execution of a search warrant on Mr Brough, the Special Minister of State. Is the minister aware that, a short while ago, the Justice Minister informed the other place that he told the Attorney-General the warrant would be executed?

Both of the propositions, both of the words attributed in that question by Senator Wong to me and to Mr Michael Keenan, were wrong. The question that Senator Wong asked me in the first of her two questions was this:

Did the Minister for Justice inform his senior minister, the Attorney-General, of the AFP's intention to execute a search warrant to the home of Mr Brough?

The question was not whether I was informed in relation to the execution of a search warrant but whether or not I had been informed of the AFP's intention to execute a search warrant. Equally, Mr Keenan, when he was asked a question, replied:

After the warrants were executed, as I would normally do in a matter like this, I informed the Prime Minister's chief of staff and the Attorney-General ...

'The warrants were executed'. The difference between the past tense and the present tense may not be apparent to Senator Stephen Conroy. The difference between the present tense and the future tense and the past tense may not be apparent to Senator Stephen Conroy. The fundamental difference in meaning between the statements that were made and what Senator Wong attributed to the statements that were made is very clear to us. (Time expired)

Senator LUDWIG (Queensland) (15:14): What is clear from Senator Brandis's contribution to this debate is that it has now moved to a charade, by Senator Brandis, to argue irrelevancy. This is, fundamentally, not the issue. What is clear from Senator Brandis's contribution is that there is not a word in support of Mr Brough, not a word to defend Mr Brough. What is clear from Senator Brandis's contribution is that he is hell-bent on doing everything to explain his circumstances—that is, Senator Brandis's circumstances—and how he may feel slighted but, in the course of doing that, he has thrown Mr Brough under the bus.

It is now abundantly clear that Mr Brough should do the right thing. Unfortunately for the PM, it does not appear that he will. The result is it now reflects very badly on the PM's judgement in both promoting Mr Brough and by continuing to stand by him, in this circumstance. The jury is not out on this matter. The court of public opinion has found against Mr Brough on this matter. Senator Brandis's poor performance in question time and during take note of answers, today, simply highlights the fact that Senator Brandis's defence of Mr Brough was left wanting. Mr Brough does need to make a full explanation of his role in the Ashby affair. However, it is now apparent that in every turn Mr Brough does not seem
capable of making a full account to parliament of the circumstances of his involvement in, what is being called, the Ashby affair.

I will address the broad issue, again, which was raised yesterday and also raised by Mr Dreyfus this morning. His note went on to say that as a consequence of the minister clearly misleading the House of Representatives during question time yesterday, and not taking the opportunity of correcting the record in parliament, despite the House of Representatives sitting until 9.30 pm last night, the minister has failed in his obligation—under clause 5.1 of the Statement of Ministerial Standards—to correct the record as soon as practicable. I know everyone in this place takes that role very seriously. At the first available opportunity, if you think you have misled parliament you should immediately take that opportunity to correct the record. We now have a clear indication from Mr Brough that he had to be—literally, it seems—pushed back into the chamber to make another poor explanation of what his circumstances were.

The Sydney Morning Herald belled the cat in this respect. It states Mr Brough said:

"Yesterday during question time I said: 'In relation to the 60 Minutes interview, what was put to air was not the full question.'

"Mr Speaker, my recollection of the interview was that the question was put to me in a somewhat disjointed manner, and I answered the question without clarifying precisely what part of the question I was responding to.

"This is confirmed by the tape provided by 60 Minutes and that was the reason for my answer yesterday.

"Mr Speaker, I have taken the opportunity to review the tape and transcript, and apologise to the House if my statement yesterday unwittingly added to the confusion rather than clarifying the matter."

It went on to say that this in itself created the confusion.

Mr Brough should make a full explanation rather than use those words. What is really telling in all of this that transpired this morning is that the government's Leader of the House, Mr Christopher Pyne, did not try to defend Mr Brough. Instead, they gagged the debate rather than let it run through. This government has a lot to hide and they ought to encourage Mr Brough to do the right thing—more importantly, do the right thing by this parliament—and make a full explanation. (Time expired)

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (15:19): I also rise to take note of the answers provided to the questions by Senator Collins and Senator Wong—but I also come to the questions themselves. The Senate is a great place as a legislative chamber for the Australian people. It is a place where we see things questioned and often, through the committee process, legislation improved.

Increasingly, though, and I guess it has always been thus, it seems there is a very political motive for a lot of things that occur, including questioning, in this place. Having seen the response of members opposite during the Ashby affair, the quiet that has continued up to this point, it comes as no surprise that there is a renewed focus, on this, at a time when the Leader of the Opposition has an approval rating of 15 per cent. He seeks to leave the parliament, to go to France, to try to get some media around his rather unbudgeted approach to climate change that would cost our economy, dearly.
One has to question what the true motivation is behind the questions from the Leader of the Opposition, in this place, around this issue. It appears, very much, that they are seeking a distraction. The Australian people are far more concerned about where this country is going, about the growth of the economy, the security of the nation, jobs for their children, the health system, the education system, a whole range of things, as opposed to the internal within-the-beltway discussions, here, amongst the political people—staffers, media, members of parliament and the Senate. This whole debate appears to be yet another of these distractions. It appears to be no coincidence that it occurs at a time when Mr Shorten has an approval rating of—merely—15 per cent.

There was a deal of discussion during this about Senator Brandis's answer—

Senator Conroy: Mal Brough. His name is Mal Brough.

Senator FAWCETT: and I do come back to the point that, when the question was asked about Mr Brough—

Senator Bilyk interjecting—

Senator FAWCETT: when the question was asked about Mr Brough—and I hope members opposite are listening to that; that is three times now, or four times—what Senator Wong asked was a question about a pre-emptive statement by Mr Keenan, or advice. And the Attorney-General correctly answered. So the political nature of this comes up when Senator Wong then thinks, on the basis of Mr Keenan's answer, that she has a 'gotcha' moment and, rather than either studying carefully what he actually said or, worse, perhaps admitting the context of what he said, seeks to then embarrass or show up Senator Brandis in this place, who correctly points out that what Mr Keenan had said was about his reporting post the event—two quite distinct events. So Senator Brandis quite correctly reported that.

Subsequently in the question Senator Brandis said that he did not agree with the premise of the question. There was great consternation among those opposite, including Senator Wong complaining that he was not being relevant to the question. Mr Deputy President, can I take you back to 21 August when Senator Wong, in answering a question, said: 'I don't agree with the premise of the question.' And she goes on. There was another time, on 13 September 2012, and in fact it was, funnily enough, an interaction between Senator Brandis and Senator Wong. Senator Wong says: 'Mr President, on the point of order: once again Senator Brandis is rephrasing the question. The question commenced with a false premise. It is very difficult for the minister to be directly relevant to a false premise. '

Senator Conroy: Oh dear! His name is Mal Brough.

Senator FAWCETT: So that is Senator Wong's own position—

Senator Conroy: You've got 45 seconds to mention Mal Brough.

Senator FAWCETT: and you can go through time after time where Senator Wong and other ministers have disputed the premise of the question and have continued to provide an answer—


Senator FAWCETT: and the President has upheld their right to do so. So all I would ask is that they be consistent.

Senator Conroy: 30 seconds. Mal Brough.
Senator FAWCETT: And for Senator Conroy, who is interjecting yet again, in contravention of standing order 197, I bring him to the point—because he questioned the president about the standing order under which the President can make a decision, and standing order 197(5) says:

The President may hear argument on the question, and may determine it forthwith, or at a later time, at the President's discretion.

That is the standing order he applied. I would encourage you to abide by it. (Time expired)

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (15:24): If it were not such a serious issue, this would be extremely funny. Not only today but yesterday we had people on that side in the debate on the motion to take note of answers not even attempting to defend Mr Brough. Today we had Senator Brandis in taking note, and what did he do? He defended himself! What a joke! Yesterday we had Senator Bernardi—he could not defend Minister Brough. And today we have had Senator Fawcett who, after a lot of heckling—and I will admit: it was heckling—finally said the name, but did not go on and defend Mr Brough.

The government know they have a huge problem with Mr Brough. I do not think their memories on that side are so short that they do not remember what happened to their last leader when he failed to take action on Mrs Bishop in regard to her $5,000, 80-kilometre helicopter ride from Melbourne to Geelong. I do not think their memories are so short that they have forgotten that. So we know what happened to Mr Turnbull's predecessor, and I think that, if he was a half-smart man, he would actually be doing something to make sure either that Mr Brough sets himself aside or that he be sacked.

We all know that, with the Bronwyn Bishop helicopter affair, you on that side were all running around scratching your heads wondering why it took so long to make the decision. So why don't a few of you go and talk to Mr Turnbull, now that he is back, and get him to make the decision about Mr Brough, rather than just letting the ministerial code of conduct go out the door. We all know that the ministerial code of conduct gives the Prime Minister the power to make the decision to step Mr Brough aside, just on the basis of the investigation.

This member of the House of Representatives, Mr Brough, had his home raided by the AFP. That in itself should be a warning to those on that side that this is a big issue. This is a big deal. Warrants do not get given out willy-nilly.

I am not sure how long the government is prepared to let this issue drag on. Previously, Senator Sinodinos in this place stood aside, and it was for much less. But it seems Mr Brough is in some sort of protection scheme—I don't know; it is nearly a witness protection scheme.

The Prime Minister needs to start making some decisions based on what is right, because, in the court of public opinion, can I tell you: people do not think it is right that Mr Brough has not had to step aside. We know that the Prime Minister has made a lot of decisions based on possible promises that he made to people to get to the leadership and on who he has to appease. We know that. But he really needs to make a decision.

I am happy to say that Mr Turnbull is a good salesman. I will admit that. But he has got to actually deliver the goods, and if he cannot deliver the goods on the ministerial code of conduct for someone who has so obviously done something wrong—as I said, you do not get a warrant to have your house searched for no reason—and if he has not got what it takes to get Minister Brough to move aside then he should not be the leader.
When the statement was put on 60 Minutes, Mr Brough's comments were unequivocal. But then he got up and he misled the House of Representatives by blaming an editing job. That backfired on them no end, because what is going to happen when you do that? If you have a go at the media, they are going to go back and get out their footage.

I did hear Senator Conroy interjecting earlier and suggesting that maybe Minister Brandis would like to go on Laurie Oakes and try and explain his position. I do not think that is going to happen, Senator Conroy, because I do not think that Minister Brandis will be able to defend Mr Brough any more if Laurie Oakes were to ask him than he could today in question time.

It is interesting to wonder about how the court of public opinion would see this. And can I say that, in the court of public opinion, people are out there thinking, 'It took a few weeks for Tony Abbott to do something about Bronwyn Bishop. Is Malcolm Turnbull making that same mistake?' Yes, he is. He needs to—as I say—sharpen his pencil. He needs to get in there, he needs to be a leader and he need to pull Mr Brough up. (Time expired)

Question agreed to.

Aboriginal and Torres Strait Islander People: Criminal Justice System

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:30): I move:

That the Senate take note of the answer given by the Minister for Indigenous Affairs (Senator Scullion) to a question without notice asked by Senator Siewert today relating to incarceration rates of Indigenous Australians.

I also to take note of his supplementary comments and answer after question time, when he gave additional information on my question relating to the Royal Commission into Aboriginal Deaths in Custody. He said—as I understand his comments—that between 1993 and 1997 the federal government and state and territory governments were reporting annually against the targets but that that ceased in 1997. Herein lies part of the problem. There are continually short-term approaches to an issue that is entrenched and needs a long-term secured approach to be addressed. As I said when I asked my question, incarceration rates of Aboriginal and Torres Strait Islander peoples have gone up 88 per cent in the last 10 years. Clearly, we need to be doing something about this issue. At the moment the Commonwealth government and, it appears, the state and territory governments are no longer collecting or publishing information as it relates to the 339 recommendations. We know that many—in fact, probably most—of these have not been implemented. It is extremely distressing that there is no up-to-date data around the implementation of the royal commission recommendations on Aboriginal deaths in custody.

I go so far as to say that, if these recommendations had been implemented in full, we would not be in the situation that we are in now. When I asked about the issue of justice targets, the minister rejected the need for justice targets. I find it passing strange that the government and the minister himself have introduced targets on education, yet we cannot have targets on closing the gap in Aboriginal and Torres Strait Islander incarceration. The Change the Record Blueprint for change is calling for the setting of justice targets:

… which are aimed at promoting community safety and reducing the rates at which Aboriginal and Torres Strait Islander people come into contact with the criminal justice system:

They call for a target to:
Close the gap in the rates of imprisonment between Aboriginal and Torres Strait Islander people by 2040;
I ask: why can’t we commit to that? Secondly they ask that we:
Cut the disproportionate rates of violence against Aboriginal and Torres Strait Islander people to at least close the gap by 2040; with priority strategies for women and children.
In addition, these targets should be accompanied by a National Agreement which includes a reporting mechanism, as well as measurable sub-targets and a commitment to halve the gap in the above—
the incarceration of Aboriginal and Torres Strait Islander peoples—
by no later than 2030.
Surely this is something that we should be committing to. The argument that we do not need targets actually does not hold water when we have a set of targets we are trying to meet through Closing the Gap.

The report released by the Australian Medical Association last week very clearly linked closing the gap in life expectancy and health outcomes, the very things that we report on every year in this place—at the beginning of next year, we will see a report by the Prime Minister on how we are meeting those targets to close to gap. If we do not need a target to close the gap on justice and incarceration—if it is not working—why are we committing to the other targets? Clearly, they are working. They are giving us a really good indication of where we are at. People in each state and territory and in the Commonwealth are measuring against these targets. They give us a really good indication about how we are progressing, and they give us something to clearly aim for. We need that for incarceration rates and to meet our justice targets. In its report, the AMA clearly links incarceration and Closing the Gap. In other words, you cannot do one without the other. We have a set of targets around closing the gap in life expectancy and in health. We need justice targets to close the gap in incarceration rates, otherwise we are not going to meet our target date of 2031 for those other Closing the Gap outcomes, which everybody in this place, as I understand it, has committed to. We have all signed up to these targets. Surely, it is not beyond the wit of Australia to set justice targets and then meet them.

Question agreed to.

NOTICES
Presentation

Senator Whish-Wilson to move:
That the following matter be referred to the Economics References Committee for inquiry and report by 22 June 2016:
Carbon risk disclosure in regard to:
(a) current and emerging international carbon risk disclosure frameworks;
(b) current carbon risk disclosure practices within corporate Australia;
(c) Australian involvement in the G20 Financial Stability Board discussions on carbon risk impacts for financial stability;
(d) current regulatory and policy oversight of carbon risk disclosure across government agencies; and
(e) any other related matters.
Senators Williams and Sterle to move:
That the Senate—
(a) notes that:
(i) the trucking industry consists of approximately 49,000 businesses of which 25,000 are owner-drivers,
(ii) road freight transport delivers more than 2 billion tonnes of goods per year, which is 71 per cent of Australia’s domestic freight,
(iii) the industry has had a poor but improving safety record, particularly considering the growth in the number of trucks on the road, and in the 12 months to the end of September 2015 there were 102 deaths in crashes involving articulated trucks and 82 deaths in crashes involving rigid trucks,
(iv) some large companies have been unfairly asking trucking operators to accept extended payment terms of up to 120 days which is not in the spirit of a harmonious business relationship,
(v) the resultant impact on a trucking operator’s cash flow may affect their ability to meet their own financial commitments, such as, for wages, lease payments and maintenance of their vehicles, and
(vii) any reduction in maintenance and repair schedules forced on operators by extended payment terms could lead to more serious accidents and fatalities; and
(b) calls on businesses to adopt payment terms not exceeding 30 days consistent with the requirements of the Road Safety Remuneration Tribunal, and in line with the Australian Government policy of making payments no later than 30 days for many contracts.

Senators Lines, Urquhart and Brown to move:
That, on International Day of People with Disability, the Senate calls on state, territory and Commonwealth governments to demonstrate their commitment to people with disability by signing the remaining bilateral agreements for the full rollout of the National Disability Insurance Scheme Australia-wide.

Senator Ludlam to move:
That the Senate—
(a) notes:
(i) the findings of the Economics References Committee in its report Out of reach? The Australian housing affordability challenge (received 8 May 2015) containing 40 recommendations, and
(ii) that the Government supported nine of these recommendations, including:
(A) to commit to ensuring adequate funding so that women and children escaping domestic violence are housed in secure and appropriate housing,
(B) investigating housing supply bonds and tax increment financing to fund infrastructure for new housing developments, and
(C) to look closely at its aged care policy in relation to the difficulties confronting older Australians in the rental market; and
(b) calls on the Government to update the Senate on Thursday, 3 December 2015, on any progress, if at all, on implementing those nine recommendations.

Senator Smith to move:
That the Senate—
(a) notes:
(i) the large scale adoption of ‘Round Up Ready’ canola by Western Australian farmers following its introduction by the Western Australian Liberal-National State Government in 2009-10,
(ii) the comments regarding the commercial cultivation of genetically-modified (GM) canola in Western Australia, New South Wales and Victoria made to the ABC’s *Landline* program on 25 July 2010 by the then Labor Minister for Agriculture, Fisheries and Forestry, Mr Burke,—‘My view is that the time for banning GM is long since passed. We need to have appropriate regulation to make sure that crops that are planted meet all the food safety guidelines. That’s important. But I just don’t think there is an argument anymore that says you can turn a blind eye to an area of technology that’s going to play a particular role in the future in reducing chemical use, reducing pesticide use and helping feed people’, and

(iii) the comments made to *Farm Weekly* on 12 March 2013 over developing a national strategy on the consistent application of modern biotechnology in agriculture by then Labor Minister for Agriculture, Fisheries and Forestry, Senator Ludwig, that ‘We do support the use of GM within the federal OGTR framework, requirements, and I’d encourage everyone to look at that research and the work that’s being done’;

(b) supports the recommendations of both the 2006 statutory review of the *Gene Technology Act 2000*, and the 2011 Review of the *Gene Technology Act 2000* [report to the Department of Health and Ageing by the Allen Consulting Group], which noted that GM crops posed no adverse impact on markets, and concluded that state bans were having detrimental, rather than beneficial impacts;

(c) notes the announcement by agricultural biotechnology company Monsanto that it plans to become carbon neutral by 2021 through a program targeted across its seed and crop protection operations, and through collaboration with farmers; and

(d) condemns:

(i) the Western Australian State Labor Party’s plan to reimpose a ban on cultivating GM crops if elected in March 2017, and

(ii) the Australian Greens anti-GM policy to ban the cultivation of GM crops, which will deny grain producers in Western Australia, New South Wales, Victoria and Queensland the choice to use an internationally-accepted, safe, and proven cropping system.

**Senators Day and Leyonhjelm** to move:

That the Senate calls on the Government to engage the Productivity Commission to review the Australian domestic shipping industry, to report on:

(a) the impediments to productivity in the sector;

(b) any consequential impacts on the productivity of the Australian agricultural, resources or other sectors arising from those impediments; and

(c) whether aspects of the European ‘Motorways of the Sea’ system could deliver productivity benefits to the Australian economy and domestic shipping.

**Senators Carr, Muir, Madigan, Xenophon and Rice** to move:

That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 23 June 2016:

(a) progress made by the Government to address the recommendations in relation to paper procurement in the Finance and Public Administration References Committee’s report, *Commonwealth procurement procedures* (tabled 17 July 2014);

(b) the impact of procurement connected policies, with particular reference to the ICT Sustainability Plan and the National Waste Policy, on securing manufacturing investment and jobs in the paper sector; and

(c) any other related matters.
Senator Moore to move:
That the Senate—
(a) notes:
(i) the success of Tambo Teddies as the inaugural winner of the Google and the Regional Australia Institute’s ‘Online Heroes’ competition,
(ii) Tambo Teddies have been making bears and wool products since 1993 in the regional community of Tambo, and in 2015 celebrated bear number 40,000, and
(iii) that this company developed from a government Future Search Workshop, a program to create jobs in country towns in 1992, whilst Western Queensland was suffering a crippling drought and devastating wool prices,
(iv) that the original bears were established by three women, Ms Mary Sutherland, Ms Helen Sargood and Ms Charm Ryrie, and that the business is now a major national and international company; and
(b) acknowledges the enterprise and inspiration of this local business.

Senator Urquhart to move:
That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 22 June 2016:
The risks and opportunities associated with the use of the bumblebee population in Tasmania for commercial pollination purposes, including:
(a) the existing distribution and population density of exotic bumblebees;
(b) productivity and economic benefits of the commercial use of bumblebees for agricultural producers;
(c) the potential environmental impacts associated with the commercial use of bumblebees, including whether their use is likely to:
(i) impact the conservation status of a species or ecological community,
(ii) impact biodiversity,
(iii) cause unintended ecological impacts, and
(iv) contribute to a wider distribution of bumblebees;
(d) the implications for Australia’s biosecurity regime of any approval to use bumblebees in Tasmania for commercial purposes;
(e) the potential economic outcomes;
(f) the effectiveness of alternative pollination options; and
(g) any other related matters.

Senators Madigan, Day, Muir, Wang, Lazarus, Leyonhjelm and Lambie to move:
That the Senate—
(a) notes the 2003 committee report by the House of Representatives Standing Committee on Family and Community Affairs, Every picture tells a story: Report on the inquiry into child custody arrangements in the event of family separation, which recommended that a new non-adversarial system be created; and
(b) calls on the Government to:
(i) recognise that thousands of Australian children continue to be harmed by a family law system that is not fit-for-purpose,
(ii) recognise that the *Family Law Act 1975* should be revised, simplified, shortened and based on core principles of the paramountcy of the long-term welfare of children, gender equality, and equal parental care and responsibility, when neither parent has been proven unfit, and

(iii) undertake a root-and-branch review of the family law system with a view to creating a new mechanism that is not adversarial in nature and deals with family separation in a way that has a tangible and primary focus on the welfare of the child, including an urgency for decisions, education and fairness.

**Senators Siewert, Moore and Lindgren** to move:

That the Senate—

(a) notes:

(i) that 3 December is International Day of People with Disability,

(ii) the theme for 2015 is ‘Inclusion matters: access and empowerment for people of all abilities’, and

(iii) the three sub-themes are:

(A) making cities inclusive and accessible for all,

(B) improving disability data and statistics, and

(C) including persons with invisible disabilities in society and development;

(b) acknowledges International Day of People with Disability is an opportunity for the community to make positive changes to the lives of 4 million Australians;

(c) urges government at all levels to take action to develop inclusive and accessible communities; and

(d) encourages all Australians to get involved in the celebrations in their local community by visiting www.idpwd.com.au.

Minister for Communications (**Senator Fifield**) to move:

That—

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

(b) on Thursday, 3 December 2015, the business of the Senate notice of motion proposing the disallowance of the Child Care Benefit (Children in respect of whom no-one is eligible) Determination 2015, standing in the name of Senator Hanson-Young, be called on no later than 3.45 pm; and

(c) if consideration of the motion listed in paragraph (b) is not concluded at 4 pm, the questions on the unresolved motion shall then be put.

**Senator Lambie** to move:

That there be laid on the table by the Minister for Defence (Senator Payne), no later than 3.30 pm on Tuesday, 2 February 2016, a copy of the Defence White Paper 2015.

**Senator Lambie** to move:

That there be laid on the table by the Minister for Defence (Senator Payne), no later than 3.30 pm on Tuesday, 2 February 2016, a copy of the Lazard Scoping Study completed on the future ownership and operations for Defence Housing Australia.

**Senator Moore** to move:

That the Senate notes that despite the change of Prime Minister, the Turnbull Government has adopted former Prime Minister Abbott’s misplaced priorities and broken promises.
**Senators Simms and Xenophon** to move:

That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 3 March 2016:

The potential environmental, social and economic impacts of British Petroleum’s planned exploratory oil drilling project, and any future oil or gas production in the Great Australian Bight, with particular reference to:

(a) the effect of a potential drilling accident on marine and coastal ecosystems, including:
   (i) impacts on existing marine reserves within the Bight,
   (ii) impacts on whale and other cetacean populations, and
   (iii) impacts on the marine environment,
(b) social and economic impacts, including effects on tourism, commercial fishing activities and other regional industries;
(c) current research and scientific knowledge;
(d) the capacity, or lack thereof, of government or private interests to mitigate the effect of an oil spill; and
(e) any other related matters.

**Senator Xenophon** to move:

That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 23 June 2016:

The adequacy of security for government and citizen data held, or transmitted, by governments, commercial entities, non-government organisations (NGOs) or citizens, with a particular focus on:

(a) Australia’s current laws and their enforcement;
(b) the Government’s cyber security policy framework for government agencies, and reporting requirements of same;
(c) security, such as vetting, measures for personnel with access to government and citizen data stored, or transmitted, on government, NGO and commercial entities’ information technology (IT) systems;
(d) physical security measures for government, NGO and commercial entities’ IT systems which store or transmit government and citizen data, including for mobile phone networks;
(e) cyber-attack and interception security measures for government, NGO and commercial entities’ IT systems which store, or transmit, government and citizen data, including for mobile phone networks (for example, SS7 vulnerabilities and International Mobile Subscriber Identity (IMSI) catchers);
(f) the safe disposal of obsolete government, NGO and commercial entities’ IT systems, databases, storage systems;
(g) methods for detecting security breaches, including the detection of mobile surveillance devices such as IMSI catchers;
(h) other approaches to these areas used in other jurisdictions; and
(i) any other related matters.

**Senator Xenophon** to move:

That the following matter be referred to the Community Affairs References Committee for inquiry and report by 4 February 2016:

The medical complaints process in Australia, with particular reference to:

(a) the prevalence of bullying and harassment in Australia’s medical profession;
(b) any barriers, whether real or perceived, to medical practitioners reporting bullying and harassment;
(c) the roles of the Medical Board of Australia, the Australian Health Practitioners Regulation Agency and other relevant organisations in managing investigations into the professional conduct (including allegations of bullying and harassment), performance or health of a registered medical practitioner or student;
(d) the operation of the Health Practitioners Regulation National Law Act 2009 (the National Law), particularly as it relates to the complaints handling process;
(e) whether the National Registration and Accreditation Scheme, established under the National Law, results in better health outcomes for patients, and supports a world-class standard of medical care in Australia;
(f) the benefits of ‘benchmarking’ complaints about complication rates of particular medical practitioners against complication rates for the same procedure against other similarly qualified and experienced medical practitioners when assessing complaints;
(g) the desirability of requiring complainants to sign a declaration that their complaint is being made in good faith; and
(i) any related matters.

Senator Smith to move:
That the Senate—

(a) congratulates the Right Honourable Patricia Scotland on her selection at the 2015 Commonwealth Heads of Government Meeting (CHOGM) as the 6th Commonwealth Secretary-General; and
(b) notes the 2015 CHOGM Communique which states:

(i) the Commonwealth Heads of Government reaffirmed their shared and enduring commitment on behalf of the people of the Commonwealth to the values and principles of the Commonwealth Charter,

(ii) that young people, who comprise sixty percent of the Commonwealth's population, have an important role in building stable, secure and prosperous societies, and that Commonwealth programs can help raise awareness of the risk of radicalisation and prevent young people from embracing violent extremism, radicalisation and terrorism in all its forms,

(iii) that the Commonwealth recognises that freedom of opinion and expression, freedom of peaceful assembly and association, and freedom of religion and belief are cornerstones of democratic societies, and important for the enjoyment of all human rights, and

(iv) that good governance and respect for the rule of law are vital for stable and prosperous societies.

Senator Ludlam to move:
That the Senate—

(a) notes that:

(i) the Senate had begun debate on mandatory data breach notification legislation prior to the 2013 election,

(ii) the Attorney-General (Senator Brandis) committed to introduce data breach notification laws before the end of 2015 during the debate over the national data retention scheme,

(iii) the Attorney-General again committed to introduce such laws to the Parliament before the end of 2015 in an answer to a question without notice on 13 October 2015, and

(iv) contrary to these commitments, the bill has not been introduced; and

(b) calls on the Government to make a statement to the Senate on 3 December 2015 explaining why such legislation has not been introduced, and clarifying the Government’s intentions.
Senator Dastyari to move:
That the following matter be referred to the Education and Employment References Committee for inquiry and report by 1 July 2016:
Primary and secondary school education, with particular reference to:
(a) factors affecting future employment, including:
   (i) the critical future skills areas, including STEM, cooperation, collaboration, creativity, innovation and enterprise, that Australian students will need for jobs in the future, and
   (ii) the jobs and economic opportunities for Australia if attainment levels are improved in critical future skills areas, including STEM, cooperation, collaboration, creativity, innovation, and enterprise and the consequences if they are not;
(b) factors affecting students, including:
   (i) the levels of attainment, and trends, in critical future skills areas, including STEM,
   (ii) the levels of participation, and trends, in critical future skills areas, including STEM,
   (iii) the factors influencing consideration of further study in critical future skills areas, including STEM, and
   (iv) the most effective methods of supporting and encouraging students, particularly disadvantaged students and women, to consider further study in critical future skills areas, including STEM; and
(c) factors affecting teachers, including:
   (i) the evidence base for effective pedagogy and school culture to improve participation and successful learning in critical future skills areas, including STEM,
   (ii) access to further study and high quality, sustained performance development for teachers to be able to meet Australia’s critical future skills areas, including STEM, and
   (iii) any workforce issues that may influence the teaching of critical future skills areas, including STEM;
(d) any other related matters.

Postponement

Senator RHIANNON (New South Wales) (15:35): by leave—I move:
That general business notice of motion No. 980 be postponed until tomorrow.
Question agreed to.

Withdrawal

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:36): I move:
That general business motion No. 929 standing in my name for today, relating to the Custody Notification Service, be withdrawn.
Question agreed to.

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:37): Mr President, I seek leave to make a very short statement.

The PRESIDENT: Leave is granted for one minute.

Senator SIEWERT: I have had this notice of motion on the Notice Paper for a number of weeks now, and I have been postponing it because the Minister for Indigenous Affairs has been in the process of trying to address this issue. I am pleased to say that the minister has now announced some funding for this service, so this motion is no longer necessary. I thank...
the minister very much for attending to this issue and making sure that this vital service is funded. It is a pity that the government of New South Wales did not do so. I am not often in here congratulating the government, but I do congratulate the government on the fact that it has taken up this issue and has now funded this vital service.

**BILLS**

**Social Security Legislation Amendment (Community Development Program) Bill 2015**

**Courts Administration Legislation Amendment Bill 2015**

**First Reading**

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (15:38): I move:

That the following bills be introduced:

A Bill for an Act to amend the law relating to social security, and for related purposes. Social Security Legislation Amendment (Community Development Program) Bill 2015.

A Bill for an Act to amend the law relating to the administration of courts, and for other purposes. Courts Administration Legislation Amendment Bill 2015.

Question agreed to.

Senator SCULLION: I present the bills and 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) (15:39): 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*—

**SOCIAL SECURITY LEGISLATION AMENDMENT (COMMUNITY DEVELOPMENT PROGRAM) BILL 2015**

Mr President,

Every time I sit down with leaders in remote communities, they say, 'can't the Government fix things so our people have incentives to work and earn their own money.'

It's a good question and one that we will answer by passing this Bill.

Remote community leaders are telling us that welfare reliance is becoming the norm and is the primary driver of social dysfunction in their communities.

In remote communities around one in five adults of workforce age is in receipt of welfare. People in remote communities often move onto welfare payments at a young age and stay on welfare for extended periods – sometimes for life.
We know that long-term welfare reliance on this scale is detrimental to individuals. In turn, it impacts on health, community safety and crime. Andrew Forrest also highlighted this issue in his recent Creating Parity report stating that 'Nothing destroys family and traditional culture quicker than despondency, dependency and poor lifestyles'.

But, today we have the chance to help community leaders lift people out of the welfare trap: to create the right incentives for communities to work with.

**Community Development Programme**

The Community Development Programme (CDP), introduced on 1 July 2015, responds to the problem of welfare reliance.

It assists people to gain the skills, experience and commitment necessary to find paid work where it exists and enables them to contribute meaningfully to their community in the absence of paid work, through participation in up to 25 hours of CDP activities five days a week.

There is now a broader, more flexible range of CDP activities that people can participate in to meet their activity requirements. Activities are now useful to the community and job seekers and can include: vocational training; work preparation and foundation skills such as language, literacy and numeracy training and obtaining a driver's licence; programmes to address pre-employment barriers such as drug and alcohol problems; and community activities such as volunteering at the school canteen and supporting older people.

CDP also includes employment incentives and support to establish small businesses.

These incentives include $25 million per year to support the development expansion of remote organisations; support to provide hosted placements which provides job seekers real workplace experience; and support for employers to encourage them to employ job seekers.

CDP is already showing steady progress. We have seen a 50 per cent increase in job seekers placed into activities since the start of CDP with around 66 per cent of eligible job seekers now placed in activities.

**Problems**

Notwithstanding these changes, the evidence shows that further reforms to the income support system is required for remote communities to drive the behavioural changes needed to get people active, off welfare and into work.

Feedback is regularly received from CDP providers that current compliance arrangements are failing them and their communities.

They argue that current incentives need to be strengthened to support individuals to move off income support and into work.

This is a particular issue given the nature of the job market in remote Australia, in which intermittent casual or part-time work is often the only type of work available. We need to make sure the social security system is geared to encourage job seekers to readily take up this work.

Additionally, the national compliance framework is designed to re-engage job seekers in their mutual obligations and is simply less effective when applied in remote Australia.

Community leaders and jobs providers often remind me of the positive elements of the previous Community Development Employment Project (CDEP) in remote Australia.

One correspondent reflected, and I quote, "Non-compliance activities and attendance were quickly resolved within a day, engaging community participants quickly back into their activity. This can now take over 2 to 8 weeks, penalties through Centrelink are causing disengagement, which leads to alcohol, drugs, family violence, children non-attendance at school, crime and so on".
As that correspondent points out, current payment and compliance arrangements are complex, and lack both agility for those trying to apply the rules and immediacy for those on the receiving end.

Consider that a five week period can occur between when a financial penalty is imposed for not attending work and the penalty hits the hip pocket.

As a result, remote job seekers do not get the link between attending activities and receiving income support. Young people in particular don't see the link between Centrelink money and giving back to community through activity.

This undermines the effectiveness of the compliance system

And it's complex and confusing for individuals.

Delays in applying compliance lead to 'flood and famine', where job seekers' income can vary from fortnight to fortnight with little understanding of the reasons behind the variations. Obviously, this makes family and community budgeting harder.

Bill

This Bill gives effect to measures that are designed to address these problems. The Bill creates a new income support payment and compliance arrangements for individuals living in remote Australia who are eligible for activity tested income support payments including Newstart, Youth Allowance, Parenting Payment, Disability Support Pension and Special Benefit.

Payment and activity arrangements

Individuals on remote income support payments will no longer be subject to the National Job Seeker Compliance Framework. Instead, a simpler, more tailored compliance framework will apply.

Eligibility for income support, the level of income support and the level of activity requirements is unchanged.

Responsibility for receiving, processing and determining claims for a job seeker's payment as well as assessing eligibility and capacity to work will remain with the Department of Human Services (DHS). DHS will also continue to fully administer other payments such as Family Tax Benefit and income management.

Income support payments for remote job seekers, however, will be made regularly every week by CDP providers on the ground instead of fortnightly at arm's length by Centrelink.

CDP providers will be permanently based in remote regions and be accessible and able to support the nature of the payments.

Job seeker compliance arrangements

CDP providers will be able to apply an immediate financial penalty to each job seeker for every day they do not attend activities.

I will work with communities and CDP providers to ensure the detailed arrangements are appropriate before implementation via a disallowable instrument.

This will enable the application of penalties on a weekly basis, with the maximum daily penalty equivalent to a day's remote income support payment. There will be greater flexibility within this maximum penalty though. Penalties will not be limited to only a full day but instead will allow providers to reduce an hour's payment for an hour's non-attendance – lessening the financial burden on the job seeker while maintaining the behavioural impact.

This will strengthen the link between attending activities and receiving income support and, as proven in past programmes, will promote work-like behaviour.

The instrument will also provide arrangements to ensure job seekers with a reasonable excuse for not attending an activity, such as illness or cultural business, are not penalised.
In addition, a new community investment fund will be established to enable funds that have been withheld as a result of compliance penalties to be put back into communities to assist local economic and community development initiatives and programs. This will be delivered through the Commonwealth's Indigenous Advancement Strategy.

To summarise, weekly payments and a new, simplified and tailored compliance framework administered by locally based CDP providers, who know and understand the job seeker and the community will result in more immediate and easier to understand compliance arrangements.

**New income thresholds to drive employment**

In addition to the compliance framework, we are also setting new income thresholds to drive employment in remote Australia.

Full-time work is always the goal, but the reality in remote Australia is that casual, seasonal and part-time work is often the option. There is little incentive for remote job seekers to take up this work because currently an individual's income support tapers off after earnings greater than around $100 per fortnight. So the current system means that often this short term work is done by fly in fly out workers. To increase incentives to take up casual and intermittent work when and where it's available, these new measures would allow job seekers in remote income support regions to earn up to the equivalent of minimum wage before their income support reduces.

Increasing the income thresholds means that individuals will not be penalised through a reduction in their income support. If a job seeker undertakes paid work instead of attending their work for the dole activities, they would receive less income support (as penalties are applied) and receive more real income. With low complexity in the system, job seekers will be able to seamlessly move between CDP activities and intermittent and casual employment. This measure reflects the on-the-ground reality in remote Australia.

The new arrangements under this Bill will be phased, in order to ensure the settings are correct. They will be introduced initially in up to four regions and following extensive community consultation. CDP providers will be consulted in the development of supporting systems and processes, and to ensure that the selected providers are ready to implement the revised arrangements. Further regions would be progressively added, based on community readiness and provider capability.

**Conclusion**

Improving the lives of Australians is the nuts and bolts work of this Parliament. Even if you haven’t experienced it personally, you know that the problems in remote communities are acute, immediate and unique.

This proposed Bill answers the concerns of CDP providers and community leaders and is an important next step in helping communities put an end to welfare reliance and the resulting social dysfunction.

I commend the Bill to Senate

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**COURTS ADMINISTRATION LEGISLATION AMENDMENT BILL 2015**

The Courts Administration Legislation Amendment Bill, will merge the corporate services functions of the Federal Court of Australia with those of the Family Court of Australia and the Federal Circuit Court of Australia, and bring the courts together as a single administrative entity.

But in doing this, the Bill will set the scene for achieving a vital public policy outcome: placing the courts on a sustainable funding footing over the longer term, leaving them far better placed to deliver services to litigants. This is because savings arising from the efficiencies will be reinvested in the courts. This is an important point. These are not savings to be extracted and returned to Government. Savings will be retained by the courts to benefit the courts.
As the Bill solely deals with the administration of the courts, it will have no impact on the judicial and functional independence of each court. The Bill maintains and supports the separate standing of each of the courts concerned.

The imperative to merge corporate services

The merger of the courts' corporate services was central to the package of measures announced by the Government as part of its 2015-16 Budget Streamlining and Improving the Sustainability of Courts.

The pressing need for efficiencies forecast from the merger is manifest. The Family Court and Federal Circuit Court, in particular, are facing significant budgetary pressures and ongoing deficits. The serious financial circumstances of the family courts triggered the need for the Government to consider and implement this reform.

The community understands the fundamental importance of the courts' independence and impartiality to ensure integrity and transparency in the judicial system. However, the community also demands the efficient and effective use of taxpayers' funds, particularly in the current tight fiscal environment. All arms of government are currently expected to operate within these constraints.

Constitutional protections, of course, are in place for the courts to preserve the separation of powers and ensure their independence. Appropriately, however, the Executive Government and the Parliament retain oversight of the courts' operating budgets.

At the time of the Budget, the family courts were projecting over $44 million in operating losses over the forward estimates. The Government could not allow these losses to continue unabated.

Without the merger implemented by the Bill, alternative and much less palatable measures would need to be explored to allow budgets to be met. Because access to the courts is a fundamental tenet upon which our justice system is based, the Government was anxious to ensure budget rectitude did not result in frontline court services being cut.

The performance, funding and operation of the courts has been considered in many reviews and reports. These provided a strong evidence base for the Government's decision.

The 2012 Skehill Strategic Review of Small and Medium Agencies in the Attorney-General's Portfolio considered there was merit in the idea of amalgamating the corporate services functions of the federal courts.

Most recently, amalgamation was recommended by the 2014 National Commission of Audit Report, Towards Responsible Government, and the 2014 KPMG review into the performance and funding of the federal courts.

The KPMG review also highlighted the necessity to address the unsustainable financial position of the federal courts as it found that the courts were on track for a deficit of almost $75 million by 2017-18.

Further independent analysis conducted by Ernst & Young in 2015 identified potential savings and efficiencies to be gained from a merger model.

Merging the courts' corporate functions is projected to deliver efficiencies to the courts of $9.4 million over the six financial years to 2020-21 and result in ongoing annual efficiencies of $5.4 million from this time.

In turn, this will create potential for further organisational agility through economies of scale and improvements in the long term financial sustainability of the courts.

Importantly, the savings and ongoing efficiencies generated are to be reinvested into the federal courts to support the delivery of their core business of providing justice for Australian litigants.
Corporate services efficiency

Currently, the Family Court and Federal Circuit Court maintain separate corporate administrative structures to the Federal Court. More effective and efficient services will be delivered through the sharing of financial, human resources, information technology, property and operational corporate services.

There is increasing recognition that, although courts are specialised institutions, they share characteristics with other large public organisations with many staff and large systems.

Courts’ administration, therefore, can benefit from increased collaboration, organisational streamlining and centralised corporate services, within appropriate frameworks.

With ever-growing caseloads and the current tight fiscal environment facing all arms of government, more efficient administration provides scope to relieve some of the administrative burden on our federal courts.

This is consistent with Government’s commitment to reduce inefficiencies in public administration by removing unnecessary duplication.

Staff of the single administrative entity will have new opportunities to share their knowledge and expertise with a larger group of colleagues.

Working groups consisting of key corporate services representatives from each court have already been established, collaborating to complete the essential implementation planning for a 1 July 2016 commencement.

Merged model and maintaining courts’ independence

The Bill is directed to the organisation and administration of the courts. It, of course, maintains the protection of the judicial and functional independence of the courts in accordance with the Constitution, while promoting their effective management.

Access to justice for court users will not be affected. Each court will maintain its separate and distinct judiciary, with no changes made to the courts’ jurisdiction. Therefore, there will be no loss of family law or general federal law expertise across the courts.

The Bill consists of a carefully designed governance structure to preserve the autonomy of the heads of jurisdiction in relation to their own courts. Heads of jurisdiction will retain responsibility for managing the administrative affairs of their respective courts (excluding corporate services).

The separate and independent standing of each court will be further supported through replacing the position of joint Chief Executive Officer (CEO) of the Family Court and Federal Circuit Court with separate CEOs for each court. This will ensure each head of jurisdiction has a dedicated CEO to assist in managing the administrative affairs of their respective court.

To facilitate this amalgamation, the courts will be designated as a single entity under the Public Governance, Performance and Accountability Act 2013 (the finance law) and a single statutory agency under the Public Service Act 1999 from 1 July 2016.

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.

The Federal Court CEO’s pivotal role in delivering shared corporate services is key to generating the expected savings from the amalgamation. Mr Warwick Soden OAM, renowned for his sound financial management, will continue in the role.
Mechanisms exist in the Bill to ensure consultation between the Federal Court CEO and heads of jurisdiction and the other CEOs for decisions relating to corporate services matters.

The Bill contains provisions to ensure the Federal Court CEO makes relevant delegations to the Family Court CEO and the Federal Circuit Court CEO, in relation to the administrative affairs of their respective courts. The Federal Court CEO will be under a general statutory duty to ensure the other two CEOs have the necessary powers and functions to fulfil their roles.

Further detail in relation to these matters will be set out in a Memorandum of Understanding between the courts.

The Bill also contains provisions to safeguard the allocated budget of each court within the single administrative entity.

Merging the courts into a single administrative entity with shared corporate service is not a new idea. In many ways, it is consistent with the historical administration of the courts by the Attorney-General's Department prior to the courts becoming self-administering in the latter part of the last century. This is still the approach taken in many state jurisdictions.

There is an important difference: the corporate services to be provided to the courts are to be provided by a court and not a government department. It is entirely consistent with the Government's view that the courts, as an entity, are self-administering within the legislative and budgetary obligations placed on government entities.

**Key features of the Bill**

Schedules 1 to 3 of the Bill will facilitate the establishment of the single administrative entity under the finance law through amendments to the legislation governing the Federal Court, Family Court and Federal Circuit Court.

Schedule 1 of the Bill amends the *Federal Court of Australia Act 1976* to support the merger. It provides for the courts to become a single entity under the finance law and a single statutory agency under the Public Service Act.

Powers and functions relevant to the finance law and the Public Service Act, including appointment powers, are centralised in Schedule 1. These powers are given to the Federal Court CEO, with delegations to be given to the other CEOs in relation to the administrative affairs of their respective courts. The position of the Federal Court CEO will be retitled.

The Bill clearly delineates what is within corporate services and these items are excluded from the administrative affairs of the courts. Corporate services are defined as including communications, finance, human resources, information technology, library services, procurement and contract management, property, risk oversight and management, and statistics. Critical security functions will remain within the administrative affairs of the courts.

Schedule 2 and 3 of the Bill contain amendments to the *Family Law Act 1975* and the *Federal Circuit Court of Australia Act 1999*, respectively, to support the changes, including defining corporate services and repealing provisions that will be centralised in the Federal Court Act.

A separate position of Federal Circuit Court CEO will be established and the position of Family Court CEO retitled, to effect the separation of this role into a CEO for both courts. Each CEO will also hold the position of Principal Registrar, with the combined Family Court CEO and Principal Registrar role to take effect from 1 January 2018.

Schedule 4 of the Bill amends the *Native Title Act 1993* to reflect the amalgamation and update references to position titles.

Schedule 5 of the Bill consists of consequential and other amendments to a number of Acts to change and update relevant titles and references.
Schedule 6 of the Bill provides for transitional arrangements to ensure the courts can continue their administrative and corporate services functions without disruption at the date of the merger. There is also a rule making power to respond to further areas where clarity in transitional arrangements is required.

**Conclusion**

The Courts Administration Legislation Amendment Bill signals a significant reform in the approach taken to the management and administration of Australia's federal courts.

The merger will facilitate not only short term savings but also substantial scope for longer term efficiencies, all to be reinvested in the courts to ensure their financial viability. The Bill implicitly upholds the key features underlying our federal courts system, such as independence and impartiality.

As a lynchpin to ensuring the financial sustainability of the federal courts into the future, the merger will enable the courts to continue to deliver core judicial services to litigants without compromising access to justice.

Ordered that further consideration of the second reading of these bills be adjourned to the first sitting day of the next period of sittings, in accordance with standing order 111.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

**Senator SCULLION:** I seek leave to make a short statement in regard to the Social Security Legislation Amendment (Community Development Program) Bill 2015

Leave granted.

**Senator SCULLION:** In remote communities around one in five adults of working age are in receipt of welfare. Many people start on welfare at a young age and stay on it for long periods of time, often for life. When I sit down with leaders in remote communities, they say, 'Can't the government fix things so our people have incentives to work on and earn their own money.' We know that long-term welfare reliance impacts on health, safety and wellbeing. The bill creates a new employment support payment, with a simpler, more tailored compliance framework. Eligibility for income support, the level of income support and the level of activities required is unchanged. This bill gives CDEP providers the capacity to better support job seekers and more closely monitor compliance. The bill addresses the problem of passive welfare, by encouraging job seekers into meaningful employment. I commend the bill to the Senate.

**COMMITTEES**

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

**Reference**

**Senator MOORE** (Queensland) (15:41): At the request of Senator Conroy, I move:

That the following matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 30 April 2016:

Operations of Defence Housing Australia, with particular reference to:

(a) senior management arrangements and board composition;
(b) whether the requirements of the Defence Housing Australia Act 1987 have been met;
(c) how the review announced by the Minister for Finance on 11 May 2015 will affect the accounting, information technology and business reporting systems;
(d) what role land sales will play in future business planning, and what implications there are for current residents if existing housing stock is sold; and
(e) any other related matter.

Question agreed to.

Environment and Communications References Committee Reference

Senator BULLOCK (Western Australia) (15:41): With respect to notice of motion No. 3 I advise that Senators Lindgren and Madigan have requested that their names be joined with Senator Back and me in proposing this reference.

The PRESIDENT: Their names are so added.

Senator BULLOCK: I, and also on behalf of Senators Back, Lindgren and Madigan, move:

(1) That the Senate notes that:
   (a) in today's culture, children's use of smart phones, tablets and computers has increased markedly;
   (b) online pornography is easily accessed, and a growing number of children are viewing it at an early age;
   (c) recent studies have shown that exposure to pornography has measurable negative effects on brain development and behavioural outcomes;
   (d) online pornography is increasingly violent in its content, particularly against women, and exposure correlates with children's acceptance of violent attitudes and beliefs;
   (e) violence against women is often linked back to early and repeated exposure to pornography;
   (f) violence towards, and abuse of, children is often linked to early and repeated exposure to pornography;
   (g) children increasingly access the Internet outside their home environment; and
   (h) previous inquiries in Australia have not adequately addressed the question of children's (those under 18 years-of-age) exposure to online pornography and the harm caused because of that access.

(2) That the following matter be referred to the Environment and Communications Legislation Committee for inquiry and report by the first sitting day in December 2016:

Harm being done to Australian children through access to pornography on the Internet, with particular reference to:

(a) trends of online consumption of pornography by children and their impact on the development of healthy and respectful relationships;
(b) current methods taken towards harm minimisation in other jurisdictions, and the effectiveness of those methods;
(c) the identification of any measures with the potential for implementation in Australia; and
(d) any other related matters.

Question agreed to.

Community Affairs References Committee Reference

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:42): I move:
(1) That the following matter be referred to the Community Affairs References Committee for inquiry and report by 30 July 2016:

The indefinite detention of people with cognitive and psychiatric impairment in Australia, with particular reference to:

(a) the prevalence of imprisonment and indefinite detention of individuals with cognitive and psychiatric impairment within Australia;

(b) the experiences of individuals with cognitive and psychiatric impairment who are imprisoned or detained indefinitely;

(c) the differing needs of individuals with various types of cognitive and psychiatric impairments such as foetal alcohol syndrome, intellectual disability or acquired brain injury and mental health disorders;

(d) the impact of relevant Commonwealth, state and territory legislative and regulatory frameworks, including legislation enabling the detention of individuals who have been declared mentally impaired or unfit to plead;

(e) compliance with Australia’s human rights obligations;

(f) the capacity of various Commonwealth, state and territory systems, including assessment and early intervention, appropriate accommodation, treatment evaluation, training and personnel and specialist support and programs;

(g) the interface between disability services, support systems, the courts and corrections systems, in relation to the management of cognitive and psychiatric impairment;

(h) access to justice for people with cognitive and psychiatric impairment, including the availability of assistance and advocacy support for defendants;

(i) the role and nature, accessibility and efficacy of programs that divert people with cognitive and psychiatric impairment from the criminal justice system;

(j) the availability of pathways out of the criminal justice system for individuals with cognitive and psychiatric impairment;

(k) accessibility and efficacy of treatment for people who are a risk of harm to others;

(l) the use and regulation of restrictive practices and their impact on individuals with cognitive and psychiatric impairment;

(m) the impact of the introduction and application of the National Disability Insurance Scheme, including the ability of individuals with cognitive and psychiatric impairment to receive support under the National Disability Insurance Scheme while in detention; and

(n) the prevalence and impact of indefinite detention of individuals with cognitive and psychiatric impairment from Aboriginal and Torres Strait Islander and culturally and linguistically diverse backgrounds, including the use of culturally appropriate responses.

(2) That for the purposes of this inquiry:

(a) indefinite detention includes all forms of secure accommodation of a person without a specific date of release; and

(b) this includes, but is not limited to, detention orders by a court, tribunal or under a disability or mental health act and detention orders that may be time limited but capable of extension by a court, tribunal or under a disability or mental health act prior to the end of the order.

Senator RYAN (Victoria—Assistant Cabinet Secretary) (15:42): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.
Senator RYAN: The government recently announced its reforms to mental health, and that responds to the review of mental health services and programs. With mental health, responsibilities between Commonwealth and state and territory jurisdictions are clearly delineated. This is why we are currently negotiating the fifth national mental health plan with the states and territories. In relation to this motion and people in indefinite detention who have cognitive and psychiatric impairment, this is a matter for state and territory jurisdictions. Question agreed to.

DOCUMENTS

Childcare Assistance Package

Order for the Production of Documents

Senator XENOPHON (South Australia) (15:43): I seek leave to amend general business notice of motion No. 969 standing in my name.

Leave granted.

Senator XENOPHON: I move the motion as amended:

That, noting that the Government announced:
(a) that the Jobs for Families legislation, including the Childcare Assistance Package, would be tabled by Christmas 2015; and
(b) the childcare package reforms will be implemented in July 2017,
there be laid on the table by the Minister for Education and Training (Senator Birmingham), no later than 4 pm on 8 December 2015, all documents relating to the Childcare Assistance Package, including, but not limited to, documents produced by and/or for, and communications related to the reform package, including specifically:
(a) economic modelling on the impact of the reforms on families earning $65,000 to $300,000 plus per annum, where either one or both parents are working;
(b) reports from the focus groups conducted by the Government to inform the policy proposal;
(c) clarification of the activity test, specifically relating to the hours of work correlating to the hours of subsidised childcare available;
(d) economic data and modelling used to determine where families will be $30 per week 'better off'; and

(c) economic and social data and departmental modelling relating to the form package.

Senator RYAN (Victoria—Assistant Cabinet Secretary) (15:44): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator RYAN: The government opposes this motion. The government announced the Jobs for Families package at the 2015-16 budget. We introduced the legislation today, well in advance of the July 2017 implementation time line. At the same time the government also tabled a 130-page detailed regulation impact statement and a 130-page explanatory memorandum. The childcare package is fundamentally fair. It delivers the greatest rate of subsidy to those who earn the least, while targeting more hours of subsidy to those who work the most. We call upon the opposition and crossbenches in the Senate to support this additional investment into child care and early learning.

Question agreed to.
COMMITTEES
Electoral Matters Committee

Appointment

Senator MADIGAN (Victoria) (15:45): I move:

That the resolution of appointment of the Joint Standing Committee on Electoral Matters be amended to provide for participating membership, omitting from paragraph (3A) "the 2013 election" and substituting "political donations".

Question agreed to.

MOTIONS

Indigenous Ear Health

Senator LINES (Western Australia) (15:45): Senator Peris and I included Senator Siewert as a mover of general business notice of motion No. 981, standing in my name and the name of Senator Peris for today, concerning the Close the Gap initiative, with specific reference to Aboriginal and Torres Strait Islander children's ear services, so my apologies.

The PRESIDENT: So included.

Senator LINES: I, and also on behalf of Senators Peris and Siewert, move:

That the Senate notes that:

(a) support to 'Close the Gap' on health has been a bipartisan commitment;
(b) the World Health Organization has declared incidents of ear disease in communities in Western Australia and the Northern Territory to be a 'massive health problem', with the number of Aboriginal and Torres Strait Islander children in remote community suffering with middle ear infections to be as high as 93 per cent;
(c) the relationship between hearing loss and early interaction with the justice system has been recognised by Indigenous health experts;
(d) the Western Australian Minister for Health, Mr Hames, has, during the week beginning 29 November 2015, cancelled the Government funding of the Telethon Speech and Hearing's Ear Health program, an Aboriginal children's ear clinic based in Perth, despite its rating of 'outstanding' in an independent review; and
(e) to achieve progress toward closing the gap across Australia, governments at all levels must recognise the importance of adequate funding for ear health services for Aboriginal and Torres Strait Islander children.

I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator LINES: This motion arose because of a snap decision of the WA Barnett government to close the ear service that is run by the Telethon Kids Institute in Western Australia. It is run primarily to pick up hearing difficulties for Aboriginal and Torres Strait Islander children. It has an outstanding reputation. It works well, right across the state, and yet, without warning, it has had its funding cut. This is a backward step, given that we are not meeting the targets on Close the Gap.

I would hope that the minister in here, Minister Scullion, speaks urgently to the Western Australian government about their intentions and why they have closed this outstanding
service that is of absolute importance to Aboriginal and Torres Strait Islander children. I would urge all in this chamber, particularly the Western Australians, to take this matter up directly with Premier Barnett.

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:47): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator SIEWERT: I asked to be joined to this motion because it is so important. People may remember that the Community Affairs References Committee did a report on hearing services in Australia. We had a whole chapter on hearing services for Aboriginal and Torres Strait Islander peoples. We know very clearly the links with the issue that we have just been talking about. I have another motion on the links between hearing and incarceration. For example, the last information that became available on the hearing of Aboriginal prisoners in incarceration in the Northern Territory and in the Darwin Correctional Centre was that around 90 per cent of Aboriginal prisoners had some form of hearing impairment. The link is really clear, which is why we are so passionate about making sure we are addressing hearing, particularly of Aboriginal children. We know the life impacts that it has if we do not address these issues.

The PRESIDENT: Senator Peris, you can seek leave. It is up to the Senate, but there has been a strong recommendation that there be only one speaker per party during this time. In fact, the Procedure Committee some time ago indicated that this is normally for the discovery of formal business and no debate or speeches should be made, but there has been this tolerance for some time. You can seek leave of the chamber if you wish to. I just wish to let you know what the convention has been.

Question agreed to.

BILLS

Restoring Territory Rights (Assisted Suicide Legislation) Bill 2015

First Reading

Senator LEYONHJELM (New South Wales) (15:48): I move:

That the following bill be introduced: A Bill for an Act to amend certain Acts relating to the territories, and for other purposes. Restoring Territory Rights (Assisted Suicide Legislation) Bill 2015.

Question agreed to.

Senator LEYONHJELM: I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator LEYONHJELM (New South Wales) (15:49): I move:

That this bill be now read a second time.

I seek leave to table an explanatory memorandum relating to the bill.

Leave granted.
Senator LEYONHJELM: I table an explanatory memorandum and seek leave to have the second reading speech incorporated in Hansard.
Leave is granted.

The speech read as follows—

RESTORING TERRITORY RIGHTS (ASSISTED SUICIDE LEGISLATION) BILL 2015

In 1997, Kevin Andrews succeeded in pushing a private member's Bill through Federal Parliament. It overturned the first legislation permitting assisted suicide in Australia, enacted in the Northern Territory.

Since then, not only does assisting someone to commit suicide remain a serious crime in all States, it is also a crime in the Territories. Three states have life imprisonment as the maximum penalty, while in others the maximum penalty varies from 5 to 25 years.

This is extraordinarily cruel. The denial of the right to die at a time of our choosing can result in a lingering, painful death. It is also at odds with the fact that we have both a fundamental and legal right to choose whether we wish to continue living.

It's important to state this clearly, because people forget suicide was once illegal and failed attempts often led to prosecution.

In Medieval England, suicides were denied a Christian burial. Instead, they were carried to a crossroads in the dead of night and dumped in a pit, a wooden stake hammered through the body to pin it in place.

But punishment did not end with death. The deceased's family's belongings were handed to the Crown. This remained the case until 1822. The suicide of an adult male could reduce his survivors to pauperism.

From the middle of the 18th century there was a softening of public attitudes towards suicide. While it is obviously still an occasion for sadness, there is also a recognition that people do not belong to their families or to the government. An individual may have good reasons to take his or her own life.

But there is a catch. The law says we are only permitted to die by our own hand, without assistance. Indeed, in three states, reasonable force can still be used to stop a person from committing suicide. And if we are too weak or incapacitated to end our lives ourselves, we are condemned to suffer until nature takes its course. It is a serious offence for anyone to either help us die – or even to tell us how to do it for ourselves.

One of the consequences of this is that it can compel people to end their lives sooner than they would like. Understandably, people prefer to avoid the risk that they will become incapable of committing suicide themselves.

There is no better marker of individual freedom than the ability to decide what to do with our own body. If the law prevents us from making free choices about it, then we are not really free at all; our bodies belong to the State.

Legalisation of assisted suicide is long overdue in Australia. Opinion polls show more than 80% of Australians are in favour, across all political parties. It is high time governments accepted that on this deeply personal matter, their intrusion is not warranted.

Despite what some people think, this is not about bumping off granny to inherit the house. Assisted suicide is simply helping someone to do something that they would do for themselves, if they were not so ill or feeble. The absolutely essential element is voluntary consent, which is emphatically not merely implied consent or acquiescence.

Of course, consent must be verified. Medical practitioners are no better qualified than anyone else to confirm this, but clearly the decision must be genuine. One of my concerns with Senator Di Natale’s
Medical Services (Dying with Dignity) Bill 2014 – although I support its general intent – is that it over-medicalises the process, giving too much power to doctors.

In the short term at least, the easiest way to smooth the path to legalising assisted suicide would be the repeal of the *Euthanasia Laws Act 1997* – the 'Andrews Act' I referred to earlier. It removed the power of the ACT, the NT and Norfolk Island to legalise assisted suicide, with a specific focus on repeal of the Northern Territory's law.

While it is not feasible simply to reinstate the Northern Territory act, repeal of the Andrews Act would send a signal to States and Territories that their legislatures may now turn their attention to this issue. As a bonus, it would support competitive federalism in law making. For too long, the Commonwealth has waded into areas that are properly the business of the states.

To that end, this Bill repeals the *Euthanasia Laws Act 1997* as well as repealing the specific provisions that were inserted by that Act into the *Australian Capital Territory (Self-Government) Act 1988* and the *Northern Territory (Self-Government) Act 1978* to prevent the Territories from legislating on assisted suicide. Because it isn't desirable to bring the *Rights of the Terminally Ill Act (NT)* 'back from the dead', this Bill also ensures it remains inoperative. Should my Bill be passed, the Northern Territory Parliament will have to revisit the issue.

Given that the *Rights of the Terminally Ill Act (NT)* was enacted 20 years ago, this is probably the best way forward – it is highly likely the Northern Territory Parliament will be able to enact an improved law.

I commend the Bill to the Senate.

**Senator LEYONHJELM:** I seek leave to continue my remarks later.
Leave granted; debate adjourned.

**MOTIONS**

**Higher Education**

**Senator WANG** (Western Australia) (15:50): I seek leave to amend general business notice of motion No. 984 standing in my name for today, relating to the literacy and numeracy benchmark standards for teaching graduates.
Leave granted.

**Senator WANG:** I move the motion as amended:

That the Senate—

(a) notes that more than 90 per cent of teaching students met benchmark literacy and numeracy standards in an exam trialled by the Federal Government to ensure universities are preparing teachers to the highest possible standard; and

(b) calls on the Government, through its focus on research and innovation, to:

(i) keep its sights on teaching quality recognising that today's teachers are incubating the next generation of Australian researchers and innovators, and

(ii) ensure universities are accountable for all graduates meeting national professional standards for teachers.

I seek leave to make a short statement.

**The PRESIDENT:** Leave is granted for one minute.

**Senator WANG:** I always had the highest respect for our teachers because teachers are engineers. Teachers are builders of the foundation of our country's future prosperity. Teaching quality directly determines the quality of education our kids receive. This is why the findings
from the literacy and numeracy exam trialled by the federal government are alarming. I welcome the fact that the government is embracing research and innovation, and I urge the government to look into how our teaching quality can be improved as well as how our teaching can be innovative not only in what we teach but also in how we teach.

Question agreed to.

Indigenous Incarceration and Violence

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:51): Before moving this motion, I would like to add the names of Senator Peris and Senator Lines to the motion.

The PRESIDENT: So added.

Senator SIEWERT: I, and also on behalf of Senator Peris and Senator Lines, move:

That the Senate—

(a) notes:

(i) the report from the Change the Record Coalition, Blueprint for change: Changing the record on the disproportionate imprisonment rates, and rates of violence experienced by Aboriginal and Torres Strait Islander people, and

(ii) That the Change the Record Coalition is a significant group of leading Aboriginal and Torres Strait Islander, human rights, legal and community organisations;

(b) acknowledges that:

(i) in the past 10 years we have seen an 88 per cent increase in the number of Aboriginal and Torres Strait Islander people in prison,

(ii) Aboriginal and Torres Strait Islander people are 13 times more likely to be in prison than non-Indigenous Australians, and

(iii) Aboriginal and Torres Strait Islander women are 34 times more likely to be hospitalised as a result of family violence than non-Indigenous women; and

(c) calls for:

(i) Commonwealth, state and territory governments to work together to close the gap in imprisonment rates of Aboriginal and Torres Strait Islander people, and cut disproportionate rates of violence experienced by Aboriginal and Torres Strait Islander people, particularly women and children, and

(ii) urgent and coordinated national action to close the gap in imprisonment rates of Aboriginal and Torres Strait Islander people and cut disproportionate rates of violence experienced by Aboriginal and Torres Strait Islander people, particularly women and children.

Senator PERIS (Northern Territory) (15:52): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator PERIS: On Monday, 30 November, the Change the Record Coalition launched Blueprint for change, highlighting the national crisis of the appalling imprisonment rates and rates of violence experienced by Aboriginal and Torres Strait Islander peoples. At the launch, Mr Keenan Mundine, a young, articulate Aboriginal man who grew up on the streets in Redfern, in Sydney, shared his story with us. Keenan lost both his parents when he was eight years old and had very few positive role models growing up. He spent time in and out of juvenile detention and adult prison. Keenan was given an opportunity, through a drug
rehabilitation court, to turn his life around. He now works as a youth worker with Weave Youth and Community Services. We cannot allow another generation to fall into this tragic cycle due to the situation they are born into or find themselves in. Labor welcome Blueprint for change and we are committed to adjust the target under the Closing the Gap framework for justice reinvestment, in partnership with the communities, to drive local solutions to prevent crime and incarceration.

Question agreed to.

**Whaling**

Senator WHISH-WILSON (Tasmania) (15:53): I, and also on behalf of Senator Wang, move:

That the Senate—

(a) notes that:

(i) in 1979 Australia adopted an anti-whaling policy, permanently ending whaling in Australian waters,

(ii) in 1986, the International Whaling Commission moratorium on commercial whaling came into place,

(iii) in March 2014, Australia won its case against Japan in the International Court of Justice in regards to whaling in Antarctic waters,

(iv) in November 2014, Japan lodged a new whaling plan with the International Whaling Commission to slaughter 3,333 minke whales in Antarctic water,

(v) in April 2015, the Scientific Committee rejected the need for lethal whale sampling in order for Japan to achieve its scientific objectives,

(vi) on 19 November 2015 the Federal Court of Australia fined the Japanese whaling company Kyodo $1 million for hunting whales within an Australian whale sanctuary, and

(vii) in the week beginning 29 November 2015, the Japanese Government gave notice that the whaling fleet will be leaving port to carry out their commercial whaling; and

(b) calls on the Government and the Prime Minister (Mr Turnbull) to:

(i) uphold their election commitment and send a customs patrol vessel to monitor any Japanese whaling activity, and collect evidence for future legal actions,

(ii) raise the issue, and express the disappointment of the Australian people, directly with the Japanese Prime Minister, Shinzō Abe, during discussions on bilateral relations, and

(iii) consider the option put forward by the Second Sydney Panel of Independent Experts to pursue United Nations Convention on the Law of the Sea dispute resolution mechanisms to hold Japan accountable for their continued commercial whaling.

I seek leave to make short statement.

The PRESIDENT: Leave is granted for one minute.

Senator WHISH-WILSON: I think I speak on behalf of most Australians today when I say that they are disappointed, frustrated and just a little bit angry that yesterday a Japanese harpoon fleet left Japanese waters to travel for the Southern Ocean, to what is deemed to be an international whale sanctuary, under the guise of doing research whaling, which has been found by the International Court of Justice to not be an excuse to slaughter whales. In fact, their actions have been found to be illegal. The motion in front of the Senate today is a message from the parliament that this government needs to take strong action. It needs to raise
this issue at the highest level, with the Japanese Prime Minister, when our Prime Minister meets him in two weeks time. We need to make sure our Customs vessel is sent—in line with LNP policy going into the last election—to monitor the Japanese boats. And we need to immediately launch a new set of legal actions through the United Nations.

Senator RYAN (Victoria—Assistant Cabinet Secretary) (15:54): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator RYAN: The Australian government is very disappointed by Japan's decision to resume whaling in the Southern Ocean. We remain opposed to all forms of commercial whaling and strongly support the global moratorium on commercial whaling. All information necessary for the conservation and management of whales can be obtained using non-lethal methods. The Australian government welcomed the decision of the International Court of Justice in March 2014 that found Japan's whaling program in the Southern Ocean was not for the purposes of scientific research and ordered that program to cease. The Prime Minister, the Minister for Foreign Affairs and the Minister for the Environment continue to make high-level representations to the government of Japan expressing Australia's deep disappointment with the Japanese decision to recommence its unnecessary whaling program. The government is considering all options in response to the Japanese decision, including monitoring.

Question agreed to.

Northern Australia: Policing Services

Senator LAZARUS (Queensland) (15:56): I move:

That the Senate—

(a) recognises the important work of the Australian Federal Police, the Queensland Police Service, Australian Border Force and other government agencies in protecting Australia's northern coastline, borders and communities;

(b) acknowledges the growing need to increase Australia's policing capacity in, and monitoring of, our northern waters in view of:

(i) the strategic importance of the region,

(ii) its proximity to the Papua New Guinea coastline,

(iii) the large area to cover and growing number of incidents, for example, authorities monitor an estimated 250 000 boat trips per year and conducted 68 search and rescue operations in 2014, and

(iv) the need for nearby communities to feel safe;

(c) notes the Queensland State Government and the Queensland Police Union's calls for the Federal Government to help fund the build of a multi-jurisdictional government facility, Australia's northernmost police station, on Sabai Island, located in the Torres Strait of Queensland, to service the northern region; and

(d) calls on the Federal Government to consider contributing to the funding of the facility to increase Australia's police presence and border protection and management activities in the northern region.

Question agreed to.
Wednesday, 2 December 2015

COMMITTEES
Foreign Affairs, Defence and Trade References Committee

Reference

Senator WHISH-WILSON (Tasmania) (15:56): I, and also on behalf of Senator Lambie and Senator Xenophon, move:

That the following matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 1 May 2016:

The planned acquisition of the F-35 Lightning II (Joint Strike Fighter), with particular reference to:

(a) the future air defence needs that the aircraft is intended to fulfil;
(b) the cost and benefits of the program to Australia, including industrial costs and benefits received and forecast;
(c) changes in the acquisition timeline;
(d) the performance of the aircraft in testing;
(e) potential alternatives to the Joint Strike Fighter; and
(f) any other related matters.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (15:57): I seek leave to speak for a minute on this motion.

Leave granted.

Senator CONROY: While Labor strongly support the right of the Senate to inquire into a whole range of issues, we do not want the fact that Labor are supporting this Senate inquiry to remotely suggest that Labor do not fully support Australia's participation in the F35 project. We are strongly behind it, we have a long record of being strongly behind it and we continue to support Australia's participation in this project.

Senator RYAN (Victoria—Assistant Cabinet Secretary) (15:57): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator RYAN: The government does not support this motion, and, despite what Senator Conroy just stated to the chamber, the fact that the opposition is doing so is embarrassing. Successive Australian governments have been committed to the JSF program, including in Labor's 2009 and 2013 white papers.

Senator Conroy: We continue to be.

The PRESIDENT: Order on my left!

Senator RYAN: Both the Leader of the Opposition and the shadow minister, Senator Conroy, have made strong statements supporting the JSF. To date, Australian industry has secured contracts valued at US$448 million. We estimate that Australian industry will win at least US$1.5 billion in JSF related orders. This creates jobs. Last week the UK confirmed their program of 138 jets and will procure JSF earlier than planned. The government is committed to acquiring a fifth-generation JSF aircraft and the significant opportunities it provides for Australian industry and suspects that this is another deal whereby a vote in the Senate is being used for other purposes.

The PRESIDENT: Leave is granted for one minute.

Senator WHISH-WILSON: I respect the Labor Party and thank them for their support in this inquiry. This is simply about us doing our job—asking questions about what was the largest defence acquisition in this nation's history: $25 billion for a strategic capacity around Joint Strike Fighters that many people question. There are a number of stakeholders across this public debate. This is an opportunity to scrutinise all aspects of this acquisition of the F-35, and it is simply us doing our jobs. I do not like the dog whistle politics from the government that goes with this. This is what we were elected to do and I think it is an opportunity for everybody to put the facts on the table and let the Senate look into this acquisition. It is worth pointing out that there has not been any public scrutiny of this. Our previous Prime Minister doubled down on this, financing 70 new aircraft with no warning at all. It is time we had a good look at this acquisition.

The PRESIDENT: The question is that the motion moved by Senator Whish-Wilson be agreed to.

The Senate divided. [16:04]

(The President—Senator Parry)

Ayes ......................37
Noes ......................27
Majority ...............10

AYES

Bilyk, CL
Bullock, JW
Collins, JMA
Day, RJ
Gallacher, AM
Hanson-Young, SC
Lambie, J
Leyonhjelm, DE
Ludlam, S
Madigan, JJ
McEwen, A (teller)
McLucas, J
Muir, R
Peris, N
Rhiannon, L
Siewert, R
Singh, LM
Wang, Z
Xenophon, N

NOES

Abetz, E
Bernardi, C
Bushby, DC (teller)

Back, CJ
Birmingham, SJ
Canavan, MJ
Question agreed to.

BUSINESS

Withdrawal

Senator McKIM (Tasmania) (16:06): I move:

That the government business order of the day relating to the consideration of the Tax and Superannuation Laws Amendment (2015 Measures No. 3) Bill 2015 be discharged from the Notice Paper.

I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator McKIM: Thank you, Mr President. This motion seeks to discharge from the Notice Paper the Tax and Superannuation Laws Amendment (2015 Measures No. 3) Bill 2015. That legislation seeks to abolish the seafarers tax offset and reduce the rate of the research and development tax incentive, which was designed to promote innovation and encourage Australian companies to invest more in research and development. This legislation has been hanging over the heads of Australian companies considering investing in R&D for nearly six months and, unless the Senate takes action today, it will continue to cause uncertainty for companies that want to invest in R&D and innovation for at least the next three months. Striking this legislation from the Notice Paper would remove uncertainty and send a strong message to Australian companies that they can make decisions around investing in research and development and innovation with certainty about the tax incentives available to them.
Senator RYAN (Victoria—Assistant Cabinet Secretary) (16:07): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator RYAN: I thank the Senate. This motion from the Greens seeks to have government legislation removed from the Notice Paper without allowing for proper consideration and debate by senators. All senators from all sides of the chamber should be allowed the opportunity to consider legislation, contribute to debate and then vote on bills that come through this place and not have legislation struck off the Notice Paper at the whim of any senator or political party—in this case, the Greens. I call on all senators to reject this motion and allow the Senate to do its job of properly reviewing legislation that is before it, including this bill.

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

The Senate divided. [16:09]

(The President—Senator Parry)

Ayes ......................10
Noes ......................46
Majority ...............36

AYES

Di Natale, R
Lambie, J
McKim, NJ
Rice, J
Simms, RA

Hanson-Young, SC
Ludlam, S
Rhiannon, L
Siewert, R (teller)
Whish-Wilson, PS

NOES

Abetz, E
Bernardi, C
Bullock, JW
Cameron, DN
Collins, JMA
Dastyari, S
Edwards, S
Gallacher, AM
Johnston, D
Lazarus, GP
Lindgren, JM
Ludwig, JW
Madigan, JJ
McEwen, A
McKenzie, B
Moore, CM
O’Neill, DM
Peris, N
Reynolds, L
Ruston, A
Seselja, Z

Back, CJ
Bilyk, CL
Bushby, DC (teller)
Canavan, MJ
Conroy, SM
Day, RJ
Fawcett, DJ
Gallagher, KR
Ketter, CR
Leyonhjelm, DE
Lines, S
Macdonald, ID
McAllister, J
McGrath, J
McLucas, J
Muir, R
Parry, S
Polley, H
Ronaldson, M
Ryan, SM
Singh, LM
Question negatived.

MATTERS OF PUBLIC IMPORTANCE

Goods and Services Tax

The PRESIDENT (16:12): I have received a 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 Abbott/Turnbull Government's plan to increase the rate of GST and broaden its base.
Is the proposal supported?

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

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

Senator CAMERON (New South Wales) (16:12): What we have in those who sit on the other side of this chamber is a government that is uncaring, a government that wants to hit the lowest paid in this country, a government that has a plan to introduce a GST of 15 per cent on the low-paid in this country. The government has had that plan since it came to government and it is doing it at the behest of big business.

You cannot trust this government. Go back and look at the last election, when this government promised so much to the Australian people and where it said that it would not do certain things. But, as soon as it came to government, it set about ripping at the pension and ripping at social welfare and trying to take the rights away from working people in this country. The government took $80 billion out of education and health. It had the rhetoric of 'lifters and leaners'. So if you got some support from government, no matter how well deserved, you were a leaner and you had to make your way as an individual. All the privileged people on the other side of this chamber, who come from privileged backgrounds, do not know what it is like to not be able to put food on the table for your family and do not understand what it is like to struggle to pay your mortgage.

It is quite clear why the National Party are so upset about this. The National Party should actually be standing up for poor people because poor people, as a percentage of the population, reside more in National Party seats than they do in other seats. Yet the National Party said absolutely nothing when that first budget was brought down. They just acquiesced to the ideology of the Liberal Party. They were in the true saying of how they are described here. They were the real doormats of the Liberal Party. The Liberal Party wiped their feet all over them in relation to that first budget. There was $80 billion taken out of health and education. Why was that $80 billion taken out? It was because they had a plan that they wanted to force the states to push for a GST. That part of their plan worked because some state premiers are saying, 'How do we get any extra money unless we have a GST?'
reason that they are arguing for a GST is that that rotten mob over there took $80 billion out of health, out of education and out of resources for state governments in this country.

They wanted to impose $7 on the poorest people in this country every time they went to see a doctor. They did not tell the public that when they went to the election. They wanted to increase the PBS. Every time you got a prescription you were going to pay more. They cut the pension. They cut the rate at which the pension would increase, which was an effective cut to the pension in this country, so retirees lost some of their benefits. Pensioners on the pension lost some of their pension. People on family tax benefit B lost money when their children turned six.

Senator Canavan: Mr Acting Deputy President, I raise a point of order on relevance. This is actually a topic picked by the Labor Party, but Senator Cameron cannot seem to stick to the topic in seven minutes. It is such a weak matter of public interest that he cannot do that.

The ACTING DEPUTY PRESIDENT (Senator Williams): Senator Canavan, there is no point of order. That is a debating issue.

Senator CAMERON: I can clearly understand why Senator Canavan would want to shut this discussion down. Senator Canavan purports to represent low-income people, but every action that Senator Canavan has taken in here rips away at the living standards of low-income people. What I am trying to say here is that they are a government that cannot be trusted, so, when they stand up and say there is no GST there, there is a GST of 15 per cent waiting there.

Peter Hartcher in The Sydney Morning Herald this morning exposed it. They asked the Treasurer that developed the plans for a 15 per cent GST. The GST is on its way, and the same people that lead this country sat around that cabinet table and inflicted all those problems on the community as a result of that first GST.

This government has not changed one iota. The GST is about attacking those that can least afford it. You will pay an extra $3,200 a year if you get an increase of 15 per cent in the GST with no change to the base. If it ends up being on fresh food, health care, education, water and sewerage, you will pay an extra $6,200 a year. It will stand up and deny it, but it is clear. That mob over there and their minions out there—the Business Council of Australia, ACCI, the business groups—all want a cut to company tax, and how do they want to pay it? They want it to be paid—

The ACTING DEPUTY PRESIDENT: Order! Senator Cameron, address your comments through the chair, not through the gallery, if you would, please.

Senator CAMERON: Through the chair: what they want to do is force the poorest people in this country to pay for a cut in business tax. The theoretical argument is that if you cut business tax you will create more jobs. Around the world, when you look at what has happened when business tax has been cut, the chief executive, the executives and the chairpeople of the board get more money and the workers get nothing. No more jobs are created. It is an absolute furphy that that is the position.

But what will we have here? We will have everything becoming more expensive. The least well off will be hurt the most. You cannot trust them when they say there will be compensation, because they are an untrustworthy government. It is the thin end of the wedge for more tax increases from a government that say they are a low-taxing government. It is simply unfair to force a GST onto the workers of this country, who are battling to keep their...
heads above water now, just to give their big business mates that fund their campaigns more
money. *(Time expired)*

**Senator CANAVAN** (Queensland—Nationals Whip in the Senate) (16:20): I am not
going to take lessons on tax reform from the Labor Party. No-one in their right mind in this
country would take lessons on tax reform from a party that has a record of absolute disasters
and failures when it comes to reforming our tax system. They were only in government for six
years last time, but they presided over failure after failure after failure on tax reform in this
country. They put up a mining tax—an absolute failure. Only the Labor Party—maybe with
the assistance of the Greens; thank you, Senator Whish-Wilson—could design a tax which
raised no money in net terms. It raised some small amount of money, but after compliance
costs and administrative costs no money was raised. All the hassle, all the rhetoric and all the
rigmarole we went through in this country—

**Senator Polley:** Mr Acting Deputy President, I raise a point of order. I just remind you—
through you, Acting Deputy President—

**The ACTING DEPUTY PRESIDENT (Senator Williams):** Please.

**Senator Polley:** that there has to be some relevance to the matter of public interest before
us.

**The ACTING DEPUTY PRESIDENT:** There is no point of order, Senator Polley.

**Senator CANAVAN:** The matter of public interest is in regard to tax. The MPI is put
forward by the Labor Party, suggesting advice on tax to this government. I am making clear
that no-one—not just the Liberal Party, not just the National Party; not anyone—in their right
mind in this country would take advice on tax reform from a party that presided over the
disastrous mining tax. Indeed, it was a tax designed through the mishandled Henry tax review
process as well.

That is not how we are going to run this process. We are not going to run it like the Labor
Party did last time they were in government. That was an absolute failure. That was a lesson
in how not to do tax reform. What they did with the Henry tax review was to rule out lots of
options. They did not even let him look at the GST. Mr Ken Henry was the pre-eminent
adviser on economic matters.

**Senator Lines:** Mr Acting Deputy President, I rise on a point of order. The matter of
public importance does say, 'the plan to increase the rate of GST', and I have yet to hear that
being mentioned by the senator.

**The ACTING DEPUTY PRESIDENT (Senator Williams):** Senator Lines, as I ruled
when Senator Canavan took a point of order against Senator Cameron, that was debating
point and I will rule the same against you. There is no point of order.

**Senator CANAVAN:** Thank you, because I think this motion does go to what the
government is doing with tax reform, with our white paper process, our consultative process.
It is important to contrast and to learn indeed from the mistakes of the former government and
how they mishandled the tax reform process while they were in government. And they did
mishandle it. I do not think anybody could deny that now. They instructed the most pre-
eminent adviser on economic matters at the time, the then Secretary to the Treasury, Mr Ken
Henry to not even look at the GST. They did not even have the guts to take advice about the
GST from their Treasury secretary. That is how scared the Labor Party were of tax reform.
Then when they received his report—which had nothing in it about the GST because he was told not to—just before Christmas in 2009, Wayne Swan took it to the beach and read it in between surfing trips. He was so scared by it, he did not release it for four or five months. He kept it under wraps in his office for four or five months. It was not put out to the Australian people for discussion. He was not brave enough and he did not respect the Australian people enough to allow them to look at it and to consider it, to take into account the views of the Australian people.

And what happened? Because the then government's response was developed in a cocoon, without input from the Australian people, without the antiseptic abilities of sunlight, we came up with a disastrous policy option of putting in place a mining tax which very few people could understand, which did not deal with the practical realities of the mining sector or the financial sector and ultimately lead to the destruction, probably, of a Prime Minister or at least played a major role. It was an absolutely disastrous outcome and we will not repeat it.

We are confident that the Australian people can have a mature debate about the tax system. They can have a debate which looks at all elements of the tax system. Of course, the GST is one of the most important parts of the tax system. It raises over $50 billion a year. It is an incredibly important source of funds for our state governments and, of course, it needs to be part of any review into taxes in our nation. Indeed, if you really believe the rhetoric of the other side about the GST, if you took Senator Cameron's contribution to its logical conclusions and if Senator Cameron, through you chair, were serious about the exaggerated and overwrought claims about the impact of the GST, why is the Labor Party not taking a policy to remove the GST? Why is the Labor Party not rolling back the GST? They have tried it before. If you really believe what they are saying about this tax, that it causes devastation across our landmark landscape, that it causes people to go into poverty and not be able to pay their bills, why are they not taking a policy to remove it?

Senator LINES: It does.

Senator CANAVAN: Senator Lines, if you think it does those things, it would be an incumbent on you to take to the Australian people a policy to get rid of the tax completely but you are not doing that. It did not do that while you were in government. So your claims right now are exposed as the complete political rhetoric they are. They are not based on what you really believe impacts people. They are based on a political argument which you are seeking to have to focus on cost-of-living issues will.

The irony is that, on this side of the chamber, we are having a mature debate about what our tax system should look like and about how we can promote economic growth; on that side of the chamber they are proposing a massive tax which is going to hit poor people in this country. They are the ones proposing this tax. They are going to do it through another carbon tax. Just last week we saw the Leader of the Opposition, Mr Shorten, put forward a 45 per cent cut in our carbon emissions by 2030, almost halving our carbon emissions by 2030. The only way they are going to do that is through a new carbon tax or a new emissions trading scheme, which is another word for a tax. They are going to put another tax on the Australian people if they get back in power and guess who is going to be paying this tax? Guess who will be most exposed to paying Labor's carbon tax version 2.0? It will be the poorer households in our nation, just as it was last time.
The Australian people rejected the tax last time but the Labor Party are coming back for a sequel. We know it will hit the poorest people because the Labor Party did modelling on this when they were in government. They commissioned economic modelling from the Treasury when they were in government into this type of reduction, into a reduction of around 45 per cent in carbon taxes—44 per cent, to be precise. We know from that modelling, from the experts, from the Australian Treasury, what would be the impact of such a tax. The impact would be that income per person would be $4,900 lower by 2030 if we were to implement such a policy.

No-one is asking us to do this policy. It is beyond the proposals coming from other countries in Paris right now, yet the Australian Labor Party—the party which once represented workers, the party which was formed under a tree in Barcaldine to represent shearers of our nation—are putting forward a tax which will reduce the income of the average person by $5,000 a year, which will hit those industries which employ workers in this country, particularly in our steel, in our aluminium and in our power production sectors. Indeed under the Labor Party modelling on the carbon tax, all 37 coal-fired power stations in this nation would close—all of them.

I know Senator Whish-Wilson and Senator Rice will be licking their lips at the prospect that 37 coal-fired power stations would be out of action but it is not the stated view of the Labor Party. The Labor Party do not believe in shutting down our coal-fired power stations; yet they are pushing a policy which should have that very effect. What are they going to say to the people of the Hunter Valley, what are they going to say to the people of the La Trobe finally, what are they going to say to the people of Central Queensland who lose their jobs because they are pushing a policy which is are ideologically driven and will not deliver a practical result for the environment and will make us economically poorer? From that modelling we know that the coal, oil and gas industries would be around 23 per cent lower than they otherwise would be in 2030, that the coal mining output would be 42 per cent lower and the aluminium industry would halve under their model.

These are their figures. They are not my figures, they are not Senator McGrath's figures, they are not any government minister's figures. They are the Australian Labor Party's figures from when they were in government about this particular policy option. It is complete madness. It is madness on stilts to be proposing such a tax, which would hit the poorest Australians the most. We would not be able to afford compensation either, because this policy actually reduces their economic growth.

We on this side are focused on tax reform ideas that will promote economic growth and job creation. Yes, that might mean some change to the mix of our tax system, but that is how we are going to afford a bigger pie which we can share among all Australians to fund all the public services we expect and to make sure every one of us will be better off as a result of that change, as was done with the GST. The way you do not do tax reform is to put taxes on individual sectors of our economy—wealth-producing ones like coal, aluminium and steel—which would lower economic growth, shrink the economic pie and make it harder to make sure every Australian can have a better day tomorrow than they have today.

That is what we are focused on. We are focused on making a brighter and stronger economy for tomorrow than we have today, and we will do that through considered, well thought-through and consultative tax reform. We will not impose massive new taxes on
individual sectors of our economy that seek to divide our community, lower our economic growth and make us all poorer.

Senator WHISH-WILSON (Tasmania) (16:31): A progressive tax is when your tax rate is leveraged according to your income and your wealth, so income taxes are a progressive tax. A regressive tax is when rich people pay the same rate of tax as poor people, so a regressive tax is a GST, a goods and services tax. Any high school or first-year economics student would be able to tell you that. The Greens do not support regressive taxes.

This debate is not just about the impact that this tax is going to have on those Australians who can least afford to pay more of their disposable income—what little they do have—on goods and services in this country. It is also much bigger than that; it is about the debate we should be having on real tax reform. As soon as we go down the GST path there will not be any discussion on other tax options. The government has a green paper and a white paper to discuss tax reform, but all we hear about now is GST. It has become the political football. It has become the national conversation.

Senator Canavan: You chose the topic!

Senator WHISH-WILSON: Let's talk about what we do need to talk about, Senator Canavan, through you, Mr Acting Deputy President Williams. We need to talk about getting rid of capital gains tax and the concessions that go with capital gains and with negative gearing.

Senator Canavan: Did you run this through the party room?

Senator WHISH-WILSON: Yes, Senator Canavan, we have very strong policies, through you, Mr Acting Deputy President.

The ACTING DEPUTY PRESIDENT (Senator Williams): Order on my right! Disregard the interjections, Senator Whish-Wilson.

Senator WHISH-WILSON: We need to talk about getting rid of negative gearing, making housing more affordable and getting rid of capital gains taxes. We need to talk about progressive superannuation tax concessions. We need to talk about getting rid of fossil fuel subsidies. There is so much more we need to be focusing on in tax reform in this country. I sat in here until this government got elected, listening to them talk about how each Australian household was going to be slugged under a price on carbon. Guess what? According to work we had done by the Parliamentary Library, at a 12½ per cent rate the GST is going to cost households an extra $31 per week. A 15 per cent GST is going to cost households an extra $62 per week—that is $240 a month. Multiply that by 12 and we are talking about a significant burden for those Australian households that cannot afford to pay it.

In comparison, the carbon price, which was all we ever heard about in this place, was $11 per week. I know that you, Mr Acting Deputy President, have spoken on this as well. If you want to talk about burdens on households, then GST is your No. 1 culprit. What concerns me most is that this will stymie real debate on tax reform in this country. There is a whole range of things that should be on the table that will immediately get shunted into the too-hard basket if we go down the GST road. The Greens will not be supporting a tax that makes life harder and less fair for Australians, particularly for those on low incomes. Why should a multimillionaire like our Prime Minister, Malcolm Turnbull, pay the same rate of tax on his groceries as someone who is on social security, or is a struggling single mother who has to
provide for her children? How is that fair? It is not fair, and that is why it is called a regressive tax.

We need to look at a taxation system in this country that not only raises revenue,—in my opinion, that is a secondary consideration—but can make the country fairer and more equitable. Hopefully we will find a choice of policy mix that achieves both, that makes this country fairer and more equitable and raises the revenue we need to balance budgets over a cycle. This is not just about how we can make money quickly—a quick fix. This is about how we can improve our country. Let me tell you, if you want to make this country more fair and more equitable, then GST is the worst possible thing you can do. It is the worst of all the options we have in front of us for making this country more fair and more equitable. This is the debate we have to have. It is irrefutable that the GST is a regressive tax. Let's talk about how we can improve this country, raise revenue, make housing more affordable and help those Australians who are in need.

**Senator POLLEY** (Tasmania) (16:36): I rise to speak about the Abbott-Turnbull government's plan to increase the rate of GST, and to broaden its base. With Christmas just around the corner, all the kids are starting to write their 'naughty and nice' letters to Santa, so I thought it was appropriate and timely to talk about the government's 'naughty and nice' lists regarding what they are doing to support families with the cost of living.

Unfortunately, when it comes to the cost of living for Australian families, there is nothing on the government's nice list. In fact, it is completely empty. Their naughty list, however, is another story. This list is a lot longer. This list whacks Australian families left, right and centre. But the naughtiest thing of all on this list is the 15 per cent GST that will increase the cost of everything and hurt every single Australian family. If Mr Turnbull gets his way, the cost of everything will increase and everything will cost more. For families already struggling to keep their heads above water, increasing the GST will only push up the cost of living, making everything more expensive and leaving families worse off. Every time they have to pay a bill, they will be paying more—be it water, gas, electricity, mobile phones, rates or the internet, it will all cost more. Every time they stand in line at the supermarket checkout, they will be paying more. In fact, they will be paying more than just the 10 per cent, up to the 15 per cent on most items. When it comes to fresh fruit and vegetables, they will be paying 15 per cent more. Every time they go to the doctor, every time they have a hospital visit, every time they have a pathology test, they will be paying more on each and every one of those. Every time they buy a new school uniform for their children, every time they buy their schoolbooks, shoes or clothing or pay for public transport, they will be paying more. Why? It will be because of this government. Whatever they do, every Australian and every Australian family will be paying more.

This is why Labor will never support Malcolm Turnbull's plan to raise the GST. We will never support a tax that is regressive and will hurt those who are the most vulnerable in our communities. There is nothing fair about jacking up the price of everything, especially for those families and those individuals who can least afford it. The government is hurting Australian families instead of helping them. We know they are an unfair government. We know that when they went to the last election, they said there would be no new taxes, there would be no surprises. What did we get? We got cuts to health, cuts to education and cuts for pensioners. Every single thing that this government have done through their last two budgets
has been about hurting the most vulnerable in our communities. There is no other way to put it: quite simply, this is a government that is clearly out of touch with the Australian community.

A lot of people have told me how they had a sense of relief when those on the other side in the Liberal Party knifed Tony Abbott. They felt a sense of relief that Mr Turnbull was now Prime Minister. Slowly but surely, it is now sinking in that they have been dealt a dud, because this will be the Prime Minister who will increase the GST, a regressive tax—a tax that will be supported by some in the community.

We hear those on the other side quoting premiers from various states around the country who are talking about the GST. Since this government has come to office, they have cut funding to those states. They are bleeding the states dry and they know they will have little choice, because they will not be able to deliver the important services that they need to deliver to their communities while this federal Liberal government are cutting their funding and making it more and more difficult.

Let's face it, it is a simple thing for those on the other side to clear up the concern about this side talking about this increase to the GST. All they have to say is: 'There will be no increase to the GST. The GST will not be raised to 15 per cent.' It is very simple. But they say that everything is on the table—that includes increasing the GST. What do they do? They come in here and accuse us of being scaremongers and raising concerns unnecessarily in the community. But we know, as the Australian people know, that it is those on the other side who won the last election with their three-word slogans, putting fear into the community, misleading and lying to the Australian people. That is not we are doing. We are saying very clearly that we will never support an increase to the GST. It will not happen. It is against everything that the Labor Party believe in.

It is quite clear that the Liberal government will be getting a bag of coal for Christmas and Malcolm Turnbull is the Christmas cost-of-living Grinch. It is regrettable, because the Australian people put their faith in this government and they have been badly let down by those on the government benches. *(Time expired)*

**Senator IAN MACDONALD** (Queensland) (16:42): For anyone listening to this debate, I do not think it needs me to emphasise the complete lack of any conviction or truth in the arguments put forward by the Australian Labor Party. There is only one politician I have ever heard talking about a 15 per cent increase in the GST—that is, the Labor Party Premier of South Australia. The Labor Party Premier of South Australia is the only person I have ever heard talk about a 15 per cent increase in the GST. All of those pious words, that lettuce-leaf attack from the Labor Party in this debate, supported by their Green allies, is simply a straw man. It is something that they have made up and something they are trying to scare the Australian public with.

I entered this debate in rather a unique fashion. I think I am the only senator in this chamber who was there when the original GST debate was had and when the GST was implemented. I remember the same arguments from the ALP at the time: how awful it was, how terrible it was, how it was going to destroy everybody and hurt all those on low incomes. Subsequently, they came to government and did they do one thing at all to get rid of the GST? We knew that would be the case. We said to them back in the original debate, 'If you think this tax reform is so bad, give us an undertaking that you will reject and repeal the GST
should you ever become the government.' Well, they did become the government, more to Australia's shame and pity, and did they do anything about removing the GST? Of course they did not. All of the arguments you hear from the Australian Labor Party senators—I have heard them all before. They are all so disingenuous, so mischievous and such a real lie as to the present position as not to warrant any relevance at all. I am sure the public of Australia understand that.

I am sorry: there is one other person that has mentioned 15 per cent in the GST, I beg your pardon, and that is me. I have made it clear that, having made a promise back in the 1998 legislation, I would never be part of a parliament that voted for an increase in the GST; I would be voting against it, if the Labor Party or anyone else ever brought up a proposal for an increase in the GST.

I remember well the 1998 election campaign: we went to the election telling the Australian public we were going to introduce a 10 per cent GST. At the time, the Labor Party, the media and the ABC all said: 'You'll introduce it at 10 per cent. You'll do what New Zealand has done. You'll increase it to 12½ per cent then 15.' John Howard and I and everyone else in the government at the time signed in blood that we would never increase it beyond 10 per cent, and I intend to discharge that commitment I made to my electors at the time.

I have said that I would go back to the original proposal that the people of Australia voted for when we had the courage to take that proposal to the election—that is, it was to be a broad based GST at 10 per cent with appropriate compensations for lower-income groups. We had to change that to get it through the Senate at the time, but I would go back to it. That is what the Australian people in that election agreed with, and I would go back to the broad based GST at 10 per cent.

I remind any listeners, because the Labor Party try to confuse the issue: with an increase in the GST, the money goes directly to the states. The federal government, the then Howard government, the Turnbull government, if they were looking at a broad based 10 per cent—any increase in revenue does not go to the federal government; it goes to the state governments, half of which, regrettably, are controlled by the Labor Party. And would the Labor Party give back any additional funds they might have, if there was a broad based GST? Of course they would not.

I repeat: the only person to have called for an increase to 15 per cent is a Labor Party politician—the Premier of South Australia. Yet you have the hypocrisy of senators from the Labor Party coming in here with all this bleating and bleeding. Why don't they go and talk to Mr Weatherill, if they are so concerned about it, because he is the only person who has spoken about an increase in the GST to 15 per cent?

The Labor Party, and we know you cannot believe them—we had a proposal for a 10 per cent GST and we actually took it to the Australian public, who endorsed our proposal—before the 2007 election promised the Australian people they would never, ever introduce a carbon tax. It was a solemn promise, a week out from the election, two days out from the election, 24 hours out from the election—a promise repeated and repeated by the leader and the Treasurer of the Labor Party: we will not introduce a carbon tax. What was the very first thing they did? Introduce a carbon tax.
The contrast between the Liberal and National parties, and the Labor Party could not be more stark: on our side, if we have a proposal, we take it to the Australian people, who in our case, endorsed it; in the Labor Party's case, they lied to the Australian people that they would not introduce a carbon tax and then, as soon as they were elected, came in and did the opposite.

We do have plans. Australia needs taxation reform. We are involved in a broadscale discussion on that now. That must happen, if Australia is to move forward, but we will do it honestly.

**Senator XENOPHON** (South Australia) (16:49): Senator Macdonald is right: the coalition—John Howard, in particular—did take his change of heart on the GST to the Australian people, which is the right thing to do. If there is a fundamental policy change, you ought to take it to the Australian people. Whether you like him or loathe him, John Howard did do the right thing and showed a lot of political courage in taking the GST issue to the people in the 1998 election. He nearly lost it but he scraped through, and you must admire the fact that he did go to the people in relation to that.

**Senator Ian Macdonald:** And isn't Australia better off for it?

**Senator XENOPHON:** Senator Macdonald asks if Australia is better off for it. If the sky did not fall in, then the answer to Senator Macdonald's—

**The ACTING DEPUTY PRESIDENT (Senator Williams):** Order on my right. Senator Xenophon, pay no attention to the interjections.

**Senator XENOPHON:** There was some tax reform. The concern I have is: if we try and push up the GST and go down that path, that it will be regressive. This whole approach ignores some fundamental issues. We need to look at service delivery, of government working more efficiently and other sources of revenue where there are, if not loopholes, areas ripe for reform before we consider increasing the GST, which itself would be quite regressive. It would concern me to bring the GST across the board to include fresh food, health and education.

In relation to health and education, it is interesting that Henry Ergas—I think he is Senator Cameron's least favourite economist—in an opinion piece in *The Weekend Australian* on 10 January of this year said that extending the GST to private health and education hurts the public system, creates longer waiting times and actually causes a distortion and more pressure on the public system. I think there is something in that. Also, a GST on fresh food, I think, sends the wrong health message in terms of what we need to do.

My view is that, before we even consider going down the path of an increase in the GST, we ought to look at other issues in terms of raising revenue: superannuation tax breaks are unsustainable in their current form. I think that the shadow Treasurer Chris Bowen came up with some pretty sensible solutions in terms of paying more tax on super, if you have more than over $2 million or $3 million—or thereabouts—in relation to your superannuation. I think that needs to be looked at very closely, because those superannuation tax concessions are unsustainable.

The other issue relates to negative gearing. I am not against negative gearing per se, but I think it can be tweaked to have a greater emphasis on new, affordable rental housing, which would make a difference in terms of those Australians that need to be housed in good, safe,
quality accommodation. My concern is that unless we tweak negative gearing it will continue to cause the budget to blow out more and more. Also, we need to make sure that multinational corporations—the Googles, the Apples and the Microsofts of this world—pay their fair share in tax. These are just some of the issues we need to look at before we look at an increase in the GST that will hurt lower income earners and will hurt the poor and the disadvantaged in this country. There are a whole range of other measures we need to look at.

I want to make reference to something that I think is worth reading, something that I read some time ago, The Fourth Revolution by John Micklethwait and Adrian Wooldridge. John Micklethwait was editor-in-chief of The Economist magazine—I guess his politics are right of centre—and Adrian Wooldridge was a senior contributing writer. As I understand it, Mr Micklethwait now runs Bloomberg News as the editor-in-chief. They draw some interesting comparisons in terms of how the modern state delivers services most efficiently and in a way that does not compromise service delivery. Interestingly, despite that perhaps right-of-centre perspective from Mr Micklethwait, they have looked around the world at what has happened and where there have been good results.

One of those areas is Scandinavia, where the health system, in terms of outcomes, has improved. Costs have been reduced because they have worked on a model of social inclusiveness and on driving efficiencies, and that, to me, is the way for the modern state. I think our temperament here in Australia is closer to the Scandinavians than to the Americans in terms of social equality, opportunity and having a safety net for people that are most vulnerable. So that is the sort of approach we should be looking at. We should not be looking at increasing the GST, which would impose an additional, disproportionate burden on the poor.

Senator LINES (Western Australia) (16:54): At least those opposite are consistent. The Turnbull government is at least consistent. It is going after the poor, the disadvantaged and those on benefits and pensions in the Australian community. They are consistent in doing that while completely ignoring the big end of town who put the big donations into the Liberal Party and the National Party to fund their election campaigns, and ignoring multinational tax evasion that goes on completely unabated. They are trying to create transparency around Mr Turnbull's companies and others that were on the secret list before it got published, yet they are hell-bent on making poor Australians and Australians on low incomes pay a big, fat, new tax—a massive five per cent increase in the GST that will go onto absolutely everything.

It just demonstrates how out of touch the Turnbull government are. They simply do not appreciate that those on low incomes or fixed incomes spend all of their income on day-to-day living expenses: food, rent, health, pharmaceuticals, school costs and so on. It takes up all of their pay or all of their benefit in a way that it does not for those on higher incomes—and particularly for politicians in this place. Those opposite, who go on and on, saying, 'Let's put everything on the table,' but focus on a GST, have no idea what it is like to walk in the shoes of someone on a low income. We have cleaners in Parliament House this week taking strike action because of their failure to make sure that those cleaners get a decent wage increase. But before that they ripped money out of their pockets.

We have seen that every move this government has made is designed to really hit Australians doing it tough. This proposal is definitely on the table—it is not ruled out; it is definitely on the table; it was shopped around well and truly by Mr Abbott before he lost the
prime ministership. We have not had Mr Turnbull come out and say, 'It is not off the table.' We have not had that categorical denial. We had Mr Turnbull on the radio in Adelaide saying that his view is that changes to the GST should be on the table. Of course, what would Mr Turnbull have in common with a low-income earner, a cleaner cleaning his office? Absolutely nothing. He probably has not noticed that they are not here this week. Well, I have, and I stand with those Parliament House cleaners. They deserve a decent pay rise and they certainly do not deserve a big, fat, whopping GST applied to every single thing they do.

The other group that I met with today are seafarers from the MV Portland. Again, there has been not a single word from those opposite about the plight of those seafarers who have been sacked by Alcoa. They have worked on Australian seas for 25 years with not one day lost to industrial action, and what has Alcoa done? With one flick of the pen they have sacked them. And guess what. They are going to be replaced by foreign workers earning $2 an hour. Do those opposite care? No, they do not. I met a seafarer today who has been at sea the 20 years. He has now lost his job. Do they care? No.

They bleat on every day about how they are creating jobs and how they are making Australians better off. They are not making seafarers better off and they are not making cleaners better off. On top of denying them wage increases and sacking them and letting Alcoa sack Australian seafarers and doing nothing about it, they want to impose a big, fat, new tax of 15 per cent on every single thing that those workers buy. It is not on. It is time that the Turnbull government acted in the interests of all Australians, not just those at the big end of town. It is time that we had some multinational tax transparency in this country. It is time that multinationals and those who earn a very big income—a much bigger income than a cleaner on 20 bucks an hour—started paying their fair share, started actually contributing. But, no.

No wonder some of the states are calling for a GST—the Turnbull government is starving them of funds. There are the massive cuts to education, which were not signed off by the Australian public. There are the massive cuts to health, which were not signed off by the Australian government. All of those funds have been taken away from state governments. Whether they are Liberal governments or Labor governments, they are all in the same boat, and they are desperate to provide those services. Yet we have, day in and day out, the Turnbull government absolutely refusing to categorically state that they will not introduce a big, fat new GST of 15 per cent on everything. A GST on food, on health, on education, on pharmaceuticals and on school goods to be paid by cleaners on 20 bucks an hour and paid by Australian seafarers from Victoria, who those opposite have no concern for, who have been sacked by Alcoa and will be replaced by workers on $2 an hour. Where is their concern? It is completely missing. Those seafarers are in the parliament. If you would like to meet with them, just talk to me. They will tell you what an increase of the GST to 15 per cent will do to them, as they face the unemployment queue. It is a disgrace. They should absolutely rule out a GST increase once and for all, but they will not do it.

Senator McKenzie (Victoria) (17:00): I rise to speak on the motion. I am very proud of a government that has a holistic approach to tax reform. I am very proud of a government that actually considers all the evidence before it before it makes decisions. I remember in previous governments there was a media release here and a media release there. The chock backlog of legislation that has not even got through the Senate from that previous government beggars
belief. Do not worry, bank the savings and plan the budget on the media release, but they never get the legislation through. That is the reality of how the opposition approaches the economic management of our nation.

When Senator Cameron stands up and says, 'The government cannot be trusted,' I would say the reality is that we have an opposition in denial. They are denying that today growth is going well, exports are up, our economic plan is working and Australians are more confident. Businesses are more confident, and do you know what happens when businesses are more confident? They employ more people and more people have jobs. When a person has a job, they can provide for their families and they can provide for themselves rather than have the state or the Commonwealth government providing for them. Then, government can do what it should be doing, which is ensuring that those very poor and those that are unable to care for themselves, the severely disadvantaged and the disabled, have a safety net that we can afford. To sit here and listen to those opposite who think that money grows on trees and that this Senate can continue to accept all the spends and reject all the saves is just an opposition in denial.

When I think about what state governments have to fund, I want them to be able to fund excellent state primary and secondary schools. I want them to be able to provide the young people of this country with excellent state education. I want people to have a very positive and safe experience in our state public hospitals. That requires the state governments to have a revenue source with which to do that. To sit here and think that they have the possibility to do that is actually missing the point.

I am straying from my theme of 'denial'. The opposition are in denial about the role of economic growth and its relationship to job creation, and denial about our place as a nation in this very, very competitive world. They are also in denial about the relationship between government debt and deficit and the provision of services. They are in denial about their own record on tax reform, and it is a record that we are really proud not to follow. It is about spending a lot of money and getting some really good thinkers around a table to conduct a tax reform of this nation but ignoring the fact that we are in the Federation. They ignore the fact that the GST is within the tax mix. 'You can look at this, you can look at that, but you cannot look over there,' which is a shocking way to approach taxation reform in this country. We will not be following it, because we are not afraid of great ideas. We are not afraid of bad ideas. We are not afraid of ideas.

I thought it was going to be the year of big ideas. It might be the year of big ideas for Bill Shorten, but it is absolutely not the year of new ideas. They are so bereft of any idea that they have opened up the Keating playbook. They are thinking, 'What are we going to do? We've got "Mr 15 Per Cent" here. What are we going to do? When did we last have a leader that we could actually back?' Nobody has any credibility on the other side with backing either former Prime Minister Rudd or former Prime Minister Gillard, because somebody had their knives out for one of them at any one point. So going back to Keating. How did he actually win that unwinnable election? It was through a scare campaign, an absolute scare campaign, against the ideas of the coalition opposition at the time. What we have is a very frightened opposition. They are very fearful, and they are not putting forward any big ideas or new ideas. They are returning to the politics of old, of fear, mistrust and fragmentation.
We as a government are not going to stand for it. We have a positive vision for our nation, going forward into the 21st century, where science is the heart of our economic policy and will drive the transformations we need to make to be a 21st-century economy. Those young Australians who graduate in about 15 years time will be graduating into jobs that we have no idea will even exist right now. To be returning to the early nineties for your policy ideas just shows how behind the times you are.

As a National Party senator, I get offended when those opposite choose to say that I do not care about the poor, or that I do not care that people are losing their jobs. Absolutely I care, and I can guarantee to you that everybody on this side of the Senate cares about the welfare of the Australian citizenry. It is why we all came to this place. We want them to be the very best that they can be. We want them to hold jobs and to contribute their creative talents, wherever that may be. We want them to win a gold medal at the Olympics, or not. We want them to live in a society where they can be all that they can and should be and be safe. That means we need to have an economy that can provide them with that expectation. I do not back away from wanting to live in a society with a very strong safety net for those who are unable to do so. Do not come in here and say to me that I do not care about poor people. If you cared about poor people and their disposable incomes, you would not have come out with the tax on tobacco.

**Senator Polley interjecting—**

**Senator McKenzie:** Seriously—you want me to show you the stats on the proportion of smokers who are poor and addicted? You will take out of their pocket money that they could use to feed their children. I think it is an absolute joke. It shows how out of touch you actually are.

We are very excited to be taking a holistic approach to our tax reform agenda to ensure that our tax policy going forward will be one that allows us to take advantage of all the opportunities that this century will offer and assist us with overcoming the challenges of the 21st century, ensuring that our society has the skills, education and jobs to take us forward.

In the brief time I have left: the GST is about the states, and the Labor premiers have been very clear in their remarks.

**Senator CAROL BROWN** (Tasmania) (17:08): I rise to speak on this matter of public importance:

The Abbott-Turnbull Government's plan to increase the rate of GST and broaden its base.

I also would like to make a few comments about the contribution by Senator McKenzie when she talked about caring for Australian people who are on low incomes—not her words but basically the intent of her contribution. This is a senator who is part of the government that wants to strip thousands of dollars from family tax benefits—from Australian families. They wanted to introduce a GP tax after they said there would be no changes to health. This is the same senator who said she was concerned about the cost of living for Australians, and yet they did not take it to the election. They were not brave enough to take these things to the election.

They also wanted to take money off pensioners. They ripped billions of dollars from the states and territories through health and education. And, of course, there was the classic: no money for unemployed people for six months. Living on fresh air! This is the caring attitude
from those opposite. After listening to that contribution, you would not believe that these were their policies. There was denial in the chamber today and it was coming from Senator McKenzie. Most of those measures came out of the government's disastrous first budget. I think that, if the government senators were honest, they would agree that it was actually a disastrous first budget and that, if these measures had actually got through the Senate, it would be a sorry state of affairs for those vulnerable people that we just heard the senator say she actually cared about.

She also talked about the legislation that came through during the former Labor government. Of course, most of our legislation did get through. That was in spite of the slogan driven opposition of Mr Abbott at the time. They did not enunciate their policies at all. We all remember that they were on a unity ticket on basically everything that the Labor Party stood for. They never enunciated any policy. They never told people what they were going to do, so why should we trust them now when some of them say there is no proposal for a GST and some of them say everything is on the table? They cannot be trusted and have actually shown that.

Some people have been interested in the serialised feature that has been running in The Sydney Morning Herald which tells of a meeting between Mr Abbott, Mr Hockey and Treasury officials just before the leadership change. This was a meeting to discuss tax reform prior to the leadership change. On the agenda, according to the article, was a clear path to increase the GST from 10 to 15 per cent. It was also proposed to cut the top—

Senator Smith: Madam Acting Deputy President, I rise on a point of order. I do not know if Senator Brown is trying to suggest that Premier Weatherill's 15 per cent tax is not an original idea—

The ACTING DEPUTY PRESIDENT (Senator Reynolds): That is not a point of order.

Senator CAROL BROWN: I know they are sensitive on the other side. They have been tumbled. The Australian people are not stupid. They know what your plan is.

We had Mr Hockey come see Mr Abbott with the Treasury officials to talk about the GST going from 10 to 15 per cent. The Sydney Morning Herald article says:
By the time the change was fully phased in over two to four years, this would generate about $40 billion in extra revenue to pay for the other parts of the plan.

It goes on to say:
But the extra GST alone was not enough to pay for the tax cuts. To make up the shortfall, the government would have to make big cuts to spending.

Senator McKenzie: Madam Acting Deputy President, I rise on a point of clarification. Senator Brown mentioned that the Labor—

The ACTING DEPUTY PRESIDENT: That is not a point of order. Senator Brown, continue.

Senator CAROL BROWN: Thank you again, Madam Acting Deputy President. Seriously, I had to sit here and listen to the complete drivel from Senator McKenzie without standing up and making a point of order, and here she is! It is just ridiculous.

Honourable senators interjecting—
Senator CAROL BROWN: I know they do not want to hear, but the Australian public do. They want to know exactly what the government are planning to do. It is incumbent upon the Labor Party to let the Australian people know. We know work has been done. We know it has. They may not have the bravery and the courage that Senator Macdonald talked about with former Prime Minister Howard, because it appears that they do not.

The ACTING DEPUTY PRESIDENT: The time for the discussion has expired.

DELEGATION REPORTS

Parliamentary Delegation to Indonesia

Senator BACK (Western Australia) (17:15): by leave—I present the report of the Australian parliamentary delegation to the republic of Indonesia, which took place from 27 September to 1 October 2015. I seek leave to make a statement.

Leave granted.

Senator BACK: Four participants, with the secretary of the delegation, Ms Sophie Dunstone, visited Indonesia. Along with me were Senator Anne Urquhart, from this place; and Mr Ewen Jones, the member for Herbert, and Mr Stephen Jones, the member for Throsby, from the other place. There were those who thought they were identical twins! I had to inform our hosts that they were not. I want to pass on my thanks and those of the delegation to the honourable Australian Ambassador to Indonesia, Mr Paul Grigson; the first secretary, Mr Murray O'Hanlon; the second secretary, Ms Annelise Young; and Mr Monty Pounder, who so ably looked after the group in the visits we made to Jakarta and to Balikpapan, in Indonesia.

Madam Acting Deputy President, you know the importance of the relationship with Indonesia. It is our largest, nearest neighbour, second only to Papua New Guinea in proximity. It has a population of some 250 million people. It is a country with which Australia has the opportunity to do much more business. Our relationship over the last few years has been somewhat strained, but I am delighted to be able to confirm and report that the meeting of Prime Minister Turnbull with President Widodo, only recently, has certainly turned the quality and the direction of that relationship around.

I will turn briefly to trade. In 2013, our two-way trade with Indonesia was worth some $15 billion, of which $11½ billion was in goods and $3.5 billion in services. But of course there is enormous capacity to increase that trade relationship, and I look forward to that happening in the future. In the goods areas there are wheat, other agricultural products, sugar and molasses, export of live animals—live cattle export to Indonesia is now back on track as a very significant trade area—crude petroleum and cotton. In the services area the importance of education cannot be overemphasised. We will see more in the future as we see more Indonesian students studying in Australia. Under the New Colombo Plan, I am pleased to report to the chamber, the single largest country to which Australian New Colombo Plan students wish to go is Indonesia.

The group had the opportunity in the education space to visit a madrasah, a school, where Australia is providing enormous support. Australian financial support under our aid program has now moved from physical construction and upgrading of buildings to improving the standards, governance and educational standards of the principals, the school administrators and the schoolteachers. In fact, the pilot program coordinated by Australia is so successful
that the Indonesian Ministry of Education and Culture are now rolling out that same program throughout their schools in Indonesia.

In Balikpapan, we had the opportunity to meet with a number of educators to learn from them what more we can do. Many of them, in fact, had had secondary and/or tertiary education here in Australia, so they knew our country well. Again, they were appreciative of the relationship between our two countries.

In Balikpapan, the group visited Thiess Bros, obviously a Queensland originated company, and Coates Hire. In both instances there were significant numbers—I think Coates Hire, out of 160 staff, only had three expats. In the case of Thiess, they had a very, very active program undertaken to Australian certification levels in a range of trade skills areas—welding, diesel mechanics et cetera. We were keen to know what the equivalent standards were, and they informed us that they were sending many of those who had completed their apprenticeships to work in Brisbane, where they performed very, very well and indeed were so much in demand that there were requests for them to stay.

Madame Acting Deputy President Reynolds, you would recall from your military experience that Balikpapan was the scene of one of the last battles of the Australian infantry in July 1945, when our troops were able to maintain a beachhead and then overcome the Japanese on that particular location. The group had the privilege and the pleasure of visiting what is now Chevron's headquarters on Balikpapan, where we laid wreaths and reflected on the contribution made by our Australian troops. That contribution was not lost when we met local government officials in that particular city.

Indonesia remains a strong neighbour, a very important trading post, and I was delighted that the delegation was able to have the impact it did.

DOCUMENTS
Consideration

The ACTING DEPUTY PRESIDENT (Senator Reynolds) (17:21): We now proceed to the consideration of documents. The documents for consideration are listed on pages 6 of today's Order of Business.

President's Report to the Senate on Government Responses Outstanding

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (17:21): I move:

That the Senate take note of the document.

I rise to speak briefly in regard to document No.1, which is the President's report to the Senate on government responses outstanding to parliamentary committee reports as at 1 December 2015. I would just like to draw the Senate's attention to one response in particular that is outstanding, and that is the response to the report of the Community Affairs References Committee inquiry into grandparents who take primary responsibility for raising their grandchildren. We eagerly await the government's response to that. I understand it is not too far away at all. But, in the context of the very important issue of the increasing vulnerability that some Australian grandparents find themselves in as they start to take primary care responsibilities for their grandchildren, I would just like to reflect very favourably on two decisions the government has taken over the recent week.
Last Sunday my colleague Senator the Hon. Simon Birmingham, Minister for Education and Training, announced that grandparents who are the primary carers of their grandchildren will be exempt from the childcare subsidy activity test. In short, this means that grandparent carers will be eligible to access up to 100 hours of approved child care fortnightly. In addition to that, I am pleased that our Western Australian colleague, Madam Acting Deputy President Reynolds, the Hon. Christian Porter, the new Minister for Social Services, has announced that the government will exempt grandparent carers from the proposed changes to family tax benefit part B. These are very solid first steps in the government's recognition of the important role that grandparent carers are playing. I know that other members of the Community Affairs References Committee eagerly await the government's response to that committee report. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMITTEES

Scrutiny of Bills Committee

Report


Ordered that the report be printed.

Senator POLLEY: I move:

That the Senate take note of the report.

I rise to speak to the tabling of the Scrutiny of Bills Committee's 14th report of 2015. As most senators would be aware, the Scrutiny of Bills Committee scrutinises each bill introduced to the parliament and reports to the Senate against the principles outlined in Senate standing order 24. Five scrutiny principles underpin the work of the Scrutiny of Bills Committee. These principles broadly reflect the themes of good governance, administrative fairness and accountability and the need to maintain appropriate parliamentary involvement in the legislative process.

Importantly, the committee is the only parliamentary committee to routinely consider amendments made to bills, which it does against the same terms of reference. The committee has a longstanding practice of undertaking its scrutiny in a non-partisan, apolitical and consensual way. The committee aims to quickly identify possible scrutiny concerns in order to bring them to the attention of senators and other committees undertaking bill inquiries.

The committee and ministers communicate through correspondence published in the committee's reports. For example, in this report, the committee's 14th report of 2015, the committee has sought advice from relevant ministers in relation to a number of bills amending proceeds-of-crime and family law legislation and government amendments made to the Corporations Amendment (Financial Advice Measures) Bill 2015. Cooperation and respect for this communication process underpins the work of the committee.

Currently the Scrutiny of Bills Committee does not have any formal procedural measures available to it to ensure a timely response from ministers. Unfortunately, on occasion there have been delays in receiving responses from ministers, which has led to legislation being
introduced and passed before the committee can complete its scrutiny process. For example, in the committee's Alert Digest No. 7 of 2015, which was tabled on 12 August 2015, the committee sought advice in relation to the Australian Citizenship Amendment (Allegiance to Australia) Bill 2015. The committee has not yet received a formal response to that request, despite the fact that the bill has now reached Committee of the Whole stage in the Senate.

I might add that, in the last decade, there has been a high level of cooperation from ministers with the committee in terms of responsiveness to its requests for information, regardless of which party is in government. But, while there has generally been a high level of respect for the scrutiny process, regardless of who is in government, instances of delayed communication and responses from ministers can undermine the committee's ability to carry out its scrutiny function efficiently and to be effective. This is not about who is in government; it is about respecting committee processes and it is about ministers being more timely and responsive in their dealings with the committee. This is critical to ensure that the committee can perform its scrutiny functions effectively. On behalf of the Scrutiny of Bills Committee, I take this opportunity to draw to the attention of senators the importance of timely responsiveness to the committee's requests for information.

I would like to place on record the committee's appreciation for the work undertaken by Toni Dawes and the staff at the secretariat, who undertake their work in a very timely manner, with the diligence and respect that this work deserves. I commend the committee's Alert Digest No. 14 of the 14th report of 2015 to the Senate.

Question agreed to.

Regulations and Ordinances Committee
Delegated Legislation Monitor

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (17:30):
On behalf of the Chair of the Senate Standing Committee on Regulations and Ordinances, I present the Delegated Legislation Monitor No. 16 for 2015.
Ordered that the document be printed.

Human Rights Committee
Report

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (17:31):
On behalf of the Parliamentary Joint Committee on Human Rights, I present the report entitled Human rights scrutiny report: Thirty-second report of the 44th Parliament.
Ordered that the report be printed.

Senator SMITH: I move:
That the Senate take note of the report.
I seek leave to have the tabling statement incorporated into Hansard.
Leave granted.
The statement read as follows—
I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' Thirty-second Report of the 44th Parliament.
The committee's report examines the compatibility of bills and legislative instruments with Australia's human rights obligations. This report considers bills introduced into the Parliament from 23 November to 26 November 2015 and legislative instruments received from 30 October to 12 November 2015. The report also includes the committee's consideration of six responses to matters raised in previous reports.

Two new bills are assessed as not raising human rights concerns and the committee will seek a response from the legislation proponents in relation to two bills and two legislative instruments. The committee has also concluded its examination of seven bills.

This report considers the Counter-Terrorism Legislation Amendment Bill (No. 1) 2015. The committee recognises the importance of ensuring that national security and law enforcement agencies have the necessary powers to protect the security of all Australians. Moreover, the committee recognises the specific importance of protecting Australians from terrorism. The Australian government has the responsibility to ensure that laws and operational frameworks support the protection of life and security of the person. In addition, Australia has specific international obligations to detect, arrest and punish terrorists.

Legislative responses to issues of national security are likely to engage a range of human rights. For example, legislative schemes aimed at the prevention of terrorist acts may seek to do so through measures that limit a number of traditional freedoms and protections that are characteristic of Australian society and its system of government.

Human rights principles and norms are not inherently opposed to national security objectives or outcomes. Rather, international human rights law allows for the balancing of human rights considerations with responses to national security concerns.

In this regard, the committee has assessed 11 of the 17 schedules in the bill as not raising human rights concerns. In relation to the remaining six schedules, the committee considers that further information is required from the Attorney-General to fully explain how those measures are compatible with Australia's human rights obligations.

As one example, the bill includes provisions lowering the age at which control orders may apply to 14 and 15 year olds. This is in direct response to a terrorist attack by a 15 year old this year in Parramatta. There has been much debate and contest around the compatibility of control orders with Australia's human rights obligations, because control orders engage and limit a number of human rights. The control orders regime is necessarily coercive in nature, allowing controls to be placed on individuals to protect others against the threat of terrorism. Control orders pursue the legitimate objective of protecting Australians from such threats.

For those aged under 18, the bill includes additional requirements and safeguards before a control order may be issued on a child. For example, a control order may be only issued for 3 months as opposed to 12 months for adults. In addition, the court must appoint an individual advocate for the child to act in proceedings in the best interests of the child.

Notwithstanding these additional safeguards, the committee has requested more information from the Attorney-General to explain how these safeguards will fully ensure that the control orders regime imposes only proportionate limitations on the range of human rights engaged by control orders. This includes more information about how the child's best interests will be taken into account in applying a control order, and how the policy intent that control orders be used only rarely is reflected in the legislation.
The committee has also considered the Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015 in this report. The committee's report recognises that mutual obligations are an appropriate feature of Australia's social welfare safety net, and that imposing reasonable requirements on those receiving welfare is compatible with our human rights obligations. However, the committee has made two recommendations to best ensure the human rights compatibility of the bill.

The first relates to a measure which provides that a penalty may be deducted from a job seeker's social security payment where a job seeker acts in an inappropriate manner, without a reasonable excuse, during an appointment such that the purpose of the appointment is not achieved. The committee has recommended that the term 'inappropriate behaviour' be defined based on objective standards. Some committee members thought this should be by amendment to the bill, while others thought it was sufficient to do so by way of a legislative instrument.

Some committee members also considered additional safeguards should be applied to ensure that those with legitimate mental health concerns are not unfairly or harshly affected by the provision.

Lastly, the committee has made a recommendation in relation to a measure which would remove Centrelink's ability to waive a penalty for not accepting a suitable job without a reasonable excuse. The minister has advised that this measure responds to the fact that the high waiver rate is caused by job seekers avoiding a penalty by undertaking additional compliance activities. While recognising this important objective, the committee considers that maintaining a waiver in genuinely exceptional circumstances would better protect individuals who, for a range of genuine reasons, refuse suitable work yet fail to meet the reasonable excuse test.

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

With these comments, I commend the committee's Thirty-second Report of the 44th Parliament to the Senate.

Question agreed to.

Environment and Communications References Committee

Report

Senator KETTER (Queensland) (17:31): On behalf of the Chair of the Environment and Communications References Committee, I present the report on stormwater management, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator LUDLAM (Western Australia—Co-Deputy Leader of the Australian Greens) (17:32): I seek leave to continue my remarks later.

Leave granted.

Senator KETTER (Queensland) (17:32): I move:

That the Senate take note of the report.

I seek leave to continue my remarks later.
Leave granted; debate adjourned.

Foreign Affairs, Defence and Trade References Committee

Report

Senator BACK (Western Australia) (17:33): On behalf of the Chair of the Foreign Affairs, Defence and Trade References Committee, Senator Gallacher, I present the report on Australia's relationship with Mexico, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator BACK: I move:

That the Senate take note of the report.

I am pleased, on behalf of the Chair of the committee, Senator Gallacher, to speak to this report. I acknowledge the presence in the public gallery of His Excellency Mr Armando Alvarez and his colleagues, and I thank them for their participation and for appearing as witnesses to this inquiry.

The year 2016 marks the 50th anniversary of diplomatic relations between Australia and Mexico. I am delighted to report that the Prime Minister, Mr Turnbull, met with President Enrique Pena Nieto in Manila only last week, and I understand that plans are underway for visits between the countries at the highest level to recognise the 50th anniversary next year.

There were 46 submissions to the inquiry and some 13 recommendations to which I will speak in a few moments. Mexico is the 15th largest economy in the world, with a US$1.3 trillion economy. It is predicted by some to be in the top 10 countries of the world by 2050. An HSBC report that was handed to me in the last 24 hours indicates that Mexico may in fact end up in the top six economies of the world by 2050. It was timely that we conducted this inquiry. During the course of the inquiry, through the excellent work of Mr Andrew Robb, the Minister for Trade, we did sign the Trans-Pacific Partnership, in which Australia and Mexico are both participants.

Senators may be interested to know the companies that are prominent in Mexico now. Macquarie is a very significant investor. Lend Lease is constructing the tallest building in Mexico as we speak. In the energy sector there are Woodside, BHP Billiton, Rio Tinto and WorleyParsons.

In January this year I had the opportunity to visit Mexico on what I should emphasise was a self-funded study tour, assisted by the excellence of the Embassy of Mexico in organising my visit and strongly supported by Australia's Ambassador to Mexico, Tim George, and Trade Commissioner Chris Rodwell. I had the opportunity to meet with participants in the hard rock mining sector and the oil and gas sector of that country. Other Australian companies active in Mexico are Dyno, Orica, Amcor and Aristocrat; and I learned from speaking to representatives of Cooperative Bulk Handling, our Western Australian grain handling company, that Mexico is the largest importer of Western Australian oats.

Here in Australia, companies like Gruma and Cemex, the big Mexican cement company, have been very active—leading in fact to a decision by the government of Mexico to open in Melbourne the Pro Mexico Office, supporting trade between the countries. We have a five-country arrangement between Mexico, Indonesia, the Republic of Korea, Turkey and
Australia, called MIKTA—five countries similar in terms of their OECD rating, who have come together to see the opportunities for trade, commerce and other activities.

The TPP will be of significant importance for Australia. We will see, for example, a reduction in beef tariffs of some 25 per cent in 10 years; in cheese and curds, 125 per cent; and in wheat, 67 per cent. We will immediately see a removal of all tariffs on pork, on barley a reduction of 115 per cent and, importantly for our wine industry, we will see a reduction of 20 per cent, down to the level of zero, which Chile, Peru and America now enjoy. On the other side of the relationship there is plenty of work for Australia to do—first of all, in terms of the capacity for the importation of Mexican agricultural products into this country. There is impatience now that our import risk analysis processes be accelerated so that many Mexican agricultural products can find their way into our country.

I want to place on the record the appreciation of the committee to the ANZMEX Chamber of Commerce for an excellent report that they prepared and then spoke to during the inquiry in relation to the possibilities of direct air transport between Mexico and Australia. Both for visitors and for freight, when that happens it will absolutely profoundly change the relationship between our countries. At the moment you must transit through the United States of America or Latin American and South American countries. We know in the States that you just cannot be in transit anymore; you actually have to get a visa to enter the United States. The cost is very, very significant, and you are looking at 28 to 40 hours of travel time. The committee endorsed that report and made recommendations in relation to it.

The other area that I want to draw attention to here is the opportunity to radically improve the visa availability for Mexicans wanting to come to this country either for business purposes or as tourists and, indeed, for student visas. Again, we make a recommendation in relation to that. On the tourism side, let me inform you that Mexico receives some 26 million visitors per year. It is regarded as a highly desirable and safe location, Again, I mention the question of visas and visa opportunities.

The committee addressed itself to education and research. When I visited the Mexican oil conglomerate, Pemex, in my time in Mexico City, they told me that tens of thousands of students in the oil and gas sector leave Mexico each year for study. As a result of my visit and that, subsequently, of Trade Commissioner Rodwell, there is the potential for three universities to have an enormous impact in Australia in that oil and gas sector—UWA and Curtin, in our home city, and the University of Queensland. I was delighted that we received evidence from the university sector speaking about the importance of the relationship now and the potential for an increased relationship in terms of research and, indeed, student exchange. The committee recommended that consideration be given to whether the New Colombo Plan can be expanded into the future to allow Australian students to study in Mexico. When I visited the Geological Survey of Mexico, they showed me the most wonderful maps—at 1:250,000 and 1:50,000—of the metalliferous areas of Mexico, and then very proudly turned to me and said that the software that enabled them to compile these maps came from Geoscience Australia and the CSIRO. You can imagine how proud I felt in that space. We have MOUs between Universities Australia and Mexican universities to accelerate and promote those relationships.

In the time left available to me, I want to devote some time to trade and investment. I particularly want to pick up on a recommendation that our chair was instrumental in ensuring
went into the report, and that is 'that additional resources be allocated to Austrade to raise awareness of the significant value chain opportunities in the Mexican automotive sector, and advanced manufacturing more broadly, and assist Australian suppliers of OEMs and automotive aftermarket.' Mexico currently produces some three million motor vehicles per year and is moving up to five million. They said to me that they need the input of Australian automotive manufacturers into this burgeoning supply of vehicles in that country. So I concur with the chair, Senator Gallacher, that that certainly is an area in which we can see improvement.

Australian investment in Mexico is, we estimate, currently around $5.3 billion. There was two-way trade in 2014 of $2½ billion, and one can only sense that, as the TPP comes into force and as that relationship between the two countries grows, we will see it expanding significantly. The chamber should understand that, in 2013, Mexico received some $35 billion in foreign direct investment in that one year alone. That is the level of confidence that the world community has in Mexico. Again, I thank the secretariat for the excellent work they did. I thank those who put in submissions and those who appeared, and I thank the chamber for this opportunity.

I seek leave to continue my remarks.
Leave granted; debate adjourned.

Legal and Constitutional Affairs References Committee

Senator LAZARUS (Queensland) (17:43): I present the report of the Legal and Constitutional Affairs References Committee on arts programs and funding, together with the Hansard record of proceedings and documents presented to the committee. Ordered that the report be printed.

Senator LAZARUS: I move:
That the Senate take note of the report.

In tabling this report I would like to thank the arts community, who united together to vocalise their objection to the establishment of the NPEA and the resultant cuts to the Australia Council. What became clear throughout the hearings was that the arts sector, including the Australia Council, was never consulted by the government at any stage when making the budget announcements, including policy changes and funding cuts to the arts sector. Understandably, the arts sector was angered and upset by this.

I learned a lot in being part of this arts inquiry. I learned how important the arts sector is to our social fabric and our economic and mental wellbeing. I learned that art is more than a physical product; it is an extension of our culture and a reflection of who we are as people. I am grateful for the experience of working so closely with the arts sector and thank everyone involved for their time and commitment to the arts sector and the inquiry.

I would also like to apologise for the behaviour of certain senators during the public hearings. Our role as representatives of the people is to listen and to act in the best interests of all Australians. I am ashamed of the way some senators behaved. As the chair of the committee, I sincerely apologise for the inappropriate and unacceptable actions of certain senators, who have clearly forgotten why they entered politics in the first place.
In summary, the arts community rallied together, and through the inquiry, and the publicity generated from public hearings, the government did listen—although only slightly—and made some changes, which in the scheme of things were small concessions in response to big community objections to silly government actions. Despite this, I hope the government adopts all of the recommendations of the committee and, importantly, develops, in consultation with the arts sector, a clear national arts policy, returns all the funds to the Australia Council and finds additional funding for Catalyst.

I would like to thank the secretary and all of her team. I would also like to thank Hansard. I commend this report to the Senate.

Senator IAN MACDONALD (Queensland) (17:47): I will start by congratulating the former arts minister, Senator Brandis, on reform of arts funding and for putting out draft guidelines to enable further consultation on this issue. I also congratulate the current Minister for the Arts, Senator Fifield, for the new proposals he has put forward for Catalyst, which resulted from his and the government's consultation on these issues. Of course, that is why you put out draft guidelines—so that you can have further consultations.

Regrettably, the chair of this committee and most of the members were too inexperienced or unworldly to understand the whole process, and that is what it was all about. From the start this was a cynical attempt by the opposition, the Greens political party and a green Independent senator to politicise reform of arts funding. Claims by the majority attempted to create a divisive and combative atmosphere that characterises the government as inherently opposed—

Senator Whish-Wilson: Mr President, on a point of order: I do not think there is such thing as a green Independent senator. The senator is misleading the chamber.

The ACTING DEPUTY PRESIDENT (Senator Reynolds): Senator Whish-Wilson, that is not a point of order.

Senator IAN MACDONALD: It is typical of the Greens and the Labor Party to stop free speech when anything that is being said is truthful and does not suit their political agenda. That group of people set out to create a division within the arts community, to force them into taking a position against the government and to use arts and culture funding as a platform to launch a cynical political attack that lacks any factual basis and created uncertainty. This is a committee where the majority—Labor, Greens and green Independents—got together and set meetings at a time when they knew no government senator was available. They set hearing dates when they knew government senators were not available to be there.

For some reason the Greens, the Labor Party and the green Independent think that the arts community should be quarantined from the austerity measures which every other portfolio had to meet. If it had not been for the Labor Party running up a debt that was approaching $700 billion then there would have been lots of money for the arts and everything else. The recommendations of the majority are 'more money for this, more money for that and more money for the other', but none of them will ever have the issue of trying to find the money. It is okay to say, 'Yes, give everybody what they ask for.' Wouldn't we as politicians love to be in that position? 'Ask for some money and you'll get it.' If it had not been for the Labor Party running up a debt of $700 billion, perhaps we could have given everybody everything they asked for.
These efficiencies in the arts funding were part of the process of trying to pay off Labor's debt. I should mention that the Australia Council funding under the last year of Labor—now listen to these figures—was $188,000. The following year in the coalition government it went up to $218,000. The following year it came down a bit to $211,000, still more than the $188,000 provided by Labor. In the last financial year, with all the efficiency measures to try to help pay off Labor's debt, it reduced to $184,000, which is much the same as the last contribution from the last Labor government, yet that is not mentioned. Hullo! It is the coalition government that is cutting all the funds to the arts, but it is the same funding that the Labor Party produced. We never heard about that. Typically of the cynical political nature of this inquiry, suddenly it was wrong for the government, which is elected by the people, to have some say in how the taxpayers' money was being spent. And why is this appropriate? Because governments make decisions and they are accountable every three years. If people do not like them, they throw out the government.

What the Labor Party, the Greens and the Green Independent wanted was to give this to an independent body that is really accountable to no-one. They put in an annual report once a year but they are not subject to any direction from the people of Australia who are paying the funds. So there was a great who-ha about how terrible this was. But find in evidence—and it is listed in the dissenting report—that the proposal introduced by the Mr Morrison follows the exact same procedure that all the state governments do, half of which are Labor. But hang on; it is okay if Labor state governments are doing it this way but if it is a coalition government, a federal government doing it exactly the same way, then good heavens, the sky is going to fall in! That just demonstrated yet again how politically partisan this whole inquiry was and how absolutely ridiculous the whole process was.

We had teams of people being encouraged to come in—and that is there in evidence, too—to make these points but they were all on a draft set of guidelines. As I said many a time, if the inquiry were serious, it was held too early because there was nothing there to inquire into because they were draft guidelines. But unfortunately the majority of the committee could not understand that very simple point. On the whole report of the majority there are some 83 pages complaining about the draft guidelines but on the real program, the Catalyst program, there are only three pages. So again it shows how will how hypocritical and politically partisan this was.

The majority report praises the level of consistency in the evidence. That is pretty obvious because the majority of the committee selected those who would give evidence at selected hearings and they selected only the sorts of people who shared their view. If you had a different view, you were not even called. The locations for the various hearings were at places where government senators could not get in the early stages.

Opposition senators interjecting—

Senator IAN MACDONALD: There was one place I was pleased the committee did go to, but it was on my motion—

Senator Bilyk: What's wrong with you?

The ACTING DEPUTY PRESIDENT (Senator Reynolds): Senators to my left, you have been interjecting consistently. I have let most of it go through but it is now becoming overwhelming. I am even having trouble hearing Senator Macdonald.
SENATOR IAN MACDONALD: It does not worry me, Madam Acting Deputy President. This is typical of the Labor Party and the Greens. They shout down anyone who does not have their view or who, more importantly, tells the truth about this cynical, politically-partisan inquiry, which has been an abject waste of taxpayers' money. The inquiry did at least go to Cairns on my motion that it move out of the Sydney-Melbourne-Canberra triangle, the golden triangle, and at least get to some places where the regional arts communities could have a say. That is one of the problems: most of the arts funding goes to Sydney or to Melbourne or to the major capital cities. The new program of the coalition government is trying to balance the moneys that are given to the arts communities so that some of it at least goes to rural and regional Australia and to Queensland and Western Australia. There is evidence of all of that.

I have to say that I was concerned by elements of the testimony provided to the committee that seemed to betray an unhealthy sense of entitlement to financial support of the taxpayer in the absence of effective oversight of the regulatory regime. We have a wonderful arts community in Australia.

Senator Bilyk interjecting—

The ACTING DEPUTY PRESIDENT: Senator Bilyk, if you would like to speak on this report, you will have an opportunity to do so.

SENATOR IAN MACDONALD: We do very clever things in arts and culture. There does seem to be an unhealthy sense of entitlement that taxpayers should fund things which people have a passion for doing. As I pointed out, the chairman, in one of his better moods, had a passion for football but he did not get taxpayer funding to pursue his aim to go on to become a champion and a very wealthy man because of his football career, but some of the artists think the taxpayers should be providing that funding all the time.

Time has escaped me, but I simply ask anyone who is interested in this to read the dissenting report, which accurately and, with evidence noted, points out just what a political farce this will inquiry was. I conclude by congratulating both Senator Brandis and Senator Fifield on their attempts to bring reform to arts funding. (Time expired)

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (17:57): It is funny because I have a quote from the chairman of the Theatre Council of Tasmania, Mr Rod Anderson:

'Ignorant arrogance' or 'arrogant ignorance'—I just cannot make up my mind between the two.

That is how Mr Rod Anderson so eloquently described the thought process behind the creation of Minister George Brandis’ National Program for Excellence in the Arts slush fund at the Hobart public hearing. It is a view reflected in evidence given by the concerned, angry, upset and bewildered witnesses, evidence given by hundreds of artists and arts administrators to the Legal and Constitutional Affairs inquiry into arts funding decisions. In the 10 public hearings I attended across the country, the committee heard passionate, intelligent and extremely hard-working artists who did not understand the motivation for this government's continued attacks on the arts in the last two budgets.

The committee travelled right across Australia, to every state and territory, to hear evidence from members of the arts community. The Liberal government had failed to engage, no matter what Senator Macdonald said, and they had failed to consult and to listen to the arts community. So someone owed it to the artists to listen and that is what this inquiry did,
because the decisions made in the 2014-15 and 2015-16 budgets were not in the best interests of the arts. They were not designed to build the sector in a meaningful way. They undermined, and devalued the work of thousands of artists over decades. They arrogantly and thoughtlessly smashed institutions that had been carefully crafted for decades, and demonstrated that the government fundamentally did not understand the sector. Decisions were made not by a minister for the arts, but by a minister against the arts. The effects were drastic, are ongoing and will be felt for decades to come.

While others have argued that this inquiry was partisan, it was referred to the committee not only by the Australian Labor Party and the Australian Greens but also—for those listening—by all eight members of the crossbench. It was not a party political issue, but one of genuine cross-party concern about the radical decisions made by the coalition government in 2014 and 2015 in relation to arts funding, and their potentially disastrous implications for the future of the arts in Australia. The almost unanimous view from the arts community was that the government's arts policy is terrible. When a last-minute, unscheduled witness who supported the NPEA and the government's position was finally found—they finally found one witness—the committee made time for their evidence to be heard. If the government had put up other witnesses, we would have been happy to hear from them, but they could not find anyone else to support the unsupportable.

The Senate inquiry was unlike any that I have experienced before. I have been here since the 2007 election and serving since July 2008. Rarely do you get more than a handful of people at a Senate public hearing, but there was a full house at every single hearing of this arts inquiry. We could have sold tickets and, given the eloquence, passion and intelligence of the witnesses, we would have got our money's worth. The atmosphere was electric, witnesses were given rounds of applause, cartoonists live sketched and tweeted the hearings and witnesses and audience members interjected good-naturedly. You rarely see—and I do hope I never see again—a witness bullied by a government senator so badly that the hearing paused to give them time to compose themselves. That is shameful. I would like to thank all the witnesses, who shone brilliantly. I would especially like to thank those people who spent all day at the hearings. They often brought their cut lunches and thermoses along to support their fellow artists.

The arts community as a whole should be commended for the way they organised themselves so strongly in opposition to these policies. They rallied and spoke out publicly in print and in newspapers. They drew and painted and photographed their opposition. They supported each other, gave each other voice and acted in a coordinated manner to oppose policies that are fundamentally wrong. Surely, if anything, this is the definition of excellence.

The inquiry received over 2,719 submissions by its deadline of mid-July. This is an extraordinary figure for a Senate inquiry. Sometimes you receive only a handful of submissions and sometimes you might receive a couple of hundred. There were so many submissions that it proved a significant challenge to process them, and I thank everyone for their patience while they were being processed and published. In fact, the secretariat told us today that they had four people trying to get the submissions up at once, and that they broke the website. That is how much interest there has been.

Submissions came from a broad range of people and groups, including small, medium and large organisations working in every area of the arts. Academic experts, local and state
government bodies, individual artists and members of the public, visual artists, writers, designers, dancers, philanthropists, academics, Indigenous artists, arts administrators, urban artists and regional artists all wrote to the committee to outline their concerns. The lack of witnesses supporting the NPEA was a genuine reflection of how poorly the program is viewed by the artistic community, not a reflection of the witnesses who were selected to appear before the committee. Any contrary view is not borne out by the truth and the facts. Time and time again the committee was told of the interconnectedness of the arts ecology, where artists work for multiple organisations in different roles to put together innovative new work on shoestring budgets. The greatest funders for the arts were actually the artists themselves, who give millions of hours of unpaid time every year. It is this that the government simply does not understand.

Government funding is vital. It is the vital spark that is needed to keep the arts going. This Senate report is calling for a complete reversal of the disastrous arts decisions that have been made by this government. The committee recommends that the budget funding taken from the Australia Council in 2014 and 2015 be returned. If the government insists on proceeding with the Catalyst slush fund, then they should find new money to fund it. The committee also recommends that Catalyst, if it proceeds, should adopt the same peer review register and processes as the Australia Council to reduce red tape and to ensure the fund is independent from inappropriate ministerial interference. The committee also recommends that funding be restored to ArtStart or a similar program directed towards early career artists, as well as to Screen Australia and to support interactive games.

I would like to sincerely thank—as Senator Lazarus did, but I do not think Senator Macdonald bothered to—the Legal and Constitutional Affairs Committee secretariat for the marvellous job they have done and for the patience they have shown in organising public hearings and crafting the report. It is no mean feat to organise 10 public hearings with over 200 witnesses and over 2,700 submissions, and they did a marvellous job in keeping the inquiry on track and in preparing the report. I would also like to thank Senator Lazarus and the other members of the committee who participated—Senator Collins, Senator Ludwig and Senator Ludlam. I would particularly like to thank Senator Lazarus for his decent and fair chairing. Senator Lazarus, I know it was not always easy for you and, in fact, I think you pulled me up a couple of times. When complete untruths are being told, it is important that you managed to keep things on track, so thank you. Obviously, I would also like to thank the Hansard staff for their great work.

Let me say this: while the Senate inquiry is over, the fight is not. These policies are a catalyst for disaster. There is $12 million in a ministerial slush fund for allocation by direction of the minister, a fact that is in conflict with the principle of hands-off funding allocation for the arts. This government has no issue with multinational corporations shifting billions of dollars in profits overseas in dodgy tax minimisation principles, yet it will hack the arts to the bone. If Minister Fifield wants to keep this disastrous policy, he needs to find new money for it. The Australia Council’s grants program has been slashed, and it will be impossible for them to continue to fund the same number of key organisations as they currently do.

The revolutionary model of six-year funding for organisations is now but a memory and organisations that were applying for this round have had their time, energy and passion wasted on a round that did not go ahead. Instead, they applied for the four-year grant round
that closed yesterday, in the knowledge that there is considerably less funding for these organisations to continue.

Any or all of the eight organisations in Tasmania could lose their key organisation funding. The loss of any could move the industry past the tipping point. Wonderful organisations creating excellent and innovative work will close because Senator Brandis saw himself as a modern day Medici, a generous patron who could bathe in reflected glory of the contemporary Michelangelo he patronised. Such personal weakness has done untold damage to the Australian arts community, and we are looking at a scenario where the entire Tasmanians arts ecosystem could collapse due to these arrogant, short-sighted policy changes. I seek leave to continue my remarks.

Leave granted.

The ACTING DEPUTY PRESIDENT (Senator Reynolds): Senator Ludlam, do you want to speak to this report?

Senator LUDLAM (Western Australia—Co-Deputy Leader of the Australian Greens) (18:08): I would be delighted to speak to this report. It has been months in the making. I would also like to add my thanks to Senator Lazarus and his staff. I have only chaired a handful of committees in my time here and it can be hard work, particularly with the kinds of extraordinary displays of petulance that we saw which actually did go some way towards spoiling some of the hearings. Nonetheless, it was a remarkable experience and unlike any committee work that I have done before.

This report has been months in the works. It is a really rare event—and we saw it again today, not that long ago with Senator Whish-Wilson's motion for an inquiry into the procurement of the joint strike fighter—that unites the opposition, the Australian Labor Party, the Australian Greens and all eight of the crossbenchers, in all of their glorious diversity. This was one of those things that united everybody against an extraordinary decision, announced to the head of the Australia Council during the afternoon on budget day by mobile phone call from Senator George Brandis, who effectively threw himself and the entire arts community under a bus. He was rewarded for that extraordinary intervention by losing the portfolio, one of the lesser heralded but, I would say, more important portfolio reshuffle decisions that incoming Prime Minister Malcolm Turnbull made.

When the coalition can only be bothered to send Senator Macdonald in to defend an utterly debacular policy, then you know that something is really seriously amiss. And he did them proud. If anybody outside this building listening in is wondering what this debate is all about and how the government could possibly have got arts policy so desperately wrong, do yourselves a favour and download the video or check the Hansard for what Senator Ian Macdonald just put on the record about 20 minutes ago. This is an individual who uniquely combines aggression with total cluelessness, unlike anybody else in this chamber that I am aware of.

If you want to know just how badly the government got it wrong, watch Senator Macdonald's humiliating rant. Senator Lazarus was too polite to name him, but Senator Macdonald behaved like an unhinged and tantrum-prone five-year-old, in a way that reduced one witness to tears and forced the chair's hand on a number of occasions. I do not use words
as strongly as this against individuals very often in this place. I do not know what the Queensland LNP have on their minds.

The entire arts community of this country were insulted, but they did put in a spirited defence of themselves and the institutions that they have helped create, over decades of establishing an arms-length, peer-reviewed Commonwealth funding body for arts body. It is not like there are hundreds and hundreds of millions of funds washing around for the arts community. The Free the Arts campaign and those from Feral Arts and others who played an informal convening role absolutely did the arts community proud.

Let's talk briefly about the report that was handed down. It is not a unanimous report. People who have been following this issue would not be surprised to know that the coalition has provided a half-hearted, rearguard defence of Senator Brandis's policy. But, actually, I do not think there is a single person in this building—maybe Senator Macdonald aside—who really believes that this was a good idea. It was not a good idea. Ripping a hundred million bucks out of a cash-strapped entity that has developed painstaking ways of dispersing that money to where the peers in the artistic community believe it should go, just rocking up without any warning or any consultation at all and ripping such a huge amount of money out of there and throwing it into a government slush fund was never going to be received particularly well.

The essence of the recommendations by the opposition, the Australian Greens and crossbenchers who participated effectively go to the fact that, by all means, if you want this new entity, knock yourselves out. We do not understand it. We think the guidelines should be dramatically improved if you keep it. But if you insist on keeping this new thing that we are now apparently having to call Catalyst, fund it from somewhere else. Find the money from somewhere else. Maybe you could just cancel out of the joint strike fight procurement, which is on our minds here in the chamber today. We do not mind where you get the money, but find the money from somewhere else.

The closest that I think we got to unanimity among the witnesses who presented was that we do not need this thing at all. Is it set up to compete with the Australia Council, this new Catalyst entity, or is it set up to complement it? If it is set up to compete, we just do not need it. If it is set up to complement it, why are the guidelines so muddy? And who asked for this thing? I think most of the witnesses and most of the arts community from one side of this country to the other would rather that we pretended this thing had never happened. Just stand it down and return the funds to the Australia Council. That is really the essence of the recommendations that we are presenting the parliament with today.

If the finance minister cannot find the money to fund this bizarre experiment then just stand it down and we will forget that it ever happened. I suspect Senator Fifield was thrown a hospital pass by the outgoing minister and by Prime Minister Malcolm Turnbull. To his credit, Senator Fifield, who got to step in after the key decision had already been made to establish it and, I guess, for face-saving points of view maybe felt that he could not cash out entirely.

But what that means is that we are left with this rather awkward position of an entity that has, I think, about a third of its funding stripped away from it. That third of the money has been quietly passed back to the Australia Council so that it can get on with its work. But, of course, as the forthcoming budget rolls around and as the expenditure review committee
cranks into gear, the arts community and those of us on this of the chamber—the crossbench and the opposition parties in this place—know that Senator Fifield blinked. He could actually have fixed this and he chose not to. Either find the money from somewhere else or stand this entity down and put the money back into the Australia Council.

This is not over. Senator Bilyk put it, I thought, quite adeptly a short time ago—this is indeed a catalyst. It is a catalyst for further action, further advocacy, until we get this fixed. The money needs to back to the Australia Council so that it can get on with its work.

I think the main benefit—and I spoke on this briefly, I think, last week—of going through a process such as this is that it has shown the arts community who they are. They probably could have done without it. They would probably rather have been out there making art, getting grant applications in and getting on with the kind of work that they love to do. Nonetheless, people really stepped up. The community and the sector stepped up and now we have, I think, a much better idea of the shape of the community, of the way that it regards the Australia Council.

It is worth noting on the way through that the Australia Council was not completely immune from criticism but it received warm accolades everywhere we went. Everywhere we asked the question: how do you think Oz Co is doing? It does not have unlimited money. It cannot fund everything, but what do you think of its processes for dispersal of scarce Commonwealth funds? People came to the party and acknowledged that the former government should be given their due: they got it right. The guidelines that were just passed, the new proposals for six-year funding rounds, the way the peer review process is structured and the kind of stuff that gets funded—mostly, they got it right. It is rare to hear that degree of applause and accolade for a Commonwealth government entity. That was a valuable insight.

We know, as the budget cycle rolls towards next May, this is still an open question; this is unfinished business. I think Senator Fifield is up to it. He is not an arrogant individual and, as he starts to come to grips with the portfolio, he is going to realise that the path of least resistance but of greatest policy integrity—and certainly the politically smartest path—is going to be to restore the money to the Australia Council and maybe make some kind of little sculpture. We could probably get the arts community to throw in for some little token, a sculptural reminder, of this ridiculous experiment imposed by Senator George Brandis on the arts community. We can put it up—gift that to the minister as a reminder to future Australian governments that, if something is not broken, do not attempt to fix it.

**Senator POLLEY** (Tasmania) (18:17): I would like to make a contribution to this debate, the Senate Legal and Constitutional Affairs Reference Committee's report into the impact of the 2014-15 Commonwealth budget decisions on the arts. I am inspired, because of the verbal diarrhoea that was given to this chamber by Senator Macdonald. Quite frankly, coming from Tasmania, I understand and appreciate what the arts means to our state. In fact, Australia's arts community has a worldwide reputation for what we are able to achieve in this country.

I also want to place on record—and I have said this before—that I have never known a Liberal government that is so out of touch that they could polarise community groups that normally do not get up in arms about the government of the day. We had GPs around the country up in arms, campaigning against the tax that this government were trying to impose on every single Australian going to visit their GP.
Now Senator Brandis—what a mistake having him as Minister for the Arts; it is beyond belief—has managed to unite the entire arts community right around this great country by submitting 2,700 submissions to this inquiry. It is very unfortunate that I was not able to participate in this committee, because the contribution of Senator Macdonald—who, with all due respect, has been in this place a very long time—today and his behaviour at those hearings are an absolute disgrace. I know that those people on the other side of the chamber hang their heads in shame quite often when he makes a contribution in this place, but it was a terrible display from a respectable senator at those public hearings.

I want to thank those 2,700 submitters who took the time—and let's face it: the arts community is hardly rolling in money; a lot of their work is done by volunteers—to put together a submission and attend one of those public hearings. They were able to put their position, and to hear such a united and strong voice from the arts community right around this country is a credit to each and every one of them.

There was almost unanimous agreement that, if the new program was to go ahead, it must be new money and not at the expense of the Australia Council's program. This is a very, very short-sighted government. By creating this slush fund, if nothing else, Minister Brandis has united the arts community, because they are angry and confused and they have every right to be.

Senator Ludlam gave credit to Senator Fifield as the new minister—he has a lot more confidence than I have, because I have experienced what he was like when he was the assistant minister for aged care: he could not even roll out a policy and a framework that was already in place from the former Labor government; he could not even roll out something that was already planned. What Senator Fifield will do, I am afraid, is continue with Senator Brandis's policy. Therefore I do not have Senator Ludlam's confidence in Senator Fifield.

I sincerely hope I am proven wrong, because this country will be much poorer if we do not fund the arts community to the level that it should be, to ensure that people within the community—young Australians—have the support they need to participate in the arts in whatever form. It is another glaring example of how out of touch and arrogant this government is.

I spoke earlier today, as I have a number of times, about when those on that side in the Liberal Party knifed Tony Abbott and replaced him with the new Prime Minister. The community had a sigh of relief. They really did have a sigh of relief, believing that they had someone new, with a better suit, who could put a few words together. In fact, some would say he has verbal diarrhoea. But what the arts community are doing now is sighing with relief that George Brandis was sacked from that position. So they are hoping that Senator Fifield steps up to the mark and reinstates that funding that the arts community in this country deserve—and I hope that I am wrong and that he does.

The government can very easily put this uncertainty to rest, just as they can with the GST. We are fortunate enough to have the minister in this chamber. They can come into the chamber and make a statement to say that in the 2015-16 budget we will now restore that funding. In May, in the next budget, they can come in here and restore that funding. That would be a fantastic thing for him to be able to do. That would give me some confidence that the new minister is showing some vision and some leadership and will take the arts
community with him to ensure that that funding is there and that all the arts community right around this great country can aspire to be the best that they can be.

I do take exception to Senator Macdonald when he comes into this chamber and espouses that we only set committee meetings around the availability of some members of that committee. That is not the way the Senate operates. I can assure you that, as a former chair of committees participating in the Community Affairs Committee, one of the busiest committees in this place, every endeavour is always made to accommodate all senators. So if Senator Macdonald was unable to get to any of those hearings he could have, by all means, ensured that there was a member of the government there. To say that the whole agenda was around Melbourne and Sydney is quite wrong, because that committee went down to Hobart to listen to what the Tasmanian arts community had to say, and their concerns reflected everything that was being said around the country.

I do know there are other senators who want to make a contribution, but I just wanted to place on record that the inspiration that I had to make a contribution was because of the verbal diarrhoea from Senator Macdonald and the attack on the institution of the arts community in this country.

Senator CAROL BROWN (Tasmania) (18:25): I rise to take note of the Legal and Constitutional Affairs References Committee report and seek leave to continue my remarks later.

Leave granted; debate adjourned.

Environment and Communications Legislation Committee

Government Response to Report

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (18:25): I present the government's response to the report of the Environment and Communications Legislation Committee on its inquiry into the performance, importance and role of Australia Post in Australian communities and its operations in relation to licensed post offices. I seek leave to incorporate the document in Hansard and to move a motion in relation to the document.

Leave granted.

The document read as follows—

Australian Government response to the Environment and Communications Legislation Committee report:

Performance, importance and role of Australia Post in Australian communities and its operations in relation to licensed post offices

Australian Government response to the Environment and Communications Legislation Committee report:

Performance, importance and role of Australia Post in Australian communities and its operations in relation to licensed post offices

Introduction

On 14 November 2013, the Senate referred the following matters to the Environment and Communications Legislation Committee for inquiry and report:
a. the overall performance, importance and role of Australia Post in Australian communities, and the challenges it faces in the immediate and longer term;
b. the operations of Australia Post in relation to Licensed Post Offices (LPOs), with particular reference to:
   i. the importance and role of the LPO network in the Australian postal system, with particular reference to regional and remote areas;
   ii. the licensing and trading conditions applicable to LPOs, including the Community Service Obligations, and any effects these may have on operating an LPO business;
   iii. marketing, retail and trading arrangements between Australia Post and LPOs and other entities; and
   iv. any related matters.

The Committee received 213 submissions from a wide range of interested stakeholders including individuals, licensee representative groups, post office licensees and franchisees, government agencies, unions and community organisations. Five public hearings were held in Canberra and Adelaide.

The Final Report was tabled on 24 September 2014 (refer to: www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Australia_Post_in_Australian_communities). The report contains eighteen recommendations as well as Labor Senators' Additional Comments with one further recommendation.

The Australian Government has considered the Committee’s report and is pleased to provide the following response.

Context

Under the Australian Postal Corporation Act 1989, Australia Post is responsible for the day-to-day running of the organisation, including all decisions relating to its operational network. As a Government Business Enterprise, Australia Post does not receive any funding from taxpayers and, as far as practicable, it is required to perform its functions in a manner consistent with sound commercial practice.

Australia Post and post office licensees are responding to the structural decline of traditional postal services as people increasingly choose to communicate and access services over the Internet. Australians are sending one billion fewer letters today than they were in 2008, with the enterprise making a loss after tax of $222 million ($352 million before tax) in 2014-15, the first since corporatisation. Losses in letters are now overwhelming profits in parcels and without change, total losses were forecast to reach $6.6 billion over the next decade.

While Australia Post has been able to offset letters losses with profits from other areas of the business, this strategy is not sustainable. Australia Post is facing intense competition from global courier companies and can no longer afford to subsidise letters losses with parcels profits. To do so would risk growth and jobs.

Without reform, many Licensed Post Offices (LPOs) would be unable to remain financially viable and would be forced to close. This would have a devastating impact on the post office network—LPOs account for 65 per cent of all post offices, including more than 1,600 outlets in rural and remote communities across Australia. Reform is essential to ensuring that LPOs remain open.

The Government is committed to stemming the growing and accelerating losses in letters to ensure that Australia Post can maintain a sustainable postal service. This includes maintaining Australia Post’s extensive post office network and supporting the viability of LPOs in communities across Australia. That is why, on 3 March 2015, the Government announced reforms to Australia Post’s regulatory framework to enable it to reform its business.
Australia Post will introduce a two-speed letters service comprising Priority and Regular speeds. Regular letters will be delivered on average two days slower than the Priority service, which will maintain the existing delivery timetable, and posties will continue to deliver mail five days a week.

Australia Post will also seek to recover the costs of delivering Regular letters by increasing the Basic Postage Rate (BPR), which remains subject to Australian Competition and Consumer Commission (ACCC) pricing oversight. This means that any price increase on the Regular service will be subject to an ACCC assessment to determine that the price of the Regular stamp reflects the efficient cost of providing the service. The ACCC is also required to assess any proposed price increases to the Priority service where its price rises above 150 per cent of the Regular service price.

To mitigate the potential impact price rises may have on consumers, Australia Post will retain the Concession rate stamp at 60 cents for 5.7 million concession card holders and freeze the Christmas rate stamp at 65 cents for all Australians.

Reform will significantly improve the financial viability of LPOs, with every 10 cent increase in the BPR contributing approximately $25 million in new payments to licensees.

The Government's focus is on ensuring that Australia Post can deliver a sustainable mail service, while supporting vulnerable consumers and maintaining an extensive post office network across Australia. This will only be possible if Australia Post reforms its business.

Australia Post has already announced (on 7 June 2014, 21 October 2014, 15 December 2014, 13 May 2015 and 17 September 2015) a substantial number of measures in response to the Committee's inquiry and recommendations. Relevant initiatives are highlighted throughout this response.

Australia Post has stated that its proposed increase to the BPR to $1, combined with the initiatives it has announced over the last two years, would mean around $125 million extra in annualised payments to LPOs. This represents a substantial boost to support for post office operations.

The Government welcomes the measures announced by Australia Post to improve the sustainability and effectiveness of the postal network.

**Australian Government Response to the Committee's Recommendations**

1. **The Committee recommends that Australia Post be required to submit notification of changes to the price of business mail services to the Australian Competition and Consumer Commission.**

   In October 2011 the former government removed the price notification requirement on Australia Post for Pre-Sort Letter Services (Section 95X of the *Competition and Consumer Act 2010*). This reduced the regulatory burden on Australia Post imposed through an ACCC notification process, providing the flexibility to adapt services to market and consumer needs in a timely manner.

   Under the postal reforms announced by the Government, a price notification will be required for any proposed increases to the Regular Letter Service as well as for any proposed price rise that increases the postage rate for the Priority service above 150 per cent of the value of the Regular service. Prices for the standard Regular and Priority letter services act as a ceiling for the equivalent business mail services. The price of Pre-Sort letters must be below the standard rates as under sections 32A and 32B of the *Australian Postal Corporation Act 1989* users of a bulk interconnection service (which includes pre-sort letters) should receive a rate reduction.

   Regulations made under section 32B of the *Australian Postal Corporation Act 1989* allow the ACCC to enquire into disputes about the terms and conditions, including price of access, to Australia Post's bulk mail services. The intent of these provisions, as stated in the explanatory memorandum to the Postal Services Legislation Amendment Bill 2003, is to ensure that 'persons who use bulk mail services receive fair and reasonable terms and conditions in relation to the supply of those services'. No formal dispute notifications have been lodged with the ACCC to date.
In addition, if a bulk mail customer considers that the discount offered by Australia Post does not sufficiently recognise the costs they incur in preparing and lodging mail for processing, the customer has the option to shift to (non-discounted) consumer mail where such costs are borne by Australia Post.

2. The committee recommends that the Minister for Communications undertake a thorough examination of cost allocation within Australia Post and report back to the committee.

The ACCC undertakes an annual cross subsidy assessment of Australia Post's reserved letter services. These reports are available at www.accc.gov.au/publications/assessing-cross-subsidy-in-australia-post and over a number of years have reported that the ACCC is satisfied that Australia Post's reserved services, at an aggregate level, were not a source of subsidy for its non-reserved services. Rather, reserved services has been a potential recipient of a subsidy since 2009-10. This was again confirmed in the report for 2013-14 which was released in April 2015.

The ACCC has also completed a limited review of Australia Post's cost allocation methodology (CAM) in the context of its assessment of Australia Post's 2014 price notification, available at www.accc.gov.au/regulated-infrastructure/postal-services. This review focused on the allocation of non-operational (indirect) costs to reserved services, following an earlier review which focused on direct costs. This review did not identify any systematic bias in Australia Post's CAM that would likely lead to a higher allocation of non-operational costs to reserved services.

Under the postal reforms announced by the Government, the ACCC will continue to play an important role in reviewing certain price increases proposed by Australia Post. In line with past practice, the ACCC may choose to consider Australia Post's CAM in the context of any future price notifications received. ACCC decisions on Australia Post price notifications are made available on the ACCC's public register.

3. The Committee recommends that greater commercial freedoms for Australia Post should only be considered if this provides support for the delivery of the community service obligations through a viable Licensed Post Office network.

The reforms to Australia Post's regulatory requirements are critical to the future viability of the post office network. No changes are being made to the number of retail outlets, and a more financially sustainable letters service provides Australia Post with much greater flexibility to increase payments to post office licensees.

Under section 27 of the Australian Postal Corporation Act 1989, Australia Post is required to meet letter service community service obligations, including that the service is reasonably accessible to all people in Australia and that it reasonably meets the needs of the Australian community. Meeting this obligation requires a viable post office network.

The Government will continue to work closely with Australia Post to enable it to modernise its business so that it can remain financially sustainable and self-funding, and has the ability to continue to deliver its community service obligation.

4. The committee recommends that the Commonwealth Government immediately commission an independent review of the community service obligations contained in the Australian Postal Corporation Act 1989 and associated regulations.

In undertaking this review, the committee further recommends that:

- the future of mail delivery services be assessed;
- the number of retail outlets required in the network be assessed;
- the effects of any changes to the community services obligations on Australia Post employees, Licensed Post Offices, Community Postal Agencies, franchisees and mail contractors be investigated; and
consideration be given to the needs of remote, rural and regional communities particularly where other service providers have ceased to operate.

Both the Government and Australia Post have already commissioned a number of independent reviews.

Independent analysis undertaken by the Boston Consulting Group (BCG) for the Government found that:

- it is not feasible to rely on the fully competitive parcels business to fund losses in the letters monopoly;
- most people are over-serviced under the current letter delivery model, with surveys suggesting that two thirds of receivers use their mail less than twice a week, half would accept three day delivery and few would be willing to pay to maintain five day delivery;
- the letters business has ~80 per cent fixed costs, with mail forecast to decline by eight to 11 per cent per annum to 2019-20; and
- without reform the letters business is forecast to incur $12.1 billion in losses, while the enterprise is forecast to lose $6.6 billion to 2022-23.

The Australian and International Postal Services Overview developed by the BCG was released on the Department of Communications website in June 2014.

The Government is committed to stemming the growing and accelerating losses in letters to ensure that Australia Post can maintain a sustainable postal service. This includes maintaining Australia Post's extensive retail network and supporting the viability of LPOs in communities across Australia, in particular in regional areas where more than 2,500 LPOs are such an important part of local communities.

The postal reforms announced by Government on 3 March 2015 are critical to strengthening the viability of Australia Post into the future. The reforms recognise the ongoing importance of an accessible and equitable mail service to all Australians, and the need for more flexible regulatory arrangements that enable Australia Post to adapt to changing consumer demand. Further detail on the postal reforms is available at www.communications.gov.au/post and www.auspost.com.au/media/documents/Reform-Fact-Sheet.pdf.

The underlying pressures on Australia Post's business will continue and the Government will regularly assess Australia Post's performance in the light of the announced changes.

5. The committee recommends that, before further or more complex trusted services are provided through the postal network, the Minister for Communications consult Australia Post and relevant government agencies with a view to determining the requirements for the provision of those services.

The committee also recommends that Australia Post undertake consultation with all licensee representative groups in regard to any additional requirements related to an expansion in the delivery of trusted services, including training, staffing, shopfront space, technology and remuneration.

The Government is supportive of Australia Post's efforts to identify appropriate new commercial products and services to continue to grow the enterprise and offset escalating losses in the regulated letters business.

Australia Post will continue to compete on a commercial basis in relation to the provision of services on behalf of Government. In addition to the core product offering of mail, parcels, courier and mailroom services, Australia Post provides trusted services to a substantial number of principals, both from a Financial Services and an Identity Services perspective. These include:
Federal Government
- Tax File Number application
- Passports
- Voting forms
- Parcel/letter security screening
- Bill Payment
- On-line forms data capture & processing

State Government
- Driver's licence, registration and licence renewal
- Boat and fishing licences
- Payment of e-toll and fines
- Payment of bonds and rent
- Birth, death and marriage certificates
- Fair Trading National Parks permits
- Public transport tickets
- Working with children licences
- Criminal history checks
- Firearm licensing
- Liquor and gaming licences
- High risk work licences
- Maritime security licencing
- Voting forms

Local Government
- Bill payment (parking fines and other fines)
- Locked Box and cheque processing
- Design and printing
- Database management
- Packaging material

The Government expects that prior to Australia Post offering services on behalf of a government agency, both Australia Post and the relevant agency satisfy themselves that Australia Post is able to meet the requirements for the particular service on a commercial basis, and to appropriate quality standards.

Australia Post is in regular discussion with licensees about the service and product offerings available to clients. The choice of the location of the service and product offer is often the decision of the client for which Australia Post is an agent.

Australia Post's regular engagement with licensee representative groups also provides an ongoing mechanism for consultation on issues relating to the delivery of trusted services.
6. The committee recommends that the Minister for Communications establish a formal postal network strategy group that engages all stakeholders in the development of a comprehensive strategy to inform changes to the Australia Post network in the face of emerging challenges. The committee further recommends that a broad community consultation program be implemented.

The Government considers that Australia Post should take primary responsibility for communicating with its stakeholders about strategies to address its business challenges.

Under section 23 of the *Australian Postal Corporation Act 1989*, it is the role of the Australia Post Board to:

a. decide the objectives, strategies and policies to be followed by Australia Post; and

b. ensure that Australia Post performs its functions in a manner that is proper, efficient and, as far as practicable consistent with sound commercial practice.

Australia Post has announced the establishment of a new industry working group to support the implementation of letters regulatory reform and consider other strategic issues facing the postal sector. The group will be independently chaired by former Victorian Senator Helen Kroger, and includes representatives from the printing industry, mailhouses, LPO network and employee unions.

Australia Post has also undertaken a coordinated consultative and education process with the community and other important stakeholders, which has included the following:

- a national marketing and advertising campaign Your Post is Evolving, across major metropolitan and rural media, inviting Australians to Join the Conversation on the National Conversation Portal;
- a National Conversation website where members of the community can view information, videos and fact sheets about "The Post of Tomorrow" as well as participate in a discussion forum, ask a question or complete a survey. More than 127,000 unique visitors have logged on to the site, with over 35% of these having downloaded information or participated in a survey;
- a major media campaign based around a series of public and media appearances by the Managing Director & Group CEO with support from the Chairman;
- community discussion groups—quarterly forums in nine locations involving deep engagement with these groups on a range of topics to gain their feedback—mix of inner metropolitan through to remote locations across the country;
- local community engagement—getting out in communities across Australia to gain the community's views on what they are looking for from Australia Post. This includes Listening Posts outside post offices, community leader roundtables and local media interviews As at 11 June, Australia Post had held 190 community events in 159 towns covering 97 electorates;
- engagement with Members of Parliament—briefing MPs about the case for reform and inviting them to participate in the community visits;
- LPO engagement—ongoing communications with licensees through their representative groups, a quarterly licensee publication, annual conference and the Licensee Engagement and Exchange program, tailored bulletins around key announcements or events such as Australia Post's annual results release;
- employee engagement—regular employee bulletins and Australia wide face-to-face roadshow sessions have been held to ensure employees are kept informed of what is happening and what change will mean for them; and
- union engagement—regular consultative forums with the unions have been held and will continue to occur.
In addition, Australia Post has an external advisory group of 10 individuals—the Stakeholder Council- whose role is to help Australia Post improve their communication and engagement with stakeholders. Members have experience in small and medium business, industrial relations, direct marketing and corporate responsibility.

On 15 December 2014 Australia Post announced the establishment of a new independently chaired LPO forum of licensee representative bodies, to address a number of specific challenges facing the LPO network. The forum is comprised of the Australia Post Licensee Advisory Council (APLAC), the Licensed Post Office Group (LPOG) and initially the Post Office Agents' Association Limited (POAAL). The LPO forum has progressed a number of important areas of work, particularly the independent review of LPO payments (see response to recommendation 17).

Australia Post also continues to engage directly with all licensee representative groups.

7. The committee recommends that, at the request of any recognised association, Australia Post be required to renegotiate the terms and conditions of an LPO Agreement.

The LPO Agreement is a commercial agreement between Australia Post and its licensees.

All LPO agreements have the same general clauses. However, to accommodate local circumstances the current arrangements allow for special conditions to be included in individual agreements. This provides a practical way for Australia Post to negotiate the terms and conditions of approximately 3000 individual licensees.

Current arrangements ensure that there is an appropriate level of consistency for both licensees and Australia Post in the application of contract and payment conditions. Changes to these arrangements would increase complexity and costs for both licensees and Australia Post.

As a result of the Senate Inquiry Australia Post has expanded its consultative processes to now recognise LPOG as well as POAAL. As such Australia Post will consult with each of the licensee representative bodies on any changes they may wish to propose to the terms and conditions of the LPO Agreement. In assessing any proposal a range of factors will be considered including the views of the alternate representative body.

8. The committee recommends that Australia Post capture information relating to 'issues requiring attention' raised under the dispute resolution process in order to provide earlier identification of systemic problems.

9. The committee recommends that the Australia Post dispute resolution process should be amended to provide for a more streamlined process.

10. The committee recommends that Australia Post provide further information to licensees and franchisees on the alternative dispute resolution processes available under the Franchising Code of Conduct.

Australia Post has worked with POAAL and LPOG to update the dispute resolution process for licensees.

The revised dispute resolution arrangements, which are intended to take effect by the end of 2015, will provide licensees with a more streamlined process. It includes a new mechanism to capture dispute data early to enable Australia Post to identify any systemic issues relating to the LPO network. It also includes advice to licensees on dispute resolution processes available under the Franchising Code of Conduct.

11. The Committee recommends that the definition of 'Association' in the LPO Agreement be amended to include, in addition to POAAL, other licensee representative groups including but not limited to the LPO Group.

Australia Post has amended the definition of 'Association' in the LPO Agreement to mean any licensee representative group with whom Australia Post has a consultative agreement which may
include, but is not limited to, POAAL and the LPOG. This followed a formal consultation process with POAAL, as required under previous arrangements.

12. The committee recommends that Australia Post as a matter of urgency, reassess post office box payments to licensees to ensure that they reflect the true costs borne by the licensees in providing this service.

13. The committee recommends that Australia Post review parcel storage requirements in Licensed Post Offices with a view to providing payments for those licensees who incur additional storage costs.

14. The Committee recommends that Australia Post review the margins on postal products it sells to licensees with a view to ensure that margins are in line with commercial practice.

See response to recommendation 17.

15. The Committee recommends that Australia Post allow for the return of unsold and out-of-date stamps by licensees and franchisees.

Postage stamps do not have a use-by date and can continue to be sold beyond a particular stamp issue period. For philatelic products such as first day covers and stamp packs that do have a limited issue period, return arrangements currently exist. More generally, LPOs are responsible for managing their inventory and for ensuring that the supply of stock, including stamps, meets consumer demand. In the event that an LPO does accrue excess inventory, arrangements can be entered into with Australia Post on a case-by-case basis. LPOs were entitled to receive expedited credit to their January statements for returned excess 2014 Christmas Postage stamps.

Return arrangements were discussed and agreed with licensee representative groups.

16. The committee recommends that Australia Post ensure all employees, in the relevant areas of its corporate network, understand Australia Post's rules and behavioural expectations in relation to the transfer of business from Licensed Post Offices to Corporate Post Offices and that 'poaching' and other predatory behaviour is unacceptable.

On 1 December 2014, Australia Post implemented a revised process outlining how potential customer transfers from LPOs are to be managed. This includes updated internal processes for how Australia Post communicates and consults with licensees with regard to customer mail pick-ups and lodgement point changes, as well as introduction of a customer transfer payment in the event of a transfer initiated by Australia Post of a charge account customer currently lodging at a LPO.

17. The committee recommends that the Minister for Communications, as a matter of urgency, commission an independent audit of the activities undertaken by the Licensed Post Office network specifically to determine the validity of claims made by licensees that payments made under the LPO Agreement are not fair or reasonable.

The committee recommends that where a payment is found to be not fair or reasonable, that a study should be conducted to determine what an appropriate payment rate should be.

In response to this recommendation, Australia Post, in partnership with licensee representative groups APLAC, LPOG and POAAL, commissioned an independent review to determine whether payments to LPOs are fair and sufficient for licensees to recover their costs. The review considered 17 key service lines including parcels, counter mail, PO Boxes, photos, identity services and Post Billpay.

The review was finalised in May 2015 and the findings have been made available to all licensees. A copy of the report is available at https://auspost.newsroom.com.au/Content/Home/02-Home/Article/Partners-in-Performance-Report-into-Licensed-Post-Office-network/-2/-2/6038

The review found that while Australia Post is adequately remunerating licensees for most transactions, LPOs are being underpaid for the work required to administer street carded parcels. In
addition, the review found that for smaller, low volume outlets, particularly in rural Australia, the costs of running the full business are greater than current earnings from Australia Post.

On 13 May 2015 Australia Post announced measures to address these two key findings. Commencing 1 July 2015, payments for street carded parcels will increase from 60 cents to $1.60 (including GST), benefitting more than 1,800 licensees. Nearly 500 smaller LPOs will also benefit from a $10,000 increase to the minimum annual payment. These measures will boost payments by $51.4 million over the next four years. Australia Post has stated that its capacity to sustain these payments is linked to the implementation of the letter service reforms, including its proposed increase in the Basic Postage Rate from 70 cents to $1.

Australia Post is continuing to work through the findings of the review with licensee representative groups, for example in relation to post office box payments and potential improvement opportunities such as staff utilisation.

18. The Committee recommends that Australia Post, when negotiating the current value of franchises, takes into account the impact on the value of franchisees of its inability to deliver the promised opportunities.

Australia Post has entered into mediation with franchisees regarding the transition of Franchised Post Offices to LPOs.

Labor Senators’ Additional Comments

1. The Government not outsource any functions of the Department of Human Services to Australia Post.

The Government continues to encourage Australia Post and government agencies to consider any commercial opportunities for Australia Post to deliver government services. Australia Post is a Government Business Enterprise operating in an open and competitive market. It should be noted the Commonwealth procurement rules apply to contracts between Government agencies.

Senator CASH: I move:

That the Senate take note of the document.

Senator McEWEN (South Australia—Opposition Whip in the Senate) (18:25): I rise to take note of the document and seek leave to continue my remarks later.

Leave granted; debate adjourned.

MINISTERIAL STATEMENTS

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (18:26): I table three ministerial statements relating to progress with implementing the Australian government’s response to the Aviation Safety Regulation Review report, Operation Sovereign Borders and the Australian government’s response to the Harper review’s recommendation on road pricing.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Ketter) (18:26): Order! The President has received letters requesting changes in the membership of committees.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (18:26): by leave—I move:

That senators be discharged from and appointed to committees as follows:
Education and Employment References Committee—

Appointed—

Substitute members:

Senator Rice to replace Senator Simms for the committee's inquiry into Australia's temporary work visa programs

Senator Siewert to replace Senator Simms for the committee's inquiry into students with disability and the schools system

Participating member: Senator Simms

Health—Select Committee—

Appointed—

Substitute member: Senator Dastyari to replace Senator McAlister on 11 December 2015

Participating member: Senator McAlister.

Question agreed to.

BILLS

Labor 2013-14 Budget Savings (Measures No. 2) Bill 2015

First Reading

Bill received from the House of Representatives.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (18:27): I move:

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

Question agreed to.

Bill read a first time.

Senator CASH: by leave—I move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the bill, allowing it to be considered during this period of sittings.

I table a statement of reasons justifying the need for this bill to be considered during these sittings and seek leave to have the statement incorporated into Hansard.

Leave granted.

The statement read as follows—

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2015 SPRING SITTINGS

LABOR 2013-14 BUDGET SAVINGS (MEASURES NO. 2) BILL 2015

Purpose of the Bill

To introduce a number of savings measures that were announced by the former Government in the 2013-14 Budget.

Reasons for Urgency

These measures provide large savings that are critical to the Budget.

Question agreed to.
Second Reading

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (18:28): I table a revised explanatory memorandum relating to the bill and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

LABOR 2013-14 BUDGET SAVINGS (MEASURES NO.2) BILL 2015

This Bill will re-introduce, with certain modifications, a number of savings measures that were originally announced by the former government in the 2012-13 Mid-Year Economic and Fiscal Outlook and the 2013-14 Budget.

These are savings measures that the former Government promised prior to the last election to help repair the budget; but since the election they have failed to keep their promise to the Australian people.

We are now introducing legislation to allow the former Government to keep its promise to the Australian people to fix the budget. These measures will provide savings to the budget of over $2 billion over the forward estimates.

Two of the measures were removed from the Social Services and Other Legislation Amendment Act 2014 during its passage through the Senate in March 2014, and reintroduced in the Social Services and Other Legislation Amendment (Student Measures) Bill 2014 on 17 July 2014. This Bill has not passed the Senate.

The two other measures were introduced in the Higher Education Support Amendment (Savings and Other Measures) Bill 2013, which has also not passed the Senate.

This Bill facilitates the former Government keeping their election promises. That is what we are doing. We are giving them the opportunity to keep their election promises, because they did not reverse the decision to proceed with these measures in the 2013 Economic Statement or in their document outlining their costings for the 2013 federal election. Since the election, they have been saying—claiming, incorrectly—that we have deepened the budget deficit.

In fact, they are the ones—by their own actions—who are deepening the budget deficit by not passing these measures. There is no sense of embarrassment about it. They are just opposing what they took to the last election.

Schedule 1—Student Start-up Loans

Schedule 1 to the Bill replaces the current Student Start-up Scholarship with an income-contingent loan, the Student Start-up Loan.

The Student Start-up Loan aims to help students with the costs of study, including the purchase of text books, computers and internet access.

This proposal will provide significant savings to Government while maintaining students' access to funds to assist them with the up-front costs of study. It also recognises the financial difficulties that some students and their families may experience in undertaking education and training, and includes a number of measures to assist people financially.

Under the new arrangements, there will be a limit of two Student Start-up Loans per year, of equivalent value to the Student Start-up Scholarship (currently $1,025 each and to be indexed from 2017).
The loans will be available on a voluntary basis, and will be repayable under similar arrangements to Higher Education Loan Programme debts.

Students will only be required to begin repaying their Student Start-up Loan after their Higher Education Loan Programme debt has been repaid.

This measure will commence on 1 January 2017 (or, if Royal Assent occurs after 1 January 2017, the first occurring 1 January after Royal Assent).

This measure only applies to new recipients of Youth Allowance, Austudy and ABSTUDY after the day it takes effect. It does not affect the entitlements of individuals currently entitled to these benefits, who will continue to be able to obtain student start-up scholarships.

**Schedule 2—Efficiency dividend**

Schedule 2 to the Bill amends the *Higher Education Support Act 2003* and the *Commonwealth Grant Scheme Guidelines 2012* to apply an efficiency dividend to Commonwealth contribution amounts in the Act and loadings under the Guidelines.

It will adjust these amounts for the year in which the Bill receives Royal Assent and later years. The adjusted amount would be the amount that would have been payable in these years had the efficiency dividend applied in 2014 and 2015, consistent with the original policy announcement of the former Government.

These amendments result in significant savings that have already been included in the Budget bottom line, but are not expected to impact on access to, or the quality of, higher education.

**Schedules 3 and 4—Removal of the upfront payment discount and voluntary repayment bonus**

Schedules 3 and 4 to the Bill amend the *Higher Education Support Act 2003* to abolish the HECS-HELP upfront payment discount and the Higher Education Loan Programme voluntary repayment bonus.

The removal of both the discount and the bonus would occur from the first 1 January occurring at least three months after the Bill receives Royal Assent.

As a result, from this time, students will no longer receive a discount of ten per cent on their student contribution for units with a later census date by paying the amount up front, nor will they receive an additional five per cent reduction in their Higher Education Loan Programme debt if they make a voluntary repayment of $500 or more.

Again, while these amendments result in significant savings that have already been included in the Budget bottom line, they are not expected to impact on access to, or the quality of, higher education.

**Schedule 5—Interest charge**

Schedule 5 to the Bill will allow for an interest charge to be applied to certain debts incurred by recipients of Austudy Payment, Fares Allowance, Youth Allowance for full-time students and apprentices, and ABSTUDY Living Allowance.

The interest charge will only be applied where the debtor does not have or is not honouring an acceptable repayment arrangement.

At present, current recipients of income support with debts have their payments reduced until their debts are repaid. For former recipients of income support, on the other hand, there is no incentive to repay their debts.

Debtors who are already making repayments, or who come to a repayment agreement with the Department of Human Services following implementation of the measure, will not be charged interest.

The key purpose of the interest charge is to encourage debtors to repay their debt, in a timely fashion, where they have the financial capacity to do so.
Once the interest charge is in place, debtors who have not been making repayments will have an incentive to engage with the Department of Human Services to make a repayment arrangement in order to avoid the interest charge.

The rate of the interest charge will be based upon the 90-day Bank Accepted Bill rate, plus an additional seven per cent, as is currently applied by the Australian Taxation Office for unpaid tax debts under the *Taxation Administration Act 1953*. Over the last four years, this rate has averaged approximately 10.1 per cent, and currently stands at 9.15 per cent for the quarter July to September 2015.

This measure will commence on the 1 January or 1 July first occurring after Royal Assent.

Debate adjourned.

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

**Education Services for Overseas Students Amendment (Streamlining Regulation) Bill 2015**

**Veterans' Affairs Legislation Amendment (2015 Budget Measures) Bill 2015**

Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendments made by the Senate to the bills.

**Higher Education Legislation Amendment (Miscellaneous Measures) Bill 2015**

**Migration Amendment (Charging for a Migration Outcome) Bill 2015**

**Tax and Superannuation Laws Amendment (2015 Measures No. 5) Bill 2015**

**Crimes Legislation Amendment (Harming Australians) Bill 2015**

**Australian Citizenship Amendment (Allegiance to Australia) Bill 2015**

In Committee

Debate resumed.

**The TEMPORARY CHAIRMAN (Senator O'Neill) (18:31):** The committee is considering the Australian Citizenship Amendment (Allegiance to Australia) Bill 2015. The question is that the bill stand as printed.

**Senator BRANDIS** (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (18:31): When the debate adjourned earlier in the day, Senator McKim had just asked me a question in relation to the operation of section 33AA, and I hope, Senator McKim, I do justice in paraphrasing your question. I am sure that, if you do not think I do, you will pull me up. The point of your question, as I understood it, is: how can this provision operate effectively, given that it depends upon the renunciation of citizenship by conduct, when it may well be that the minister who has to give the notice as a result of which certain consequential events will happen, for example, removal from the electoral roll, which is the best example, may not become aware of the fact that the
person concerned has in fact engaged in defined conduct whereby they have renounced their citizenship.

Senator McKim, the answer to your question is that it is not uncommon at all in the law for an act of parliament to deem that certain conduct carries with it certain legal consequences, irrespective of whether or not that conduct immediately comes to the notice of government. One analogy that my attention has been drawn to is in the revenue law, where, for example, the Income Tax Assessment Act deems certain transactions to have a particular effect in creating a tax liability, and that liability is immediate upon the transactions being entered into or given effect to, whether or not the Commissioner of Taxation is aware of them. Often that is in the context of tax fraud, of course, so ordinarily the Commissioner of Taxation would not become aware of them, but when he does then he will issue a notice of assessment, and certain other legal consequences will follow from an administrative point of view. But the liability which the act attracts is a liability which, from a legal point of view, is complete upon the happening of the events which the act describes. It does not depend upon an awareness of or notice being taken of those acts by a responsible minister.

That is an analogy with this provision. In the case of the provision before us we would say that, when a person engages in conduct which the statute deems to be the renunciation of allegiance to Australia and therefore of Australian citizenship, that is the end of the matter. That is the end of the matter from a legal or a juridical point of view. It does not depend upon the minister becoming aware of it, but it may well be that nothing happens administratively as a consequence of that, just as nothing happens administratively as a consequence of entering into a proscribed, unlawful transaction from a taxation law point of view. But when the minister does become aware of those matters, then he issues a notice which sets in train a series of administrative consequences. So this is not, from the point of view of the way this legislation works, a legal problem for it. It may be an administrative problem, but it is not a legal problem.

Senator McKIM (Tasmania) (18:35): I thank the Attorney for that explanation. As I understand your answer, you have indicated to the Senate that those administrative consequences which arise from the conduct that breaches the criteria established in this statute will flow from the issuing of the notice by the minister. I accept your argument that legally the conduct is what engages this statute and renounces the citizenship. I certainly accept and understand that, but I want to ask you: is my understanding correct that it is the issuing of the notice that will commence those administrative machinery actions around things like removal from the electoral roll and cancellation of passport? If that is right, what is the test that the minister would apply before signing that notice?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (18:37): It is in a practical sense the issuance of the notice which will entail certain other administrative consequences. The test the minister will apply is he will need to be satisfied that the conduct has occurred. In our discussion earlier in the day, you raised, if I recall correctly, the question of the standard of proof. I think I said to you that that is an inapt expression, because 'standard of proof' is the expression we use to determine whether or not a court is satisfied as to whether or not either an element of a cause of action in a civil court or an element of a crime in a criminal court has been established.
We do not use the term 'standard of proof', ordinarily, when it comes to administrative decision-making. An administrative decision maker is satisfied that certain statutory criteria have been met. There is no inter partes process, as it were. There is no accuser and opposer. The minister is made aware of certain facts and circumstances on the basis of which he arrives at a view. Because there is no onus of proof, as it were, in this case, the language 'standard of proof' is not apt. So, it is no different from any decision of an administrative character made by an executive decision maker.

Senator McKIM (Tasmania) (18:39): Thank you for that answer. Perhaps I will phrase my question a little differently so that I move us out of the legal framework, which I accept that we are not operating in here. We are operating, should this legislation pass, in an administrative framework. To what extent would the minister need to be satisfied that the relevant conduct has occurred? Is there any precedent around this in administrative law? Can the minister establish his or her own measure around whether or not they are satisfied that the relevant conduct occurred?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (18:40): You say: is there any precedent in administrative law. It is a straightforward case of administrative law when an administrative decision maker is charged by a statute with the obligation to perform an administrative act—in this case, the issuance of a notice—according to being satisfied as to certain criteria. The language that section 33AA(10), which is the relevant provision, uses is:

- If the Minister becomes aware of conduct because of which a person has, under this section, ceased to be an Australian citizen, the Minister must give written notice to that effect—
- And so it goes on. What the statute requires of the minister is that he has become aware of conduct of the kind described in the statute. That is all.

This is elaborated upon by paragraph 38 of the supplementary explanatory memorandum, which I might read to you because it is germane. It is probably useful to have it on the record, although it is a little long:

Upon becoming aware of the relevant conduct, the Minister is obliged to give written notice of the cessation of citizenship to the person as soon as practicable. A question arises as to the level of satisfaction required of the Minister about the conduct which causes the cessation of citizenship, before a notice is issued.

That is your very point, Senator McKim, so you have, if I may say so, gone right to the heart of the matter.

The statutory requirement is the Minister is 'aware' that the individual has ceased to be an Australian citizen because of their conduct. The term aware is not defined in the provision, so it should be given its ordinary meaning. In the Macquarie dictionary, the ordinary meaning of 'aware' is 'cognisant or conscious'. In the context of other legislation, courts have found that to 'become aware' of something is to acquire subjective knowledge of it.

The precedent quoted in the supplementary explanatory memorandum is a case called Right to Life Association (NSW) Inc v Secretary of the Commonwealth Department of Human Services and Health (1994) 36 ALD 264, 267.

Knowledge is more than suspicion or belief. To issue a notice under the provision in subsection 33AA(12), the Minister should have a degree of knowledge about the conduct which gives rise to a
clear mental apprehension of the existence of the conduct. The Minister should have the same mental assurance that the person is a national or citizen of a country other than Australia—in order to meet the dual citizenship element.

Senator McKIM (Tasmania) (18:43): I thank the Attorney and appreciate him placing those matters on the record. In the circumstance that we are discussing here—the application of section 33AA—you have said that the minister would need to acquire subjective knowledge and that that would in reality mean the words that you have just placed on the record. I am trying to think through the ways that a minister can be advised of matters. As you know, I have had the honour to act as a minister in the Tasmanian government for just over 3½ years, though obviously not as the Attorney-General, so I have some experience in these matters.

I will phrase the question like this, Attorney: are you able to offer any further clarity around the ways in which the minister may be able to acquire that subjective knowledge and meet the test that you have just placed on the record in the specific circumstances of section 33A? As a supplementary, I presume the minister may receive advice from one of Australia’s security agencies or perhaps Defence agencies that the conduct occurred. Could you, if you are able, explain whether that advice would normally come up through the department or would be provided directly to the minister by the security agency or the ADF?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (18:45): To deal with the last question first, the minister would ordinarily be advised by his department rather than by the agencies. I am glad you have been a minister, Senator McKim, so you kind of know how this works. The minister would receive a brief from his department. The information in that brief would be assembled from all appropriate sources, but, given that we are speaking of terrorism related conduct, one would ordinarily expect that the source of that information could be from the police and from the security agencies, who will have established to their satisfaction that the relevant facts existed.

I should say, Senator McKim—I do not want to set up a straw man here, and I do not think you should either—that, in most cases, one would expect that this conduct would be so manifest that it would be publicly notorious. We have all been horrified in the last couple of years to see examples of Australian citizens engaged in the practice of beheading or holding aloft the severed heads of individuals, who are displayed in front of an ISIS flag, for example. Just the public notoriety of certain events and the indisputable identification of an individual with those events may well be enough. As you know, Senator, in legal proceedings courts can take judicial notice of notorious public facts, but in other cases it may be that they rely upon information put before them by the department, drawing upon information provided to the department by police and security agencies.

Senator McKIM (Tasmania) (18:47): Again, thanks to the Attorney for that response. I guess the genesis of this line of questioning is that, in my view and the view of the Australian Greens—and I should add parenthetically here that we do not support the principle of this legislation; that is, removing citizenship from dual nationals in the circumstances proposed in this legislation, for the reasons I outlined in my second reading contribution—if you were going to remove citizenship from those people who meet the criteria, this ought to be a matter
for the courts, not for the machinery of government. If it were a matter for the courts, we would then be able to discuss things like the standard of proof, as you were mentioning earlier.

However, given that that is not the case and that the effect given to the renunciation of citizenship that occurs by conduct in this proposed statute takes place on the issuing of the notice by the minister, what I am attempting to understand here is: what tests will be applied right through the process? You have been—and I thank you—very up front about administrative law precedent around the satisfaction, if I can put it that way, that the minister would need to arrive at, but what I am now trying to explore is: what level of satisfaction would the agencies that are the genesis of that advice need to arrive at before they put that advice up to the department and potentially then from the department on to the minister? It is our view that, if this matter were run through the judicial system—as we think it should be if someone wanted to introduce a mechanism to remove someone's citizenship—we could have a lot more confidence in what the burden of proof or the level of satisfaction would need to be before the effects flowed in terms of the machinery of government around things like electoral rolls and passports.

I ask you, Attorney: are you able to offer any further information to the Senate around the level of satisfaction it would be reasonable to expect or you would expect as the minister with carriage of this legislation through this place? What level of satisfaction would the agencies need to arrive at before they would put that information up through the chain that ultimately would culminate in advice from the department to the minister? By the way, I accept your previous statement—and I will paraphrase you here—that many, or at least some, of the actions might be of public notoriety. I do accept that. But I would submit to you that others may not be of that level of public notoriety. Therefore, the question I have asked is: what internal level of satisfaction, if you like, would the police or the ADF or any of our security agencies need to arrive at before they put the advice up to the department?

**Senator BRANDIS** (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (18:52): Senator McKim, I understand perfectly your point, and we have a philosophical difference, which I respect, about whether or not a provision of this kind should be in the law. In relation to the way in which this provision works, though, I think you came—perhaps not meaning to do so—close to saying that it is the minister's issuance of a notice that has the effect of loss of citizenship. But I think you acknowledged in an earlier contribution that that is not so, that it is the conduct—subject to the statutory deeming of certain conduct to constitute a renunciation of citizenship—that is that which effects a loss of citizenship. So the minister's act is, as I keep saying, of a purely administrative character, and certain other administrative consequences may follow from it.

Senator McKim, in a sense what you are contending is really the very thing we are trying to avoid. What we are trying to avoid is the chapter III problem—and we think we have done so, by the way. Informed by very good legal advice, we consider we have done so. The minister is not acting in judicial or quasi-judicial or judge-like fashion, which is why we avoid terms like 'the standard of proof' and other terms that are akin to the manner in which judicial proceedings are conducted. All the minister does is issue a notice, and that notice is issued upon, as the provision says, him becoming aware of certain facts. As I have said to you, he would ordinarily become aware of those facts from a departmental brief, which one would
expect to be based upon reports from policing and security agencies. Those reports would not be conclusions about criminality. It is important to say that. The same conduct that might constitute renunciation may also constitute a crime. In fact, you would expect it would. But they are not conclusions about criminality; they are reports of events—events that answer the statutory description. The test that the minister applies is, as I have explained to you, becoming aware, which has been decided in the administrative law jurisdiction by the courts, in a case where that term was used, is: ‘acquire subjective knowledge of, or give rise to a clear mental apprehension of, the existence of conduct answering the statutory words’.

The other point I am at pains to make to you, Senator McKenzie, is: although the minister's issuance of a notice is not a judicial act—it is not an act with any juridical effect—that does not mean that the circumstances in which a person may renounce their citizenship by conduct are free of the capacity for judicial review. Senator McKenzie, you would be aware, I dare say, of the provisions of section 75 of the Constitution, which says:

75. In all matters—
    ...
    ...
    (iii.) In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party:
    ...
    ...
    (v.) In which a writ of Mandamus or prohibition or an injunction is sought against an officer of the Commonwealth:

the High Court shall have original jurisdiction.

If a person were to receive a notice from the minister saying, 'I have become aware that, by reason of the following conduct engaged in by you on or about such and such a date, you have, in accordance with section 33AA of the Citizenship Act, renounced your Australian citizenship,' it would be open to that person to seek judicial review of the minister's issuance of the notice. There is a constitutional right to do that in the original jurisdiction of the High Court, under section 75. They could also do it in another court as well, presumably in the Federal Court. The sort of relief they would seek would be a declaration that the circumstances recited in the minister's notice were not circumstances that pertained to them or that they had not engaged in conduct of the kind described in the notice, and they would probably seek an injunction against the minister and any other Commonwealth agency from giving effect to the minister's notice. I pointed that out in my letter last Friday to Mr Marles and Mr Dreyfus. So we do not exclude judicial review here. We do not exclude judicial review of the issuance of the notice, but the scheme, the mechanism, the method, of this provision is that it is not the issuance of the notice that determines the question of the loss of citizenship.

Senator McKenzie (Tasmania) (18:57): Again, thanks, Attorney. You referenced the chapter III problem that you are trying to avoid here in the way that you have crafted this legislation. I do understand that that is your intent here—to avoid a chapter III problem—but I would submit to the Senate that, in your desire to avoid a chapter III problem, you have created a massive uncertainty around what level of certainty an agency would need to arrive at before they would start providing advice up the chain that would ultimately culminate in advice from the department to a minister to issue a notice under the provisions of this statute.
Can I follow on from the last part of your answer, Attorney, by asking you: in the event of a judicial review of—actually, first, can I ask: is the judicial review into the issuing of a notice or would it be a judicial review of the conduct itself that then triggered the renunciation of the citizenship? Do you see the question I am asking? Would the judicial review be a merits based review into whether or not the conduct occurred or would it simply be a review into the issuing of a notice? Secondly, what would the standard of proof be in that judicial review? Of course, the citizenship is already gone, so it is not the government applying to the courts to have the citizenship removed; it is the claimant applying to the courts to have the citizenship restored. So what would the standard of proof be in any judicial review?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (19:00): Senator McKim, in answering your previous question I should have also referred you to the note to subsection 10 in the bill, which is the relevant subsection. The note reads:

A person may seek review of the basis on which a notice under this subsection was given in the High Court of Australia under section 75 of the Constitution, or in the Federal Court of Australia under section 39B of the Judiciary Act 1903.

That of which a person seeks review is the basis on which the notice was given. In relation to the question of the standard of proof, the kind of relief that would be sought would be a declaration and/or an injunction—probably both. Those, as you know, Senator McKim, are equitable remedies, so it would be strictly characterised a suit in equity, and in suits in equity the standard of proof is on the balance of probabilities.

Senator McKIM (Tasmania) (19:01): Thank you again, Attorney. So the standard of proof would be balance of probabilities but I think you have just said—and I know you will correct me if I have misapprehended you—that the remedy sought would be an injunction against the issuing of the notice. But would that then constitute a restoration of the citizenship—because of course it is not the issuing of the notice that removes the citizenship; it is the conduct itself that removes the citizenship.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (19:02): Yes, Senator McKim, and that is provided for by subsection (24)(a) of section 33AA, which provides that the citizenship is deemed never to have been lost if there is a successful review. So if there is a successful review, the status quo ante is entirely restored. One other small technical point: it would not be an injunction against the issuance of the notice because the notice in these circumstances, on your hypothesis, would already have issued. It would be a declaration as to the nonexistence of the basis for the issue of the notice and an injunction to restrain other Commonwealth authorities—for example, the Australian Electoral Commissioner—from giving effect to the notice.

Senator LAMBIE (Tasmania) (19:03): Attorney, I wonder if you could please describe how the proscribed list of Australia's terrorist groups is created. Who decides who are Australia's terrorist groups?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (19:03): There are provisions in the Commonwealth Criminal Code for the listing of declared terrorist organisations, and that is
done by the Attorney-General. It is done by the Attorney-General following a statutory process on the basis of advice in particular from ASIO against certain statutory criteria.

Senator LAMBIE (Tasmania) (19:03): So let me get that clear. That is ASIO and yourself—nobody else? No national security coalition or anything like that? It is just the two of you involved in the decision making of who is a terrorist organisation?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (19:04): That is the way this works. ASIO is the national security agency, so its job is to protect Australia from, among other things, terrorism. So ASIO is the very agency within the Commonwealth government which makes judgements about whether or not an individual or, in the case you have put to me, an organisation is a terrorist organisation. Acting on the advice of ASIO, the Attorney-General may and, routinely, would declare an organisation to be a terrorist organisation for the purposes of the Criminal Code. I cannot imagine that any Attorney-General who was doing his job responsibly would ignore the advice of ASIO and say, 'Even though you say the statutory criteria are met, on the basis of your intelligence judgement I am going to refuse to declare this organisation to be a terrorist organisation.'

I should have said, Senator Lambie, since we are dealing particularly with the Citizenship Act—and we mentioned this last night—there is a double criterion, because although it is the Attorney-General who declares terrorist organisations under provisions of the Criminal Code, it is the Minister for Immigration and Border Protection who, under this act, declares certain organisations from within the pre-existing list of declared terrorist organisations to be organisations to which the provisions of this bill apply. So it may be that the list for the purposes of this bill are narrower than the entire list of declared terrorist organisations declared by the Attorney-General under the Criminal Code.

Senator LAMBIE (Tasmania) (19:06): So is it fair to say that the list is created by politicians and government employees rather than judges and judicial process?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (19:06): It is certainly fair to say, Senator Lambie, that the list is created by government employees because all the officers of ASIO are government employees and, I suppose, politicians in the sense that the Attorney-General as the designated minister has to declare an organisation to be a declared terrorist organisation, and he is a politician, and the declaration does not take effect until the Attorney-General does make such a declaration. And I do this from time to time on the advice of ASIO.

So they are certainly not declared by judges and judicial officers. That is not the function of judges. The function of judges is to resolve disputes—either civil disputes between parties or criminal prosecutions between the Crown and an accused person. The essence of the judicial function is to resolve disputes, and the kinds of decisions that judges and courts make are decisions about the just resolution of disputes. Decisions of this character are not about the resolution of a dispute between citizens; they are about whether or not certain statutory criteria are satisfied by the conduct of a particular organisation so that they should be assessed to be and then declared to be a terrorist organisation.

Senator LAMBIE (Tasmania) (19:07): So, just to clarify again: is the PKK, or the Kurdistan Workers Party, on that list of proscribed terrorist groups?
Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (19:08): Yes, it is.

Senator LAMBIE (Tasmania) (19:08): Do you then admit that, because a judicial process was not used to create that list, there has been a breach of the separation of powers in, for example, labelling the PKK as an official terrorist organisation?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (19:08): With respect, Senator Lambie, I absolutely do not; in fact, I say the very opposite. I say that the power to declare an organisation to be a terrorist organisation is classically an exercise of executive power, not an exercise of judicial power—for the reason I just explained in answer to your last question. It is not the kind of decision which courts make. It is not an exercise of judicial power; it is classically an exercise of executive power.

Senator LAMBIE (Tasmania) (19:09): The Kurdish community, as you know, is rather large in Australia, and many in the Kurdish community support the PKK or are possible informal or formal members. Will members of the PKK be subjected to the same penalties as members of Australia's other proscribed terrorist organisations?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (19:09): Membership of a declared terrorist organisation is a crime in Australia. You speak generally about members of the Kurdish community. I know members of the Kurdish community. My friend, former Senator Ross Lightfoot, in fact used to be the chair of the Parliamentary Kurdish Friendship Group in this parliament and, through former Senator Lightfoot, I met many leaders of the Australian Kurdish community whom I hold in very, very high regard. I do not think for a moment you should assume that members of the Kurdish community are members or sympathisers of the PKK. There may be some who are sympathisers of the PKK, but that does not mean that they are members of that organisation—and I doubt there are.

Senator LAMBIE (Tasmania) (19:10): That is not where I am going. What I am saying is that, as the law stands or will stand, we treat a PKK member in the same way as we treat a member of Islamic State. That is effectively what you will be doing.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (19:10): Again, we discussed this last night. There are certain objective criteria about whether or not an organisation is a terrorist organisation that is declared under the Criminal Code. Basically, to put it as simply as I can, it has to engage in terrorist conduct. The advice to the Australian government from ASIO is that the PKK in some aspects of its operations does so. The fact that the PKK is an enemy of ISIL—which it is—and the fact that we and the PKK may be, to put it crudely, on the same side in fighting ISIL in the Middle East, as we are, is not a complete description of the PKK's activities.

As I said—I think last night—Senator Lambie, I think we should trust the judgement of the intelligence specialists in making these judgements. Let me repeat again the point I also made last night: that fighting in a foreign civil war—for example, a person engaged as an irregular with the PKK in the region known as Kurdistan, which the Kurdish people of course regard as a state—would be in breach of a provision which is now going to be section 35 of this bill but...
was originally introduced into Australian law in 1979 by an act called the Crimes (Foreign Incursions and Recruitment) Act.

Because of the very sorts of issues that you raise, Senator Lambie, a judgement was made to include in that legislation an unusual provision which says that no prosecution under this law can be made without the consent of the Attorney-General. So it is not merely the Commonwealth Director of Public Prosecutions who has to form a view about whether a prosecution should be brought because the elements of the offence are satisfied to the criminal standard, but also the Attorney-General, as the publicly answerable minister of government, who must also assume personal responsibility for allowing that prosecution to go ahead. In other words, the Attorney-General has a veto over whether that prosecution should proceed. Such provisions are not unique to our law, but they are very unusual, and their unusualness reflects the fact that there are the sorts of judgements that have to be made—moral judgements as well as legal judgements—in a case like the one you have drawn my attention to.

Senator LAMBIE (Tasmania) (19:13): But you have criminalised members of the PKK and bypassed the court process. You and ASIO have decided they are criminals—not a judge or a court—and therefore you have breached the separation of powers.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (19:14): I should make the obvious point, Senator Lambie, that although the PKK is declared under the Criminal Code it is not yet declared under this bill, because the bill has not been passed. Assuming the bill were to be passed, it would be a matter for the Minister for Immigration and Border Protection to decide whether, from the list of declared terrorist organisations in the Criminal Code, that particular organisation should be an organisation for the purposes of these provisions of the Citizenship Act. So there is no automaticity about that. There have to be, as it were, two ministerial minds applied to two different acts of parliament—mine under the Criminal Code and the Minister for Immigration and Border Protection under this act. But, Senator Lambie, I do not resile for a moment—not for a moment—from saying that it is appropriate that the declaration of an organisation as a terrorist organisation should depend upon the advice of intelligence specialists and should be made by a minister. It is not a judicial process. It is not the thing that courts do. It is, as I said before, classically an executive government act.

Senator LAMBIE (Tasmania) (19:15): Do you agree that the Australian and US governments are supplying food and goods, and probably weapons, to the PKK?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (19:15): I am not going to comment on the military situation in northern Iraq. Certainly, the Australian government has provided some supplies to Kurdish people and other minority groups who are under attack and, indeed, in peril of slaughter at the hands of ISIL. I do not think you should equate providing supplies to ethnic and religious minorities in peril of slaughter with supplying weapons to the PKK.

Senator LAMBIE (Tasmania) (19:16): I would like to continue with my questioning tomorrow.

Senator LEYONHJELM (New South Wales) (19:16): I have a motion, but we will need to move out of committee, I think, to move it. It will only take a second.
Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (19:17): I move:

That progress be reported.

Senator McKIM (Tasmania) (19:17): I seek leave to seek clarification.

Leave granted.

Senator McKIM: The clarification I seek is this: if progress is reported now, are we able to come back into a committee to continue questioning at a later hour or a later day?

The TEMPORARY CHAIRMAN (Senator O'Neill): My understanding is that we will come back to this tomorrow. This does not complete the process. It is a shift from being in committee.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (19:18): Senator McKim, this debate adjourns at 7.20. Ordinarily we would go to 7.20 and resume tomorrow. Senator Leyonhjelm wants to do something, so he has asked for the debate to come to an end tonight about two minutes early. That is all.

Question agreed to.

Progress reported.

Ordered that the committee have leave to sit again on the next day of sitting.

NOTICES

Presentation

Senator LEYONHJELM (New South Wales) (19:19): by leave—I, and also on behalf of Senator Dastyari, give notice that, on the next day of sitting, we shall move:

That the Senate—

(a) notes:

(i) complaints by Western Sydney Wanderers fans that a heavy-handed approach to crowd control has been adopted, and that this is deterring fans from attending games,

(ii) that football fans may be banned from stadiums by Football Federation Australia with no opportunity to appeal against the banning order,

(iii) the publication of a list of the names of allegedly banned football supporters in the Sunday Telegraph on 22 November 2015, which apparently included individuals who were not banned, and others who were under 18 and had not been charged with any offence, and

(iv) football fans from a number of clubs have staged walkouts at recent games to protest alleged excessive policing and security, as well as Football Federation Australia’s policy regarding banning;

(b) acknowledges Football Federation Australia’s:

(i) recent undertaking to develop an appeals process for banned supporters, and

(ii) assurances that it was not responsible for making private information about banned supporters available to the Sunday Telegraph;

(c) calls on Football Federation Australia, police, stadium security, active supporter group leadership and A-League clubs to develop an accord, with a view to ensuring:

(i) Football Federation Australia’s banning procedures comply with the rules of natural justice,
(ii) individuals engaging in anti-social behaviour are appropriately dealt with, while other football fans are allowed to enjoy the game in peace,
(iii) exuberant fan behaviour should not be unreasonably interpreted as anti-social or harmful, and
(iv) football supporters are not over-policed; and
(d) calls on the Minister for Sport (Ms Ley) to consider becoming involved in this matter.

Senator Dastyari to move:
That the following matter be referred to the Education and Employment References Committee for inquiry and report by 1 July 2016:
Primary and secondary school education, with particular reference to:
(a) factors affecting future employment, including:
   (i) the critical future skills areas, including STEM, cooperation, collaboration, creativity, innovation and enterprise, that Australian students will need for jobs in the future, and
   (ii) the jobs and economic opportunities for Australia if attainment levels are improved in critical future skills areas, including STEM, cooperation, collaboration, creativity, innovation, and enterprise and the consequences if they are not;
(b) factors affecting students, including:
   (i) the levels of attainment, and trends, in critical future skills areas, including STEM,
   (ii) the levels of participation, and trends, in critical future skills areas, including STEM,
   (iii) the factors influencing consideration of further study in critical future skills areas, including STEM, and
   (iv) the most effective methods of supporting and encouraging students, particularly disadvantaged students and women, to consider further study in critical future skills areas, including STEM; and
(c) factors affecting teachers, including:
   (i) the evidence base for effective pedagogy and school culture to improve participation and successful learning in critical future skills areas, including STEM,
   (ii) access to further study and high quality, sustained performance development for teachers to be able to meet Australia’s critical future skills areas, including STEM, and
   (iii) any workforce issues that may influence the teaching of critical future skills areas, including STEM;
(d) any other related matters.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator O'Neill) (19:20): It being 7.20 pm, I propose the question:
That the Senate do now adjourn.

Film Industry
Valedictories

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Minister for Rural Health) (19:20): In the spirit of festivity, as we come to the conclusion of another parliamentary year, I welcome two forthcoming events this December. The first is on 18 December, when the fabled Star Wars franchise obtains a reboot through new eyes, and, of course, a week later we get to spend time with our loved ones, relatives and in-laws at Christmas. Why Star Wars? There is an immense amount of optimism with respect to the
arrival of Star Wars: The Force Awakens, underlining the impact the famed original trilogy has had, transforming the way we make, market and enjoy film.

The original cast are returning, the beloved Millennium Falcon has snuck into the previews, and early sales of tickets here in Australia point to unprecedented demand. According to Event Cinemas, in late October the Star Wars: The Force Awakens first-day presales in Australia totalled 30,000 in just four hours. To put that in perspective, that is four times as many as the first day of presales for The Twilight Saga: Breaking Dawn and Harry Potter and The Deathly Hallows: Part 2 in the same period.

I can remember being amazed at seeing Harrison Ford, Carrie Fisher and Mark Hamill light up the screens in George Lucas's magnificent space opera in 1977. I do point out, Senator Smith, that I was 12, and I thought Mark Hamill was actually quite handy. C-3PO and R2-D2 started us on a journey that traversed hyperspace. The movie transcended a generation. I remember my two boys, Will and Henry, at a very young age being transfixed by their remote controlled Darth Vader.

A recent irony that dawned on me was that there are a whole range of topics that are touched on that are central both to the galaxy far, far away and to our own world, even in this chamber. We see backroom deals, executive authority, citizen engagement, defence legislation and other political topics. In fact, it is amazing how links from this mythical universe transverse the modern political lexicon.

Locally in Australia more than 70,000 people—0.37 per cent—declared themselves members of the Jedi order in the 2001 census. The Australian Bureau of Statistics issued an official press release in response to media interest on the subject. Debate aside on the intentions of those that declared themselves as Jedi, of interest is that this is one of the first examples of a concept going 'viral' on the internet in Australia. There is not a more obvious example of Lucas's franchise shaping than this, than the originally derisive nickname given to President Reagan's missile defence program, 'Star Wars'.

Even the current Obama administration has not been without its Star Wars moments, either. In early 2013, the Obama administration responded to a White House petition calling on the president to 'secure resources and funding and begin construction of a death star' by his last year in office. Unfortunately for many Star Wars fans who signed the petition, this was not deemed a priority in Obama's final term. The memorable response from the White House read:

The Administration does not support blowing up planets. Why would we spend countless taxpayer dollars on a Death Star with a fundamental flaw that can be exploited by a one-man starship?

Puns aside, one of the subliminal messages in the movies is clear—democracy cannot exist without an active and engaged citizenry. Becoming involved in politics and being engaged in debate is the core of what drives the best in Australia's political system. I hope everyone enjoys the return of the fabled classic and when John Williams' magnificent score opens to the famous Star Wars scroll, I am sure old fans and new alike will be ready to join the battle between the good and dark sides of the force.

On a more serious note, the Christmas season is a time to reflect on a year gone by and to give thanks to the opportunities the year presented, to learn from the challenges and to thank people who have helped make the year so dynamic. In this respect, I would like to sincerely
thank all the people you do not visibly see every day yet are the heartbeat of this chamber. They include all Senate staff, catering, cleaning and security. Your work here is truly appreciated and it is always nice to have friendly faces going about their work on a busy sitting day.

Many of us here will have the fortune to go home to loved ones this Christmas period and have great merriment watching children and grandchildren enjoy the essence of Christmas. My thoughts are also with those who are not so fortunate and to those who, for whatever reason, are having a difficult time this year.

I would like to close by wishing all senators a merry and safe Christmas and, as the minister responsible for food policy, sensibly enjoy the turkey, seafood and pudding, and whatever other delights are offered. I would like to finish with a passage from Charles Dickens' *A Christmas Carol* which beautifully captures the message of Christmas.

But I am sure I have always thought of Christmas-time, when it has come round—apart from the veneration due to its sacred name and origin, if anything belonging to it can be apart from that—as a good time; a kind, forgiving, charitable, pleasant time; the only time I know of in the long calendar of the year, when men and women seem by one consent to open their shut-up hearts freely, and to think of people below them as if they really were fellow-passengers to the grave, and not another race of creatures bound on other journeys.

**Broadband**

**Senator KETTER** (Queensland) (19:26): Tonight I rise to speak about the National Broadband Network, a world-class infrastructure project under Labor but which has fallen victim to Mr Turnbull's habit of talking bit and failing to deliver. In fact, the Prime Minister's management of the NBN has become nothing other than a cruel joke. We know that in April 2013, the now Prime Minister promised his second-rate NBN would cost $25.9 billion. In December 2013, the Prime Minister said that his second-rate NBN would cost $41 billion. In August this year, the now Prime Minister indicated his second-rate NBN would cost up to $56 billion and told us we can all have real confidence in those numbers. We have also had recent revelations that NBN is considering replacing the Optus HFC network, which was supposed to make up a key part of the second-rate NBN. This means that the cost is going to blow out again.

Recently I spoke about the NBN and the impact which the government's mismanagement has had on a couple of regions of Queensland, in particular the experience of the Diamantina and Barcoo shire councils. To remind the Senate, I spoke with Ms Julie Groves, mayor of Barcoo, about the fact that they thought they had secured the agreement of the then Prime Minister, Mr Abbott, to future-proof their drought-affected regions. They believed they had a commitment from the Prime Minister to $7 million for their broadband project which was, among other things, going to lay fibre optic cable to the towns in the two shires including Birdsville, Bedourie, Windorah, Stonehenge and Jundah. As I advised the Senate on the last occasion, they were absolutely devastated that the Prime Minister reneged on that commitment, which was given personally as a handshake.

Only Labor understands that access to the National Broadband Network is essential to all Australians, at no matter what location. In communities without access to the NBN, an imminent concern is that overseas trained GPs in those communities may leave rural locations due to their substandard internet access—that is, according to advice from the rural doctors.
This mismanagement of the NBN is a matter that Australians are becoming more and more concerned about. This prompted me a couple of weeks ago to hold a forum in the Queensland federal electorate of Dickson on the matter of the NBN. It was a very well attended forum and almost 120 residents of the electorate of Dickson came along. Most of the residents of Dickson do not know when they are going to be able to access high-speed broadband. For some it is even worse, because they do not have internet connectivity at any speed—fast or slow. This unfortunate group in the electorate, and I am sure there are many such groups around the country, has fallen into a black hole of telecommunications that has been created by this government with its redesign of the NBN, which is a redesign that we know will deliver poorer broadband at a high price over a longer period.

One of the problems that has become apparent to me as a result of our recent NBN forum is that there are regions in Queensland that are, not only without an NBN, but at the same time not receiving any alternative slower speed service from their local telcos. The reason is quite simple: the telcos will not upgrade existing network capacity because it will be replaced by the NBN, but there is no prospect of NBN coming to them any time soon. When Labor was in government more than 40,000 homes and businesses in Dickson were scheduled to get superfast fibre-to-the-premises NBN connections by the end of 2016. Fortunately, work had already started on Labor's NBN such that residents and businesses in parts of Petrie and Murrumba Downs are enjoying world-class fibre-to-the-premises connections. These are the few lucky ones. However, suburbs like Brendale, Lawnton, Warner, Bray Park and many others are being left to wait for a second-rate version of the NBN that will have to be upgraded down the track. In essence, Prime Minister Turnbull has created three classes of people in Australia: those who are lucky enough to have fibre all the way to the home; those who have pre-NBN broadband and are condemned to receiving this government's inferior NBN at some time in the future; and those who have no broadband whatsoever and no clear prospect of getting it.

Let me paint the picture of broadband in Queensland by telling you the stories of a few of my constituents. Deb has been trying to get access to ADSL internet at her house in Cashmere since July. She has contacted all of the major telcos and none is able to provide her with a service—not now, nor at any time in the future. The local exchange will not be upgraded because NBN is on its way. NBN was due to arrive in Deb's area in September but it has now been postponed until March 2016. The area she moved into has many new houses under construction and more and more land releases, but no broadband connection is being provided to any of these homes.

Then there is Andrew, a software developer who works in Brisbane for a transport modelling consultancy. Six months ago Andrew moved with his fiancee to Bunya, which is an hour's drive to the north of Brisbane. Given that Andrew's work involves sitting at a computer most of the time, he was planning on working from home some days each week to save on the long commute and to spend more time with his fiancee. Andrew did not think that getting an internet connection would be a problem. Sadly, Andrew's assumption could not be further from the truth. Over the last five months he has applied to iiNet for ADSL; Telstra for cable internet; TPG for ADSL; Optus for a home 4G connection and Telstra for ADSL. None of these inquiries has resulted in Andrew getting a solution that will allow him to work from home. One possibility he explored with Telstra was to get an HFC connection to his home.
from the HFC cable running down his street. Telstra took two months to provide a quote for this work, and that quote to run a cable 200 metres to his house was for $16,500.

Finally, there is Cath. Two years ago Cath moved to a suburb of Brisbane called Eatons Hill. Cath and her husband each run a home-based business and they also have teenage children. You can imagine their surprise when they discovered that in their new home they could not get a home phone, fax or internet connection. It was the same story: the Albany Creek exchange that would serve her suburb was not being upgraded because the NBN was coming. Telstra was unable to advise when that would be and, two years later, Cath is desperate. To satisfy the needs of her business and her family, Cath is now paying over $400 each month for a toggle that provides her with 55 gigabytes of data. Despite paying this amount for internet, Cath still does not have a home phone or fax line. The coalition's three-year plan expects to have a fibre-to-the-node service in Eatons Hill by 2017 at the earliest, and some areas are not due to connect until sometime in 2018. That means that Cath, who has already waited for two years, will have to wait another two to three years to get internet access and a total of five years just to get a phone line.

I wonder if the Prime Minister would be so tolerant of his NBN if he had recently purchased a house, only to discover that it has no internet access and that no telco is willing to provide it. Under the former Labor government, the fibre-to-the-premises rollout of broadband was scheduled to connect around 42,000 homes in Dickson by June 2016. By the time of the election in 2013 Labor had begun construction to connect approximately 7,500 homes and businesses in Dickson. As a result, this group of residents has surged ahead of other Australians, receiving the world-class fibre-to-the-premises network that Labor promised. Most will be connected by March 2016. Before the last election Mr Turnbull promised that those areas that needed broadband would get it first, but instead we have a total failure in the delivery of this inferior broadband network. Instead of expediting its rollout at lower cost as promised, the government has actually taken some of our regions backwards to the point where having a simple telephone line has become a privilege.

Labor believes that Australians deserve better than the second-rate version of the NBN that Prime Minister Turnbull has promised. The horror stories that we are hearing today are only the beginning of a travesty that is unfolding before our eyes.

Year 2015 in Review

Senator BACK (Western Australia) (19:36): With the parliamentary year drawing to a close I would like to reflect on some of the significant issues that have been across my desk during the year, and to join with Senator Nash and associate myself with some of her comments relating to the staff who have served us so well. The year began for me when I introduced my animal protection bill, a private senator's bill, into this place. It was subsequently referred to the Rural and Regional Affairs and Transport Legislation Committee and, following an inquiry and report, it was recommended that that bill be passed. The Security of Bills Committee, quite rightly, asked a number of questions, which have been responded to. I look forward in 2016 to that legislation finding its way onto the Notice Paper and to it being debated.

Secondly, I reflect on local government. We know very well that, officially, it does not exist under our Constitution, and is serviced by states. We also know that local government is closest to the people. This time last week I reflected on the awful bushfires near the town of
Esperance and, subsequently, we have had them north of Adelaide. Again, it goes to show the important role of local government in coordinating emergency services in communities, and prevention and preparedness and then response and recovery. But all too rarely do we actually congratulate those who have excelled in local government, and I want do that now.

I advise the chamber of an Australian Organisational Excellence Award gold award to a very close friend and associate Dr Shayne Silcox, the chief executive of the City of Melville, where I reside in Western Australia. The Australian Organisational Excellence Foundation sets very high international standards. I am pleased to advise that recently the City of Melville became the first Western Australian local government and only the third Western Australian organisation to have won this gold award. The assessment tests require participating organisations to undergo a rigorous and unique evaluation process of the business excellence principles that are embedded in an organisation, embraced across the organisation, as well as its commitment to innovation and sustainable performance, stakeholder value, quality and service, philanthropic ideals and ethical performance.

Since I do not spend much time in my home in Mount Pleasant in the City of Melville, I do not have the opportunity to enjoy many of those services. But I am delighted that the mayor of Melville, Russell Aubrey, a very close friend, made this comment the other day on receiving the award on behalf of the city, congratulating the CEO, management and staff of this achievement and the reflection of their shared commitment to business and dedicated focus. I make that point because we know that there is excellence in all levels of government and all too often it is ignored or not appreciated and not celebrated. I am very pleased this evening to be able to do that on behalf of the City of Melville and its CEO.

Another area with which I have had association this year is in an innovative idea related to payment of HECS or HELP debts and superannuation. We all know that people, especially in their 20s and 30s at the moment, are experiencing very heavy demands on costs—buying their first home, raising a family; we have all been there. Housing affordability and the cost of child care are areas that we continue to discuss and debate in this chamber. We know the level of personal debt is rising and, according to the Reserve Bank’s website, household debt as a proportion of disposable income is now exceeding 180 per cent. That is unacceptable.

An associate Mr John Adams, an accountant, who has worked previously for a senator in this place has come up with the concept that a young person between the age of 25 and 40 years of age, perhaps one who never had the opportunity to go to university and now sees the benefits of a university education but perhaps might not be able to afford it or a graduate who has a HECS debt at a time when they are meeting other expenses should be to draw on their super fund to pay down their HECS debt. It would be a win for that person because either they do not have the debt ahead of them or they do not have the repayments each payday, a win for government because the ever-increasing HELP or HECS debt is of concern to us all and to the budget, and a benefit to somebody who might otherwise not have been able to afford or take the step to go to university. We all know, and it is said often enough in this place, that if you have a university degree you will earn a million dollars more in your career than you might otherwise have earned. At retirement, we would expect that person to be better off.

The last essential element of this proposal is that once that person has got themselves over their level of indebtedness and they are in a more comfortable position, they would then be
able to repay into their super fund over time the amount of money plus interest that they have taken out. Let’s imagine at 40 years of age, they still have 25 years of earning capacity ahead of them and, say, they have a $50,000 HECS debt. In the final 20 years of working life, they have the chance to put $2,000 a year back in. The original fund is then protected. It is an idea that I think has merit. It is one we are taking through the various processes—the Parliamentary Budget Office—hoping that Treasury will look at it. It is not a proposal that will erode super. It is a proposal that will allow a young person who has accumulated a super fund to use it more effectively at the early stage of their professional life when they need it, on the basis that by the time they retire that original fund will be restored. I do commend that concept.

I now want to briefly address the question of industrial wind turbines. These have been the subject this year of a Senate inquiry. I am very pleased to see my colleague Senator Anne Urquhart in the chamber who was a member of that committee. I have three main concerns with this technology. They are ethics, economics and health effects. The ethics, regrettably, of some of the proponents and operators of these wind farms are to be questioned. If I need to provide evidence of that, I need go no further than the concept of $2 shell companies that run the wind farms. Why is that of interest? If anybody feels aggrieved at any time in the future and they decide they want to litigate because a fire has been caused by a burning gearbox or they have an adverse health effect or a local government needs to decommission a wind farm at the end of its useful life, they will find the operating organisation is a $2 shell company.

The other area that concerns me is a gross unwillingness to ever supply data—and of course I have spoken in this place before about some of the questionable contracts and the clauses within them. On the economic side, Mr Acting Deputy President Gallacher, your state of South Australia has the highest cost of electricity in Australia and the reason for that largely is that you have the highest proportion of wind farms. The highest electricity price in Europe is in Denmark, which has the highest proportion of wind farms.

The fact that the Australian consumer pays out half a million dollars per turbine per year in subsidies is an issue that most of the community do not understand. In fact the day will come when people are paying for electricity three times: they will pay for their electricity; they will pay for the subsidy to the wind farm and the turbines; and then they will be subsidising baseload generating capacity simply because, of itself, it will not be sufficiently able to meet its costs.

The third area in the few seconds available to me is health. There is great conjecture on this: is there an issue with health? The only question I ask is: why do people leave their properties? Why do they leave their farms, if they are not suffering any adverse health effects? There is no compensation down the line. Their land values have gone; they cannot live on the farm.

I wish to conclude by thanking the staff that assist us so ably in this place. I wish my colleagues the best for Christmas and hope that we see you back fit and well for the new year. 

(Time expired)
Ageing Population

Senator SIEWERT (Western Australia—Australian Greens Whip) (19:46): I rise tonight to talk about an important issue in Western Australia, which I had the pleasure of going to a forum about the week before last. Western Australia's population is growing older. Western Australia will be home to over one million people aged 65 and over by 2050. As our population in Western Australia gets older, it is important that we get wiser and give older people the support they deserve to participate fully in the community and live with dignity.

A recent report by the Bankwest Curtin Economics Centre—Securing our future: meeting the challenges of WA's ageing population—talks about some of the trends in our ageing population. These present exciting opportunities as well as challenges.

Older Australians make a significant contribution to our community. The Australian Bureau of Statistics estimates that almost one in five older persons living in households undertake a caring role. Older West Australians, both those working and those who have retired, also volunteer in the wider community—in fact as do those who are unemployed, and I will come back to that in a minute. On average, they contribute five hours of their time per week as carers and volunteers. We should recognise and value this important contribution that older Australians make.

But older Australians—and Western Australians, who I am focusing on tonight—face significant challenges. Many older Australians experience discrimination in the workplace. Older people are more likely to experience long-term unemployment and greater difficulty in returning to work. We see that borne out in the statistics for those older Australians who are on Newstart. More than half of older people who want to work but are not seeking employment are discouraged job seekers. Most of these discouraged job seekers believe they would be considered 'too old' by employers. However, we know that older people can and do make significant contributions in the workplace and want to continue to work. Many would re-enter the workforce, if they had the opportunity.

By shutting older people out of the workforce, we are robbing ourselves of their value and all that they have to offer, and we are denying them opportunities to improve their financial situation. We believe that this is a situation in which everybody loses and we need to do more to make our workplaces inclusive for older Australians.

For many older West Australians, getting to retirement is a moment to celebrate. Having worked throughout their adult lives, many see retirement as an opportunity to take time for themselves. Unfortunately, that is not the case for everyone: 46 per cent are pressured or forced to retire as a result of the inflexibility of working conditions, combined with the poor attitude toward older workers. So not only are people unable to gain employment and enter the workforce; they are also forced out of the workforce.

More workers would like the option of a more gradual transition into retirement, with many preferring reduced hours as they age, but are denied this opportunity. This discrimination based on age can force older people out of their jobs and into retirement, which they often cannot afford nor want. All older people should be able to transition into retirement on their own terms, and we need to address that.

There is also a real risk of poverty for older Australians. Older West Australians are at a greater risk of having low economic resources than other groups, and the gap between the
richest and poorest older people is bigger in WA than the rest of Australia. This gap means that, while some older people are living out their retirement comfortably, others are struggling to make ends meet. We fundamentally believe that everyone is entitled to a reasonable quality of life, but it is especially important that all older people have a decent income, including an adequate age pension, and are able to live with dignity.

Another challenge for older Australians is housing. Some older West Australians do not have adequate access to affordable and appropriate housing. WA residents aged 55 to 64 are more likely to have a mortgage; more likely to be renting; and more likely to have more spare bedrooms than anywhere else in Australia. Many of this group are experiencing more unstable housing and financial stress, and are living in houses that are inappropriate for their needs, because there are simply no other options.

In turn, older people staying in houses too big for their needs is having a significant impact on the housing stock available for younger families.

There needs to be more affordable, appropriate and flexible housing available for older people. This will benefit the whole of our community. We know that connections to community are essential for quality of life, so it is essential that we plan for WA's ageing population. We need to develop suitable housing options within communities that enable older people to live comfortably and happily. We also need appropriate support services for older people who choose to remain in their own homes, including community care programs and home modification.

Older Western Australians enjoy better health than their counterparts in the rest of the country. But there are still major gaps in the adequacy and availability of services in health and in aged care. Western Australians over 65 are more likely to have unmet care needs than those over 65 in any other part of Australia, at an alarming rate of 36.5 per cent. This group also receives the largest proportion of informal care in Australia, being that provided by family and friends.

Unless we plan carefully as our population ages, our ageing population will continue to put an additional strain on our aged care sector, and it is important that we plan for that. That is why I am really pleased that yesterday the Senate supported our motion referencing workforce challenges in the aged care sector. It is critical that in the coming decades we make sure that we have the right solutions in place for the sector and that we are able to support a sector that will continue to grow and that provides such critical support to an increasingly large proportion of our population.

We will continue to fight for the rights of older Australians to live with dignity, to have decent incomes, to receive quality care and to have appropriate housing.

Senate adjourned at 19:54

DOCUMENTS

Tabling

The following documents were tabled by the Clerk pursuant to statute:
Lands Acquisition Act 1989—Statement describing property acquired by agreement for specified purposes.
Tabling

The following documents were tabled pursuant to standing order 61(1)(b):

Australian Communications and Media Authority (ACMA)—Communications report for 2014-15.

President's report to the Senate on government responses outstanding to parliamentary committee reports as at 1 December 2015.

Offshore Petroleum and Greenhouse Gas Storage Act 2006—First operational reviews—


The document read as follows—

PRESIDENT'S REPORT TO THE SENATE
ON GOVERNMENT RESPONSES OUTSTANDING
TO PARLIAMENTARY COMMITTEE REPORTS
as at 1 December 2015

PRESIDENT'S REPORT TO THE SENATE ON GOVERNMENT RESPONSES OUTSTANDING TO PARLIAMENTARY COMMITTEE REPORTS
as at 1 December 2015

PREFACE

This document continues the practice of presenting to the Senate twice each year a list of government responses to Senate and joint committee reports as well as responses which remain outstanding.

The practice of presenting this list to the Senate is in accordance with the resolution of the Senate of 14 March 1973 and the undertaking by successive governments to respond to parliamentary committee reports in timely fashion. On 26 May 1978 the Minister for Administrative Services (Senator Withers) informed the Senate that within six months of the tabling of a committee report, the responsible minister would make a statement in the Parliament outlining the action the government proposed to take in relation to the report. The period for responses was reduced from six months to three months in 1983 by the incoming government. The Leader of the Government in the Senate announced this change on 24 August 1983. The method of response continued to be by way of statement. Subsequently, on 16 October 1991 the government advised that responses to committee reports would be made by letter to a committee chair, with the letter being tabled in the Senate at the earliest opportunity. The government affirmed this commitment in June 1996 to respond to relevant parliamentary committee reports within three months of presentation.

On 29 September 2010, the House agreed to a resolution which places a six month response time on House and joint committee reports tabled in the House. The Senate has not agreed to a similar resolution. Therefore, this list is prepared on the basis of retaining the three month reporting undertaking for Senate and joint committee reports tabled in the Senate.

This list does not usually include reports of the Parliamentary Standing Committee on Public Works, the Parliamentary Joint Committee on Human Rights or the following Senate Standing Committees:
Appropriations, Staffing and Security, Privileges, Procedure, Publications, Regulations and Ordinances, Scrutiny of Bills, Selection of Bills and Senators’ Interests. However, such reports will be included if they require a response. Government responses to reports of the Public Works Committee are normally reflected in motions in the House of Representatives for the approval of works after the relevant report has been presented and considered.

Reports of the Joint Committee of Public Accounts and Audit (JCPAA) primarily make administrative recommendations but may make policy recommendations. A government response is required in respect of such policy recommendations made by the committee. However, responses to administrative recommendations are made in the form of an executive minute provided to, and subsequently tabled by, the committee. Agencies responding to administrative recommendations are required to provide an executive minute within six months of the tabling of a report. The committee monitors the provision of such responses.

An entry on this list for a report of the JCPAA containing only administrative recommendations is annotated to indicate that the response is to be provided in the form of an executive minute. Consequently, any other government response is not required. However, any reports containing policy recommendations are included in this report as requiring a government response.

Senate committees report on bills and the provisions of bills. Only those reports in this category that make recommendations which cannot readily be addressed during the consideration of the bill, and therefore require a response, are listed. The list also does not include reports by committees on estimates or scrutiny of annual reports, unless recommendations are made that require a response.

**A guide to the legend used in the ‘Date response presented/made to the Senate’ column**

* See document tabled in the Senate on 1 December 2015, entitled Government Response to Parliamentary Committee Reports—Response to the schedule tabled by the President of the Senate on 24 June 2015 for Government interim/final response.

** Report contains administrative recommendations – any response to those recommendations is to be provided to the JCPAA committee in the form of an executive minute.

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<td>Regulation of the fin-fish aquaculture industry in Tasmania</td>
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<td>Department of Parliamentary Services: Final report</td>
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<td>Staff employed under Members of Parliament (Staff) Act 1984</td>
<td>16.10.03</td>
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<td>Implementation of the National Health Reform Agreement</td>
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<td>Progress in the implementation of the recommendations of the 1999 Joint Expert Technical Advisory Committee on Antibiotic Resistance</td>
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<td>Domestic violence in Australia — Interim report</td>
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<td>and reducing poverty in the Indo-Pacific region</td>
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<td>Principles and practice – Australian defence industry and exports</td>
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<td>Review of the Defence annual report 2013-14</td>
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<td>Blind agreement: reforming Australia's treaty-making process</td>
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<td>Third interim report—Australian Hearing: too important to privatisize</td>
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<td>Fourth interim report—Mental health: a consensus for action</td>
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<td>Report of the inquiry into potential reforms of Australia's national security legislation</td>
<td>24.6.13) (tabled HoR 24.6.13)</td>
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<td>Review of administration and expenditure no. 11 and no. 12—Australian intelligence agencies</td>
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<td>National Security Legislation Amendment Bill</td>
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<td>Advisory report on the Counter-Terrorism Legislation Amendment Bill (No. 1) 2014</td>
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<td>Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2014</td>
<td>presented 27.2.15 (tabled HoR 2.3.15)</td>
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<td>Review of the declaration of al-Raqqa province, Syria</td>
<td>presented 19.3.15 (tabled HoR 18.3.15)</td>
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<td>Review of the declaration of Mosul district, Ninewa province, Iraq</td>
<td>presented 16.6.15 (tabled HoR 25.5.15)</td>
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<td>Review of the re-listing of Hizballah's External Security Organisation</td>
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<td>Review of the re-listing of Al-Shabaab, Hamas' Izz al-Din al-Qassam Brigades, Kurdistan Workers Party (PKK), Lashkar-e-Tayyiba and Palestinian Islamic Jihad as terrorist organisations</td>
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<td>No response required</td>
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<td>Law Enforcement (Joint Statutory) Inquriny into financial related crime</td>
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<td>Examination of the Annual Report of the Australian Federal Police 2013-14</td>
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<td>Migration Amendment (Health Care for Asylum Seekers) Bill 2012</td>
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<td>Customs Amendment (Korea-Australia Free Trade Agreement Implementation) Bill 2014 [Provisions] and a related bill</td>
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<td>Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014</td>
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<td>Medical Services (Dying with Dignity) Exposure Draft Bill 2014</td>
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<td>Migration Amendment (Character and General Visa Cancellation) Bill 2014 [Provisions]</td>
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<td>Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Bill 2015 [Provisions]</td>
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<td>Migration Amendment (Strengthening Biometrics Integrity) Bill 2015 [Provisions]</td>
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<td>Copyright Amendment (Online Infringement)</td>
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<td>Regulator of Medicinal Cannabis Bill 2014 Migration Amendment (Charging for a Migration Outcome) Bill 2015 [Provisions]</td>
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<td>The road to a republic presented 31.8.04 *(interim)</td>
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<td>Impact of federal court fee increases since 2010 on access to justice in Australia 17.6.13 *(interim)</td>
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<td>Value of a justice reinvestment approach to criminal justice in Australia 20.6.13 *(interim)</td>
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<td>A claim of public interest immunity raised over documents 6.3.14 *(interim)</td>
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<td>Comprehensive revision of the Telecommunications (Interception and Access) Act 1979 24.3.15 *(interim)</td>
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<td>Ability of Australian law enforcement authorities to eliminate gun-related violence in the community presented 9.4.15 *(interim)</td>
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<td>Matter of a popular vote, in the form of a plebiscite or referendum, on the matter of marriage in Australia 16.9.15</td>
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<td>Handling of a letter sent by Mr Man Haron Monis to the Attorney-General 16.9.15</td>
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<td>Immigration detention in Australia—A new beginning—Criteria for release from detention—First report of the inquiry into immigration detention 2.12.08 (tabled HoR 1.12.08) *(interim)</td>
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<td>3.3.15 No</td>
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<td>16.6.15</td>
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<td>17.9.15</td>
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<td>Recent allegations relating to conditions and circumstances at the Regional Processing Centre in Nauru (Senate Select) Interim report</td>
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<td>7.5.15</td>
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<td><strong>Rural and Regional Affairs and Transport References</strong></td>
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<td>The possible impacts and consequences for public health, trade and agriculture of the</td>
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<td>*(interim)</td>
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<td>Government's decision to relax import restrictions on beef — First report</td>
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<td>Government's decision to relax import restrictions on beef — Final report</td>
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<td>Management of the Murray Darling Basin — Interim report — The impact of mining coal</td>
<td>presented 30.11.11</td>
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<td>The management of the Murray-Darling Basin — Final report</td>
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<td>Foreign investment and the national interest</td>
<td>26.6.13</td>
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<td>First report — Beef imports</td>
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<td>Practice of sports science in Australia</td>
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<td>Qantas' future as a strong national carrier supporting jobs in Australia</td>
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<td>Effect on Australian pineapple growers of importing fresh pineapple from Malaysia; Effect on</td>
<td>presented 28.3.14</td>
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<td>Australian ginger growers of importing fresh ginger from Fiji; Proposed importation of</td>
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<td>potatoes from New Zealand</td>
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<td>Implications of the restriction on the use of fenthion on Australia's horticultural industry</td>
<td>presented 31.7.14</td>
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<td>Industry structures and systems governing levies on grass-fed cattle</td>
<td>presented 9.9.14</td>
<td>presented 15.7.15</td>
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<td>Current requirements for labelling of seafood and seafood products</td>
<td>presented 18.12.14</td>
<td>*(interim)</td>
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<td>Current and future arrangements for the marketing of Australian sugar</td>
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<td>Australia's transport energy resilience and sustainability</td>
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<td>Industry structures and systems governing the imposition and disbursement of marketing and</td>
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<td>research and development (R&amp;D) levies in the agriculture sector</td>
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<td>Inquiry into Business Utilisation of Australia's Free Trade Agreements</td>
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<td><strong>Treaties (Joint Standing)</strong></td>
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<td>Report 149: Treaty tabled on 10 February 2015</td>
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<td>Report 156: Treaties tabled on 8 September 2015</td>
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<td><strong>Wind Turbines (Senate Select)</strong></td>
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<td>Interim report</td>
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<td>Final report</td>
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1 See House of Representatives Votes and Proceedings, 29 September 2010, p44