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SITTING DAYS—2015

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<td>December</td>
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RADIO BROADCASTS
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- BRISBANE 936AM
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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
Temporary Chairs of Committees—Senators Christopher John Back, Cory Bernardi, Sam Dastyari, Sean Edwards, Alexander McEachian Gallacher, Susan Lines, Deborah Mary O'Neill, Nova Maree Peris OAM, Dean Anthony Smith, Zdenko Matthew Seselja, Glenn Sterle, Peter Stuart Whish-Wilson and John Reginald Williams
Leader of the Government in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Government in the Senate—Senator Hon. George Henry Brandis QC
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. Eric Abetz
Deputy Leader of the Liberal Party in the Senate—Senator Hon. George Henry Brandis QC
Leader of The Nationals in the Senate—Senator Hon. Nigel Scullion
Deputy Leader of The Nationals in the Senate—Senator Hon. Fiona Nash
Leader of the Opposition in the Senate—Senator 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 Anne Sowerby Ruston
The Nationals Whip—Senator Barry James O'Sullivan
Chief Opposition Whip—Senator Anne McEwen
Deputy Opposition Whips—Senators Catryna Louise Bilyk and Anne Elizabeth Urquhart
Australian Greens Whip—Senator Rachel Siewert

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

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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.

PARTY ABBREVIATIONS

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
**ABBOTT MINISTRY**

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<th>Title</th>
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<tr>
<td><strong>Prime Minister</strong></td>
<td>Hon. Tony Abbott MP</td>
</tr>
<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senator the Hon. Nigel Scullion</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister for the Public Service</strong></td>
<td>Hon Michael Keenan MP</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister on Counter-Terrorism</strong></td>
<td>Hon. Charles Porter MP</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister for Women</strong></td>
<td>Senator the Hon. Michaelia Cash</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>Hon. Alan Tudge MP</td>
</tr>
<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
<td>Hon. Warren Truss MP</td>
</tr>
<tr>
<td>(Deputy Prime Minister)</td>
<td>Hon. Jamie Briggs MP</td>
</tr>
<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>Hon. Julie Bishop MP</td>
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<tr>
<td><strong>Minister for Trade and Investment</strong></td>
<td>Hon. Andrew Robb AO MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Minister for Foreign Affairs</strong></td>
<td>Hon. Steven Ciobo MP</td>
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<td><strong>Minister for Employment</strong></td>
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<tr>
<td>(Leader of the Government in the Senate)</td>
<td>Hon. Luke Hartsuyker MP</td>
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<tr>
<td><strong>Attorney-General</strong></td>
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<tr>
<td><strong>Minister for the Arts</strong></td>
<td>Senator the Hon. George Brandis QC</td>
</tr>
<tr>
<td>(Vice-President of the Executive Council)</td>
<td>Senator the Hon. George Brandis QC</td>
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<td>(Deputy Leader of the Government in the Senate)</td>
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<td><strong>Minister for Justice</strong></td>
<td>Hon. Michael Keenan MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Attorney-General</strong></td>
<td>Senator the Hon Concetta Fierravanti-Wells</td>
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<tr>
<td><strong>Treasurer</strong></td>
<td>Hon. Joe Hockey MP</td>
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<tr>
<td><strong>Minister for Small Business</strong></td>
<td>Hon. Bruce Billson MP</td>
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<tr>
<td>Assistant Treasurer</td>
<td>Hon. Joshua Frydenberg MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Treasurer</strong></td>
<td>Hon. Kelly O'Dwyer</td>
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<td>Hon. Barnaby Joyce MP</td>
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<td>(Manager of Government Business in the Senate)</td>
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<td>Hon. Karen Andrews MP</td>
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<td><strong>Minister for Defence</strong></td>
<td>Hon. Kevin Andrews MP</td>
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<tr>
<td><strong>Minister for Veterans' Affairs</strong></td>
<td>Senator the Hon. Michael Ronaldson</td>
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</table>
Title                                           Minister

Minister Assisting the Prime Minister for the Centenary of ANZAC  Senator the Hon. Michael Ronaldson
Assistant Minister for Defence                           Hon. Stuart Robert MP
Parliamentary Secretary to the Minister for Defence      Hon. Darren Chester MP

Minister for Communications                             Hon. Malcolm Turnbull MP
Parliamentary Secretary to the Minister for Communications Hon. Paul Fletcher MP

Minister for Immigration and Border Protection           Hon. Peter Dutton MP
Assistant Minister for Immigration and Border Protection  Senator the Hon. Michaelia Cash

Minister for the Environment                            Hon. Greg Hunt MP
Parliamentary Secretary to the Minister for the Environment Hon. Robert Baldwin MP

Minister for Finance                                    Senator the Hon. Mathias Cormann
Special Minister of State                                Senator the Hon. Michael Ronaldson
Parliamentary Secretary to the Minister for Finance      Hon. Michael McCormack MP

Minister for Health                                      Hon. Sussan Ley MP
Minister for Sport                                       Hon. Sussan Ley MP
Assistant Minister for Health                            Senator the Hon. Fiona Nash

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.
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<th>TITLE</th>
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<tr>
<td>Leader of the Opposition</td>
<td>Hon. Bill Shorten MP</td>
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<tr>
<td>Shadow Minister Assisting the Leader for Science</td>
<td>Senator the Hon. Kim Carr</td>
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<td>Shadow Minister Assisting the Leader for Small Business</td>
<td>Hon. Bernie Ripoll MP</td>
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<tr>
<td>Shadow Parliamentary Secretary for Small Business</td>
<td>Julie Owens MP</td>
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<tr>
<td>Shadow Cabinet Secretary</td>
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<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
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Wednesday, 19 August 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: Documents are tabled pursuant to statute and returns to order. Details will be recorded in the Journals of the Senate and on the Dynamic Red.

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

COMMITTEES

Education and Employment References Committee
Finance and Public Administration Legislation Committee
Legal and Constitutional Affairs References Committee
Select Committee on the Regional Processing Centre in Nauru

Meeting

The Clerk: Proposals to meet have been lodged as follows: by the Education and Employment References Committee for a private meeting on 20 August, from 11 am; the Finance and Public Administration Legislation Committee for a private meeting today, from 1:45 pm; the Legal and Constitutional Affairs References Committee for a private meeting today from 6 pm; and the Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru for a private meeting today from 1 pm.

The PRESIDENT (09:31): Does any senator wish to have the question put on any of those motions? There being no request, we shall proceed.

STATEMENT BY THE PRESIDENT

Questions Without Notice

The PRESIDENT (09:32): Yesterday in question time, there was a great deal of disruption during Senator Bilyk's questions and the answers given by Senator Abetz. The disruption and the need for me to constantly call the Senate to order made it very difficult to catch what individual senators were interjecting at the time. Because of the noise, especially from those close to the chair, I could only hear portions—at best—of senators interjecting, of which there were many. Some senators apparently took exception to remarks made by Senator Heffernan and Senator Brandis, and I undertook to review the Hansard and the audiovisual footage.

I have reviewed the Hansard and the footage, neither of which detected Senator Heffernan making any inappropriate remarks. Having warned Senator Heffernan not to repeat anything that he may have said that could be construed as inappropriate, and requesting that he withdraw any such statement if it was inappropriate and if it was made, Senator Heffernan indicated that he did not say anything inappropriate. In the absence of any evidence to the contrary, I can only take Senator Heffernan at his word that he did not.
In relation to Senator Brandis, the *Hansard* and the footage did not pick up the words he used. I heard, albeit still with difficulty, the words used by Senator Brandis at the time but do not consider that they carried the meaning alleged by Senator Conroy. As I recall the words, they took the form of a warning to Senator Bilyk to take care what she said lest she commit a crime. I took the language used by Senator Brandis to be merely rhetorical. As all senators would understand, anything Senator Bilyk said in question time is protected by absolute privilege. It forms part of the proceedings in parliament which, in accordance with the law of parliamentary privilege, cannot be impeached or questioned in any place outside parliament, let alone form the basis for any action against her, including any action for contempt under the Royal Commissions Act 1902.

As I indicated last week, I have been very disappointed with the conduct of senators, particularly during question time. I have had difficulty hearing answers because of the level of interjection from both sides of the chamber but especially on my near left. As communications to my office indicate, disruptive behaviour reflects poorly on individual senators and upon the Senate as a whole.

Also, the level of backchat to, and argumentation with, the chair is currently unacceptable. Arguing with the chair, whether it be me, the Deputy President or any of the temporary chairs, is not in order at any time and there has certainly been far too much of it of late.

As we all know, the standing orders do not give the President any authority to suspend senators for brief periods. Senators may only be suspended by a decision of the Senate as a whole. While the President is responsible for maintaining order, responsibility for discipline lies with all senators. I would be reluctant to see the standing orders amended to provide for the removal of a senator, by the chair, for breaches of the rules as I believe the integrity and conduct of each senator should rest with each and every senator. I can only appeal to the good will and desire of each senator to represent their state to a standard accepted by the people of Australia, which, I am confident, would include the proper observance of all rules, being respectful to one's colleagues and to observe the authority of the chair. Senators, the alternative is to change our standing orders. As I have indicated, I do not think that this Senate would want this to be the next option for restoring respect and order to this august chamber.

I know, through substantial representation from members of the public, that the people of Australia expect better behaviour and a more mature approach to senators' conduct in this place. I do note that the eight crossbenchers and pockets of other senators constantly observe the standing orders and respect the conventions and decency of the more senior parliamentary chamber in the Commonwealth of Australia.

The standing orders are rules of debate, designed to provide a rational framework for the contest of ideas, which is the essence of a parliament. As I intimated last week, intelligent, witty and respectful interjection, whilst technically disorderly, can be tolerated and at times it can be welcomed, provided it is not constant, loud, and aggressive and does not continue despite calls from the chair to cease.

So, Senators, please consider the seat that you occupy, consider the people that you represent, consider the many observers that watch proceedings live, or those that listen or view on national broadcast and allow them to, at least, feel justified and assured that this place contains individuals, whom they elected, that will uphold the good values, standards and discipline that befits holding the office of a senator in the parliament of Australia.
BILLS
Acts and Instruments (Framework Reform) (Consequential Provisions) Bill 2015

First Reading
Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (09:37): I move:
That this bill may proceed without formalities and be now read a first time.
Question agreed to.
Bill read a first time.

Second Reading
Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (09:38): I move:
That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.
Leave granted.
The speech read as follows—
I am pleased to introduce the Acts and Instruments (Framework Reform) (Consequential Provisions) Bill 2015 into the Parliament.

The bill makes amendments to various Commonwealth acts which are consequential to the Acts and Instruments (Framework Reform) Act 2015. That act received royal assent on 5 March 2015 and will commence on 5 March 2016 or earlier by Proclamation.

When the act commences, it will align the requirements for registration and publication of acts and instruments into a single legislative scheme. This is achieved by significant reforms to the Legislative Instruments Act and the repeal of the Acts Publication Act 1905. The consolidated scheme will be provided by the Legislation Act 2003, as the Legislative Instruments Act 2003 will be renamed.

Further, the Acts and Instruments (Framework Reform) Act also amends the Acts Interpretation Act 1901, including clarifying and expanding provisions dealing with machinery of government changes, and other amendments to support those made to the Legislative Instruments Act.

The reforms made by the Acts and Instruments (Framework Reform) Act will improve the operation and clarity of the legislative framework for Commonwealth instruments and Acts.

This bill supports the implementation of these reforms by making consequential amendments such as updating references to the Legislative Instruments Act, and provisions which deal with the application of that act, to reflect the amendments made.

The bill also removes references to certain exemptions from sunsetting and disallowance for legislative instruments from various enabling acts. The exemptions will be added to an updated Legislative Instruments Regulation 2004 prior to commencement of the Acts and Instruments (Framework Reform) Act, where this is necessary to preserve their legal effect. These amendments will enhance the accessibility and clarity of Commonwealth laws, by ensuring that consolidated lists of exemptions are easily accessible in the updated Regulation.

This bill also:
• makes minor amendments to the Legislation Act and the Acts Interpretation Act, as amended by the Acts and Instruments (Framework Reform) Act, to clarify the application of their requirements to administrative forms;
• makes minor amendments to the definition of a legislative instrument in the relevant act to clarify the status of court rules of states and territories;
• makes minor amendments to the Family Law Act 1975 to clarify that provisions of the Family Law Act which set out the application of the Legislative Instruments Act to rules of the Family Court apply to those rules whether they are made under the Family Law Act or another Act; and
• makes other minor consequential amendments to Commonwealth acts, repeals several spent provisions, and makes minor technical corrections to the Legislation Act.

The Acts and Instruments (Framework Reform) (Consequential Provisions) Bill supports reforms made by the acts and Instruments (Framework Reform) Act to create administrative efficiencies, reduce 'beige tape' and promote access to justice.

Senator JACINTA COLLINS (Victoria) (09:38): This bill, the Acts and Instruments (Framework Reform) (Consequential Provisions) Bill 2015, follows the Acts and Instruments (Framework Reform) Bill 2014, the principal bill. That bill was amended to accept one recommendation made by the Senate Legal and Constitutional Affairs Legislation Committee and passed the parliament, with Labor support, on 5 March this year.

The principal bill implemented the recommendations of a statutory review of the Legislative Instruments Act 2003 under the former Labor government in 2008. That review was led by a committee, comprising Mr Anthony Blunn, Mr Ian Govey and Professor John McMillan. That bill made a number of reforms to the arrangements for delegated legislation under the Legislative Instruments Act 2003. That act, now named the Legislation Act, sets out a comprehensive regime for the registration, tabling, scrutiny and repeal of legislative instruments.

This bill makes a number of consequential technical machinery and drafting changes to the bill. The bill updates references across the statute book to the Legislative Instruments Act to reflect its change of name to the Legislation Act; compiles the list of instruments exempt from sunsetting and disallowance, presently found in various locations into one central list in regulation to be made under the Legislation Act; clarifies the status of rules of court under the Legislation Act; and repeals spent provisions and makes various technical and drafting corrections to the Legislation Act.

These are minor and technical changes. As Labor indicated when the Acts and Instruments (Framework Reform) Bill came to this place, we support any measures which make Commonwealth instruments easier to locate and understand. I commend the bill to the Senate.


The bill makes amendments to various Commonwealth acts which are consequential to the Acts and Instruments (Framework Reform) Act 2015. That act received royal assent on 5 March 2015 and will commence on 5 March 2016 or earlier by proclamation.
When the act commences, it will align the requirements for registration and publication of acts and instruments into a single legislative scheme. This is achieved by significant reforms to the Legislative Instruments Act and the repeal of the Acts Publication Act 1905. The consolidated scheme will be provided by the Legislation Act 2003, as the Legislative Instruments Act 2003 will be renamed.

Further, the Acts and Instruments (Framework Reform) Act also amends the Acts Interpretation Act 1901, including clarifying and expanding provisions dealing with machinery of government changes, and other amendments to support those made to the Legislative Instruments Act. The reforms made by the Acts and Instruments (Framework Reform) Act will improve the operation and clarity of the legislative framework for Commonwealth instruments and Acts.

This bill supports the implementation of these reforms by making consequential amendments, such as updating references to the Legislative Instruments Act, and provisions which deal with the application of that act to reflect the amendments made.

The bill also removes references to certain exemptions from sunsetting and disallowance for legislative instruments from various enabling acts. The exemptions will be added to an updated Legislative Instruments Regulation Act 2004 prior to commencement of the Acts and Instruments (Framework Reform) Act, where this is necessary to preserve their legal effect. These amendments will enhance the accessibility and clarity of Commonwealth laws by ensuring that consolidated lists of exemptions are easily accessible in the updated regulation.

This bill also makes minor amendments to the Legislation Act and the Acts Interpretation Act, as amended by the Acts and Instruments (Framework Reform) Act, to clarify the application of their requirements to administrative forms. It makes minor amendments to the definition of a legislative instrument in the relevant act to clarify the status of court rules of states and territories. It makes minor amendments to the Family Law Act 1975 to clarify that provisions of the Family Law Act which set out the application of the Legislative Instruments Act to rules of the Family Court apply to those rules whether they are made under the Family Law Act or another act and it makes other minor consequential amendments to Commonwealth acts, repeals several spent provisions, and makes minor technical corrections to the Legislation Act.

The Acts and Instruments (Framework Reform) (Consequential Provisions) Bill supports reforms made by the Acts and Instruments (Framework Reform) Act to create administrative efficiencies, reduce 'beige tape' and promote access to justice. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

The PRESIDENT (09:43): As no amendments to the bill have been circulated, I shall call the minister to move the third reading unless any senator requires that the bill be considered in Committee of the Whole.

Senator FIERRAVANTI-WELLS (New South Wales—Parliamentary Secretary to the Attorney-General and Parliamentary Secretary to the Minister for Social Services) (09:44): I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

Omnibus Repeal Day (Spring 2014) Bill 2014
Consideration of House of Representatives Message

Message received from the House of Representatives.
Ordered that the message be considered in Committee of the Whole immediately.

(Quorum formed)

The TEMPORARY CHAIRMAN (Senator Whish-Wilson): The committee is considering a message from the House of Representatives on the Omnibus Repeal Day (Spring 2014) Bill 2014.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (09:48): I move:
That the committee does not insist on its amendments to which the House has disagreed.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (09:48): I ask that the question be divided in respect of the amendments. Could I suggest that the Senate considers amendments (1) to (6) together, with amendment (7) taken separately. I foreshadow that I will have an amendment to move in relation to amendment (7).

The TEMPORARY CHAIRMAN: The House has not agreed to the seven amendments that we have in front of us. Senator Conroy has asked that the question be divided on amendments (1) to (6), so the question is:
That the committee not insist on amendments (1) to (6).

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (09:50): I seek some clarification, and, obviously, I would like to insist on (1) to (6) being maintained. I want to ask if this about the substance of those amendments or about Senator Conroy's motion to split (1) to (6) off from (7), in which case we do not object.

The TEMPORARY CHAIRMAN: It is the substance of the amendments.

Senator WATERS: I am not speaking on the issue of whether or not to separate the amendments from the opposition's amendment, which I presume we will come back to at some point.

The Greens are moving these amendments because we believe that science has a very crucial role in the process of decision making, and our amendments go to the retention of two advisory bodies that the government really should avail itself of. They are the Product Stewardship Advisory Group and the Oil Stewardship Advisory Council.

We are seeing, time and time again, that this government has absolutely no respect for science. It has been cutting workers from the environment department and slashing funding from community groups. It now wants to silence community groups from even enforcing the government's own environmental laws, so this is just another attack in a long line of attacks against science and good sense.

The two advisory groups to which I referred are crucial bodies that provide the government with, effectively, free advice on how not to stuff up the planet. Why this government wants to
abolish them is beyond me. The Product Stewardship Advisory Group has been constituted and has been functioning very well, and we are told by members of that group as well as community members that the government does not have that in-house expertise. It needs these advisory groups to give it decent information about product stewardship and about waste oil recycling. These amendments are simply a wanton refusal to accept expert advice. These bodies do not cost a lot to retain. This is, effectively, free expert advice to the government. I do not understand why they are trying to get rid of free expert advice. The only explanation is that they would rather not know so that they can take decisions which damage the environment and attempt to do so with impunity. So we will be insisting that these amendments, (1) to (6) on sheet 7642 be insisted upon by the Senate.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (09:53): I indicate, on behalf of the opposition, that we support the continuing inclusion of the amendments. So we will be voting no to the resolution that we are not insisting—because this is a negative one, isn't it? It effectively works as a negative.

The TEMPORARY CHAIRMAN (Senator Lines): As I understand it, the question before the chair is that the committee not insist on amendments (1) to (6).

Senator CONROY: We will be opposing that resolution—to continue to support those amendments.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (09:53): The government will oppose the amendments. This omnibus bill is part and parcel of the government's determination to reduce red tape and extra costs, which are prejudicing the capacity of the Australian economy to grow and create jobs. In a situation where we are running a huge deficit and debt that will hang around the neck of the next generation like an economic millstone, we have a duty to ensure we do everything to drive the economy in a manner that will change that debt and deficit disaster and allow jobs to grow. If jobs grow, we know that we might be able to remove the six from in front of the unemployment figure.

It was interesting to listen to Senator Waters, and this was typical Green-speak. She said, 'It doesn't cost much' and then moved on to say 'free advice'. It either costs or it is free. You cannot have it both ways, and this is why the budget is in the mess it is—because of the former Greens-Labor government pretending they could do things without a cost to the Australian people. What they did was to run up deficits and run up debt, which we now have to confront, which we now have to rein back in and which we have to pay back. It is interesting that the architects of this debt and deficit disaster are retaining their position to ensure that the fireman who was called in to put out the fire—namely, the coalition—is being stopped at the door from doing the duty that the Australian people elected it to undertake, and that is to restore the economy. We promised the Australian people that we would seek to remove red tape and do it in a manner that would help the economy cut the debt and deficit disaster and create jobs. That is what motivates us, that is what continues to motivate us, and I would encourage the Senate to not insist on these amendments so that we can get on with the business of creating the wealth and jobs for the future.

The CHAIRMAN: The question is that the committee not insist on amendments (1) to (6) with which the House has disagreed.
The committee divided. [10:01]
(The Chairman—Senator Marshall)

Ayes .................34
Noes .................36
Majority .......... 2

AYES
Abetz, E
Bernardi, C
Birmingham, SJ
Bushby, DC (teller)
Canavan, M.J.
Cash, MC
Colbeck, R
Cormann, M
Day, R.J.
Edwards, S
Fierravanti-Wells, C
Fifield, MP
Heffernan, W
Johnston, D
Leyonhjelm, DE
Lindgren, JM
Macdonald, ID
Madigan, JJ
McGrath, J
McKenzie, B
Muir, R
Nash, P
O’Sullivan, B
Parry, S
Payne, MA
Reynolds, L
Ronaldson, M
Ruston, A
Ryan, SM
Scullion, NG
Seselja, Z
Sinodinos, A
Smith, D
Williams, JR

NOES
Bilyk, CL
Brown, CL
Bullock, J.W.
Carr, KJ
Collins, JMA
Conroy, SM
Dastyari, S
Di Natale, R
Gallacher, AM
Gallagher, KR
Hanson-Young, SC
Ketter, CR
Lambie, J
Lazarus, GP
Lines, S
Ludlam, S
Ludwig, JW
Marshall, GM
McAllister, J
McEwen, A (teller)
McLucas, J
Moore, CM
O’Neill, DM
Peris, N
Polley, H
Rhiannon, L
Rice, J
Siewert, R
Singh, LM
Sterle, G
Urquhart, AE
Wang, Z
Waters, LJ
Whish-Wilson, PS
Wright, PL
Xenophon, N

PAIRS
Back, CJ
Brandis, GH

Wong, P
Cameron, DN
Senator Fawcett did not vote, to compensate for the vacancy caused by the resignation of Senator Milne.

Question negatived.

The CHAIRMAN (10:03): The question now is that the committee not insist on amendment (7) with which the House has disagreed.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (10:03): I move the following amendment in place of amendment (7):

(1) Page 25 (after line 29), after Schedule 3, insert:

Schedule 3A—Finance

Public Governance, Performance and Accountability Act 2013

1 At the end of Division 2 of Part 4-1A

Add:

105BA Future submarine project tender process

(1) This section applies if the Commonwealth (including a Minister on behalf of the Commonwealth) proposes to enter into a contract (a submarine design and building contract) for the design and building of a submarine, or a substantial part of a submarine, as part of the future submarine project.

Note 1: The future submarine project is designated SEA 1000 in the Defence Capability Plan as in force on 1 December 2014.

Note 2: This section does not apply to contracts for research, concept or preliminary design, planning or other preparatory work that does not involve the building of a submarine or a substantial part of a submarine.

(2) The submarine design and building contract must not be entered into other than as the result of a limited tender process conducted in accordance with the Defence Procurement Policy Manual as in force on 1 December 2014, subject to this section.

Tender process

(3) The future submarine project is taken not to be an exempt procurement for the purposes of the Defence Procurement Policy Manual.

(4) A person or body is not eligible to bid for the tender unless the person or body gives the Commonwealth an undertaking that the submarine building, maintenance and sustainment will take place in Australia.

(5) The Commonwealth must not enter into a submarine design and building contract in relation to the future submarine project unless the Commonwealth is satisfied that the contract includes guarantees that:

(a) the majority of work on the submarine build will be undertaken by Australian labour; and

(b) the majority of the materials used in the submarine build will be sourced from Australian suppliers.

(6) This section ceases to have effect at the end of 30 June 2020.

This amendment is necessary, because much has changed in respect of the future submarine project since the Senate first passed amendment (7).

This revised amendment removes several of the procedural stipulations contained in the original, and replaces them with two simple requirements: (1) that our future submarines are built, maintained and sustained here in Australia; and (2) that both the majority of work and materials for the submarines are Australian-sourced.
It is unfortunate that it is necessary to move such an amendment to ensure that the Australian government does the right thing by Australia, that it does the right thing by Australian taxpayers, that it does the right thing by the Australian Defence Force, and that it does the right thing by Australian companies and Australian workers. It is unfortunate, but it is necessary.

It is necessary because much has changed since the Senate passed the original amendment. But one thing remains the same: Mr Abbott's unwavering desire to send our future submarines offshore; Mr Abbott's desire to keep his promise to the Japanese Prime Minister and to break his solemn election promise to the people of South Australia.

We have witnessed a litany of outrageous decisions and statements by the government and the Prime Minister that have put at risk our vital naval shipbuilding capacity, decisions that have resulted in over 1,000—let me repeat that: over 1,000—Australian jobs lost at shipwrights around the country, all on Mr Abbott's watch.

Who could forget Mr Abbott's decision to walk away from his government's pre-election promise to build 12 submarines in South Australia? Or Mr Abbott's decision to make a secret deal with Japanese Prime Minister Abe to send our submarine construction offshore to Japan, where the Japanese will have to build an entire new shipyard. But even then, that was not enough! Mr Abbott decided to exclude—to actually, specifically and legally exclude—Australia's shipyards and Australian workers from tendering for Navy's new supply ships.

As if that were not enough, Mr Abbott had a another surprise up his sleeve for Australian shipbuilders—another insult to add to the injuries that he and his government had already inflicted on this industry and its highly-skilled workers. In February of this year, during the height of the Liberal leadership tensions, Mr Abbott invented a sham competitive evaluation process for the future submarines. He did this for one, simple reason. It was not because it would result in better, more capable submarines for our defence forces. It was not because it would result in a cheaper, more cost-effective submarine force for Australian taxpayers. And it was certainly not because he gave a damn about the future of this strategically-vital industry and its workers. No, he did it for one simple, selfish and shameful reason: to save his own job. He needed Senator Edwards' vote to save his prime ministership, so he concocted a sham process. It was a sham process to appease Senator Edwards and to win his support in a leadership ballot. It was a sham process that his own defence minister could not explain at a public press conference.

It was a sham process devised without any formal written advice from the defence department. Let me repeat that: it was a process for a procurement of a $50 billion overall contract without a single note, word of advice or submission from the Department of Defence—not a word. And it was a sham process that will not—and I want to stress this; it will not—deliver three comparable bids with fixed prices and fixed schedules. It was a sham process where, as Senator Xenophon discovered, even if you win the process your bid can still be declined due to so-called 'broader strategic considerations'.

It was a sham process that meant that Mr Abbott can still fulfil his promise to Japanese Prime Minister Abe and ensure his captain's pick of sending our submarines overseas. These 'captain's picks' are now becoming a familiar albatross around the Prime Minister's neck. We have seen what happens when the Prime Minister makes one of his dud captain's picks. He promised a gold-plated, Rolls-Royce, paid parental leave scheme that made no sense and...
which almost his entire party opposed—but he said it was a captain's pick. He brought back knights and dames in a bizarre throwback to a previous era that most Australians cannot remember and do not relate to. He chose Ms Bronwyn Bishop as Speaker.

Senator Abetz: Tell us about Peter Slipper!

Senator CONROY: Yes, exactly. And he knighted Prince Philip. All of these were captain's picks. But they are not the worst. That litany of captain's picks is not the worst of his captain's picks. Senator Bernardi from South Australia, stop sneaking out of the room to go and use your new NBN connection! Come back in here and vote for South Australian jobs!

So, here we are today with a sham process and the worst captain's pick of them all. This is a project valued at up to $50 billion that is crucial to the defence of our nation for decades to come, and upon which the livelihoods of thousands of hardworking Australians depend. And while Mr Abbott seems content to just throw billions of dollars and thousands of Australian jobs away, in this place we cannot allow this to happen. We know, based on testimony from Australian officials, that the Department of Defence did not provide advice on this process. We know that it was concocted by the Prime Minister and his staff, not our defence procurement experts. We know, thanks to the honesty of Australian officials, that Japan's involvement in this process is 'based on political considerations, not merit'. That is because Mr Abbott needed a way to ensure that Japan was included in this sham process. We know from Australian officials that this process—it is quite extraordinary for a process for a $50 billion project!—will not result in comparable bids with fixed prices and fixed time lines. That is because this process is a political fix designed in a panic by the Prime Minister, the Minister for Defence and their staff to solve Mr Abbott's political problem. We know, based on testimony from officials at Senate estimates in June, that the recommendations at the end of this sham process will be reconciled with 'broader strategic considerations'. That is because Tony Abbott needed a way to keep his word to Prime Minister Abe—

Senator Abetz: Mr Abbott, to you.

Senator CONROY: I am sorry—Mr Abbott—even if Japan's bid is not the strongest of the three. We also found out recently that the Australian government has assigned, full time, a staff member in our embassy in Japan to hold the Japanese government's hand to help them submit a compliant bid. That is an extraordinary situation to be in. The French do not need that help, the Germans do not need that help, but the Australian government, to help out Mr Abbott's captain's pick, have got a full-time person assigned in our embassy in Japan to help the Japanese put in a complying bid. What a shambles!

Senator Canavan: What have you got against the Japanese?

Senator CONROY: Nothing at all. If they win—if their bid to build in Australia wins—I will celebrate! I will celebrate!

Let no-one make a mistake on this: the leading industry experts have said that it is cheaper to build, maintain and sustain our future submarines here in Australia. This is what Australia's leading industry expert, Dr John White—and I would remind you, Senators, that Dr White is now heading up the German consortium's bid as part of Mr Abbott's sham process—told the Senate Economics References Committee hearing on 22 July:

I am sure that if we truly analyse all aspects of the project we will have a lower cost to the government from an all-build in Australia …
It does not come more devastating than that statement from one of the bidders. Build, maintain and sustain in Australia and it will be cheaper than sending it overseas to Germany, France or Japan. A bidder says it will be cheaper—not a Prime Minister, trying to concoct a reason to save his job and to deliver on his promise to the Prime Minister of Japan. We know that the sham process is not about saving Australian taxpayers' dollars. We know from the same experts that the only way to ensure that we have a viable naval shipbuilding capability is to build both the future frigates and the future submarines here in Australia. This is what Dr White also said:

… if Australia wants to have a long-term, sustainable, competitive, world-class naval industry, we need to plan to build both future frigates and future submarines in this country.

The road map is there. It is cheaper. If we want a world-class submarine and naval shipbuilding industry, we need to build it all here.

Just two weeks ago we saw the Prime Minister and a coterie of ministers making a range of naval shipbuilding announcements in South Australia. While the government's decision to build the future frigates in Australia is welcome, Mr Abbott laid bare the hypocrisy at the heart of his sham submarine process. When asked why the future frigates should be built in Australia—and this government has mandated that they be built in Australia—Mr Abbott finally admitted what Labor has said all along. This is what he said:

… there are significant benefits that flow from a domestic build.

Let me repeat that: there are significant benefits from building naval vessels in Australia. That is what Mr Abbott says, to which we applaud! But the hypocrisy is breathtaking. What is good for our future frigates is apparently not good for our future submarines—despite the fact that the expert advice is that we also need to build the future submarines here to enable a viable local industry and despite the fact that the experts tell us that it is cheaper to build, maintain and sustain our future subs in Australia. The explanation for this hypocrisy is simple: Tony Abbott's sham submarine process was never based on facts or merit. It was designed purely to save Mr Abbott's job during the height of Liberal leadership tensions and to fulfil his worst captain's pick—a very high bar to get over—of sending our future submarines to Japan. We cannot allow Tony Abbott to get away with another disastrous captain's pick. It is not in the interests of our nation, it is not in the interests of our defence forces, it is not in the interests of Australian taxpayers and it is anything but in the interests of Australia's strategically vital shipbuilding industry and its highly skilled workers.

I implore senators in this place not to leave this decision to Mr Abbott; it is simply too important. I implore all senators to join with Labor and support this amendment. Supporting this amendment will ensure that our future submarines are built, maintained and sustained here in Australia. We cannot afford a final captain's pick.

Senator XENOPHON (South Australia) (10:20): Could I indicate my strong support for this amendment. I commend Senator Conroy for putting up this amendment. It is a responsible mechanism to ensure that there will be an Australian build of our submarines. This amendment, moved by Senator Conroy, is simply assisting the government to fulfil their pre-election promise that 12 of our future submarines will be built in Australia. It is absolutely critical that this amendment be passed, because it sends a very clear signal, a legislative signal, that there must be an Australian build process. This nonsense, this fantasy of going down the path of having our future submarines built anywhere other than in Australia is
absolutely reckless, both in economic terms and in strategic terms. We know of the massive multiplier impact of having our ships, our subs, being built here in Australia and, of the huge flow-on effects on our local economy. We know that a submarine project such as this would involve hundreds of Australian firms, in addition to the principal contractors. And we know that the strategic implications of having our submarines built, maintained and sustained here are absolutely critical if, heaven forbid, there is ever a conflict in years to come. We need to have that capacity here.

Senator Conroy is quite right to point out that Dr John White is a person who is trusted by the coalition government and who co-authored the Winter-White report—Don Winter was a former US secretary of the Navy—on naval shipbuilding. That report has been suppressed by the Australian government, despite Senate resolutions.

I just want to flag now, to let my friends in the government know, that I will be pursuing—including, if necessary, to the Administrative Appeals Tribunal, based on advice I have received in the last 24 hours—the fact that that report needs to be released. It needs to be made public and I cannot fathom how it could reasonably be taken to be cabinet-in-confidence, given some statements that were made at the time by the government that it was going to be released publicly. I think that calling it a cabinet-in-confidence document is itself an abuse of that exemption under freedom of information laws. But let us wait and see what the Information Commissioner and, indeed, the Administrative Appeals Tribunal may determine. I will fight that all the way, because it is in the public interest for that report to be released.

On 22 July, in Adelaide, the Senate Economics References Committee inquiry into the future of Australia's naval shipbuilding industry heard evidence from Dr John White, as Senator Conroy alluded to. Dr White is not only a confidant of the government, trusted by the government to do a report on naval shipbuilding; he was the man who turned around the Anzac frigate project in the 1990s. It was not going well; it was actually turning into a bit of a basket case. John White got in there and managed that project, a world-class shipbuilding project, and delivered those frigates on time and on budget—ships that all Australians can be proud of.

Dr White, in his capacity as chairman of TKMS Australia, said that if you build the submarines here you can maintain them here and sustain them, and the cost to Australian taxpayers will actually be lower overall. It beggars belief that the government is still toying with this concept of a process whereby submarines could be built anywhere other than in Australia.

Can I say that just last month I went to Japan. I want to express my gratitude to Australia’s high commissioner in Japan and also to the Japanese Ambassador to Australia for their tremendous assistance in arranging high-level meetings with Kawasaki Heavy Industries, Mitsubishi Heavy Industries, representatives from the Ministry of Defense, representatives from the Ministry of Economy, Trade and Industry where I made it very clear that, from an Australian perspective, particularly from the perspective of my constituents in South Australia and indeed of people around the country, it is absolutely imperative that the submarines be built here. I think that my Japanese hosts got the message loud and clear.

But I am also convinced that the Soryu class submarine, in any iteration, is no doubt a world-class submarine. The Japanese industry and the Japanese government, which I spoke
to, indicated that they were ready, willing and able to build submarines here in Australia. That, to me, is a very welcome development. The French and the Germans also build world-class submarines.

This motion—this amendment, rather. It is not a motion; it has much more weight than a motion. I direct these remarks to my crossbench colleagues—for instance Senator Muir, for whom I have enormous regard for his support for Australian industry and Australian manufacturing. To pass this amendment will put some rigour in the process. It will give the government so much less wriggle room to get out of doing what needs to be done, and that is an Australian build of our submarines.

We are already seeing the 'valley of death', where over 1,200 direct jobs have been lost in shipyards in New South Wales, Victoria and South Australia, with many more job losses predicted. We know what has happened in Williamstown. It was completely unnecessary. If you read between the lines of what BAE Systems are saying to Senate inquiries, they just cannot believe that a First World country with a first-tier Navy would even contemplate building supply ships overseas. The answers of Senator Brandis, representing the defence minister, to the questions I asked of him were sadly unsatisfactory, because it does not make sense that, where we are facing a crisis in our naval shipbuilding industry, we would think of exporting $2 billion worth of jobs overseas and not even allowing Australian industry to have a chance to tender for these two naval supply ships or even to be part of a hybrid build where at least hundreds of millions of dollars of shipbuilding activity could take place here. I find it extraordinary that a country with a first-tier Navy would actually exclude Australian manufacturers and shipbuilders from a tender process and that it has to go to either Spain or South Korea. That is outrageous.

That is why this amendment of Senator Conroy's is so important. It has been amended slightly from when it was first put up. This has been done appropriately by Senator Conroy to take into account the competitive evaluation process. It is an appropriate and worthy amendment. We need to support this, because not to support this amendment could well give the federal government the green light to walk away from an Australian build of our future submarines, and the consequences of that to our naval shipbuilding industry, particularly in Williamstown, in Newcastle and in my home state of South Australia, would be to send a very dangerous message to Australian industry that we are not going to go down this path where investment decisions will be made on the basis of whether we have a local build of our future submarines. So I urge my colleagues—my crossbench colleagues particularly—to support this very worthy amendment.

**Senator LUDLAM** (Western Australia—Co-Deputy Leader of the Australian Greens) (10:28): The debate this morning has largely focused on jobs and the economy, and it is being treated almost as a debate around industry policy—which is worth engaging in, but only up to a point. I will confine my comments largely to what it is that we would need this capability for and whether it is actually going to be fit for purpose for the time in which we imagine that these submarines would be deployed.

I understand perfectly well the reason why Senator Conroy has brought this amendment forward this morning and also why the debate has focused largely on treating defence policy as though it were industry policy. I think that is something of a mistake, but I also recognise that the South Australian economy is in desperate trouble. This came up yesterday, ironically
enough, when we were debating Senator Day's amendment on whether we should open the
doors to the nuclear industry. With the collapse of automotive manufacturing in South
Australia, the decision—which is now well and truly on the record—of BHP not to proceed
with the open-cut Olympic Dam operations at Roxby Downs and, indeed, the naval
shipbuilding industry, all three of those pillars of the South Australian economy that have
been relied on for decades are now called into question. The third one, the naval shipbuilding
industry, is one that parliament might actually be in a position to do something about.

We make boots here that we supply our ADF personnel with. We assemble and maintain
ASLAVs here in Australia. But we do not design and build our own jet aircraft, and nobody
serious in the Defence community really suggests that we should. Somewhere in the middle
of that spectrum is naval shipbuilding: should we do it here? Is it the most cost-effective use
of taxpayers' money if we are treating it not as industry policy but as defence policy? What is
our strategy? What is our doctrine for the defence of Australia? What kinds of capabilities do
we put together and assemble to carry out that strategy? Then the third order decision is: from
where do we get those capabilities? Do we make those things here? Do we buy them off the
shelf? Do we procure things off the shelf and then modify and sustain them here? That is the
way these things should be done. What we have here—and it is not entirely this government's
fault, in my view, because I would take this back to the 2009 defence white paper—is that
process running in reverse. It happened under the previous government and it is happening,
albeit in a rather more awkward and shambolic way, under this government. The tail is
wagging the dog—industry policy is setting defence procurement objectives from which flow
the strategy. In my view, that is precisely the wrong way to be going about it.

Nonetheless, we are an island continent. We depend for the vast majority of our trade on
safe access to sea lanes and the law of the sea. It is my view and the view of the Australian
Greens that we should maintain a shipbuilding industry here in Australia. The civil
shipbuilding industry has been practically wiped out, which really only leaves naval
shipbuilding—and we do have those shipyards in South Australia, Victoria and Western
Australia. We formed the view, setting aside those questions about what kinds of capab
ilities we should be putting together, that that industry is important and that it should be
maintained—not simply in the construction phase, obviously, but it is a part of what the
Australian Greens believe should be a more independent foreign policy and, indeed, a more
independent defence policy to be able to maintain our own equipment. There is no real
difficulty there.

I want to take us back to the 2009 defence white paper, because it feels to me as though we
are dealing here with Senator Conroy's motion, which is something of a blunt object. I
presume that will be part of Senator Abetz's point when he gets to his feet shortly. But we are
dealing with, in my view, a cascade of very poor decisions that have led us to this point today.
With the 2009 defence white paper Prime Minister Rudd, in line with his tendencies to follow
grandiose announcements by wandering off and losing interest and getting engaged with
something else, announced we were going to have 12 very large submarines that would cost X
billion dollars to build and X billion dollars to sustain, and that they would replace Collins.
We went through this process of having that decision effectively falling from a trapdoor in the
roof into the defence white paper—there will be 12 submarines, we are going to build them
here, we will now go through this process of assessing where they should come from. The
questions of why 12, why they should have to be so large and such long-range submarines, what role they would perform, what was actually happening, and what was effectively perceived to be occurring in submarine warfare in the 2030s and the 2040s—which is when these vessels would finally put to sea—were effectively just set aside and not spoken of. And everybody knew which way that process would go.

In my role on the Foreign Affairs, Defence and Trade Committee I was involved from the get-go in assessment. The government basically set up four options ranging from a completely off-the-shelf option where submarines would simply be purchased overseas but maintained here in Australia all the way through to a whole Australian build with the installation of the US combat system into them. Effectively, that was dubbed ‘the son of Collins’. Everybody who was involved and engaged in that process at the outset through those four different options knew which way the process was going to end—they effectively knew that the United States government would never permit the installation of US combat systems in a German or a French boat. Where it was heading was very obvious from the outset to those involved: we were going to end up with a process of 12 very large conventionally powered submarines built here in Australia, and a lot of the process of assessment around the outside was—I would not go quite so far as to call it a sham, but everybody knew where this process was heading.

Then we came to the 2013 election and then the slow-motion debacle that got underway with Prime Minister Abbott. You could say he was flat out lying—I do not know quite where the President would rule on that—or at least significantly misleading the—I will withdraw that if it is going to cause concern.

The CHAIRMAN: Yes, thank you, Senator Ludlam.

Senator LUDLAM: But let us effectively say the Prime Minister was promising the people of South Australia that that is where these boats were going to be built and sustained while actually having no such intention, or maybe simply forgetting that those comments had been made immediately after the election. That set off this desperately politicised process that has come to this point today.

Yes, we need an able shipbuilding industry in Australia, but what kinds of vessels and what role will they be performing? You do not have to look very far through the defence literature to find some very significant concerns about the kind of vessel that is proposed to be built. Why 12? Why so large? Why now? These are the questions that I want to put to you, and the most significant question—about what role these vessels will perform in the very near future—is being significantly undermined. The real risk we are creating here is that these vessels will be obsolete on the day that they put to sea.

A very recent paper by the US Center for Strategic and Budgetary Assessments—they are somewhat independent and are a little outside the formal arms of the US military—proposed that increasing computer processing power opens up the possibility 'to run sophisticated oceanographic models in real time' that will reveal small environmental changes caused by a submarine and that it may be that in the mid-2030s and 2040s it would be suicide to send a large diesel-powered submarine anywhere in the vicinity of a fight, particularly as a crewed vessel, as the kind of submarine capability that we are proposing to build here in Australia here in the mid—
Senator Edwards: You are proposing nuclear, are you?

Senator LUDLAM: I will come to nuclear, Senator Edwards; that is fine. I am sure you will address that in your contribution as well. The point I am making is not actually about propulsion. We could have a well-founded argument—through you, Chair—on whether they should be nuclear- or diesel-powered submarines.

The point I am putting to you is that these gigantic vessels, which are considered to be stealth submarines in 2015, by the mid-2020s, 2030s or 2040s you would not be able to put within hundreds of miles of combat because, by then, it seems increasing likely, as is happening in aviation, this will be the last generation of crewed vessels that put to sea. It will simply be too dangerous to put human beings in the line of fire in vessels such as those we are proposing to spend upwards of $50 billion procuring. So our argument is not necessarily whether or not we maintain a naval shipbuilding industry in Australia but that treating defence policy as industry policy is immensely dangerous. I think you could trace it back to the announcement by Prime Minister Rudd in the 2009 defence white paper—we are going to buy all these things, we are not going to budget for them, there will be 12 and they will be huge and that will be amazing. It overlooks developments and very rapid advancements in two key fields.

One development, as put out in the paper by the CSBA, is increasing computer processing power. The theory is that it may become possible, they say, to construct models that will detect vessels by observing minuscule surface changes caused by their underwater wake. That is about size; it is not about whether it is nuclear powered or conventionally powered. It is about the size of the vessel and the fact that, if you throw enough supercomputer power and enough remote sensing devices at these things, it would make the ocean effectively transparent. That is the theory. Yes, there is an arms race which has been going on probably for decades on detection of these vessels but nonetheless that is something we would want to be absolutely awake to.

Andrew Davies of the Australian Strategic Policy Institute has also noted the extraordinary implications of that spectacular growth of processing power. In 2033, which is at about the time these future submarines will be entering service, electronic devices will be a thousand times more powerful than those we use today and a million times more powerful than those used in 1993. Dr Davies says:

In principle, given enough processing power and enough sources of data, even low power signals can be extracted from background noise. And that’s where Moore’s Law and robots come in. Future processors will be faster and more powerful, and will be able to process large quantities of data fast enough to have a much better detection capability against quiet submarines or low radar signature aircraft. By having multiple sources of radar (or sonar) energy in different locations combined with multiple detectors also in different locations, the trick of reflecting radar away from the original source suddenly becomes much less effective.

Dr Davies' paper does not assume that that is all bad news for submariners but just that the kinds of vessels we build and deploy—if we continue down this road of arms races with other regional powers which, in itself, I suspect may be a grievous misallocation of resources—the boats that were fit for purpose in the 1980s or 1990s, which is what we appear to be about to plunge ahead and build, may well be a decision we significantly regret right at about the time these vessels are proposed to be put to sea.
The other key technological advance which potentially compromises the design of the vessels we are proposing to build is that of uncrewed or unmanned vessels, UUVs, which effectively would see the role of submarines relegated way behind the forward lines or areas in which we expect them to operate at the moment. Dr Davies says that the changes will make sneaking large submarines into contested spaces 'prohibitively difficult', which will potentially hurt the large Japanese submarines, the Soryus, just as badly as those Australia would be proposing to develop here.

The other question I would want to throw into the debate is whether these submarines are proposed for protecting Australia's territorial integrity or the sea lanes and approaches around Australia and, if so, why they are required to be such long-range vessels. Are these in fact designed to put an Australian capability into the South China Sea in the event of a conflict there? If so, we should not be pretending that these submarines are simply for defensive use and the protection of Australian maritime assets or the sea lanes and approaches around Australia and Indonesia.

Those are the sorts of questions which have been almost entirely missing from the debate as we rush to who can make the quickest jobs announcement in Adelaide. Of course jobs are important, but for $500 million of the $50 billion you could provide a rather extraordinary number of jobs in other sectors. Try to imagine that for $50 billion we could offer nearly 1.7 million people free university degrees. For $50 billion obviously we could wipe out the budget deficit and pay off a significant amount of debt but we could also provide 211,000 new homes in the middle of a housing affordability crisis or we could effectively invest to get the clean energy industry on its feet. To my mind, those opportunity costs are precisely what are being lost in this debate.

Finally, quite frequently lost in this debate are the opportunity costs of defence spending against all of the other things we could be putting these sorts of investments towards. It is only in defence policy where questions of industry protectionism simply go out the window. So all the Greens are asking is for the actual capability that we need to be at the front of the debate, not back of mind, rather than assuming that we need these submarines because of the decision made by Kevin Rudd in 2009. (Time expired)

Senator MADIGAN (Victoria) (10:43): I fully support an Australian build for our future submarines. I believe, however, a vote on this amendment to the Omnibus Repeal Day (Spring 2014) Bill will have no consequence as it stands, as the government will not pass this bill in the lower half. How about I suggest something novel here? How about practising statesmanship for once? How about putting Australia's jobs, our national interest and our security first for once? We are becoming the laughing stock of the world when we speak about our future submarine build. We require certain characteristics in our submarines that the Soryu class submarine does not have. There are many questions in this whole debate that require us to be states men and women and to have a deeper understanding of what we are talking about. How about putting people before politics? How about stopping the point scoring?

Australia's strategic interests are directly linked to being able to project our forces away from our shores. How about the fact that our submarines need to operate in the northern and southern hemispheres? How about the fact that there are different rates of corrosion in the ocean between the northern and southern hemispheres? There are all the technical areas that
are in this. How about looking at how we compare the quotes that are given to us? And how about government and the unions all working collaboratively for the benefit of Australia? This is such an important issue that people should put aside their politics and work in Australia's national interest.

 Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (10:45): I thank honourable senators for their contributions. Listeners to this debate would be forgiven for thinking that we were discussing a bill on the procurement of the next generation of submarines for Australia.

 In fact, we are debating a repeal bill to clean up our statute books and to remove redundant red tape—the Omnibus Repeal Day (Spring 2014) Bill 2014. That is what this bill is designed to do, to ensure that oppressive legislation, otiose legislation and dated legislation are removed from the statute books to ensure that business—especially our small businesses—can be relieved of a red-tape burden, get on with business and create the jobs that this nation so desperately needs.

 Instead of having a debate about the need to reduce red tape we have a stunt by Senator Conroy in moving an amendment. Can I simply say to Senator Conroy that decibels are never a substitute for a decent debate. The shouting of Senator Conroy usually confirms the paucity of his argument, and today was no exception. The consequences of Senator Conroy's amendment—and I will get into those—will be quite self-evident shortly.

 In relation to the Green's contribution, I must say that I often think I live in a parallel universe when I hear the Greens set themselves up as experts on matters of defence and defence procurement.

 Senator Whish-Wilson: Are we not entitled to an opinion?

 Senator ABETZ: I at least acknowledge the way in which they presented, as did the other senators—including Senator Xenophon and Senator Madigan.

 Can I say in response to Senator Madigan, who was the last speaker, that I happen to agree that Australia does become a laughing stock when this, the senior chamber of the Australian parliament, seeks to dictate defence procurement policy by tacking on an amendment to a bill dealing with the repeal of dated legislation and red tape. People around the world would say, 'Excuse me? Is this really the way the alternative government does business, that the Labor Party would move an amendment to such a bill to try to ventilate and force a particular type of procurement?'

 And the sad answer is that that is exactly the way the alternative government does business. Witness the NBN debacle, the pink batts debacle and the school halls debacle. Exactly the problems they got themselves into whilst in government would be repeated in the event that they were re-elected. In his very sensible contribution the honourable senator, Senator Madigan, also said to look at quotes and to do a bit of a comparison. Well, we have a competitive evaluation process. We are calling in bids.

 Isn't it interesting? Last time around, Senator Conroy said with his amendment that there had to be four bidders. And just in case colleagues are wondering about this, the last lot of Senator Conroy's amendments when this was around said, in clause 3:

 At least 4 bidders must be invited to participate in the limited tender.
Guess what? That has now been dropped. This is defence procurement on the run—slipshod, like he did the NBN, like Labor did pink batts and like they did school halls. It was a good idea at the time; now all of a sudden it is a bad idea. Just quietly remove it from the amendment and now we have a different amendment.

Just imagine if the government would have acted in December last year on Senator Conroy's amendment. We would now be here today with the Labor Party saying, 'Oh, the four bidders idea was no good. Why on earth did you go down that track?' This is why the Australian Labor Party cannot be taken seriously and that is why we as a government will not take them seriously.

Indeed, the amendment that is now before the chamber tells us in item 2:
The submarine design and building contract must not be entered into other than as the result of a limited tender …
Right? It has to be a limited tender. The next item tells us:
The future submarine project is taken not to be an exempt procurement …
If it is not to be an exempt procurement, it means it has to be an open procurement. So this is internally contradictory! Can you imagine defence companies around the world, scratching their heads and saying, 'If Senator Conroy were to become Minister for Defence we would be told it has to be an open tender and a limited tender all at the same time.' It is internally contradictory. They would be scratching their heads and asking, 'Oh, I wonder how this works?' And, of course, Senator Conroy would point them to the NBN, pink batts and school halls and say, 'That's exactly how it would work.' Debacle, after debacle, after debacle.

Can I say to honourable senators if the amendment were to become law it would compromise the existing competitive evaluation process to acquire submarines, a process that is consistent with the Commonwealth procurement rules under the relevant act. In addition, it would increase costs and delay completion of procurement risking a significant gap in Australia's submarine capability and increase regulatory burden by imposing specific tender requirements for a single piece of equipment conducted by a single department.

I have already pointed out the ad hoc nature of these amendments: they are internally inconsistent; they differ from Labor's procurement strategy in December last year. We have a different strategy now, in August. And—wait for it—there will be another strategy, I am sure, that will be announced in due course. But what Labor are demonstrating—and what Mr Shorten through his spokesman Senator Conroy is demonstrating—to Australian defence industries and to the French, German and Japanese competitors for the future submarine project is that they do not take these matters seriously.

Mr Shorten's legacy in Defence and his former Labor government was a cut of $16,000 million from Defence. As a result, defence industries shed 10 per cent of their workforce—and heading south—courtesy of Labor. So let's not have any crocodile tears about defence workers here. The valley of death that the shipbuilding industry faces in Australia is courtesy of Labor not doing anything during their six years. Who has now developed a long-term strategic plan to overcome that for the future, looking 20 years in advance? None other than the coalition government. Were people trying to bully, harass and harangue us into coming to an earlier decision? Yes, they were; but we took the time to plan and be methodical to ensure
that in the future the valley of death left to us by the Labor Party could be overcome, and now it will be overcome because of our policies.

In Labor's six years they made no progress—and I repeat that: no progress—on the future submarines that are to replace the existing Collins class. They did not order a single naval vessel from an Australian shipyard. They abandoned Australian shipbuilders. Yet here they come into this place pretending to be their champions. Their legacy of six years is: 'Do nothing'.

If we were to go down the track that Labor are suggesting, it would take another five years of planning—in other words, six years of doing nothing plus another five years—it would be an 11-year or in round figures a 10-year capability gap for our submarine capacity. That is why we have established a competitive evaluation process, to ensure that we get the best international design partner and the best submarine capability at the best price while avoiding that critical capability gap left to us by Mr Shorten and Senator Conroy.

The opposition's amendments would force the government to go to tender for the future submarines, yet on page 53 of the Foreign Affairs, Defence and Trade budget estimates Hansard from 1 July this year, Defence advised the committee—and Senator Conroy sits on this committee: 'Going to tender will take up to an additional five years'. And that is on top of the six years that have already been wasted during the Labor era. Put simply: the opposition is willing to risk the safety of our submariners and put maritime and national security at risk just so they can score a cheap political point.

Our competitive evaluation process requires the three potential partners to seek offshore onshore and hybrid build options as part of our competitive evaluation process. Australian industry involvement will be assessed as part of this process, and certain work will be conducted in Australia, regardless of the outcome. As TKMS chairman and respected submarine expert Dr John White said at the Senate economics committee recently, 'The prudent approach to such a major acquisition is to canvass the market and see what is available, including from overseas'. That is exactly what we are doing.

If the Senate were to adopt these amendments, it would delay the submarine acquisition process that is currently underway. It would generate significant corporate and sovereign risk for the current design partners. It could threaten their ongoing willingness to participate in our Future Submarine program, in which they have already made significant investments.

I indicate as well that my South Australian colleagues have of course been very strong supporters for building submarines in South Australia, but they will not be supporting a move that seeks to dictate the procurement process through a Senate stunt such as this. Their well-considered position on this has been put to the people of South Australia through their speeches through their statements and through the articles they have written. So any diminution or suggested lack of advocacy on their part—as claimed by Senator Conroy—is completely dismissed. Yet again Senator Conroy makes the false assertion in the face of the obvious facts. I say to Senator Conroy that mere repetition of false assertions does not obviate the need for evidence. And the evidence is there, courtesy of my South Australian colleagues, as to their advocacy.

Coming back to the matter at hand, this is a repeal bill to remove red tape and dated legislation from the statute books. In the past this has been a bipartisan process. But today we
have yet again seen that Labor under Mr Shorten will use any stunt to try to stymie the government's desire to: have good governance, remove red tape, help stimulate the economy, help create jobs and help grow the wealth of our nation so that we can look to a better future. All of that is jettisoned for the sake of a political stunt, suggesting that you can just tack on Defence submarine procurement, a multi, multi, multi-billion-dollar activity, as an amendment to a repeal bill dealing with dated legislation.

This is the way the Labor Party would do business. That is clear. Just witness the NBN, the pink batts and the school halls. And now they would repeat their mistake with Defence procurement. We as a government will not be part of that. We will be taking the responsible decisions. We will take the methodical, purposeful approach to ensure that we get the very best capability at the very best price with the most Australian content possible. I oppose the amendments put by the opposition.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (11:00): If I had taken the time to make a point of order on each and every point where Senator Abetz's contribution misled this chamber, I would have been on my feet constantly in that last 15 or 20 minutes, because almost nothing that Senator Abetz said about this amendment is true.

What this amendment does is recognise that the process has moved on and that it is too late, if we want to build our submarines, to avoid a capability gap that is now going to be acknowledged in the white paper. That is now the fault of this government for interfering in the processes and doing a deal with Japan to hand it over.

All this is saying—accepting that there is a process underway where each company is required to submit three bids, for a domestic build, a hybrid build and an overseas build—is: when it comes to the consideration in December of those three proposals, only consider the Australian builds. That is all the amendment says at its heart. Almost everything else that Senator Abetz raised, talked about and tried to introduce false information on was completely and utterly false and designed to confuse the debate in the chamber. When the facts do not suit, just create your own facts. That is the approach taken by this government. I do not want to hold the Senate up any more on this, but senators should not be fooled by that contribution by Senator Abetz. He got it completely wrong. This amendment does one simple thing at its core: when you get the three different types of bids from the three companies involved, only consider the Australian builds.

I urge senators to support what is best for this country, its defence needs and its capabilities and to support the shipbuilding industry in this country. As John White, lauded by Senator Abetz, said at the same Senate committee—and this should be the thing that every senator remembers—it is cheaper to build, maintain and sustain these submarines in Australia.

Any decision to build overseas will be a captain's pick—that this government made a promise to the Japanese Prime Minister and will roll over the good efforts of Senator Edwards and others in the coalition who recognise that the need for us to have an Australian shipbuilding capacity, as an island nation, is vital to this country's strategic and military interests.

The CHAIRMAN: The question before the chair is that the amendment moved by Senator Conroy on sheet 7749 be agreed to.

The committee divided. [11:08]
(The Chairman—Senator Marshall)

Ayes ...................... 34
Noes ...................... 30
Majority ............... 4

AYES

Bilyk, CL (teller) Brown, CL
Bullock, J W. Carr, KJ
Collins, JMA Conroy, SM
Dastyari, S Di Natale, R
Gallacher, AM Gallagher, KR
Hanson-Young, SC Lambie, J
Lazarus, GP Lines, S
Ludlam, S Ludwig, JW
Marshall, GM McAllister, J
McEwen, A McLucas, J
Moore, CM O‘Neill, DM
Polley, H Rhiannon, L
Rice, J Siewert, R
Singh, LM Sterle, G
Wang, Z Waters, LJ
Whish-Wilson, PS Wong, P
Wright, PL Xenophon, N

NOES

Abetz, E Back, CJ
Birmingham, SJ Bushby, DC
Canavan, M.J. Colbeck, R
Cormann, M Day, R J
Edwards, S Fawcett, DJ (teller)
Fierravanti-Wells, C Fifield, MP
Heffernan, W Johnston, D
Leyonhjelm, DE Lindgren, JM
Macdonald, ID McGrath, J
Nash, F O‘Sullivan, B
Payne, MA Reynolds, L
Ronaldson, M Ruston, A
Ryan, SM Scullion, NG
Seselja, Z Sinodinos, A
Smith, D Williams, IR

PAIRS

Cameron, DN Brandis, GH
Ketter, CR Cash, MC
Peris, N Bernardi, C
Urquhart, AE Parry, S

Question agreed to.

Senator McKenzie did not vote, to compensate for the vacancy caused by the resignation of Senator Milne.
The CHAIRMAN: The question now is that the committee not insist on amendment (7) with which the House has disagreed, and agrees to the new amendment moved by Senator Conroy in its place.

Question agreed to.

Resolution reported; report adopted.

**Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015**

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

**Senator McGrath** (Queensland) (11:13): It gives me great pleasure to speak on the Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015. The coalition government made a commitment to ensuring a safe and secure Australia because security is the highest priority of any government. This bill delivers on the coalition government's commitment to tackle crime and make our communities safer. By providing our law enforcement agencies with the tools and powers they need to do their job, and by ensuring Commonwealth laws are robust and effective, this bill reflects this coalition government's efforts to target criminals and reduce the heavy cost of crime for all Australians.

This bill contains a range of measures across various Commonwealth Acts. These include measures to: implement tough penalties for gun-related crime; increase the operation and effectiveness of serious drug and precursor offences; increase penalties for forced marriage offences; ensure our criminal offence regimes are robust and effective; and ensure efficient arrangements for administering criminal law and related provisions.

In this way, the coalition government is delivering on our commitment to tackle crime and keep our community safe. There are a number of schedules in this bill. I would like to focus on three in particular that I think are very important for Australia and for Queensland. Schedule 1, in relation to serious drug offences, improves the operation and effectiveness of the serious drug and precursor offences in part 9.1 of the Criminal Code Act 1995—the Criminal Code. These new laws make two key changes to Commonwealth drug and precursor offences so that it is easier to successfully prosecute individuals who are knowingly engaged in large-scale drug and precursor importations. First, the laws will ensure that it is simpler to prosecute individuals who evade punishment because they manage their involvement in a drug operation in such a way that the prosecution cannot prove they have the relevant level of knowledge. Secondly, the changes will simplify the offences for importing the chemicals used to manufacture illicit drugs.

In relation to the first point—making it easier to prosecute individuals for attempted drug offences—this change will ensure that the same burden of proof applies to cases involving an attempted drug offence and to cases where an accused actually committed the offence. Under this change, where a person attempts to commit a serious drug or precursor offence, the prosecution will only need to prove that the person knew there was a risk that the substance involved was an illicit drug. This will make it simpler to prosecute individuals who are part of a larger drug enterprise but who deliberately ignore obvious signs about how their actions fit into the broader scheme.
This amendment is particularly important where a controlled operation is used as part of the drug investigation. In controlled operations law enforcement agencies may substitute an illicit drug with an inert substance. This helps to protect the community, but it means that those involved can only be charged with attempted offences. In one case the police conducted a controlled operation to replace 80 kilograms of ice that was imported into Australia with an inert substance. The accused received the consignment and was subsequently charged with an attempt to import a border controlled drug. However, at trial the accused successfully exploited the greater onus of proof on the prosecution in attempt cases. The defendant argued that, while he knew he was importing something illegal, he believed that he was helping to import counterfeit money and cheating cards for use in casinos, not drugs. The defendant denied he knew that the consignment contained drugs or that he intended to import drugs and therefore could not be found guilty of an attempted importation offence. Had the controlled operation not occurred the prosecution would only have to prove that the accused was recklessly indifferent to the risk that the consignment contained illicit drugs. As this example demonstrates, legitimate actions of a law enforcement agency to reduce the potential harm from a drug importation should not make it more difficult to prosecute the people involved in the offence.

The second change in relation to the first schedule deals with importing precursor chemicals, which organised criminal gangs use in the production of illicit drugs like ice. Under the amendments, the prosecution will no longer have to prove that the importer intended to use these chemicals to produce illicit drugs or pass them on to a drug manufacturer for that purpose. It will be enough that the person imported a precursor without the appropriate authorisations. This change is intended to make sure our laws keep pace with the methodologies of drug traffickers. It will assist in prosecutions of persons involved in the importation of precursors but who deliberately avoid knowing their place in the larger criminal operation.

In one case, a drug syndicate arranged the importation of a large quantity of precursors into Australia. At trial the defence successfully argued that the accused was merely a middleman who only had responsibility for collecting the consignment and passing the chemicals on to someone else. The prosecution could not prove that the accused knew or believed that another person would use the precursor to manufacture a controlled drug. This extra element—the intent to manufacture—would have significantly improved the prosecutions chances of convicting the accused in this case. This change will not affect people who bring these chemicals into Australia with appropriate authorisations. These authorisations exist specifically to minimise the risk that precursors can be diverted into drug manufacture.

The next schedule that I wish to focus upon is in relation to forced marriage. This will expand the definition of forced marriage in the Criminal Code to include circumstances in which a victim does not freely and fully consent, because he or she is incapable of understanding the nature of a marriage ceremony. It will increase the penalties for the forced marriage offences in the criminal code to ensure they are commensurate with the most serious slavery related facilitation offences.

The coalition government is strongly against forced marriages. The effect of bringing these amendments in the parliament today will clarify what constitutes forced marriage and will increase penalties for conduct that causes a person to enter into a forced marriage. As a
consequence of the amendments a child under the age of 16 is presumed incapable of consenting to marriage. Any person who engages in conduct that causes a person who does not understand the marriage ceremony to enter a marriage, such as through arranging or officiating over the marriage of a child, may be committing an offence.

In addition, these changes, if successful, will increase the penalty for engaging in conduct to cause another person to enter into a forced marriage. The penalty for an aggravated forced marriage offence will be increased from a maximum of seven years imprisonment to a maximum of nine years imprisonment. The forced marriage offences are aggravated if the victim is under 18. The coalition government will also increase the maximum penalty for non-aggravated forced marriage offences from the existing four years to seven years imprisonment.

The criminalisation of forced marriage in Australia in 2013 signalled that forced marriage is never acceptable in our country. However, the criminal law must be supported by community measures to detect and prevent forced marriage. Forced marriage can be prevented, and with the right tools we can empower young men and young women to protect themselves and their friends and get help when needed. The government is also doing broader work to prevent forced marriage. The government has taken many steps to address and educate on the issue of forced marriage so it can be eradicated. The government has provided funding of over $485,000 over four years to prevent and address forced marriage by providing ongoing education. The government has launched the Forced Marriage Community Pack, which provides information and resources on forced marriage, and it has maintained the operation of specialised teams within the Australian Federal Police to investigate forced marriage.

And the government will take the further additional action of hosting a series of forced marriage workshops in each capital city throughout 2015. As part of the implementation of the National Action Plan to Combat Human Trafficking and Slavery 2015-19, the Attorney-General's Department has hosted these tailored workshops, which raise awareness of forced marriage amongst front-line officers and service providers in relevant government agencies, non-government organisations and civil society who are likely to come into contact with people in, or at risk of, a forced marriage.

The other schedule that I would like to focus on today is in relation to penalties for firearm-trafficking offences. This is quite important. The bill introduces mandatory minimum sentences of five years imprisonment for the offences of illegal importation of firearms and firearms parts into Australia and illegally moving firearms and firearms parts across borders within Australia. Mandatory minimum penalties send a strong message on the seriousness of gun-related crime and violence and act as a deterrent for criminals. The entry of even a small number of illegal firearms into the Australian community can have a significant impact on the threat posed by the illicit market, and, due to the enduring nature of firearms, a firearm can remain within that market for many years. Mandatory sentences will not apply to children and there is no minimum non-parole period. The offences preserve a level of judicial discretion to allow courts to take into account mitigating factors when setting the period offenders spend in custody. In the lead-up to the 2013 election, the coalition undertook to implement tougher penalties for gun-related crime. We are following through on that promise. The introduction of this penalty is appropriate to ensure that high-culpability offenders receive sentences
proportionate to the seriousness of their offending, while providing the courts with discretion to set custodial periods consistent with the particular circumstances of the offender and the offence.

They were the three schedules that I wished to focus on, but there are numerous other schedules in this bill. Schedule 5, for example, inserts into section 11.2 of the Criminal Code the concept of being 'knowingly concerned' in the commission of an offence as an additional form of secondary criminal liability.

Schedule 7 will rectify administrative inefficiencies, address certain legislative anomalies and clarify provisions in part 1B of the Crimes Act, relating to federal offenders.

Schedule 8, in relation to transfer of prisoners, will allow the interstate transfer of federal prisoners to occur at a location other than a prison.

Schedule 9 relates to the sharing of information relevant to federal offenders. It will facilitate information-sharing about federal offenders between the Attorney-General's Department and relevant third-party agencies.

Schedule 10 will amend the Anti-Money Laundering and Counter-Terrorism Financing Act to clarify and address enforceability issues and operational constraints identified by the Australian Transaction Reports and Analysis Centre, more commonly known as AUSTRAC.

Schedule 11 will allow the Integrity Commissioner to perform his or her functions more efficiently and effectively while improving the general operation of the Law Enforcement Integrity Commissioner Act 2006.

Schedule 12 will amend the Australian Crime Commission Act 2002 to improve the efficiency and effectiveness of Australian Crime Commission special operations and investigations.

Schedules 13 and 14 will amend the Proceeds of Crime Act to increase penalties for failing to comply with a production order or with a notice to a financial institution in a proceeds-of-crime investigation. Additionally, it will amend the Proceeds of Crime Act to address ambiguity in the provisions, streamline the appointment of proceeds-of-crime examiners and support the administration of confiscated assets by the Official Trustee.

Schedule 15 concerns state law enforcement agencies. This bill will give the Independent Commissioner Against Corruption of South Australia, whose office became operational in September 2013, the ability to access information from Commonwealth agencies consistently with other state anticorruption bodies. It will extend defences for certain Commonwealth telecommunications offences and give ICAC SA the ability to apply for certain types of search warrants. It will also update references to reflect the new name and titles associated with the Queensland Crime and Corruption Commission consequent to the Crime and Misconduct Commission Amendment Act 2014, Queensland, coming into force last year.

In relation to schedule 16 concerning controlled operations, the bill clarifies when a variation to a controlled operation would require deputy commissioner or commissioner approval, and clarifies that an authority for a controlled operation must not be varied if it would alter the criminal offences to which the controlled operation relates.

Schedule 17 concerns technical corrections that will amend two paragraphs in the Classification (Publications, Films and Computer Games) Act 1995 for consistency with
current Commonwealth drafting practices and to correct an amendment to the act made by the Classification (Publications, Films and Computer Games) Amendment (Classification Tools and Other Measures) Act 2014.

It is also important to touch on the views of the Senate Legal and Constitutional Affairs Legislation Committee, which is chaired by my Queensland colleague Senator Ian Macdonald, in its report on the bill that was tabled on 16 June 2015. The majority of the committee did not recommend any changes to the bill, but paragraph 2.74 of the report states:

The committee is grateful for the number of detailed submissions it received, noting the length and complexity of the Bill. It has considered the concerns raised by submitters, particularly relating to Schedules 1, 5 and 6 of the Bill. While the committee understands that some of these provisions may have some impact on an individual’s freedoms and liberties, the committee acknowledges that the government's first priority is to keep our nation safe. Recent events, such the Martin Place siege, have deeply affected the community and demonstrate that stronger laws to protect the community are needed. Paragraph 2.75 of the report further states:

The committee also notes the findings of the Australian Crime Commission in its Organised Crime in Australia 2015 report which demonstrate that ‘organised criminal gangs represent an ongoing threat to this country’ and are relying on new technologies to escape prosecution. The law must keep pace with modern technology and the way in which criminals operate. The committee notes that the majority of provisions contained in the Bill have been drafted at the request of the CDPP. The committee agrees that the passage of the Bill would remove impediments currently faced by the CDPP when prosecuting offenders for serious crimes. The proposed amendments would ensure that offenders are no longer being charged with offences that do not reflect their true level of criminality. The committee is of the view that overall both the minister and the department have provided sufficient justification for these measures. The committee therefore recommends that the Bill be passed.

The committee did recommend that the Commonwealth and state and territory governments consider reviewing underage sex offences to ensure there is consistency with the federal offences of forced marriage. This bill delivers on the coalition’s promise to deliver a stronger, safer and more secure Australia.

Senator BACK (Western Australia) (11:33): In this country, we are facing an epidemic; in fact, in the words of some people, a pandemic in relation to crystal methamphetamine, otherwise known as ice. It is for this reason that I speak strongly in support of the Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015. This bill will give our law enforcement agencies the tools and the powers they need to get on top of this, to do their job and to support their state colleagues. It will ensure that Commonwealth laws are robust and effective to target the criminals that we so desperately need them to do, and reduce the heavy cost of crime on all Australians and the heavy cost on law enforcement agencies. I want to focus on how this bill will increase the operation and effectiveness of serious drug and precursor offences. Let me give you the statistics.

Last year in 2014, it is estimated that 2.5 per cent of all Australians over the age of 14 years—that is half a million people—used methamphetamine. To put that into perspective against some of the other countries with whom we are compared, it is three to five times the estimated use by Americans, British and Canadians. Australia has one of the highest rates in the world of illicit methamphetamine use and certainly the highest amongst the developing nations. It is no moment of pride for me to state the fact that, unfortunately, Western Australia seems to be towards the top of that cohort.
In Victoria, the coroner's office reported that in 2010 one in every 25 drug-related deaths was due to crystal methamphetamine. But two years later, by 2012, that figure had changed from one in 25 to one in 10 deaths. Last September, *The Medical Journal of Australia* published a study by the Turning Point Alcohol and Drug Centre that showed there was a 318 per cent increase in hospitalisations from 2010-11 to 2011-12—one year—in Melbourne for ice problems. Whether that was an increase in the number of users or the greater purity of the available drug, the jury was out. That figure of a 318 per cent increase in a year surely points to the need for the powers that will be given in the crimes legislation amendment bill.

Nationally, we have had an increase in the use of this scourge of a drug by some 10 per cent. In a study conducted by the Institute of Criminology, police detainees in key areas around the nation—look at these figures because it is right across the states and territories—found that 61 per cent of those held in the Kings Cross police station in Sydney tested positive to amphetamine, as did 40 per cent in Brisbane and 43 per cent of those in the watch-house in Perth—and it does not get any better.

I made the comment that we are facing an epidemic, and it may indeed even be a pandemic. Let me quote from the acting CEO of the Australian Crime Commission, Paul Jevtovic. In the foreword of the *Illicit drug data report: 2012-13* released in April of last year, he wrote:

… with its relative accessibility, affordability and destructive side-effects, crystal methylamphetamine is emerging as a pandemic—

his words—

akin to the issue of ‘crack’ cocaine in the United States.

That is what we are facing in this country. We all know about it. We speak about it in this place, but of course it is personal. Only last week in this place did one of our colleagues speak about how personal it was to their family.

In our state of Western Australia we are blessed to have a very highly competent and highly respected police commissioner in Commissioner Karl O'Callaghan. Only last Friday did he speak publicly about the fact that his son Russell has been charged over yet another domestic incident in which he allegedly made threats to kill and held his former partner against her will for a two-day period.

Commissioner O'Callaghan speaks personally and with a high degree of grief about the journey of this son. He maintains close contact with him. It must be incredibly difficult for both, but he has the wisdom and the courage to speak publicly about this. These latest charges came after his son served eight months in jail for attempting to manufacture methamphetamines in 2011. This is the point that I want to make—and I am quoting from O'Callaghan in a press conference the other day. He said:

There’s always a chance that these things can happen—

that is, a return to the past—

and you live with the fact that it’s always two steps forward and one step back. It’s a long process. It might take a lifetime.

Obviously, when asked how his son was coping in prison, he said it is not easy.

As I look up into the chamber where we are joined today by young members, it reminds me of the fact that this is right across the entire spectrum of the community—older people,
middle-aged people, younger people and those who have never come into contact with drugs before. Why is it so? One, because we have got so much disposable income. I learnt from people who are knowledgeable in this space that the cost per unit, however it is sold, is the highest in Australia of any country in the world so therefore the market says: bring the product to Australia. Secondly, it is the ease with which it can be manufactured.

I heard from a person the other day who has a campervan. He drove it to a place called Green Head on our Western Australian mid-west coast and pulled up—he is a commercial photographer. Within minutes, a police car pulled up beside him so that he could not open his driver's door. He put the window down and said, 'What are you doing here?' They said, 'We want to do a licence check.' They did a licence check. He said, 'We're in the middle of nowhere. You've all of a sudden appeared. What's all this about?' They said that most of their work now is associated with trying to track down people who hire campervans, go to remote locations and use the campervan stove to actually manufacture their methamphetamine. If I have got one message to the young people here today, it is: don't try drugs.

Another point that was made by Commissioner O'Callaghan the other day—and, again, we see much of this in the media and we have even seen advertisements about it—is the fact that our hospital systems are being absolutely overrun by people affected with methamphetamine. I spelt out the figures a few moments ago, I think: a 300 per cent increase in hospitalisation. It is not just the hospitalisation—and I appeal to you young people, through you Madam Acting Deputy President O'Neill. As a veterinarian I have had the opportunity to see the impact of hallucinatory and stimulatory drugs on animals. I have, for example, experienced an instance where six people tried to hold a greyhound dog down. Inadvertently, it was given, as it turned out, a barbiturate anaesthetic. Greyhounds happen to be not sensitive to barbiturates—they are sensitive to them but they do not have the effect of anaesthesia. That dog was able to throw six adult men across the room simply because of the adverse effect of that drug.

We see in the hospitals not just the fact that these people overburden the hospital system but, with the aggression that comes from methamphetamine, that their whole behaviour changes. The level of aggression turns these people into monsters. We do not expect the hospital system, the nurses, the doctors, the orderlies or the attendants to have to put their lives at risk.

Again, only at the end of May this year Commissioner O'Callaghan, working with the Mental Health Commissioner and the relevant minister Helen Morton in our home state, formed a group—'clinicians will form front-line mental health teams, be given special police powers and join officers on the beat under a bold new plan that could be introduced within months'—to deal with people with mental illnesses, particularly those affected by methamphetamine.

It is easily available. It is easily manufactured. The precursors—pseudoephedrine—is available in pharmacies all over the place used in medications to support people with colds and flu. It is easily available, and we have a community of people who seem, for whatever reason, to be willing to try these psychotic drugs and then become addicted to them. Anybody who wants to read the instances of people—I read a story in the last couple of days: a young female journalist here in Australia decided the best way of getting a story was to actually expose herself to methamphetamine. She became addicted, and it is a very, very sobering story.
The personal costs are absolutely horrendous because, if people think that they can try this stuff once and walk away from it, history tells us they cannot. They will end up being a statistic. It will be personal, as it is in so many families in Australia.

My colleague Senator McGrath has already detailed some of the elements of the bill as they relate to serious drug and precursor offences. I focus on precursors because we know the law at the moment is such that, if an incoming supply of this product is intercepted by the police, they can remove the actual active chemical, they can replace it with an inert substance, and—I will not repeat, for purposes of time, Senator McGrath's comments—in courts of law people have been able to get off the more serious charges because when the inert material is presented the defence have said, 'Oh, that person possibly couldn't have known what was involved.' I point to a section of the bill headed 'Knowingly concerned' because it is relevant to this area. The bill will make sure that there are sufficient prosecuting options in Commonwealth criminal law by making those who are 'knowingly concerned' in the commission of an offence liable for their involvement. It will ensure that people who actively participate in crime who cannot currently be held liable for it, because they do not fit neatly into categories of liability, can nonetheless be prosecuted. It is directly relevant to the area about which I am speaking. The concept of 'knowingly concerned' was previously in the Crimes Act but was not carried over to the Criminal Code in the 1990s. Its absence has since attracted judicial comment, and—this is relevant—the Commonwealth Director of Public Prosecutions has found its absence has hindered prosecutions, often making them more complex, less certain and, in those instances presented by my colleague Senator McGrath, where hung juries have meant that these people have otherwise been found not guilty.

There are other very worthy elements to the bill: gun-related crime, forced marriage offences, and issues associated with the tackling of crime and the keeping of our community safe. But in my contribution today I wanted to focus on this absolutely evil epidemic becoming a pandemic affecting everyone across every socioeconomic status. It does not matter where people sit in age and it does not matter where people sit in terms of their own family circumstances. It is a scourge. It is national and it needs leadership in the federal sphere. I urge for that purpose alone that my colleagues support the Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015.

Senator LINDGREN (Queensland) (11:47): I rise to speak on the Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015. This bill strengthens our existing laws and law enforcement to further protect Australians. Increasing powers of law enforcement is no small matter. It has to be measured, relevant and have a minimal impact on the day-to-day lives of ordinary, law-abiding Australians but must reach deep into those who seek to commit crime. To that end, Australia's commitment to human rights has been considered every step of the way and I am pleased to note that there is minimal impact if any.

We have also considered in a general sense the impact on the efficiency of law-enforcement agencies. These agencies are publicly funded organisation where the people of Australia have a right to expect the highest standard and efficiency. This bill will increase the ability to fight crime and give the people of Australia greater value for their tax dollar. Little things such as the transfer of a federal prisoner have had to take place at a prison and not at an airport, police station or other places of convenience. This has been corrected to allow for more efficiency and better spent tax dollars. It is far-reaching and takes into account the
events in today's world. It is sad but necessary to update war crimes to take into account non-international armed conflict—in other words, what we are now seeing in Syria. We must stand in the international world and act as a civilised nation, extending our laws to deal with outrages on personal dignity. I need not remind everybody here of what we are seeing on TV of the atrocities against people in the Middle East. As they reach out to us, we will reach out with our laws so that anybody who thinks that they can go out and contribute to these outrages with impunity will need to think again.

This bill also tackles money laundering and counter-terrorism to address enforceability and operational constraints, again making our investment in crime more efficient and not creating any onerous impost on our citizens. Today we have to tackle the black market on illegal weapons and also the grey market. The grey market is weapons that could be legally owned but have disappeared into a grey area, and we risk losing sight of them. Firearms are designed for one purpose: to kill. To treat them as anything less is a mistake.

This legislation does not take away any rights or make it harder for anyone to legally own a firearm or weapon. It merely serves to increase the punishment of those who break the law and as a deterrent to those who are considering breaking the law. No person acting legally has anything to fear. It strengthens our drug laws to prevent precursor materials being brought into Australia and to prevent illegal drugs being manufactured. Many of the ingredients are common and have legal usage, but it is illegal to use them in this way, and we must prevent it. We simply cannot let this pass us by and leave it to the state agencies to deal with once it has been made into an illegal substance. This adds another weapon into the nation's fight against drug use and the subsequent negative effects on our society.

This bill will prevent people belonging to an organisation involved in crime knowing what is occurring but, as long as they have taken no active part, not being responsible. They can no longer hide behind the defences of: 'But I didn't do anything active. Yes, I knew,' and, 'Yes I belong, but I did not actively participate.'

There are stronger enforcement laws on forced marriage aimed not at any culture but to protect those who cannot protect themselves, regardless of their background. It is to protect children and those without the capacity to fully understand what marriage means; just because they agreed does not mean they were not capable of making an informed decision. It makes the penalties commensurate with slavery-like offences.

As federal offences are heard in state courts and offenders dealt with in the state justice and corrections systems, we need to be able to share information with them for better management of offenders. It is no small impost we ask of the states, so therefore the federal government needs to make state activities undertaken on our behalf as easy and efficient as possible and as safe as possible for state employees. Consider not being able to inform a state corrections system of a violent offender or an offender with mental health issues. In that situation, we put corrections officers at risk.

Some of this legislation addresses the Law Enforce Integrity Commissioner overview of the law enforcement agencies. The LEIC has the important role of maintaining public confidence in law enforcement agencies, but must do this with a balance that does not unnecessarily hinder their operations and assures personal liberties are not unduly hindered. It is a balance that is achieved with these amendments. The nondisclosure sections of not giving updates or outcomes to a complainant are not to be taken lightly nor used to shield senior
officers—as in my home state of Queensland. They are there to maintain the operational integrity of the law enforcement agencies and the LEIC. This is no small measure and was not considered lightly in gaining that balance on detecting and preventing crime and the right to know.

In all, this is a well-considered bill which will enhance our law enforcement agencies in Australia, and I fully support this bill.

Senator FIERRAVANTI-WELLS (New South Wales—Parliamentary Secretary to the Attorney-General and Parliamentary Secretary to the Minister for Social Services) (11:53): I thank those senators who have contributed to the debate on the Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015. This bill delivers on the government's continuing commitment to implement tough and effective measures to assist in the fight against crime. The measures in this bill will help make our streets, homes and communities safer. Fighting and preventing criminal activity is a key priority for this government since only safe communities can become safe, strong and prosperous.

I will now take the opportunity to address some of the key points raised during the debate. Firstly, I will deal with the matters raised by Senator Collins and Senator Wright in relation to schedules 5 and 6. They have indicated that they will move amendments in relation to the insertion of the provision of 'knowingly concerned' and in relation to mandatory minimum sentences. Firstly, schedule 5 of the bill would make it an offence to be knowingly concerned in the commission of a criminal offence. In its dissenting report to the Legal and Constitutional Affairs Committee, the opposition noted the importance of ensuring that the Commonwealth Director of Public Prosecutions has the powers it needs to conduct effective prosecutions. The 'knowingly concerned' measure is designed to achieve this very purpose.

The concept of 'knowingly concerned' was previously included in the Crimes Act but was not carried over to the Criminal Code when it was drafted in the 1990s. The bill will support our law enforcement agencies by ensuring that people who knowingly support and enable crimes like importation of illegal drugs, fraud and insider trading, are held responsible despite the fact that they were not the person taking delivery of the drug, handing over the money or forging the signature.

So why is this necessary? I particularly want to address your concerns, Senator Wright, when you stated that the government has failed to justify the introduction of 'knowingly concerned' as a form of secondary criminal liability. The introduction of 'knowingly concerned' is in direct response to the operational constraints identified during prosecutions since the introduction of the Criminal Code in 1995. These impediments have been noted by members of the judiciary—most notably, Justice Weinberg in Campbell against the Queen 2008. Knowingly concerned will apply in the same manner as existing forms of criminal liability contained in section 11.2 of the code. However, because a charge of knowingly concerned focuses solely on the facts and evidence of an accused's actions in relation to an office, it avoids some of the technicalities associated with establishing aid, abet, counsel and procure formulations.

These technicalities include the need to establish a relationship between the accused and a principal offender to prove that the accused jointly commissioned an offence with, conspired with, aided, abetted, counselled or procured the principal offender; prove that the conduct occurred at a particular point in time—that is, prior to the commission of the offence for
counsel and procure, or during it for aid and abet; and/or adduce and rely upon evidence of co-offenders. For this reason, the concept may be clearer to investigators, lawyers, judges and juries. The reinsertion of 'knowingly concerned' will overcome the above difficulties, reduce the complexity of prosecutions and reduce the cost of federal criminal law enforcement. A further advantage is that the concept is flexible and adaptable to changing technology and offending methodology—both of which enable criminal offenders to involve themselves in crimes in ways that are increasingly disconnected from the immediate aspects of the offence.

In your contribution, Senator Wright, you provided examples of conduct which you claimed could be covered by the proposed insertion of 'knowingly concerned'. With respect, these demonstrate a fundamental misunderstanding about the concept. As the explanatory memorandum to the bill explains—and as the minister explained in his second reading speech in the other place—'knowingly concerned' is not intended to capture innocent associations with people who may turn out to be criminals. A person must have been intentionally involved in the commission of an offence to be guilty of being knowingly concerned in it. Mere knowledge or concern about the offence is insufficient. For example, a father who discovered that his son was involved in drug importation would not be considered to be knowingly concerned in that importation simply as a result of that knowledge. Senator Wright, you provided examples, including a family member who comforts a terminally ill patient who takes a suicide pill and the case of a journalist who goes undercover to investigate criminal activity. These instances would not be covered by the concept of knowingly concerned unless the person was intentionally involved in the commission of an offence.

Senator Wright, you also provided an example of an undercover police officer infiltrating a criminal organisation. There is a legislated regime in the Crimes Act which provides law enforcement with the ability to conduct covert undercover operations and provides protection from criminal responsibility for conduct engaged in the course of or for the purposes of the operations. Controlled operations are an important law enforcement tool, particularly in relation to the investigation of drug importation.

In her speech, Senator Collins stated that the government had failed to adequately consult stakeholders, including states and territories, about the introduction of 'knowingly concerned'. The key purpose of the bill is to improve the operation and effectiveness of Commonwealth criminal law and arrangements. In light of this, the bill was primarily informed by advice from operational law enforcement agencies. The Attorney-General's Department works with these agencies on an ongoing basis to monitor emerging crime trends, to assess the effectiveness of current arrangements and to identify and address operational gaps. The Attorney-General's Department also meets with stakeholders and relevant professional bodies where required. For example, on 12 March 2015 the department met with the Law Council of Australia to provide them with an overview of the bill, based on the measures that were included on the public list. This bill has been made available for public scrutiny through the parliamentary process, including through the public submission process conducted by the committee. The Commonwealth develops criminal offences with due consideration to constitutional divisions of responsibility between the Commonwealth and the states. Where appropriate, the Commonwealth consults state and territory governments on proposed reforms as appropriate through existing mechanisms such as Law, Crime and Community Safety Council meetings, associated officer-level forums and correspondence between justice
ministers. However, the Commonwealth does not routinely consult states and territories on its criminal laws, just as states and territories do not consult the Commonwealth on their laws.

Both Senator Collins and Senator Wright have suggested that the 'knowingly concerned' measure is uncertain in its scope and application. The measure would be inserted into section 11.2 of the Criminal Code and would apply in the same manner as the existing forms of secondary criminal liability—namely measures which would make it illegal to aid, abet, counsel or procure an offence. In order to be guilty of being knowingly concerned in the commission of an offence, the person must have intentionally involved themselves in the commission of the offence. As I have stated earlier, 'knowingly concerned' is not intended to capture situations where a person innocently or unknowingly participates in a crime or associates with an offender. While 'knowingly concerned' has not been part of the Criminal Code in recent times, it has a significant history in federal legislation and currently forms part of the ACT's Criminal Code. This means that there is a large body of case law for prosecutors and the courts to draw upon when assessing new cases under this provision.

In your speech, Senator Wright, you stated that introducing the concept of 'knowingly concerned' may make it harder, not easier, to gather evidence and successfully prosecute those involved in criminal activity. However, as you would be aware, the Commonwealth Director of Public Prosecutions, Mr Robert Bromwich SC, advised the Senate Legal and Constitutional Affairs Legislation Committee that the absence of 'knowingly concerned' is a significant impediment to the effective investigation and prosecution of key individuals involved in serious criminal activity—particularly those who have organised their participation so as to be disconnected from the most immediate physical aspects of the offence.

Critics of this measure have also argued against it on the basis that the Model Criminal Law Officers Committee, which was established in the 1990s to develop a model criminal code for all jurisdictions, did not support it. The majority of jurisdictions have not adopted the model code or even enacted reforms to the principles of criminal responsibility that ministers agreed to over a decade ago. In addition, the extension of liability is generally more applicable to Commonwealth offences such as fraud and drug importation. Nevertheless, the Commonwealth has endeavoured to ensure that its criminal code is as consistent as possible with the model code. However, the committee's historical decision to omit 'knowingly concerned' from the model code should not prevent the government from making important reforms to matters within its jurisdiction where an operational need exists. In this case there is a clear indication from Commonwealth enforcement and prosecutorial agencies that, in practice at the Commonwealth level, the absence of a provision for 'knowingly concerned' is a deficiency.

I now turn to firearm trafficking in schedule 6. The bill will impose tough mandatory minimum penalties for firearm trafficking and the supply of firearms and firearm parts to the illicit market. These measures will ensure that the punishments for these serious offences are commensurate with the threat to Australian society posed by gun-related crime. The entry of even a small number of illegal firearms into the Australian community can have a significant impact on the threat posed by the illicit market and, due to the enduring nature of firearms, a firearm can remain within that market for many years. Regardless of the number of articles they have trafficked, it is necessary to put in place substantial penalties on all trafficking offenders with the aim of preventing even one more firearm from entering the illicit market.
Senator Wright is concerned that the discretion of the court would be removed by the imposition of mandatory minimum penalties. The government considers that the establishment of a mandatory minimum penalty is an appropriate deterrent and punishment for firearms trafficking. However, it also recognises and respects the importance of preserving a court's discretion in sentencing. The absence of a nonparole period will allow courts to take into account factors such as cognitive impairment, the public interest and the broader circumstances of the offence when setting the period offenders will spend in custody. Therefore, the actual time a person is incarcerated for will be entirely at the discretion of the sentencing judge and will not be disproportionate to an individual offence.

I now turn to some comments in relation to Senator Lazarus's proposed amendment. The government are happy to have a conversation about increased penalties, but we also need to think seriously about any policy implications. We believe that a mandatory minimum sentence of five years will act as a strong deterrent for those who would otherwise engage in illegal firearm trafficking. This policy has been thought through and formulated in conjunction with our state opposition. We believe that it is important to prevent these crimes. What we are offering is a preventive measure, not a cure. The government are open to any measures that will stop illegal guns at the border, but we need to think about the ramifications of quickly moving through an amendment without consulting with our law enforcement agencies, our prosecution agencies and the states and territories. We need to ask: will this amendment have a perverse effect? Will it result in more drawn out and expensive prosecutions where defendants are running to the most expensive senior counsel and will do all they can to avoid prosecution and a possible jail term of 20 years? Will more time be wasted in litigation appealing sentences? Will it mean, in fact, that fewer criminals end up being behind bars? How will these penalties for this offence affect sentencing in other criminal offences? These considerations are important, and we should consult on them through the Law, Crime and Community Safety Council and the Firearms and Weapons Policy Working Group.

The government committed at the last election to encourage states and territories to adopt higher and mandatory penalties to combat illegal gun possession. We should aim for consistency across Australia in the way we deal with illegal possession. Mandatory minimum sentences send a strong message to criminals: try to smuggle illegal guns and you will get caught. The government is prepared to have a conversation about increased penalties as well, but that conversation should involve proper consultation and consideration of its implications.

This bill makes a range of important amendments to combat serious criminal activity, to support our law-enforcement and prosecution agencies and to ensure that the Commonwealth criminal laws remain comprehensive and up to date.

In addition to the measures I have just discussed, the bill will improve the operation of the serious drug and precursor offences in the Criminal Code. These amendments will support the government's response to the growing problem of ice and the widespread devastation and destruction it causes. The amendments will improve our ability to bring to justice those who seek to profit from and propagate the trade in illicit drugs and will ensure that they face severe punishments for their crimes.

This government is committed to protecting the most vulnerable in our society. The bill will clearly demonstrate this commitment by increasing the penalties for forced marriage...
offences and by expanding the definition of 'forced marriage' in the Criminal Code. These amendments will assist authorities to protect potential victims and will punish offenders appropriately for this insidious crime.

The bill will also strengthen Australia's war crimes regime by simplifying and clarifying war crimes offences relating to violations of dignity of deceased persons in non-international conflict zones. These amendments support Australia's international obligations and reflect our strong commitment to hold those responsible for atrocities in conflict zones to account.

The bill will also enhance the offensive 'foreign bribery' to clarify that it is not necessary to prove that the accused intended to bribe a particular foreign official. This technical amendment reflects the government's commitment to stamping out foreign bribery and will strengthen Australia's compliance with international laws. The bill also contains a range of measures that reflect the government's ongoing commitment to supporting law enforcement agencies and providing them with effective and appropriate tools and powers.

In conclusion, the bill delivers on the government's continuing commitment to tackle crime and to make our communities safer. By providing our law enforcement agencies with the tools and powers they need to do their jobs and by ensuring Commonwealth laws are robust and effective, this bill reflects the government's unwavering efforts to target criminals and to reduce the heavy cost of crime for all Australians.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator WRIGHT (South Australia) (12:10): The Australian Greens oppose schedule 5 in the following terms:

(1) Schedule 5, page 10 (lines 1 to 26), to be opposed.

The Australian Greens share the strong concerns raised by the Law Council of Australia and others about the introduction of a new form of extended criminal liability into the Commonwealth Criminal Code. Schedule 5 would amend the Criminal Code to insert the concept of 'knowingly concerned' as an additional form of secondary criminal liability into section 11.2. That would mean that where persons are knowingly concerned in the commission of an offence under the Criminal Code and the Crimes Act they would be liable for the offence. The problem with this change is that it adds a new category of criminal liability to an already extensive secondary liability regime under the Criminal Code. The existing regime already makes it an offence to attempt or to aid and abet or to conspire with another to commit an offence. The concept of 'knowingly concerned' was specifically considered and rejected twice as a form of secondary liability when the Criminal Code was being delivered.

In her wrap-up of the bill, Senator Fierravanti-Wells tried to assuage concerns I had raised about the amorphous nature of adding this concept and said that there would be a requirement to have intentionally participated in the commission of the offence, but that begs the question why then they could not be prosecuted under an existing category of criminal liability such as conspiracy or aiding and abetting. From a human rights and rule of law perspective, we should always set a high hurdle of necessity before sweeping new forms of criminal liability
are introduced to Australia. In this case, legal commentators overwhelmingly agree the government has not come even close to justifying why we need this new concept of 'knowingly concerned' or what it would actually add in practical terms to the existing extended liability provisions in the Criminal Code. For these reasons, the Australian Greens do not support the changes to introduce the concept of 'knowingly concerned' as a general principle of criminal responsibility and this amendment would remove schedule 5 from the bill.

**Senator JACINTA COLLINS (Victoria) (12:13):** As senators will see on the running sheet, this amendment is identical to opposition amendment (1) on sheet 7743. So obviously we support this amendment. As indicated in my second reading contribution, not only has the government failed to engage with stakeholders with regard to these amendments but also it has failed to justify the need for an additional form of secondary criminal liability to apply to all offences in the Criminal Code. We have heard some arguments about particular matters, particular issues or about certain areas but nothing that justifies the blanket application of this vague legal concept, we have been told, with respect to 'knowingly concerned'. The government has highlighted particular categories offence where the concept of 'knowingly concerned' is required including drug and drug importation offences and insider trading of fences. However, all of the offences identified have already been drafted in a way that address the concerns raised without the need to include 'knowingly concerned'.

Labor believes that the proposed change in relation to the introduction of 'knowingly concerned' is a major change to the Criminal Code and that, as such, there is a process that needs to be followed. Leading up to the adoption of the Model Criminal Code in 1995 there was a long consultation. The consultation occupied some years and included some of Australia's leading criminal practitioners. There ought to be a full consultation in relation to any proposed general change to the Model Criminal Code. As the Australian Human Rights Commission noted in its submission to the Senate committee:

… it is difficult to anticipate the impact of extending this form of liability to all offences.

Labor does not oppose the introduction of the element of 'knowingly concerned' in relation to individual offences in appropriate cases. Indeed, this has already occurred in relation to a number of offences in Commonwealth legislation. We would suggest that the government proceed with that approach, rather than an attempt at a blanket change without consultation and with processes that are appropriate to the Model Criminal Code.

**Senator FIERRAVANTI-WELLS (New South Wales—Parliamentary Secretary to the Attorney-General and Parliamentary Secretary to the Minister for Social Services) (12:15):** As I indicated previously, the concept of 'knowingly concerned' was included previously in the Crimes Act but was not carried over to the Criminal Code when it was drafted in the 1990s. It has been made very clear by the Commonwealth Director of Public Prosecutions that the absence of 'knowingly concerned' has since become a significant impediment to the effective investigation and prosecution of individuals who have intentionally involved themselves in crime but who are disconnected from the physical aspects of an offence.

These issues are exacerbated because modern technology allows offenders to participate in crime in increasingly remote ways—for example, by engaging with co-offenders or by conducting offences online. The Commonwealth Director of Public Prosecutions has advised...
that 'knowingly concerned' would be particularly helpful in prosecuting serious and organised criminal activity.

The bill supports our law enforcement agencies by ensuring that people who knowingly support and enable crimes like the importation of illegal drugs, fraud and insider trading can be held responsible, despite the fact that they were not the person who was taking delivery of the drugs, handing over the money or forging the signature and thereby using the provisions to obtain lesser sentences.

The CHAIRMAN: The question is that schedule 5 stand as printed.

The committee divided. [12:22]

(The Chairman—Senator Marshall)

Ayes .................... 30
Noes .................... 31
Majority ............... 1

AYES

Back, CJ
Birmingham, SJ
Canavan, M.J. (teller)
Colbeck, R
Fawcett, DJ
Fifield, MP
Johnston, D
Lazarus, GP
Macdonald, ID
Nash, F
Reynolds, L
Ruston, A
Seselja, Z
Smith, D
Williams, JR

Bernardi, C
Brandis, GH
Cash, MC
Edwards, S
Ferravanti-Wells, C
Heffernan, W
Lambie, J
Lindgren, JM
McGrath, J
Payne, MA
Ronaldson, M
Ryan, SM
Smidinos, A
Wang, Z
Xenophon, N

NOES

Brown, CL
Cameron, DN
Collins, JMA
Dastyari, S
Gallacher, AM
Hanson-Young, SC
Leyonhjelm, DE
Ludlam, S
Marshall, GM
McEwen, A
Moore, CM
O'Neill, DM
Rice, J
Singh, LM
Waters, LJ
Wright, PL

Bullock, J.W.
Carr, KJ
Conroy, SM
Di Natale, R
Gallagher, KR
Ketter, CR
Lines, S
Madigan, J
McAllister, J
Muir, R
Polley, H
Sievert, R
Uroqhart, AE (teller)
Whish-Wilson, PS
Question negatived.

Senator Cormann did not vote, to compensate for the vacancy caused by the resignation of Senator Milne.

Senator LAZARUS (Queensland) (12:24): I move the amendment on sheet 7748 regarding penalties for firearms trafficking:

(1) Schedule 6, items 1 to 3, page 11 (lines 5 to 23), omit the items, substitute:

1 Subsection 360.3(1) (penalty)
Repeal the penalty, substitute:

Penalty: Imprisonment for 20 years or a fine of 5,000 penalty units, or both.

The amendment does several things. Firstly, it alters schedule 6 to remove mandatory minimum sentencing of five years for cross-border firearms trafficking offences. Secondly, it strengthens the penalties associated with these offences from 10 years to 20 years. I believe my amendment strikes an important balance between maintaining the role of the courts in the consideration of penalties for cross-border firearms trafficking offences and increasing the suite of penalty tools available to the courts in sentencing associated with these offences.

Mandatory sentencing removes the ability of our judges to take into account the unique circumstances surrounding each offence before rendering a conviction and issuing a sentence. Taking the consideration and application of penalties out of the hands of the courts and putting them into the hands of politicians is dangerous, irresponsible and in direct conflict with the spirit of the Constitution. It is for these reasons that I have put forward my amendment, and I commend this amendment to the Senate.

Senator WRIGHT (South Australia) (12:26): I want to indicate that the Australian Greens will not be supporting this amendment, which aims to raise the maximum penalty for the particular offence to 20 years imprisonment. This would make this penalty much higher and inconsistent with analogous offences under other Commonwealth or state laws—for instance, under the New South Wales Crimes Act threatening violence with a firearm has a maximum penalty of 10 years; stealing a firearm has a maximum penalty of 14 years. There is no evidence at this stage before the Australian Greens or from the Attorney-General's Department or others that the existing maximum is insufficient to achieve the outcome that is desired. If the maximum penalty does need revision, then it is a strong maxim of the Australian Greens that that should be done carefully, based on a more holistic review and not just doubling the penalty because it seems like a good idea.

Senator JACINTA COLLINS (Victoria) (12:27): Labor will be supporting these amendments. The Abbott government has continued to accuse Labor of not putting up a fight against organised crime because of our successful amendments to the Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014 which removed
mandatory minimum sentencing for the trafficking of firearms into Australia, and this simply is not the case.

Back in 2012, Labor introduced legislation that would have increased the maximum penalty for firearm trafficking to life imprisonment. That would have made it the same as the maximum penalty for drug trafficking, and our position in this case is consistent with that position taken in 2012. While Labor supports the government's intentions to protect the community from gun related violence, we urge the Abbott government to adopt a similar sentencing regime in relation to the proposed firearms trafficking offences. This would send a strong message to serious criminals but avoid the issues associated with mandatory minimum sentences.

The Australian Labor Party maintains its position that the introduction of mandatory minimum sentences for those convicted of firearm trafficking offences should be avoided. We note that the provisions have already been considered and rejected by this parliament, and that the government has failed to justify the need for such provisions.

The Senate Legal and Constitutional Affairs Committee received evidence from a number of submitters who strongly oppose the introduction of these amendments. The Law Council of Australia referred to a number of unintended consequences of mandatory sentencing, which include undermining the community's confidence in the judiciary and the criminal justice system as a whole. For Senator Brandis's benefit—although he is not in the chamber at the moment—I should perhaps reiterate that point: the Law Council of Australia were concerned that this approach would undermine the community's confidence in the judiciary, one of Senator Brandis's principle concerns.

The Australian Human Rights Commission noted that these amendments give rise to the potential for injustices to occur, and run counter to the fundamental principle that punishment should fit the crime. We also note the concerns previously raised by state prosecutors who believe that these provisions can lead to unjust results and impose a significant burden on the justice system. In the committee hearings I questioned the DPP and asked, 'Can you not find some justification for this?' And really all they could allude to was that it was government policy, with no justification.

While there is no evidence that mandatory sentencing laws have a deterrent effect, there is clear evidence that they can result in injustice because they remove the discretion of a judge to take into account particular circumstances that may result in unintended consequences. In addition, mandatory sentencing removes any incentive for defendants to plead guilty, leading to longer, more contested and more costly trials.

Labor supports the intention to protect the community from gun-related violence. We do not support the introduction of mandatory minimum sentences. While there is no evidence that mandatory sentencing laws have a deterrent effect, there is clear evidence that they can result in injustice because they remove the judge's discretion. We have consistently urged the government to replace the imposition of mandatory minimum sentences for firearm-trafficking offences with increased penalty provisions, with particular reference to the reforms proposed by Labor back in 2012.

Senator Lazarus's proposal to increase the maximum penalty for firearms to 20 years does send a strong message to serious criminals but also avoids the issues associated with
mandatory minimum sentences. The proposal is consistent with the most serious firearm offences in most states and territories, and for these reasons we will support Senator Lazarus's amendment.

Senator XENOPHON (South Australia) (12:31): I support Senator Lazarus's amendment, and I did support the government in terms of the 'knowingly concerned'. Even though I had reservations in relation to that, I think that prosecutors indicate that in respect of 'knowingly concerned' there are issues in terms of dealing with insider trading, fraud in commercial activities, child exploitation rings and the like. So I just want to put that on the record.

In relation to this particular amendment, the committee, at paragraph 2.38 of its report, made a point in relation to the submission and the evidence given by Ms Jane Dixon QC on behalf of Liberty Victoria in relation to both 'knowingly concerned' and the mandatory minima. An example is given where a husband and wife are travelling together and the husband is a mad keen sporting shooter and he is taking his guns over to New Zealand, stupidly but perhaps not with any really dangerous plans. If his wife fills out the card she is perhaps knowingly concerned, even though she is only very peripherally involved in what he does. She could end up, because of this extension, with a further potential provision of mandatory sentencing. 'Knowingly concerned' does have a lot of good work to do in terms of dealing with those offences difficult to prosecute. For drug dealers, child pornography rings, insider trading, fraud and commercial offences it has a useful role in getting those people convicted. But in the example given by Ms Jane Dixon QC, in that part of it relating to the offence, technically what is indicated could be seen to be arms trafficking, even though there is no evil intent on the part of that person. You take away complete discretion of the courts with the mandatory minima. Even though the nonparole period could still be set by the court at a fairly low level, the person is being stigmatised with a minimum five-year jail sentence, and that concerns me.

So I would be grateful if the government can explain how it deals with that issue of taking away the court's discretion as to mandatory minima. I think the example given at paragraph 2.38 at page 20 of the committee's report is a telling one, and it does concern me greatly. That is why I believe it is appropriate to support Senator Lazarus's amendment.

Senator FIERRAVANTI-WELLS (New South Wales—Parliamentary Secretary to the Attorney-General and Parliamentary Secretary to the Minister for Social Services) (12:34): We have noted the concerns that have been raised in your question, Senator Xenophon, and in the comments that were made by Senator Collins as well. We note the concerns in relation to mandatory minimum sentencing; however, we believe that the introduction of these penalties will send a strong deterrent message to those who would otherwise engage in firearm trafficking.

The Law Council of Australia has suggested that the presence of mandatory minimum sentences reduces the likelihood of offenders pleading guilty, as offenders are aware that a guilty plea will still result in the prescribed minimum sentence. However, we have not attached a nonparole period to mandatory minimum sentences. This will ensure that there is still an incentive to enter a guilty plea, as the particular circumstances of each case will be considered by the court, and the sentencing judge will still be able to exercise his or her discretion in determining the amount of time that an offender will spend in custody.
In relation to your comments, Senator Lazarus, we are happy to have a conversation about increased penalties, but we also need to think seriously about the policy implications of this. We believe that the mandatory minimum sentence of five years will act as a strong deterrent for those who would otherwise engage in illegal firearm trafficking. It is a policy that we have considered in conjunction with states and territories. We think it is important to prevent these crimes and we believe that what we are offering here is a preventative measure, not a cure. We are open to any measures that could stop illegal guns at the border, but we also need to think about the ramifications of quickly moving through an amendment like this without consulting with our law enforcement agencies, our prosecution agencies and the states and territories.

During my comments I also raised some of the questions about the possibility of this amendment and the potential perverse effects of that. We think that these considerations are important, and we should consult on them through the channels such as the Law, Crime and Community Safety Council and the Firearms and Weapons Policy Working Group. We think that mandatory minimum sentences do send a strong message to criminals: try and smuggle illegal drugs into the country and you will get caught.

As I said, the government is prepared to have a conversation about increased penalties as well but that conversation should involve proper consultation and the consideration of its implications. For that reason, the government will not be supporting Senator Lazarus's amendment.

The CHAIRMAN: The question is that amendment (1) on sheet 7748 be agreed to.
Question negatived.

Senator WRIGHT (South Australia) (12:38): I move Australian Greens amendment (2) on sheet 7736 to oppose schedule 6 of the bill.

(1) Schedule 5, page 10 (lines 1 to 26), TO BE OPPOSED.

(2) Schedule 6, page 11 (lines 1 to 23), TO BE OPPOSED.

Schedule 6 of this bill introduces mandatory minimum sentencing of five years imprisonment for firearm trafficking offences. In its 22nd report of the 44th Parliament, the Parliamentary Joint Committee on Human Rights found that the mandatory sentencing amendments proposed in schedule 6 of this bill were 'likely to be incompatible with the right to a fair trial and the right not to be arbitrarily detained'—a human right which the Australian government has signed up to and has ratified.

Mandatory sentencing provisions have long been shown to be ineffective and unfair. For this reason, the Australian Greens have always opposed them whenever governments of any persuasion have sought to introduce them in what is often a populist bid to look like they are being tough on crime. Mandatory minimum sentencing laws remove the time honoured role for judges to exercise discretion and judgement by being able to take into account the circumstances surrounding a particular offence and offender.

There is absolutely no evidence that mandatory sentencing reduces crime, so why would a government want to introduce it? Again, one cannot help but come to the conclusion it is about looking like they are doing something, playing to a populist notion that having this kind of provision will actually prevent crime when in fact there is no evidence that that is the case. There is, however, much evidence that mandatory minimum sentencing can lead to manifest
injustice. The Attorney-General's own department has confirmed under questioning that it is not aware of any cases where the current sentences for trafficking a firearms or firearm parts have been insufficient.

Senator Fierravanti-Wells has wanted to assuage our concerns about this provision by saying that because there would be a capacity for judges to use their discretion in relation to the setting of parole periods that that should be enough to allay our concerns. But of course the actual charge is a significant matter in that that is the charge and the sentence that a person would be subject to, and that would be on their record irrespective of the particular circumstances surrounding the offence. And it is that ability of a judge to judge, essentially, to look at the circumstances and to determine what is an appropriate sentence that is being removed by this proposed schedule.

The other issue I would raise is that the Senate recently conducted an inquiry into the capacity of law enforcement agencies to reduce gun violence in Australia. A lot of evidence was taken in that inquiry as to the derivation of illicit firearms in Australia. While there was a lot of huff and puff and a lot of assertions and claims being made about so-called porous borders—the coalition is very fond of using the term 'border' to press panic buttons in the Australian population—there was actually very little evidence before the inquiry to show that the main source of illicit guns in Australia, in the black market, is from trafficking. Certainly it is something that we need to be wary of. We need to look at strong laws to prevent trafficking; the Australian Greens are not complacent about that. But if the government is serious about guns getting into the hands of criminals then they need to look at the whole situation and they need to look at what will be effective changes to the law and not just changes that make it look like they are doing something when in fact there is no evidence that minimum mandatory sentencing would work.

For all these reasons, the Australian Greens are moving an amendment to remove schedule 6 from the bill.

Senator JACINTA COLLINS (Victoria) (12:42): As indicated in the running sheet, Labor's amendment is identical to the Greens. I have elaborated previously on our reasons for wanting to see minimum mandatory sentencing removed. Indeed, we have had this debate here before, we have determined this matter before and it seems to be a pattern of behaviour from the Abbott government or maybe it is just the Attorney-General to keep presenting things back to the Senate that we have already previously determined.

I think the key point here is that we still have not heard anything new in the argument to justify introducing minimum mandatory sentencing. Senator Fierravanti-Wells said we have got a policy and we have had comes consultations with states and territories. With respect to Senator Fierravanti-Wells, that is not what we heard in the committee inquiry. With respect to the position of the states and territories, the state prosecutors and very significant stakeholders in this field are all saying we have significant problems here.

As Senator Wright indicated, we asked in the hearings: can you give us some cases at least which justify taking this approach. The Attorney-General's Department could not do so because their own guidelines recommend that they not do so. I do understand that the government took to the last election a policy position here but the key point here and the key point to the Senate yet again is that it was not a considered policy position and it was not a position that had been consulted adequately to make such significant changes with such
significant effects. Whilst we were happy to support Senator Lazarus's amendment, without it succeeding in the Senate we revert to our previous position, which is that schedule 6 should be removed.

Progress reported.

STATEMENTS BY SENATORS

Samoan Coffee and Cocoa Industry

Senator WILLIAMS (New South Wales) (12:45): I rise today to talk about a recent trip I had to Samoa. In Christmas of 2011 my wife, Nancy, and I spent the Christmas break in Samoa. Samoa is a small country of 2,800 square kilometres with a population of around 190,000 people. Being a fifth-generation farmer, I take a keen interest in what is happening in the agricultural sector and, to be honest, in Samoa the answer is not much all. I started thinking about a coffee industry because the climate is right and there is plenty of labour. Samoan people are lovely people, and I thought, 'How can we help these people develop industry and exports especially?'

When I returned I was put in touch with the Executive Chairman of Gloria Jean's Coffees, Mr Nabi Saleh, who in turn paid for coffee and cocoa expert Christophe Montagnon to go back to Samoa with us in June of 2012. From that visit Christophe, with input front Andrew Falconer, whose expertise is in sustainable service management, produced a report on coffee and cocoa cultivation in Samoa. We had a busy week with many meetings, including the Prime Minister and his deputy, the Minister for Agriculture, research people, the association of exporters and manufacturers and other groups.

We discovered at that time that only 12 per cent of the Samoan population is engaged in formal paid employment. The official unemployment figure is 8.7 per cent, but I am sure it is significantly higher because so many are working in family enterprises. In fact, two-thirds of the labour force is absorbed by subsistence village agriculture and fishery. The country has a large trade deficit, and agriculture accounts for just 10 per cent of the GDP while up to 20,000 households practice small-scale, labour-intensive subsistence agriculture of generally less than four hectares.

Samoa previously had a coffee industry, which had been established by the Germans and later managed by the Western Samoa Trust Estates Corporation. The Germans had been growing the brand liberica coffee, but this disappeared in the 1950s because of the popularity of robusta and arabica coffees. Today coffee production barely exists and cocoa production is very low because botanical and agronomical basic knowledge of coffee is badly lacking.

Christophe's report following our trip in 2012 found that Samoa's climate and soil are suitable for coffee and cocoa cultivation. The lowlands are suitable for robusta coffee and cocoa and the high country above 600 to 800 metres above sea level might be suitable for some arabica varieties. The Samoan government decided to revitalise the robusta variety through a stimulus package in 2012. The stimulus consisted of providing some coffee plants—enough to plant two hectares—but it was not a success. That is because there is not a well-identified value chain, there is no clear technical assistance strategy and the vegetal material is of poor genetic quality. Christophe pointed to the industry being hit at various times by cyclones, pests and diseases but said the two main reasons for the stagnation in the coffee and cocoa industries were lack of knowledge and no established value chain.
In July this year, I returned to Samoa after being approached by Mrs Lita Gaugau who is Samoan and works in New Zealand. She indicated her family was keen to establish a large, modern coffee plantation in Samoa. In company with Mrs Gaugau I met again with the Prime Minister, the opposition leader, the Minister for Agriculture and the Australian High Commissioner to Samoa, Ms Sue Langford.

The coffee beans from the stimulus package were being picked. About three years after the trees were planted, they started to produce coffee beans. When coffee beans are picked, they must be processed to remove the shell and the skin leaving the coffee bean ready for roasting. The stumbling block is the fact that Samoa does not have a coffee processing machine. So here is a stimulus package now producing some— I underline some—coffee beans that cannot be processed. I do not think that is a very successful stimulus package.

The main coffee player is the roasting company CCK, run by Australian Ken Newton. The so-called Samoan coffee he is commercialising and of which Samoan people are proud as a national product is roasted 100 per cent from coffee beans imported from Papua New Guinea. Mr Newton said his Samoan coffee volume was very low and of such a low physical quality that it could not be used to produce an acceptable roasted coffee.

What is the problem with Samoa? In my opinion, they have never grown modern varieties. Growing the old German varieties means that the trees grow to a rather high tree. This means that many of the trees are blown over in cyclones, resulting in crop failure. The new varieties are topped, meaning that the top of the young tree is cut off so the tree grows out, not up, and is much more resistant to high winds and cyclones. The industry just does not have the backup of research and agronomic management.

The country is trying to develop its sheep industry and imports the breed Fiji Fantastic. Last year, the country imported 110 of these sheep to form the basis for a new national breeding program, and they hope to build the flock up to around 3,000 over the next decade. The problem is again the lack of industry support and the lack of capital for farmers to build infrastructure. I did notice the amount of dogs roaming and I thought at the time they will not have a sheep industry for long unless they start culling a few or controlling these dogs that are everywhere in the streets. I have been assured by Ms Sue Langford that the program has commenced and that there are signs of it working.

Total Australian official development assistance to Samoa in 2015-16 will be an estimated $37.2 million. I have been informed that a significant amount is directed towards building and upgrading roads to enable better access for agricultural produce. My question is: What agricultural produce? Perhaps Australia should finance the experts and establish a modern, up-to-date coffee plantation to train and guide the local people on how the coffee industry could be viable. The next stage would be establishing a modern processing plant for the coffee grown. I believe there needs to be more focus on sustainable agriculture.

Samoa has a huge trade deficit. The ships are going there taking all sorts of produce in, but very little is going out. There are thousands of acres of land producing nothing. The previous government gave them a stimulus package—to do what? To plant trees in their national parks to prevent climate change. Why didn't we put it into modern-day varieties of coffee, to let them establish the industry? And do not just sell the coffee beans roasted; process them right through, if they are Robusta coffee, to the stage of instant coffee jars—vertical integration; send a finished product.
I was informed that Samoa has a $2 billion GDP but owes around $1.4 billion, 70 per cent of GDP. That is not a good financial look. I have tried to help these people, and I think we can do a lot for them, but I am being frustrated, especially given that Nabi Saleh, a very decent and generous man, paid for the expert from France to go out to Samoa to do the whole survey and the report. We should be employing these people full time for four years to establish the industry properly, and then Samoa could actually have an industry, vertically integrated, that would allow exports and jobs and would benefit their country.

With the sheep industry, I am informed that soon they will be trying the dorpers, which are a very popular sheep here in Australia. I noticed dorpers are now being run over near Tweed Heads, in a very wet climate. But the Samoans are going to have to fence their country and keep the dogs out, and they need guidance and training in this field as well. There is certainly plenty of opportunity there.

But, if Samoa do not build industries and they keep relying on imports and their debt keeps growing, they will head down the road of Greece to financial ruin, and I would hate to see that. I have helped as much as I can, and I thank those people who have helped me. I thank the Hon. Julie Bishop for her time and her staff for the work they have done in assisting us. But we do not seem to be making any progress. I find it amazing that, in the stimulus package put in in 2012, the government paid people to plant the old 1910 German varieties of coffee trees, which are very old and out of date, and people are now picking those coffee beans, but there is no processing machine. That is like setting up a wool-producing farm, grazing and, when the sheep are ready to shear, you do not have a shearing machine or a shearer and you do not harvest the wool. They are picking the coffee beans but are not processing the beans, so they are being wasted.

They have got to be helped and guided to do it properly so they can secure industries, jobs and vertical integration for coffee and cocoa. They do export some cocoa to New Zealand, which is good. There is much more potential for that. But my concern is, with that $37 million, we are helping them with health and various very important issues, but we need to help them more with industry—work with the Samoan government to see that they get established, grow their economy and save themselves from going down the road of national debt. Their tourism is going okay, but there is plenty of room there. Let us hope that in the future we can help them to establish those industries and they grow, for their own betterment.

Central Coast: Roads

Senator O'NEILL (New South Wales) (12:55): As we do our work in this place, our local communities back home continue their work and their lives too. They even get their local papers. And today, in my local paper, the *Express Advocate*, there was a story on the front page about local roads. Roads are in dire need of investment and works on the Central Coast.

Local residents are calling out for a government to listen, to assist and to commit money. Gosford City Council has put the figure at $59 million to bring the city's roads up to a satisfactory standard.

The member for Robertson added her two cents into this argument, saying she of course supported the local community. How could she be expected to let this opportunity for some cheap politics slip her by? So she showed up and the crocodile tears flowed. Here we stand with the masters of fake concern, the experts at spinning appearance versus reality—because the reality is that, while Ms Wicks had crocodile tears rolling down her face in the *Express*
Advocate and was decrying the state of local roads, she is here in Canberra, in parliament, voting to cut the funding for local roads, voting to freeze budget increases and voting down federal assistance grants to her own local electorate and local councils. With all the appearance of care, the reality is much bleaker.

In the Abbott government's first budget, it froze local government assistance for three years. That cut $925 million from local communities. For the Central Coast, that means a funding cut of $8.4 million. That is no small amount, and it is not going into our roads because the Liberal government decided to do that. They cut that funding, and they were supported by the local members, both Ms Wicks and Mrs McNamara. Despite that reality, it seems that the local Liberal members are quite comfortable telling locals that they agree with their local concerns and that they will stand up for them in the fight. But this is the art of deception at its most malevolent.

The Abbott government's cuts to local roads and local government have been devastating in our local communities, particularly affecting economic activity right across the country. If you do not have decent roads, small businesses pay the price, in slower travel times, in wear and tear on their equipment. This is supposed to be the party of small business. Small businesses move. They need decent roads and they need them in the local communities where they do their business. The Abbott government's cuts have been particularly hard-hitting in areas where there are, sadly, too high levels of unemployment. Many regions are currently experiencing unacceptably high youth unemployment, and sadly the Central Coast is one of those areas.

The government admitted during Senate estimates that they have not always done an analysis of the impact of their cuts to local governments. Of course they did not. They just tried to get away with it, and they are continuing to try to lie about it to the local communities. They also admitted to having undertaken no consultation with local councils or communities before making the decision to cut the funding to roads. The flow-on from this will hamper councils' ability to provide good local roads, decent libraries, well-maintained parks, regular garbage pick-ups and high-quality essential services, including child care.

It is often the unenviable task of a Labor government to come in and fix the mess caused by a Liberal government that failed to see that they needed to invest in local communities—a dearth of investment caused by fiscal tight-fistedness, ideology, and a fear of big thinking. In the final term of the Howard government, Gosford Council received only $1 million, despite the local member at that time also being the minister for roads and local government. That was $1 million invested on local roads in Gosford by the Howard government in its last three years—it is just appalling. But, compare and contrast: under Labor, in just three years between 2010 and 2013, we delivered $58 million to the local council for local roads and for infrastructure. The people along the coast know that they not only needed it but also need a whole lot more, and they are not getting it from this Liberal government that lies to them when they are in the electorate and votes down the support for funding when in Canberra.

What new money has the Abbott government brought to the coast? Let's be truthful about this. There is a $10 million commitment up in Somersby. They have claimed the $200 million for the M1. But I remember the day when former Prime Minister Julia Gillard, former Minister for Infrastructure Anthony Albanese and I stood there at Mt Penang and announced that package—$200 million for the M1 productivity package. The Liberal government claim
it as their own, but it was delivered and budgeted for long before they came to government. They have claimed the $400 million for the M1 and M2—same thing; that was delivered by Labor. I am glad that the Liberal government have not decided to cut that yet, but we will be watching.

The Liberal Party is less a party of government and more a party of deception. This art of deception is not unique to the federal Liberal government. The New South Wales Liberals are also quite skilled, somehow spinning a 25 per cent budget cut into a positive in the local news. Under the previous New South Wales Labor government, the Central Coast received a growing and growing roads budget that was appropriate to its growing demographic need and as a growing area for business. In Labor's last term in government, the coast received a combined total of $343.4 million over four years for construction and planning for roads—an amount unseen before on the coast. What did we get from the Liberals in their first term in office? They have been in for four years. We got a budget that dropped to $259.85 million. A Liberal government was elected and the Central Coast was ripped off to the tune of a reduction of more than $83 million.

Once again, the appearance: the member for Robertson calling for more action, the Liberals calling for better roads on the coast, all the while cutting the funding. The reality is that Liberals at all levels of government have cut budgets, frozen indexation and are leaving coast roads, literally, to crumble beneath our feet. There is absolute truth in the pictures that are shown in today's *Express Advocate*, but the language of Liberal care is completely misrepresenting the reality.

Labor will continue to fight the freezes, the cuts and the deception. Labor have secured an additional $1.1 billion for local and regional roads to boost local jobs across Australia and improve the roads we drive on every day. Labor supported the reintroduction of the fuel excise indexation to make sure that money raised did not go to fill the Liberal's budget black hole but went to real projects in regions across Australia. The $1.1 billion boost to the Roads to Recovery Program will stimulate regional economies, generating much needed jobs and a boost for vital local infrastructure. Labor will hold this government to its announced position that every dollar raised by reintroducing excise indexation is directed to building new roads and upgrading existing road infrastructure. We will hold them to account—make the gap between their words and their actions shrink. As I have said, the masters of deception are in charge of the government at the moment.

Labor should not have to drag the Prime Minister, his ministers or even the member for Robertson kicking and screaming to the table to actually make an investment in local roads. Despite the appearance and what the member for Robertson says in the *Express Advocate* about how much she cares and about how hard she is fighting, the reality is she is here in Canberra today, as she has on many, many occasions, using her vote to cut the very money she is now saying she is arguing for. That is just the height of hypocrisy—to pretend to the Central Coast community that you are fighting for road funding while you are a representative of the government that is cutting it.

The sad reality is that this is a government addicted to deception. It is a government with a leader of tragic captain's pics, a government of jobs for the boys that is spending $80 million on a fake royal commission—$80 million. That is the difference between the amount that was invested in the roads on the Central Coast by Labor and what has been invested by the state
Liberal government. They had a choice when they were making their decisions about how they would spend their money. But they revealed their values: $80 million for Central Coast roads; indeed, $80 million for the roads of any regional part of this country. They had a choice. The National Party should have been standing up for it. Instead, what did they choose to spend their $80 million on? It was not spent on roads, not on helping small business, not on growing the local economy or on growing jobs but on setting up a fake royal commission that is highly compromised. (Time expired)

**Illicit Drugs**

**Senator DI NATALE** (Victoria—Leader of the Australian Greens) (13:05): On 7 April, Prime Minister Tony Abbott announced the establishment of a new task force to identify more effective responses to the drug crystal methamphetamine, more commonly referred to as ice. In response, former Victoria Police Chief Commissioner Ken Lay, who chairs the task force, said that Australia cannot 'arrest its way' out of the ice epidemic. It was a sentiment echoed by a number of retired and serving police chiefs. Yet, on the weekend, the Prime Minister responded by announcing a $1 million dob-in-a-dealer hotline while at the same time cutting substance misuse funding by $8.2 million—funding for prevention and services. Nothing could more starkly highlight the failure of Australia's drugs policy. We are not alone in dealing with this problem and we could learn a lot from what is being done overseas. Last month, I took the opportunity to visit Portugal, a country that removed criminal penalties for the possession of all drugs for personal drug use in 2001.

In Portugal serious criminal penalties apply for drug dealers, but it is no longer a criminal offence to possess drugs for personal use. Instead personal drug use is considered to be an administrative violation, and penalties are decided by regional panels made up of legal, health and social work professionals. People with drug dependence are encouraged to seek treatment—though they are rarely sanctioned if they choose not to—and the ambition is to make sure that it is there when they need it.

In 2001, Portugal had more than 100,000 heroin users—that is, one in 100 of the population of Portugal using heroin. In the years leading up to the reform, the number of drug related deaths had soared. They saw rates of HIV, AIDS, hepatitis B and C among people injecting drugs rapidly increasing. There was a growing consensus among law enforcement and health officials that the criminalisation and marginalisation of people who use drugs was contributing to this problem and that a new more humane evidence based legal framework was necessary.

So Portugal decided to remove criminal penalties for personal drug use and it allocated 90 per cent of its anti-drug funding into expanding and improving prevention, treatment, harm reduction and social reintegration programs, with 10 per cent allocated to policing and punishment.

Almost 15 years on from this change, what have we learnt? We know that in Portugal levels of drug use remain below the European average; drug use has declined among those aged 15-24; lifetime drug use among the general population is broadly in line with comparable countries; between 2000 and 2005, which is the most up-to-date data, rates of problematic drug use and injecting drug use decreased; drug use among adolescents decreased for several years following decriminalisation; and the rates of ongoing drug use—that is, people who continue to use drugs—have also decreased.
This policy fits well with what I learnt as a doctor working in a drug and alcohol clinic in Geelong. The people I saw as patients had a lot in common. They struggled with physical drug dependence and they struggled to keep those things that anchor the rest of us in our daily lives—family, friends, social relationships, a job and a roof over our heads. They often had mental illness and other problems such as anxiety, depression and psychosis—sometimes triggered by their drug use; sometimes preceding their drug use. We have huge challenges as medical professionals in helping to get people well, keeping them well and getting their lives back on track. When a patient is ready for help and seeks it out, they can and do recover, but what makes things difficult is when the services they need are not available to them when they have made that critical decision to get help.

One thing that does not help is getting caught up in the criminal justice system. For someone struggling just to get off drugs and keep a roof over their head, an encounter with the law, a trip to the police station and being locked up is almost guaranteed to erase any progress. We do not arrest people for developing diabetes but we intervene when other people are struggling with a serious health issue, minimising any chance they have of recovery. Even if they do recover, they still have the obstacle of a criminal record, which can severely limit any prospects of future employment.

I have seen the impact that drug use and drug dependence has on people's lives. It breaks up families. It has a devastating impact on young kids, so I do not come at it from a libertarian perspective where everyone should be able to do what they want and when they want regardless of the consequences. Our current approach does not deter people from using drugs and it creates harm rather than preventing it.

Most heavy drug users go through a cycle of addiction and eventually they stop using either on their own or because they get help. Our challenge is to keep people healthy during this time—clean needles so they do not contract viruses, overdose strategies, prevention strategies and so on. As a nation, Australia will never make progress with its drug problems until people can access care quickly and affordably. In many parts of the country, people have to wait for six months for drug treatment, and we have a limited range of options. It is not just those individuals who bear the cost but society as a whole. Depriving treatment and funding for treatment is a classic false economy.

The National Drug and Alcohol Research Centre reported that Australian governments spent approximately $1.7 billion in 2009-10 responding to the issue of illicit drugs. This included a range of things: counselling, pharmacotherapy, harm reduction programs but also police detection and arrest in relation to drug crimes and border protection. It is about 0.13 per cent of GDP and 0.8 of all government funding, and yet we do not spend time in this chamber debating whether what we are doing is effective. Of that money, 66 per cent went on law enforcement, 21 per cent on treatment and only nine per cent on prevention.

The one thing that I did agree with the Prime Minister on was when he said that the war on drugs is not a war we will ever finally win. He is right. I believe in evidence based policy. You do not have to go very far to see the evidence to support this assertion. By any measure you care to name, our current approach is a failure. Drugs are cheap and available. The price of street heroin and cocaine is cheaper than it has ever been. Drugs are stronger and more concentrated, and use continues. All we have got to show for it is a broken treatment system,

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people in jail only to be replaced by new users as soon as others have been locked away. It is time to acknowledge this reality and start doing something about it.

I am pleased to be working with members of the Liberal Party and the Labor Party as convener of the Parliamentary Group for Drug Policy and Law. We need a new approach. Of course addressing the issue of drug trafficking will always play a role but it will be more effective if we reduce demand. We have to fund evidence based treatment and invest more in research. We have to put more money into treatments that we know work like methadone substation, which is still not subsidised on the Pharmaceutical Benefits Scheme. We have to look at new treatments such as substitution agents for drugs like ice. Education is important but, let's be clear, it needs to be realistic and it needs to accord with the experience of drug users. If it does not, it will be ineffective or, even worse, it can actually drive drug use up.

We have seen the Global Commission on Drug Policy recommending a range of treatment modalities and we have to make sure that we are following the evidence. We once led the world on this. We were on the verge of implementing a heroin trial to address the issue of heroin misuse. It has been more than a decade that this issue has been discussed in this parliament. We are seeing changes right around the world. We are seeing them and they show us that, if we look at this issue objectively in a more measured bite, we allocate funding to those areas where we know the evidence is clear, we are slow and we are cautious and, above all, when we start to accept that drug use will always be with us and that it is a health issue, we will finally start to make progress. (Time expired)

Employment

Senator CANAVAN (Queensland) (13:15): Today, I would like to speak about jobs. I have been a senator for just over a year, and the most common issue that is raised with me is jobs. It is a tougher employment market, particularly where I live in Central Queensland in Rockhampton and surrounds. It has been difficult over the last few years, given the downturn in the mining sector. It is much harder for people to find work where they once could. I believe our fundamental role in this place, apart from defending the nation and managing the budget, is to give as many Australians as possible the dignity of work and to give as many people as possible the opportunity to have jobs to provide for their families and save for their own homes so they can be independent, not be dependent on welfare or dependent on others for help—so they can be their own boss in how they want to run their lives.

Unfortunately, there is a group of Australians right now who want to stop people from getting jobs. The biggest threat in Central Queensland, where I live, is the rise of vigilante litigation by green activists to shut down Australian industry and jobs. Activist litigation is on the increase. It has been one of our growth industries unfortunately over the past decade. Usually I would be in favour of growth industries, I want to support growth but not this particular growth industry. It is parasitic. And, like all parasites, it only thrives by trying to destroy its host. Our environmental laws mean that well-financed green groups and big environment groups get a bigger voice than ordinary Australians who actually live near coalmines and want the benefits of their development—ordinary Australians like Les Boal, who owns the Leo Hotel in Clermont. At the moment, he employs eight people at his pub and he would like to employ more. He said that, if the Carmichael mine went ahead, he would be able to dramatically increase the number and provide more employment opportunities to locals. Les feels that the Clermont economy needs the boost that the Carmichael mine would
create and the recent court decision will negatively impact the small town's confidence and growth impacts. I want to give Les a voice. I think he deserves a voice in our nation's parliament, but right now, because we have a lawyers' picnic in this area, the lawyers have a lot bigger voice than people like Les, unfortunately. It is a very well-organised picnic too. It is well organised because we know it has been a key tactic of green activist groups. They might be called green, but they are not interested in protecting the environment. They are interested in shutting down the coalmining industry in Queensland and indeed across the country. We know it is an organised strategy because their strategy document was, fortunately for us, leaked a few years ago. The full document was leaked: Stopping the Australian Coal Export Boom was their particular strategy. It was supported by organisations like Greenpeace, GetUp!, Lock the Gate Alliance, the New South Wales Environmental Defenders Office, the Mackay Conservation Group and the Australia Institute. I cannot believe this, but even a trade union, United Voice, was also involved in putting this document together. A trade union! Unions are meant to be supporting jobs and supporting Australians being in work, but they want to shut down the coalmining industry too.

This document was very explicit about its aim. It said:

Our strategy is essentially to ‘disrupt and delay’ key projects and infrastructure while gradually eroding public and political support for the industry and continually building the power of the movement to win more.

If they get their way, 50,000 Queenslanders will be out of work tomorrow and tens of thousands more will miss out on the jobs that would have otherwise have been created by new coalmining investments. This anti-development strategy is playing out right now in our country. That strategy specifically mentions using the courts not to improve the environment but to stop mines. Again, directly quoting from their document:

The first priority is to get in front of the critical projects to slow them down in the approval process. This means lodging legal challenges to five new coal port expansions, two major rail lines and up to a dozen of the key mines. This will require significant investment in legal capacity. While this is creating much needed breathing space, we need to continue to build the movement and mobilize to create pressure on politicians and investors alike.

This is an abuse of our legal process. It is not about trying to protect the environment. It is about one specific aim, and that is to disrupt and delay investment in our economy and the creation of new jobs in our economy. We saw that a couple of weeks ago a group from the New South Wales Environmental Defenders Office—which I will come back to—took an action in the Federal Court against the Carmichael coalmine in Central Queensland. They argued not that the mine would cause some terrible damage to the environment or threat to certain species but that, because the minister had not been shown all documents relating to a preservation order relating to some threatened species that the mine approval should be ruled out of order. There were approval conditions in this process for the ornamental snake and the yakka skink. There were conditions to protect them. They are two animals that are threatened but they do have an area across a wide area of Queensland and not just in this particular coalmine. The environmental groups did not say the mine would necessarily cause them damage. They did not argue that at all. They just said that, because all of the documents were not given to the minister—and there were hundreds of these pages of documents—it fell afoul of section 139(2) of the Environmental Protection and Biodiversity Conservation Act because the minister had not had regard to the preservation orders for these threatened species. A
ridiculous argument! It is an argument that was also used to stop an iron mine in Tasmania a few years ago that Senator Colbeck would know well. This group, this New South Wales Environmental Defenders Office, were the ones who took this action.

They took an action against a coalmine that is sort of north of Clermont. It is out in the middle of nowhere really. It is actually north of a little town called Alpha. Alpha is more than 1,500 kilometres away from Sydney, but this group, the New South Wales Environmental Defenders Office, took this action. This group receives over $3 million a year in revenue. They have 20 paid staff and they receive more than $1 million a year in donations from Australians, and the Australians who make those donations get tax deductions for doing so. So we are providing tax support for this abuse of our legal process, and I think that should end. I will not go into detail here, but there is a House of Representatives inquiry into that process.

I support the government's announced proposal to toughen up the requirements to get legal standing in these cases. In almost every other area of law, if you want to get standing in a court, if you want to be given the right to take an action, to try to stop a particular project, you need to have some appropriate and legitimate interest in that particular project. I would argue that green lawyers in Sydney do not have a material interest in a coalmine near where I live that creates jobs there. They do not have a legitimate interest and they should not be getting standing, but the way the current act is worded they get it anyway. All you have to do is be doing some kind of environmental work and you get standing. That is ridiculously too easy and it should be changed. So I support the government's attempt to change section 487.2 of the EPBC Act to ensure that only people actually affected by these coalmines get standing and only they get to have a say—the locals get to have a say; the people who are impacted get a say.

I see Labor Party senators already shaking their heads. We know who they are going to line up behind. We know they are going to line up behind the green activists and the lawyers in Sydney, not locals in Central Queensland who need these jobs. That is their approach but, as a Queensland senator, I am going to be fighting hard for those jobs and I know my fellow Queensland senators on this side of the chamber will be doing the same. I wish other Queensland senators would do that too. We announced this proposal only yesterday, but we have already seen a Queensland senator, Senator Lazarus, come out this morning and say that he opposes this change, that he does not think that people in Queensland deserve a bigger say than activist groups in Sydney.

Senator Lazarus used to be quite an effective player for New South Wales. He used to cause quite a bit of heartache to me, as a Queensland supporter, when he donned the Blues jersey. He used to don the Blues jersey and I think he might still be a little bit confused. He still seems to be playing for the Blues and not the Maroons. He still seems to be supporting New South Wales ahead of Queensland, because he is saying that green activist groups in Sydney deserve a bigger say than locals like Les Boal in Clermont, in his electorate, who voted for him and put him in this place. I would think that all senators would want to put the interests of their state first. I know that all the Queensland senators on this side do.

The majority of Queenslanders support this coalmine, which will produce up to 10,000 jobs and create massive opportunities, particularly for an area of the state that is struggling at the moment. It is unfortunate that somebody who was elected on a platform opposed to a mining
tax and opposed to a carbon tax—ostensibly supporting our mining industry—is now going back on that promise and is instead supporting greens in other states ahead of his own state. I ask Senator Lazarus to reconsider his position. He is a Queensland senator. He now should be donning the maroon and not the blue, and he should back Queensland in this instance because that is how we are going to get back on our feet after a slowdown in the mining sector. This is going to create jobs and people should get behind this proposal to create jobs in Queensland.

Trade with China

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (13:25): The Abbott government like to pretend that they are the friend of the Australian worker, but their track record betrays a very different agenda. For two years now, they have been using every means at their disposal to drive down the pay and conditions of hardworking Australians. They have attacked penalty rates and the minimum wage. They have failed to broker a single enterprise bargaining agreement with public sector agencies. They axed the low-income superannuation contribution, costing workers who earn less than $37,000 precious retirement money. They delayed promised superannuation increases for seven years, wiping $20,000 from the average Australian retirement nest egg. But what is particularly galling is that, while they have been driving down outcomes for Australian workers, they have also been laying out the legislative welcome mat for foreign workers.

Consider their 2014 decision to reopen a loophole in the legislation surrounding 457 visas, which allows employers to hire an unlimited number of workers with no scrutiny. Or take their Aussie-job-killing coastal shipping legislation. The government's modelling estimated that this legislation would save businesses $21.4 million. What the government do not want you to know is that this modelling also reveals that $19 million of the 'saving' comes in the form of reduced labour costs as boats serving on coastal routes are opened up to foreign workers. That is right—close to 90 per cent of the claimed 'benefits' of this legislation comes in the form of lost Aussie jobs. A saving to private businesses that is made at the expense of Australian jobs is ill-considered, short-sighted and, quite frankly, reckless. Look at their broken promise to build 12 submarines in South Australia that was trashed after the election and replaced with a plan to send these important strategic builds overseas.

But the government is not content with just gifting Australian maritime jobs to foreign workers. The China free trade agreement would open the door to the routine importation of foreign workforces on major projects. If it goes ahead, it could be a wholesale Australian job killer, putting as many as 158,000 jobs on the line. Labor supports robust agreements that open up Australia to increased trade opportunities. I understand that good trade deals can open up markets, increase exports, deliver lower prices for consumers and drive economic growth. But I cannot blindly support a deal that paves the way for mass importation of foreign workers at the expense of Australian jobs. Not all agreements are created equal, and not all agreements provide benefits that outweigh the concessions. We should not support any deal at any cost. A poor quality deal can do more damage than good.

In brokering this deal, the Abbott government has sabotaged one of the key goals of trade deals: the creation of safe, secure and well-paid jobs for Australian workers. Under this deal, Chinese companies will be able to bring in their own workforces on any project worth more than $150 million—and Australian workers, their families and their communities will pay the price. In an attempt to cover up the truth, the government has set in place a concerted
propaganda campaign of misinformation about the China free trade agreement. They have tried to pretend that the agreement will not allow unrestricted access to the Australian labour market by Chinese workers. In fact, this is completely untrue and the proof of this lies in chapter 10 of the agreement, which concerns the movement of natural persons. Here it is laid out in black and white that Australia will not 'impose or maintain any limitations on the total number of visas to be granted'. Not only is the government allowing the wholesale importation of foreign workers, but also the agreement removes the requirement for labour market testing. Labour market testing is a standing and vital component of any consideration for foreign labour in this country. It requires employers to first go to the local market and look for suitably qualified Australian workers who could fill the position. Before they can proceed with hiring foreign workers, companies must first be able to prove there are no Australians who could do the job. Again, the government has been out spreading misinformation about this vital exclusion, trying to convince Australians that labour market testing is included in the agreement. The truth is that the agreement lays out in black and white that Chinese companies will be able to bring in foreign workers with no requirement to look for local labour first. In fact, chapter 10 is clear that Australia will not impose labour market testing for certain categories of Chinese temporary migrants. It states:

… neither Party shall … require labour market testing, economic needs testing or other procedures of similar effect as a condition for temporary entry.

This removes labour market testing for contractors, installers and servicers, and the agreement defines these categories so broadly that they will include a wide range of occupations.

Joanna Howe, an expert in temporary labour migration law at the University of Adelaide, said that the agreement was 'a very weak protection for local workers'. On this issue, she said:

The department will say … they need to be assured there is a genuine need in terms of labour supply, but that requirement only exists at a policy level. And a legal status of policy does not have the same ramifications as the legal status of the agreement.

Not too long ago, Prime Minister Abbott very clearly committed to retaining labour market testing requirements for temporary migration. He was asked by a journalist:

There are changes in here about the 457 visa programme. I just wanted to check … will you be making any changes on labour market testing?

The Prime Minister replied:

On the 457s, labour market testing will remain, but we want to be easier to engage in.

Clearly the China free trade agreement before us at the moment is just another broken promise from a government that cannot be trusted to look after Australian jobs. Not only is there no requirement for labour market testing but Chinese companies will also be able to bring in workers with lower skills than are currently allowed under the current visa program.

International migration expert Professor Stuart Rosewarne from the University of Sydney has said that the agreement goes further than any other agreement ever has to open up Australia's labour market to foreign workforces. On this issue he said:

Free trade or economic agreements with South Korea and Japan include clauses that set out the terms for the movement of "natural persons", essentially skilled and professional workers and business people, but the memorandum goes well beyond these categories to include semi- and low-skilled workers.
Again the government has been out on the campaign trail saying that there are no changes to the required skill levels for Chinese visa applicants. A government fact sheet on the matter states that the agreement ‘will not allow unskilled or underpaid Chinese workers to be brought in to staff major projects.’ Again, their own agreement documentation shows that this is totally untrue. The side letter on skills assessment and testing to the agreement, dated 17 June 2015, clearly states:

Australia will remove the requirement for mandatory skills assessment for the following ten occupations on the date of entry into force of the Agreement.

Automotive Electrician ... Cabinetmaker ... Carpenter ... Carpenter and Joiner ... Diesel Motor Mechanic ... Electrician (General) ... Electrician (Special Class) ... Joiner ... Motor Mechanic (General) ... Motorcycle Mechanic ...

In this light it is not surprising that the ABC’s recent Fact Check confirmed that the fear that the China-Australia Free Trade Agreement threatens Australian jobs actually checks out. The absolute insanity of selling out Australian jobs comes into stark contrast when you consider the mess those opposite have made of the economy. There are now more unemployed Australians than at any point since 1994, and how does the government respond? It packages up scarce remaining job opportunities on the horizon and gives them directly to foreign workers. It is outrageous that the government now plans to spend millions of taxpayers' dollars on a propaganda campaign to try to convince Australians that giving away their jobs is a good thing. It is unbelievable.

As I mentioned earlier, Labor understand the value of a good free trade agreement. We also understand the incredible opportunities that being part of the Asia-Pacific region brings. Our relationship with China will be critical to our future economic growth, and that is why we worked hard to progress this agreement when we were in government. But we would never hang Australia out to dry as Prime Minister Abbott has. Australians cannot and should not try to compete with other nations on wages and conditions. To do so would be to engage in a race to the bottom, to the detriment of Australian workers. Clearly, this is an ill-considered agreement that has sold out Australian workers, and anyone in this place who cares about Australian jobs should rail against it.

Sugar Industry

Senator LAZARUS (Queensland) (13:35): Today I would like to speak about the Australian sugar industry and the need for all Australians to work together to support our sugar industry—and, more broadly, Australian farmers, Australian businesses and Australian jobs.

Since joining the Senate I have come to the realisation that the Abbott government does not care about Australian industries or Australian jobs for Australian workers. Unlike the Abbott government, I am really concerned about the health, viability and future of our sugar industry. Many may not be aware that the sugar industry is one of the oldest industries in Australia. In fact, the First Fleet introduced sugar cane to Australia in 1788, and it became and has been a thriving and highly successful industry for Australia up until now. Sadly, things are looking grim for our sugar cane industry and the future of our sugar cane farmers.

International companies and foreign governments are starting to take over one of our most important agricultural sectors and very few people in this place seem to care. Sugar cane is a huge industry for Queensland and, as the only Independent senator for Queensland, I am
determined to be a champion for the industry and to apply enough pressure on the government to keep our great sugar industry in the hands of Australians, not overseas countries. Let me give you some background.

Due to the nature of the sugar plant, it requires warm weather and high rainfall to grow well. As a result, 95 per cent of sugar produced in Australia is grown in Queensland, with the balance grown in New South Wales. The industry directly employs approximately 16,000 people across the growing, harvesting and transport sectors, with many of those people based in Queensland. It is one of Australia's largest, most significant rural industries and is considered to be Queensland's most important rural crop. Given the importance of the sugar industry for Queensland and more broadly for Australia, you would think the Abbott government would be supporting the industry to succeed, but you would be wrong. There are some 4,000 sugar cane farms along the eastern seaboard and the majority are family operations, families who have been sugar farming for generations. In fact, sugar cane farmers are part of Australia's rich history and have contributed much to the industry globally.

The world's first mechanical cane harvester was built in Bundaberg in 1890. From the year the First Fleet arrived until today, the sugar industry has evolved at a great rate and Australia is now one of the world's largest exporters of raw sugar. In fact, we are the third largest sugar supplier to the world. The world wants our sugar and our sugar industry provides critical export opportunities and jobs for our country. Once sugar is harvested, it must be milled within 24 hours. Cane farmers need to get their product to mills in this time frame. Despite all the farms, there are only 24 sugar mills in Australia and of those, today only eight are Australian owned. All the others are owned by international companies.

In areas across Queensland, including the Burdekin, most growers are only able to use mills owned by an international company. In the Burdekin, growers are only able to use a mill owned by a Singaporean company Wilmar. Currently Queensland Sugar Limited operates on behalf of all sugar cane growers to market Australia's sugar to the world. QSL uses its bulk marketing power to leverage better deals for Australian sugar on the international market. QSL takes care of industry matters including the management of bulk sugar, terminals and pricing, to minimise foreign exchange exposure to sugar cane growers and maximise their returns. QSL is trusted by Australian cane growers and is viable because all growers use their services.

Importantly, QSL has been around for a while and operates to serve the best interests of Australia, not of overseas countries. This is where things start to become concerning. Unfortunately, the sugar mills owned by international companies have decided that, from the end of the 2016 season, they do not want QSL to manage marketing for cane growers any more. Instead, the internationally owned mills want to undertake the marketing of Australian sugar themselves. This means Australian cane growers will be forced into a situation where they are no longer able to use an Australian company to take care of the marketing of Australian sugar; the international companies want to do this themselves.

Already, international companies are buying up our cane farms. They have already bought up the majority of our mills and now they want to manage the marketing of our sugar to the world. And what will happen to our sugar cane growers if they decide they do not want an overseas company or an overseas country marketing Australia's sugar to the world? Simple: the internationally owned mill will simply stop providing milling services to our cane growers.
and this will send them broke. In effect, our Australian owned cane growing farmers are being blackmailed into unfair and anticompetitive commercial arrangements. This situation is unfair and unjust.

The fact that our government could allow hardworking, decent Australian farmers to be bullied and for their livelihoods to be put at risk at the hands of foreign-owned companies and overseas countries is absolutely disgraceful. The fact that our government could allow a foreign-owned company or an overseas country to take control of the marketing of Australian sugar is an even a bigger disgrace.

Today, I will be putting up a motion in the Senate calling on the Abbott government to act. Australian cane growers need to be supported by the government and for their interests to be put before foreign-owned companies and overseas countries. Australian cane growers need a code of conduct to be implemented to protect them from the aggressive actions of foreign-owned companies and the establishment of a commercial arbitration facility to assist growers to resolve disputes with foreign-owned mills.

A Senate committee reviewed the marketing arrangements of the sugar industry last year and the committee recommended that a code of conduct be developed and installed ASAP. The Abbott government needs to act on this and to start supporting the sugar industry and, more importantly, Australian jobs for Australian workers. Too much of our country, our assets, our industry, our businesses, our land and our jobs are being sold off overseas. Our future is in our ability to own our own assets and to sell our products and services to the world.

Queensland needs a thriving Australian-owned sugar industry, as does Australia. I need everyone across Australia to help me to call on the Abbott government to act before it is too late. We must save Australia's sugar cane growing industry.

**Dainere's Rainbow Brain Tumour Research Fund**

**Anzac Day Schools' Awards**

**Free Trade Agreements**

*Senator SESELJA (Australian Capital Territory)* (13:44): On 27 July this year I had the privilege of launching the Qcity Transit advertising campaign for Dainere's Rainbow Brain Tumour Research Fund.

The fund was created after Dainere Anthoney, aged 15, of Gungahlin was diagnosed with a brain tumour in March 2009. Sadly, Dainere passed away in June 2013, but her legacy remains strong. The bus campaign is part of that legacy. The campaign is directed at creating vital awareness of paediatric brain tumour research and funding, not just across the wider Canberra and Queanbeyan regions but also around Australia.

Two buses, with their bright Dainere's-rainbow-themed advertisements will be used to draw attention to this cause. All funds raised will go directly to paediatric brain tumour research at the Sydney Children's Hospital's Kids Cancer Centre. The campaign will run indefinitely on the buses.

In the little time that she was given, Dainere made it her aim to increase awareness of this horrific disease—something which she has achieved. But, of course, the task is ongoing. She published books about the illness, including a children's book about how a child should be
welcomed back to school following treatment. Her book, *You Have To Go Through a Storm to Get to a Rainbow* came about as a result of Dainere's blogs cataloguing her experiences with this terrible disease, which she then turned into a book. Her later children's book has since been placed in every government school library in the ACT.

Dainere was also posthumously named as the Young Canberra Citizen of the Year in 2013, alongside her brother, Jarret. Today, Jarrett is a resilient young ambassador who gives courage, hope and a voice to children and families who suffer from this terrible disease. Making great personal sacrifices, Jarrett continues to identify and drive projects to support the charity that bears his sister's name. He was a state finalist for Young Australian of the Year this year.

Dainere's photo and her special words appear on the back of the buses:

My little voice could only make a small difference but together many voices could create change.

Dainere is an inspiration and a credit to our community. She showed me that age is no barrier when it comes to getting involved, to helping others and to making a difference.

It was a great honour to launch her campaign on 27 July, but it is a privilege to continue to represent and advocate for Dainere and her family in this place. I also pay tribute to Yvonne and Stephen, her parents, who continue the wonderful work of Dainere.

On 14 August I had the great joy of standing alongside the Minister for Veterans' Affairs, Senator Michael Ronaldson, to present Good Shepherd Primary School with the national prize in this year's Anzac Day Schools' Awards. It is a credit to Graham Pollard, the principal, and the entire team at Good Shepherd Primary School here in Canberra.

This was the second year in a row that a school in the ACT won the national award, and that is a credit to our great local schools. It seems not very long ago that I was in this chamber congratulating Melba Copland Secondary School for their efforts—one year ago. But one year on, the students at Good Shepherd engaged in a variety of activities to commemorate the 100th anniversary of the Gallipoli landings over a one-week period.

Each morning at assembly, parents who are current serving members of the Australian Defence Force, assisted by students, recalled the deeds of relatives who served during the First World War. The names of family members were called on a roll of honour and the descendant child received a cross with a poppy and the relative's name on it. The crosses were then 'planted' in the school's Garden of Remembrance. Names of family members who have served in any capacity were also acknowledged on a wall of remembrance. Following each assembly, the serving ADF members visited classrooms to talk with the children.

Two adjacent classrooms were transformed into a mini war memorial. One room contained memorabilia from the First World War. These included a helmet, barbed wire from Gallipoli, photos, records and stories. The second room was a discovery room, where students could try on uniforms, crawl into a trench, look over a parapet with a periscope and sit in a tent and taste some bully beef on a dry biscuit. In fact, I was told while I was there—showing what a small place Canberra is!—that the portables in the science block at Good Shepherd were actually the portables from my old school, St Thomas the Apostle Primary School, in Kambah. Obviously, there is still a need for better facilities in some of these schools if we are still using the portables from 30-odd years ago down in Kambah. But it was a great local link!
Each class had access to a memorial box filled with real and replica uniforms, equipment and artefacts from the Australian War Memorial for a lesson. All students were read the story, *Lone Pine*, and the school acquired a Lone Pine seedling, which was planted in the school grounds and marked by a plaque. The tree was planted by the oldest and youngest students in the school.

The week concluded with a commemorative service where parents, students and visitors were invited to bring a poppy forward to remember family members lost in war. A current serving member of the Army played the last post. I think it was an outstanding effort. You can tell from that description why Good Shepherd was such a worthy winner of the national award this year.

These commemorations are an important part of developing young Australians and I congratulate the dozens of schools across the ACT that participated in this year's Anzac Day Schools' Awards. I particularly would like to recognise the efforts of Rosary Primary School as the runner-up in the ACT Primary School Division, and I would also like to recognise the efforts of St Edmund's College and Merici College as the ACT winner and runner-up respectively in the ACT Secondary School Division.

It is important that we continue to commemorate the many thousands of Australians who have given their lives for our country, its values and its freedoms, as well as acknowledging and supporting our veterans, our currently-serving personnel and their families. It certainly fills me with pride that the spirit of remembrance continues to burn brightly in schools across the ACT 100 years after our troops landed at Gallipoli and 70 years after our victory in the Pacific.

On another issue, I would like to make note of a free trade agreement seminar held at Old Parliament House recently. This was on the morning of 12 August. The Minister for Small Business, Bruce Billson, and I engaged with local business owners from across the ACT at the free trade seminar. The seminar focused on free trade agreements which this government has secured with Korea, Japan and China—agreements which will guarantee jobs and growth for future Australians.

The forum held at Old Parliament House brought together a diverse range of small- to medium-sized businesses. The diversity of the businesses in attendance is a sound reflection of the vibrant small- to medium-sized business community in Canberra.

I was honoured to stand with the Minister for Small Business and discuss how we as a government continue to be the best friend of small business and how actions this government have taken have opened up new markets, yielding greater opportunity for businesses here in Canberra.

Since the budget in May, I have met with dozens of business owners and managers across the ACT. Their feedback has been overwhelmingly positive. They are unanimous in their approval of the small business measures we delivered in the budget. Our small businesses are positioned to make the most of our free trade agreements and continue to succeed.

This government continues to open new markets through free trade agreements across the region. Securing access to Japanese, Korean and Chinese markets is essential for future success, not just for small businesses but also for medium and large enterprises as they compete in the global economy. The seminar was part of that process.
In closing I just want to say what an opportunity these free trade agreements are for businesses right around the country. But especially here in the ACT. People might not be aware—because we have such a large public sector—that our private sector is made up of many small businesses, over 20,000 small businesses. They dominate our private sector employment here in Canberra. Of course the focus going forward and the focus with these free trade agreements—whilst we have opened it up with agriculture and various other products—is the services sector, which presents amazing opportunities, outstanding opportunities.

Canberra businesses and businesses in the region focus on the services sector. This is what ACT businesses excel at. So I think the opportunities which will open up as part of these free trade agreements, particularly the China free trade agreement but likewise Korea and Japan, will present extraordinary opportunities for ACT businesses to grow.

There are some great Canberra success stories—like Aspen Medical, for instance. And more and more businesses will grow in that sort of space, doing amazing things. We have such great know-how here in Canberra. It is our great strength—our smarts and our highly educated population. I commend those free trade agreements to the Senate.

Broadband

Senator LUDWIG (Queensland) (13:54): I rise to speak in relation to the Abbott government's appalling approach to the National Broadband Network. In particular, I want to focus on the effect the coalition's bare bones NBN has on regional and rural Australians.

The second-rate NBN that we see being rolled out by the Abbott government is nothing like Labor's proposal. Even calling it a 'roll out' is being overly generous, when you consider the glacial pace at which households are being connected.

I want to talk a little about the background of the NBN. As part of Labor's NBN, 93 per cent of Australian would have been connected through fibre-to-the-premises broadband. While the coalition's current Frankenstein patchwork of an NBN only delivers 24 per cent of fibre to the premises. More than 41 per cent of Australians will be forced to use the fibre to the node and then copper to their home or business. So this government is still wedded to the copper network.

Back in 2003—and I am sure those opposite will remember this—during a Senate committee inquiry, Telstra's Tony Warren said: 'It is probably the last sweating, if you like, of the old copper network assets. In copper years, if you like, we are at a sort of transition—we are at five minutes to midnight.' That was in 2003. Minutes later, Telstra's boss, Bill Scales, also said: 'The only point of clarification, just so that there is no misunderstanding, is that when we think about the copper network, we are still thinking about 10 years out.' So that is five minutes to midnight in this context.

So in 2003 they gave it about 10 years, maximum. Even by that time line we are at a critical point in the copper network life span. The Liberals and Nationals are relying on a copper network which is more than a century old to deliver the high-speed broadband. It is a promise which they simply cannot and will not keep. A report earlier this year by cloud service provider Akamai ranked Australia 44th for average connection speed.

Let's talk about satellites now. In 2012 the former Labor government announced that there would be two new broadband satellites which would provide high-speed broadband to
regional and remote parts of Australia. It is important to remind the Senate that at the time the Liberals and Nationals opposed these satellites. They condemned the satellite program as a 'Rolls Royce' solution and referred to it as 'a waste of money'. Spending this money on people in regional and rural Australia, who are the most isolated people in our country, is exactly what this government should be doing and should be supporting. But the doormats to the Liberals—the National Party—I suspect, just rolled over on that one. The poor access to broadband and limited access to data is a huge problem for people in the bush. True to their form, the Nationals in this place once again abandoned their constituency in the pursuit of political point scoring by their Liberal masters.

I am proud that the first satellite is due to be launched in the next few months and that it was a Labor government that has delivered this crucial resource for the benefit of rural and regional Australians. Across rural and regional Australia, communities are being failed by the Liberals and Nationals NBN service. Farmers, small businesses and children reliant on the School of the Air are having trouble connecting to the NBN; and, if they are able to connect, they quickly hit the low data-usage-limit, making it impossible to utilise for some of the most basic tasks. The coalition's chant—which I hate to use—'Fast. Affordable. Sooner.' which is how they described their version of the NBN, is quite frankly a joke and they know it. And now they are bleating about it as well.

One of the examples of how bad the situation has become can be found in article in _The Australian_ recently which said:

> On Lake Nash station about 380km east of Mount Isa, Fred and Sarah Hughes from family-run Georgina Pastoral share downloads totalling 180Gb per month between 35 people—equivalent to about 5Gb per person. Not long ago, their $10m-a-year operation was without internet completely for a fortnight.

And that was because you do not provide them with enough. It is unacceptable for those operations.

If the coalition government is serious about opening up northern Australia and increasing our trade and connectivity with the economies in Asia and elsewhere, then these businesses and communities need reliable access to the high-speed internet.

Debate interrupted.

_Opposition senators interjecting—_

The PRESIDENT: On my left! We haven't even started question time yet.

**QUESTIONS WITHOUT NOTICE**

**Royal Commission into Trade Union Governance and Corruption**

**Senator JACINTA COLLINS** (Victoria) (13:59): My question is to the Attorney-General, Senator Brandis. Can the Attorney-General confirm that Commissioner Heydon's salary is more than the $3.3 million being paid to counsel assisting the royal commission, Mr Stoljar?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:00): No.
Senator JACINTA COLLINS (Victoria) (14:00): Mr President, I ask a supplementary question. I ask the Attorney: why is Commissioner Heydon's salary a secret when the counsel assisting the royal commission's salary is not?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:00): Senator Collins, as you would be aware, it is not the custom of Australian governments of either political persuasion to publish commercial-in-confidence matters.

Opposition senators interjecting—

The PRESIDENT: Order on my left. Senator Brandis, had you concluded your answer?

Senator Brandis: Yes.

Senator JACINTA COLLINS (Victoria) (14:01): Mr President, I ask a further supplementary question. The critical issue, and the issue I would like the Attorney-General to address, is: how many tens of millions of dollars has this partisan royal commission cost Australian taxpayers so far?

Senator Cormann: It is coming in below budget.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:01): As the finance minister just points out to me, it is coming in below budget. The royal commission has in fact been a very efficiently run royal commission in terms of its budgeting.

But, when we ask ourselves about the cost of the royal commission, what we have to do is look at it in the overall context. How much is this royal commission going to save the Australian economy by throwing a spotlight on corruption and rorts and racketeering by the trade unions that you seek to protect by destroying the royal commission? We know what your motive is, Senator Collins, just as we do the motive of your leader, Senator Wong. You do not want corruption in the trade union movement exposed and you will stop at nothing to tear down the royal commission that has blown the whistle. (Time expired)

Environment

Senator CANAVAN (Queensland) (14:02): My question is also to the Attorney-General, Senator Brandis, but, unlike the questions from the other side, my question is about jobs. Can the Attorney-General inform the Senate how the government is standing up for Australian jobs and stopping their negation by professional environmental activists?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:03): Thank you very much indeed for that question, Senator Canavan. Senator Matt Canavan, who is a Rockhampton based senator, knows better than anybody else in this chamber, I dare say, of the devastating effect on the economy, in Central Queensland in particular, of the latest stunt by radical environmental activists to use the processes of the Federal Court and court processes by conducting vigilante litigation to bring to its knees Australian industry.

Do not just take that from me, Senator Canavan, because I happen to have a document called Stopping the Australian coal export boom, in which an assembly of green activist groups, including Greenpeace, the Graeme Wood Foundation and others, declare a strategy to delay and disrupt key infrastructure projects including ports, rail and mines. They announced
their intention to use the courts to mount legal challenges to the approval of several key ports, mines and rail lines and to run legal challenges that delay, limit or stop all of the major infrastructure projects of this country. That is the intention.

The reason they are able to do that is a provision of the Environment Protection and Biodiversity Conservation Act, section 487(2), which reverses the traditional common-law position which says that anybody who is affected has a right to approach a court to seek redress but that people who are not affected have no right to use the court to make political points. Section 487(2) reverses that, and this government has decided to repeal it. (Time expired)

Senator CANAVAN (Queensland) (14:05): Mr President, I ask a supplementary question. I thank the Attorney-General for his answer. Can the Attorney-General advise the Senate who will be affected by the government's proposed changes?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:05): The only people who will be affected by the government's proposed changes are those who would use the courts as a political weapon to game the system to make political points rather than to defend legitimate legal interests, because their capacity to engage in vigilante litigation and to misuse the processes of the courts will be taken away from them. But I will tell you who also will be affected by the government's changes, and they are the thousands upon thousands of Australian workers who will lose their jobs if vigilante green litigants are allowed to continue with their strategy but whom this government's decision to repeal section 487(2) of the EPBC Act will protect.

In Central Queensland, Senator Canavan, as well you know, some 10,000 jobs would be lost if the Adani project is not able to proceed. So talk to the 10,000 workers whose jobs would be lost, but this government is determined to save—

Senator Waters: Mr President, I rise on a point of order. I believe the Attorney is misleading the chamber. The company themselves have distanced themselves from that figure and have revised it down.

The PRESIDENT: That is not a point of order, Senator Waters. There is no point of order.

Senator CANAVAN (Queensland) (14:07): Mr President, I ask a further supplementary question. Can the Attorney-General advise the Senate how the government's proposed changes will build certainty for future investment and help create even more jobs?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:07): They will build certainty in the most obvious way so that those who decide to invest in major Australian projects know that their investments will be subject to the regular processes of approval by the appropriate authorities, that people potentially affected by those developments will have the same rights as they have always had under our legal system to make appropriate challenges but that political groups seeking to use the courts only for the purpose of the prosecution of political agendas will not be allowed to get away by using this section of the EPBC Act in order to wage political warfare—or as some people have called it, 'lawfare'—against those who are trying to build the Australian economy and bring jobs with
them to ordinary hardworking Australians. And it is for the Labor Party to decide: are you on the side of the workers or are you on the side of the Greens?

DISTINGUISHED VISITORS

The PRESIDENT (14:08): I draw to the attention of honourable senators the presence in the chamber of a parliamentary delegation from Saudi Arabia led by the Speaker, His Excellency Dr Abdullah bin Mohammed Al-Sheikh, Speaker of the Shura Council. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate. With the concurrence of honourable senators, I would ask the Speaker to take a seat on the floor of the Senate.

Honourable senators: Hear, hear!

His Excellency Dr Abdullah bin Mohammed Al-Sheikh was then seated accordingly.

The PRESIDENT: Whilst I am acknowledging visitors, we also have past President Alan Ferguson in the President's Gallery—heavily disguised.

QUESTIONS WITHOUT NOTICE

Royal Commission into Trade Union Governance and Corruption

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:09): My question is to the Attorney-General, Senator Brandis. I refer to the Attorney-General's confirmation that he spoke with Commissioner Heydon about his planned address to the Liberal Party fundraiser, the Sir Garfield Barwick lecture. On how many occasions has the Attorney-General picked up the phone to Commissioner Heydon since the royal commission was established? And would next time you do pick up the phone to the commissioner, will you ask him why he did not ask a single question on the brief of evidence provided to him of the $1.4 million that Kathy Jackson stole from HSU members?

Senator Conroy interjecting—

The PRESIDENT: Order! Senator Conroy, you have asked your question. I am just debating as to whether the second part of that question is in order. I will allow it to stand. The Attorney-General can treat the second part of the question as he deems fit.

Honourable senators interjecting—

The PRESIDENT: Order! On both sides.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:10): They are getting a little sensitive, aren't they? Senator Conroy is now using the opportunity to wage his own vendettas in the fratricidal ugly world of Labor Party politics. In relation to the first part of the question, I would have to check but I would do recall communicating with Mr Heydon on the occasion when the government approached him to request that he extend the life of the royal commission. Obviously as a matter of courtesy it was necessary to make that request of him. I cannot immediately call to mind at any other occasions when I have spoken to Mr Heydon during the currency of the royal commission, but I will check.

In relation to the second part of Senator Conroy's question, if I understood it correctly and I am sure I did, I am being chastised for failing to interfere with the operation of the royal commission, being chastised for not suggesting to or insisting that the commissioner pursue a
certain line of inquiry in a certain way. Well, of course I would not. Anybody who sought to interfere with a royal commission would be committing a crime.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:12): Mr President, I ask a supplementary question. Can the Attorney-General advise if there was the shortlist for the position of royal commissioner? What criteria was applied to the appointments? Did it include political impartiality?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:12): Mr Heydon was selected by the government on my recommendation because I was looking for somebody with a reputation so stainless, so perfect that nobody could possibly criticise him without making themselves a fool, and you have fallen right into the trap, Senator Conroy. Anybody who inquired into corruption in the trade union movement was bound to have mire and dirt and sleaze thrown at them by the protectors of the organised criminals in the trade union movement on the opposition benches.

Senator Moore: Mr President, I rise on a point of order: direct relevance. I would ask you to draw the attention of the attorney to the specific questions asked about the shortlist and criteria. The attorney has talked about the fact that it was his decision and that is fine, but I would like to see whether you could draw to his attention those particular points in the questions.

The PRESIDENT: The Attorney-General has been directly relevant in relation to portions of the question. The Attorney-General has 18 seconds in which to complete his answer.

Senator BRANDIS: So what the government was looking for was the best black-letter lawyer in the country with a reputation for personal integrity and impartiality so utterly stainless that nobody who hoped to be taken seriously would dare to criticise him. (Time expired)

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:14): Mr President, I ask a further supplementary question. Is not respected lawyer Julian Burnside correct in his assessment of Commissioner Heydon that:

...it was really never a tenable possibility for him to appear to be impartial on the Royal Commission while being so closely associated with the Liberal party as to accept that invitation. And as a honourable person he should step aside. Why is it Senator Brandis failed to follow his cabinet instructions to say that Labor attacks on Justice Dyson Heydon reveal their true objective: to stop the royal commission into union governance? Why haven't you used that again? (Time expired).

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:15): Mr Julian Burnside, whom I know slightly, hardly approaches this as an impartial observer. Yet even Mr Burnside has made the same point that I make about the Hon. Dyson Heydon: that he is a person of utterly unimpeachable integrity, a man with no politics, appointed to the New South Wales Court of Appeal by the Labor government of Mr Bob Carr, appointed to the High Court of Australia by the coalition government of John Howard. But, rather than one individual lawyer, let us remember what the Law Council of Australia had to say yesterday:
The public attacks on the commissioner being played out through the media are unacceptable and
damage the basis on which tribunals and courts operate.
That is the voice of the Law Council of Australia representing every constituent body of the
legal profession in Australia. That is the voice of the legal profession in this country— (Time expired).

Nauru: Surveillance

Senator DI NATALE (Victoria—Leader of the Australian Greens) (14:16): My question is to Senator Cash, the Minister representing the Minister for Immigration and Border Protection. I refer to the recent revelations that my colleague Senator Sarah Hanson-Young was the subject of a surveillance operation while visiting Nauru in December 2013. On Monday, during question time you stated:

In relation to the claims made by Senator Hanson-Young that she was spied upon, the claims that were made have been confirmed to be false.

On that same day in the other place the Minister for Immigration and Border Protection, Minister Dutton, said

‘they should provide that information to the police, and the matters will be properly investigated.’ Given that the immigration minister has now conceded that the matter should be referred to the police, will you today correct the record and admit that spying by a government contractor actually took place?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:17): I have to say it is a great shame that twice now this week in the chamber the Greens leader has come into this place and asked a question on border protection. He could have asked about the thousands of lives that this government has saved because of the implementation of our policies. He could have asked about the billions of dollars that have now been returned to the budget—again because of this government's policies. He could have asked—

Senator Di Natale: Mr President, I rise on a point of order on relevance. I understand the minister might not have the correct brief in front of her today, as she clearly did not several days ago, but I ask you to draw her attention to the question I asked.

The PRESIDENT: Thank you, Senator Di Natale. I will draw the minister's attention to the basis of your question.

Senator CASH: As I was saying, he could have chosen to ask about the places that are now being given to people in camps who have been there for five years, 10 years, 15 years and 20 years and are now being able to be returned to Australia. But instead, as always—

Honourable senators interjecting—

The PRESIDENT: Order! Minister, I will draw you attention to the question that has been asked.

Senator CASH: The question was on border protection, and I am referring to border protection. I have had 54 seconds—

Senator Di Natale: Mr President, just on the point of order on relevance. I think the minister is coming dangerously close to defying your ruling and I ask you to draw her attention to the question again.
The President: Senator Di Natale, I will decide those matters. I have drawn the minister's attention to the question.

Senator Cash: But again they come into this place and reflect upon themselves. Again I will advise the chamber that the claim that Senator Hanson-Young was spied upon is not accurate. The original allegation by Senator Hanson-Young of large-scale spying during her visit was very broad and, as usual, short on detail. Senator Hanson-Young was not placed under any surveillance or security that is not usually afforded to high-profile visitors to Nauru.

The department did conform, however, that the senator's vehicle was monitored whilst parked overnight. This was, as I stated in my answer on Monday, without the approval or knowledge of the government or the Department of Immigration and Border Protection. Any proposal or plan to undertake any such surveillance activity would not have been allowed to proceed. I am advised that the contractor in question has provided evidence at the Senate committee which refutes the claims made by the Australian Greens.

Senator Di Natale (Victoria—Leader of the Australian Greens) (14:20): Mr President, I ask a supplementary question. The claim was referred to the Australian Federal Police, as instructed by the minister, who have replied that Nauru is not within their jurisdiction and they are unable to pursue the matter. Given that the immigration minister has conceded they warrant a police investigation, what further action will you take?

Senator Cash (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:21): I disagree with what Senator Di Natale is saying. The minister has not said that. I want to now go to the response that has been given by Wilson Security. They stated: We categorically reject the claims made on the 7:30 program. These anonymous allegations are untrue and we stand by our sworn testimony given to the Senate inquiry. We continue to assist the inquiry with accurate and factual information and to stand by our staff who perform very professionally under difficult circumstances.

I am also advised that the contractor in question provided the evidence, as I said to the Senate committee, and refuted the claims.

Senator Di Natale (Victoria—Leader of the Australian Greens) (14:22): Mr President, I ask a further supplementary question. Given that Wilson Security have conceded that surveillance did take place and that people have been disciplined as a result of that action, I ask now: will the minister suspend any ongoing contract negotiations with Wilson Security until this matter is fully investigated?

Senator Cash (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:22): Again, as I stated, Wilson Security themselves have stated that what occurred was unauthorised, and my understanding is they have disciplined the person involved. You just hate offshore processing and you will do and say anything in this place to undermine what is now a very, very successful policy on behalf of this government.

Senator Di Natale: Mr President, I would ask the minister to reflect on her answer that she gave on Monday, when she suggested that the actions of Wilson Security would be afforded to any member of parliament—
The PRESIDENT: Senator Di Natale, is this a point of order?
Senator Di Natale: This is a point of order.
The PRESIDENT: It is not a relevant point of order. You are debating the issue.
Senator Di Natale: She is misleading the Senate.
The PRESIDENT: That is a debating point.
Senator Di Natale: She is misleading the Senate.
The PRESIDENT: You have the right to raise that after question time, in taking note of the answers of ministers.

Mining

Senator WILLIAMS (New South Wales) (14:23): My question is to the very responsible Minister for Veterans' Affairs, Senator Ronaldson, representing the Minister for Industry and Science. Can the minister outline to the Senate any actions the government is taking to protect and grow jobs in the resources sector?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:23): I thank Senator Williams and acknowledge his longstanding interest in regional and rural Australia and jobs. We are getting on with the job of creating employment: this year, 163,000 jobs; over the term of this government, 335,000—four times Labor's. And, unlike those opposite, we actually believe in the resources sector. We believe in the future of coal as a reliable and abundant form of energy in this country. We believe in the jobs of the 54,000 people who work in the industry directly. We believe in the 145,000 who work indirectly in this industry. And we believe in the exports of some $36 billion in 2012-13. We believe in the $3.2 billion in royalties. And that is why we want to see these resources projects proceed and proceed without the sort of intervention that the Attorney-General has so well articulated over the last two days.

We do not agree with those with a philosophical objection who want to oppose every coal project. We want to allow jobs. We want to allow mining to continue. We want growth in this sector and we want those opposite to actually start acting in the best interests of Australian workers, and they are showing no indication at the moment. As the Attorney-General said, there will be 10,000 jobs if the Carmichael mine continues and $22 billion in mining taxes and royalties in just the first half of the life of this project. If I go to Mary Carroll, the CEO of Capricorn Enterprise: 'The recent court decision will dishearten locals in a time employment opportunities are scarce. This mine would have provided thousands of jobs in the Central Queensland region.' (Time expired)

Senator WILLIAMS (New South Wales) (14:26): Mr President, I ask a supplementary question. I thank the minister for his comprehensive answer and I ask: can the minister inform the Senate of any alternative approaches to protecting jobs in the resources sector?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:26): I again thank Senator Williams. Yes, there are threats, and it is those opposite and it is the Leader of the Opposition, Bill Shorten. They are opposed to our amendments to the EPBC Act, opposed to amendments that would have guaranteed jobs in regional and rural Australia, would have
guaranteed the jobs of the workers that those opposite ostensibly support. They want a carbon tax to drive up electricity prices. They want the bullying and the intimidation in the construction industry to continue. They are on the side of the wreckers, not the builders. They are on the side of the radicals, not on the side of Australian workers. What has happened to this group of people? You have now given new meaning to Paul Keating’s description that we are all so aware of. You start protecting workers. You work with us to protect an industry that is absolutely vital to this nation and its families and its workers. (Time expired)

Senator WILLIAMS (New South Wales) (14:27): Mr President, I ask a further supplementary question. Can the minister inform the Senate of any alternative resources policies for our manufacturing sector and the importance of a consistent approach to such issues?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:27): Regrettably, I can. We actually believe that a strong resources sector is vital for a strong manufacturing sector. That is why we were utterly amazed to see Senator Rhiannon move a motion earlier this week in relation to a 'Save our steelworks' campaign in relation to Port Kembla, saying it has been 'the backbone of the Illawarra economy for more than 80 years'. Of course, 12 months ago Senator Rhiannon was in here saying, 'We've got to close this industry down. We've got to phase it out—the product the world no longer needs.' But, remarkably, Mr President, guess what: manufacturing of steel actually relies very heavily on the availability of coking coal. Who provides the bulk of the coking coal to the Illawarra steelworks? Port Kembla. It is Illawarra. So, on the one hand, we have got this unholy partnership between the wreckers on that side and those who want to grow the nation on this side— (Time expired)

Renewable Energy

Senator LAZARUS (Queensland) (14:28): My question is for the honourable Senator Birmingham, representing the Minister for the Environment. Far North Queensland boasts natural wonders including the Great Barrier Reef and the Daintree Rainforest. The region desperately needs renewable energy projects to provide reliable, local and green energy solutions. A consortium of local investors have funded a proposed Cairns Mount Emerald wind farm project. The project was submitted to Mr Hunt's office for EIS approval in November 2014. To date, approval has not been provided. Could you please explain whether Mr Hunt is delaying consideration and why this project has not been approved?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:30): I thank Senator Lazarus for his question. As I have told the Senate before, and I think I have told Senator Lazarus for his question. As I have told the Senate before, and I think I have told Senator Lazarus before in response to questions, Minister Hunt and the government take our responsibilities for thorough and rigorous assessment of projects under the EPBC Act quite seriously. In relation to the particular project in question, I will take the details on notice because I do not have the exact time line for that project before me. But I will happily get the information for Senator Lazarus as to how the assessment processes around that project are proceeding.

I would note that Senator Lazarus spoke about jobs in Queensland and about EPBC approvals and assessments. This government are absolutely committed to making sure that the EPBC Act operates in the most efficient and effective way possible. That is why Minister
Hunt has ensured environmental approvals for more than a $1 trillion worth of economic activity since we took office. It is why we have made sure that projects are rigorously assessed but assessed as expeditiously as possible.

It is why we are pursuing the agenda of having a one-stop shop for environmental approvals, so that we can make sure projects like this are given clear air to be assessed in the quickest possible way simultaneously by both state and federal governments. It is why we are proposing further improvements and enhancements to the EPBC Act to ensure that projects like this, when they do get approval, can actually have the certainty that the approval will stand, that investors can have certainty that they will not be subject to unreasonable litigation, that we will not see instances where tens of thousands of jobs are held up because of technical problems or because of litigious practices. I will certainly give Senator Lazarus the answer to his question. *(Time expired)*

**Senator LAZARUS** (Queensland) *(14:32)*: Mr President, I ask a supplementary question. I can only hope that the government become as thorough with mines as they are with wind farms. The Mount Emerald wind farm project will provide power in the Cairns region for up to 75,000 thousand homes a year. Does the government understand the benefit that renewable energy provides to the country and why it is so important that projects of this nature are given prompt consideration?

**Senator BIRMINGHAM** (South Australia—Assistant Minister for Education and Training) *(14:32)*: The government absolutely understand that projects need to have prompt consideration. We are absolutely committed to making sure that, whilst all assessment practices are rigorous, we do give prompt consideration to them. And, of course, we are determined to make sure that investors have certainty at the end of that. We want to ensure that when those who are pursuing a project—whether it is a wind farm, whether it is a mining project, whether it is an infrastructure development project—get the approvals, they know that they can invest with confidence and proceed with confidence. So I am pleased that Senator Lazarus, who I note has indicated his opposition to our latest reforms to the EPBC Act, is so concerned about investor confidence. I invite Senator Lazarus to reconsider his position, because in reconsidering his position he could be supporting confidence for the very investors he is talking about; that, whatever the nature of the project, they can then have confidence they will not face litigious practices in future that put those jobs and investment at risk. *(Time expired)*

**Senator LAZARUS** (Queensland) *(14:34)*: Mr President, I ask a further supplementary question. In view of the government's approach to dirty coal in favour of renewable energy, is the government deliberately delaying the approval of renewable energy projects to harm the renewable energy sector?

**Senator BIRMINGHAM** (South Australia—Assistant Minister for Education and Training) *(14:34)*: I completely reject the assertion of Senator Lazarus. Every EPBC application that comes to this government is considered on its merits. Every application is considered against the law. We adhere to the law and we apply the law, and that is exactly what Minister Hunt does, regardless of the nature of the project in question. We want to make sure that it is applied as effectively and expeditiously as possible. That is why we have managed to progress more than a $1 trillion worth of environmental approvals since we have been in power, why we have got rid of much of the backlog that existed from the previous
government. I will make sure in relation to this one, Senator Lazarus, that we get prompt answers for you as to why those approvals have not been forthcoming. But I can assure you, Senator Lazarus, there is no difference in treatment, but we do want to give investors the certainty so they can build and create jobs in whatever industry it is in Queensland and all around Australia. *(Time expired)*

**Perth Freight Link**

*Senator SMITH* (Western Australia) (14:35): My question is to the Minister representing the Treasurer, the Minister for Finance, Senator Cormann. Can the minister inform the Senate about the importance of the coalition government's investment in the world-class Perth freight link project in my home state of Western Australia and its importance for economic growth and job creation?

*Senator CORMANN* (Western Australia—Minister for Finance) (14:36): I thank Senator Smith for that very important question. The Perth Freight Link project is a very important project not only for Western Australia; it is a project of national significance. It will help us drive stronger growth and stronger job creation by getting our products to market more efficiently and at a lower cost, more safely and, of course, with less disruption to local communities along the transport routes to Fremantle port. That is why the Australian government have committed nearly a billion dollars as part of this $1.6 billion investment. It finally creates a long overdue, world-class freight link between the strategic industrial areas of Perth and Fremantle port. I know it is enthusiastically supported by Senator Ludlam, who I see is nodding. It provides travel time savings of almost 10 minutes from the Kwinana Freeway to Fremantle port and delivers economic benefits of more than $3.9 billion to the Western Australian economy.

Why is this project so important and why does it contribute to growth and jobs? Because Australia is a trading nation. Western Australia is a trading state with about 10 per cent of the population and it contributes 47 per cent of Australia's merchandise exports. Of course Fremantle port is a critical part of the trading infrastructure of Western Australia and Australia. But the challenge that we have is that, with a growing population and a growing volume of freight being taken from the industrial areas around Perth and the north of Perth to Fremantle port, more and more of that traffic is utilising local arterial roads that are not designed for that purpose. We need to ensure that we get our produce to port and to markets in the most efficient, safest, least-costly way that causes the least amount of disruption to communities across Western Australia.

*Senator SMITH* (Western Australia) (14:38): Mr President, I ask a supplementary question. Can the minister inform the Senate how the coalition government's investment in productive infrastructure helps boost growth and creates jobs?

*Senator CORMANN* (Western Australia—Minister for Finance) (14:38): As I have indicated, with increases in population and significant increases in the volume of freight being taken across the Perth metropolitan area to Fremantle, we are confronted in Western Australia—and in other metropolitan places around Australia—with increasing levels of congestion. These increased levels act as a handbrake on economic growth. That is why we need to make this significant investment in productivity-enhancing economic infrastructure as part of our plan for stronger growth and more jobs.
That is why the Australian government is making a record investment of more than $50 billion in productivity-enhancing infrastructure across Australia, building the roads of the 21st century. Providing a more efficient freight route to the Fremantle port has been talked about for decades, but nobody has delivered. This government, working with the Barnett government, is delivering.

**Senator SMITH (Western Australia) (14:39):** Mr President, I ask a further supplementary question. Can the minister inform the Senate whether there are any alternative policies that deliver much needed infrastructure and jobs for our home state of Western Australia?

**Senator CORMANN (Western Australia—Minister for Finance) (14:39):** The Labor Party has no plan for road infrastructure in Western Australia. When they last were in government, they wanted to take billions of dollars in tax out of Western Australia through their job-destroying mining tax and send a few crumbs back across the Nullarbor.

Now we have the member for Perth, Alannah MacTiernan, campaigning against the Perth Freight Link. Senator Smith and other senators from WA would well remember that 15 years ago she campaigned against the Northbridge Tunnel and the Graham Farmer Freeway only to rush to the front row and take her seat at the official opening. That is of course infrastructure that now has hundreds of thousands of cars using it every single day.

The Transport Workers Union represented here by Senator Sterle came out earlier this week—

**Senator Sterle interjecting—**

**Senator CORMANN:** and he is interjecting and he should be listening—and supported our Perth Freight Link project investment, and Senator Sterle should pull Alannah MacTiernan into line on behalf of his members. *(Time expired)*

**Workplace Relations**

**Senator LEYONHJELM (New South Wales) (14:40):** My question is to the Minister for Employment Senator Abetz. In its recent draft report, the Productivity Commission stated that Sunday penalty rates for restaurants, cafes, retail, hospitality and entertainment should be aligned with Saturday rates. By coincidence, I have introduced a bill that exempts small business employers in the restaurant, catering, retail and hospitality industries from paying penalty rates simply because work is done on the weekend.

Do you agree with the Productivity Commission's analysis that reducing penalty rates for weekend work in these industries would increase employment and hours worked? Can you estimate the extent of increased employment and hours worked, if small business employers in these industries were no longer required to pay weekend penalty rates?

**Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:41):** I thank Senator Leyonhjelm for the question. The Productivity Commission review that has now delivered a draft report was part and parcel of our election promise to the Australian people that we would have a root-and-branch review of the fair work system. I am pleased to say that the Productivity Commission was of the view, as was the government, that it required repair but not replacement.
I can say to Senator Leyonhjelm in relation to this matter thus far: this is a draft report. The commission has suggested that we not rule in or rule out any of their draft observations and recommendations. At this stage, it is open to others to make submissions up until 18 September, if I recollect correctly, to disagree or support these draft observations and recommendations.

In relation to Senator Leyonhjelm's bill, I do not know if the Productivity Commission was aware of his draft bill and plagiarised it in their report or indeed whether they were aware of Mr Bill Shorten's evidence to the royal commission on trade union governance and corruption where he said he had traded away—and his union had traded away—penalty rates to protect jobs, to keep jobs and to create jobs. So it seems that the Productivity Commission's draft views have been fertilised by the opinions of the Leader of the Opposition, Mr Shorten, and potentially even Senator Leyonhjelm's private member's bill.

I am not going to comment on the draft recommendations as to whether we agree or disagree, because the commission has asked us to defer consideration until they come down to their final report. (Time expired)

Senator LEYONHJELM (New South Wales) (14:43): Mr President, I have a supplementary question. Do you agree with the Productivity Commission's analysis that reducing penalty rates for weekend work in the restaurant, retail and hospitality industries would improve convenience and reduce prices for consumers? Can you estimate the extent of the price reductions to consumers, if small business employers in these industries were no longer required to pay weekend penalty rates?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:44): Once again I would say to the honourable senator that these are draft recommendations, and it is possible in its final report that the Productivity Commission will take a different view. Therefore I am not going to comment on the draft recommendations and their draft observations.

In relation to the specific question as to whether any estimate can be made of the price reductions et cetera, I would invite anybody with information in that regard to submit it to the Productivity Commission, and my department advises me it does not have any information that it could provide to the honourable senator.

Senator LEYONHJELM (New South Wales) (14:45): Mr President, I ask a further supplementary question. I imagine I will get the same result, but I will try once more. Do you agree with the Productivity Commission's draft report when it states—and this is a general question and not specific, necessarily, to the Productivity Commission—‘the overall social costs of daytime work on Saturdays and Sundays are similar and are lower than for evening work’?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:45): Once again, Senator Leyonhjelm is right. He will get basically the same answer. This is a draft report and we are considering it, but we will defer consideration until a final report is handed down by the Productivity Commission. Of course, given the antics of the Leader of the Opposition whilst he was a union official, it stands to reason that there are other people of that view as well—that penalty rates et cetera are not needed to be paid on a weekend. But might I add the
social reason on that occasion was if the business paid money to ‘Mr Shorten's union'. I do not think that that actually counts as a social reason.

Cabinet

Senator STERLE (Western Australia) (14:46): My question is to Senator Abetz, the Minister representing the Prime Minster. I refer to the embarrassing and damaging leak of Monday night’s cabinet agenda to Seven News. Can the minister confirm that the Prime Minister threatened to punish cabinet leakers and that the response, as Seven's Mark Riley said, was to immediately leak the cabinet agenda?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:47): I suspect that the workings of cabinet will be something that Senator Sterle will never experience, either shadow or government. I indicate to the honourable senator that, of course, we will not be commenting on matters that may or may not occur in cabinet. I do note that, when Senator Sterle sat on this side of the chamber, the cabinet basically could have been put into a little motor vehicle with two in the front and two in the back. It was a cabinet of four, and all the other cabinet ministers used to comment and leak about that fact, saying that they had been cut out of the equation and were not part of the decision making.

The PRESIDENT: Pause the clock.

Senator Conroy: I rise on a point of order on relevance. The question was very succinct. I ask you to draw the minister's attention to the question, rather than him attacking individuals who are asking questions, when the people he really wants to attack are sitting behind him.

The PRESIDENT: There is no point of order, Senator Conroy. The minister has addressed the heart of the question directly. Minister.

Senator ABETZ: The responsibility of a cabinet is to provide good government to this country, and that is what we are seeking to do by getting on with the business of creating jobs. We have created 336,000 jobs, four times the rate of job creation in the last year of the Labor government. We are growing our economy and jobs in Australia at a faster rate than the United States, the United Kingdom, the G7 and New Zealand. Having said that, we do need to do more. We will not rest on our laurels, but, rather than dealing in the gossip columns of newspapers, as Senator Sterle and his colleague do, we actually get on with the business of government, creating a future for northern Australia, creating a dynamic future for the agricultural sector, ensuring that our renewable energy target and our commitments internationally are world leading yet economically responsible. They are the matters that we devote ourselves to, unlike those on the other side.

Senator STERLE (Western Australia) (14:49): Mr President, I ask a supplementary question. Can the minister further confirm that cabinet briefing notes about how to deal with cabinet leaks were leaked this morning? Is this the behaviour the minister had in mind when he described his cabinet colleagues as 'gutless'?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:50): Senator Sterle has fallen into the trap, and, regretfully, taken the lead from Senator Cameron and others, to misquote. All I said—and I have the transcript right in front of me—was: I'm not one of those people that has unattributed comments in the media.
Anybody that has unattributed comments to them in the media—and indeed we recall them by the bucket loads under Mr Rudd's Prime Ministership, we remember them against Ms Gillard from people who are interjecting as I speak because they are reminded of the way they background briefed against Ms Gillard and undoubtedly are reminded of their dastardly attacks from their own Prime Minister. *(Time expired)*

*Honourable senators interjecting—*

**The PRESIDENT:** On my left and on my right. We do not need dialogue across the chamber. Order!

**Senator STERLE** (Western Australia) (14:51): Mr President, I ask a further supplementary question. What did the Prime Minister mean when he said at the party room meeting that ministers better not go off script on issues like same-sex marriage or there will be consequences? Are direct threats the only way this Prime Minister can keep his frontbench in line?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:52): They are, once again, trawling through the gossip columns of the newspapers and referring to unattributed comments. That is what excites Senator Sterle and that is what excites Senator Wong. That is what excites the Labor Party. Do you know what excites us? What excites us are the 336,000 new jobs since we got into government; a plan for the expansion of our agriculture sector; a plan for northern Australia; and a plan to ensure that we can stand within the world community, providing a 50 per cent per capita reduction in our CO₂ emissions without destroying jobs and our economy. They are the things that motivate us. That is what excites me and, I must say, makes me very thankful that I am privileged to be part of a coalition government dedicated to the service of the people of Australia, rather than dealing in innuendo and gossip columns, which are of no benefit to the people of Australia.

**Trade with China**

**Senator BUSHBY** (Tasmania—Chief Government Whip in the Senate) (14:53): My question is to the Minister for Human Services, Senator Payne, representing the Minister for Trade and Investment. Can the minister inform the Senate how the China-Australia Free Trade Agreement will create new jobs and opportunities for Australians? Is the minister aware of any misinformation being peddled by those opposed to this job-creating and historic agreement with our largest trading partner?

**Senator PAYNE** (New South Wales—Minister for Human Services) (14:53): I thank Senator Bushby very much for that question. I can in fact inform the Senate about the very valuable China-Australia Free Trade Agreement and the jobs and opportunities that it will create for so many Australians. It is, as I have said before, a landmark free trade agreement. It is going to open up absolutely huge opportunities for Australia's resources, for our agriculture, for manufacturing and for service industries, and it will create thousands and thousands of jobs into the future.

So it is unfortunate that those opposite, particularly at the behest of the union movement or aspects of the union movement, seem to be continuing their effort to derail the agreement by repeating what are utterly false claims in relation to investment facilitation arrangements and to labour market testing. It is a campaign which is simply disingenuous. The investment
facilitation arrangements negotiated in parallel to ChAFTA will not reduce existing migration safeguards or permit overseas workers to work in Australia in preference to Australians. The Department of Immigration and Border Protection guidelines make it crystal clear that employers must demonstrate a labour market need and prove that Australians are being provided the first opportunity. There is also a mandatory requirement for employers to consult with stakeholders throughout this process, including with unions. Any suggestion that the Australian government would enter into any agreement that deprives Australians of the first opportunity for jobs is absolutely ludicrous.

Senator Wong: That is what you have done.

Senator PAYNE: The irresponsible campaign against this historic agreement is something I would expect from the CFMEU and from people of their calibre. Their protectionist attitude is infamous and, frankly, widely ridiculed. But I do not expect it from people such as the shadow minister, Senator Wong, who I thought would know better than to support a factually incorrect and highly damaging campaign such as is now being peddled on a daily basis. (Time expired)

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:55): Mr President, I ask a supplementary question. Can the minister confirm to the Senate that the labour provisions of the China-Australia Free Trade Agreement sit within our existing skilled migration program? Is the minister aware of any campaigns against our skilled migration program?

Senator PAYNE (New South Wales—Minister for Human Services) (14:56): I can in fact confirm that the labour provisions associated with the ChAFTA sit within our existing skilled visa program, including our 457 visa program. This of course is the same 457 visa program that elements of the trade union movement have been attacking for years. So, as Minister Cash said earlier this week, given the revelation that multiple trade unions in Australia have employed subclass 457 visa holders, the long-term coordinated campaign the union movement has waged against the 457 program, and what they are now trying to do against the China-Australia Free Trade Agreement, is frankly an act of incredible hypocrisy and duplicity. In fact, over at least the five years, at least 41 subclass 457 visa holders have been sponsored by over eight unions in Australia. That level of hypocrisy is quite remarkable. As we said in the chamber earlier this week, not since Mr McTernan was employed on a 457 visa have we had such blatant hypocrisy from the union movement. (Time expired)

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:57): Mr President, I ask a further supplementary question. Can the minister inform the Senate of any potential cost to Australian industry should the China-Australia Free Trade Agreement not receive support? Which jobs would be in jeopardy if the agreement does not get bipartisan support?

Senator PAYNE (New South Wales—Minister for Human Services) (14:57): Every day that the opposition refuses to support this landmark agreement is a day of lost opportunities for Australians. And I am going to remind this chamber every day I have the opportunity of where those opportunities will be lost. Failure to ratify the agreement will cost the red meat industry $100 million, the dairy industry up to $60 million, the wine industry up to $50 million and the grains industry more than $43 million. The coal industry says that every week of delay will cost it about $4.6 million a week in extra tariff payments on thermal and coking
coal. And, as I have said, the Financial Services Council warns that if the ChAFTA does not proceed it would cost our economy more than $4 billion and some 10,000 jobs in financial services alone by 2030. So those opposite face a major economic test. Will they continue decades of bipartisan support for freer trade and support this outstanding agreement, which will create tens of thousands of jobs, or will they not? (Time expired)

Trade with China

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:58): My question is also to the Minister representing the Minister for Trade and Investment, Senator Payne. I refer to the government's $25 million taxpayer funded advertising campaign on the Australia-China free trade agreement. Can the minister explain to the Senate how this government justifies a multimillion dollar cash splash on government spin while cutting billions from health, education and family payments?

Senator PAYNE (New South Wales—Minister for Human Services) (14:59): As the minister representing the Minister for Trade and Investment, I am not going to comment on a future advertising campaign. I do not know where the shadow minister was on budget night—I have no idea where the shadow minister was on budget night—but we can go to 'Budget Paper No. 2: Budget Measures—Part 2: Expense Measures' and examine what is under 'Foreign Affairs and Trade—Free Trade Agreement Promotion'. As best as I recall, the budget was handed down in May. But, apparently, in the shadow minister's press release this is a revelation. I am fortunate enough to have the document here—revelations that Tony Abbott will spend tens of millions of dollars. The budget was, in fact, revelatory on so many levels, because it was such a superb budget. But calling it—from May to August—'revelatory' is bordering on high farce. It is hardly a secret. Here we go—let me quote for those opposite:

The Government will provide $24.6 million over two years from 2015-16 to promote business understanding of the recently concluded Free Trade Agreements in North Asia and to assist businesses to access and maximise their benefits under these agreements. Advocacy and outreach activities will take place in both Australia and in target offshore markets.

Some secret! Some revelation! It is called 'the budget'.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:01): Mr President, I ask a supplementary question. I refer to the MOU and investment facilitation arrangement negotiated as part of the ChAFTA which sets out migration arrangements for Chinese-funded infrastructure projects valued at just $150 million or more. Can the minister confirm that the MOU states, 'There will be no requirement for labour market testing to enter into an investment facilitation arrangement'?

Senator Ian Macdonald: How is this a supplementary question?

Senator Wong: I know you don't want to answer this.

Government senators interjecting—

The PRESIDENT: Order! On my right! The question asked by—

Opposition senators interjecting—

The PRESIDENT: Order! On my left! Senator Cameron! Senator Lines! While Senator Wong's question could be construed as not being supplementary, in the context of the advertising in relation to the free trade agreement I think I will allow it to stand.
Senator PAYNE (New South Wales—Minister for Human Services) (15:02): I do not have the MOU with me, but I do have the investment facilitation agreement project agreement operation flow chart, which is part of the China-Australia Free Trade Agreement.

Senator Wong: Oh! A flow chart—that's helpful!

Senator PAYNE: Well, no, I just thought a diagram might be more helpful because you clearly cannot understand the words! I made it very clear earlier that these arrangements sit within the 457 visa arrangements that currently exist as well. Senator Cash has made that quite clear previously. The commitments not to apply—

Senator Wong: You have not got to the MOU yet. Read the MOU! Can't you read the MOU? It says 'no labour market testing'.

The PRESIDENT: On my left! Senator Wong, you have asked your question.

Senator PAYNE: I said to the shadow minister that I do not have the MOU with me. But I am endeavouring to address the clear guidelines that the Department of Immigration and Border Protection have set out, which I referred to in my earlier answer—that is, employers must show the DIBP that there is demonstrated labour market means—(Time expired)

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:03): Mr President, I ask a further supplementary question. I again refer to the words of the MOU: There will be no requirement for labour market testing to enter into an IFA.

It is not a flow chart; they are the words of your agreement. With the number of unemployed Australians standing at 800,000—the highest in more than 20 years—why is this government scrapping labour market testing safeguards and engaging in a taxpayer-funded spin campaign for an agreement that risks Australian jobs?

Senator PAYNE (New South Wales—Minister for Human Services) (15:04): I am very happy to try again to read to the shadow minister the clear guidelines with regard to IFAs:

Employers must show DIBP that there is demonstrated labour market need, Australians have been given the first opportunity through evidence of domestic recruitment activity (i.e. labour market testing) and there are no suitably qualified Australians.

I am quoting from the Department of Immigration and Border Protection guidelines. I will support Senator Wong with a copy of the chart, if that would be helpful to her. And, of course, I would note in appreciation the government's thanks to Professor the Hon. Bob Carr, Director of the Australia-China Relations Institute at UTS, who, as I understand it, has most recently endorsed the China-Australia Free Trade Agreement. Perhaps Senator Wong is familiar with him. (Time expired)

Senator Abetz: As much as I would like Senator Payne to continue, I ask that further questions be placed on the Notice Paper.

STATEMENTS

Royal Commission into Trade Union Governance and Corruption

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:06): I seek leave to make a short statement.

Leave granted.
Senator BRANDIS: Yesterday, in the course of asking me a question concerning the Honourable Dyson Heydon, and in the course of making an attack on Mr Heydon, Senator Collins uttered some words which I described as 'sleazy' and 'dishonest'. Although no objection was taken to my use of those words at the time, the President has since intimated to me that he would wish me to withdraw them. So I do.

Senator Jacinta Collins: Mr Deputy President, I seek leave to make a brief statement.

Senator Abetz: No—when someone withdraws—

Senator Jacinta Collins: That was not an unconditional withdrawal.

The DEPUTY PRESIDENT: In any case, leave has not been granted.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Renewable Energy

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (15:07): I rise to provide additional information to Senator Lazarus in relation to his question regarding the Mount Emerald wind farm. I can confirm for Senator Lazarus that the Mount Emerald wind farm project was referred to the Department of the Environment for assessment under the EPBC Act in December 2011. The project was determined to be a controlled action, with the relevant controlling provisions being listed threatened species and ecological communities, listed migratory species, World Heritage properties and Natural Heritage places. An environmental impact statement was only concluded and provided for the project and exhibited for public comment, though, in May 2014. The Department of the Environment, having analysed both the EIS and the comments provided to the EIS, has sought further information from the proponent regarding potential impacts of the Mount Emerald wind farm on the northern quoll. Once this information is received, the assessment will progress and a decision regarding approval of the project will be made in accordance with the requirements of the EPBC Act. I assure Senator Lazarus that neither any more nor any less consideration of the impact on the northern quoll of the Mount Emerald wind farm will be accorded than was accorded to the impact on the ornamental snake and the yakka skink in relation to the Carmichael coalmine or to any other listed species that is considered in relation to any other controlled action.

Senator Payne: Mr Deputy President, Senator Wong has taken offence to a remark I made inaudibly in the chamber. I withdraw it.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Royal Commission into Trade Union Governance and Corruption

Senator JACINTA COLLINS (Victoria) (15:09): 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 Conroy today relating to the Commissioner of the Royal Commission into Trade Union Governance and Corruption.

Given that Senator Abetz denied me leave, I will address some of the matters I would have raised earlier in taking note of answers to questions from me and Senator Conroy.

Senator Ian Macdonald: Why don't you make it Senator Wong too?
Senator JACINTA COLLINS: Mr Deputy President, I hope that my time will not incorporate lengthy interjections such as those from Senator Ian MacDonald.

The DEPUTY PRESIDENT: It probably will not.

Senator JACINTA COLLINS: Thank you very much. I have reflected in both yesterday's question time and today's that when the government is in serious difficulty we see it coming forward with the insults. Yesterday it was reported that in the discussions related to questions about Commissioner Heydon—

Senator Ian Macdonald: You're not insulting Dyson Heydon? What double standards!

Senator JACINTA COLLINS: My question to Senator Brandis yesterday did not insult Commissioner Heydon. It sought some straightforward information that the government has been seeking to conceal for quite some time. Instead, in his conditional withdrawal Senator Brandis claimed that I uttered words attacking Commissioner Heydon. This is simply untrue. I invite all senators to review the Hansard of yesterday's question time. I did not hear what Senator Brandis said in question time yesterday because of all of the noise in the chamber. I thank the President for his comments this morning to that effect. On reviewing the Hansard I saw that I had been described as 'dishonest and sleazy', which is disgraceful. I will not repeat today the words that Senator Payne described as inaudible, because they were obviously heard. The point is the insults that this government is coming forward with to try to conceal its fragile political status. Why is it fragile? It is fragile because the Prime Minister, Mr Abbott, has put his trust in the judgement of people such as Senator Brandis to make balanced decisions on who should conduct a royal commission. We see now from answers to questions today that Senator Brandis did not have an appropriate process for determining someone. He had no short list. The cabinet had no short list. He picked Commissioner Heydon. He claims it was on the basis that he wanted 'the best black-letter lawyer'. I do not know that being a black-letter lawyer is necessarily the best criterion for someone to look into complex workplace relations matters and the behaviour of registered organisations. However, I can understand that Senator Brandis would be happy to have a capital-C conservative lawyer, which is what I understand a black-letter lawyer to be. Let us look at the other point that I raised in questions today, which is about the secrecy—

Senator Ian Macdonald: This is the guy that Bob Carr appointed.

The DEPUTY PRESIDENT: Order, Senator MacDonald!

Senator Ian Macdonald: I cannot follow her argument.

The DEPUTY PRESIDENT: That is not a matter for me. What is a matter for me is interjections which are disorderly. I am calling you to order.

Senator JACINTA COLLINS: The other issue I raised today was not an attack but a question about the costs involved in the royal commission. What were we told by Senator Brandis today in answer to that? 'It's a matter of form. We don't provide information such as this on costs.' Yesterday he could not tell us whether it was a special circumstance that he personally had approved. We are still waiting for that answer. Today he cannot tell us why we can get information about the costs involved for counsel assisting, Mr Stoljar, but we cannot get the information—other than through cabinet leaks—that might be relevant to the costs of Commissioner Heydon.
We need to understand the full costs of this exercise. This royal commission is turning into a farce. The secrecy, the lack of transparency and the decision-making processes demonstrated by this government are the issue. I have not attacked Commissioner Heydon, but I am attacking the way this government has dealt with this matter.

Senator BERNARDI (South Australia) (15:15): In responding to the claims and the allegations made by the honourable senator opposite, I echo her sentiments and reflect that I, too, am disappointed in some of the conduct in this chamber during question time. But, rather than lay blame on the government benches, I draw to the attention of Senator Collins the behaviour and conduct of the Labor Party. It is truly outrageous that they belittle, they yell, they scream and they get hysterical whilst ministers are trying genuinely to answer questions.

Yet I understand it in the respect that they are seeking a distraction from their own failings. These distractions take on many forms, because the government is absolutely interested in responding to the priorities of the Australian people—and that is about jobs, about growing the economy and about providing opportunity for people going forward. Those opposite are not interested in those good-news stories. They are not interested in those productive stories. What they are interested in doing is laying a smokescreen down to hide the malfeasance that is inculcated in the union movement and has been exposed so deeply by the royal commission. So, because they cannot control, for want of a better word, the royal commission or influence the events there, they target the commissioner himself. They have targeted the commissioner in the most derogatory of manners with these pejorative slurs and these allegations that they cannot back up with any substance, and they do it because the royal commission has exposed the depth of union corruption.

It goes to the very, very top, where we are seeing favours traded by the Leader of the Opposition, Mr Shorten, in his time as the boss of a union in order to enrich or ingratiate the union at the expense of employees. Some may be able to justify that; I think it smells, and it has been exposed. We have also seen Mr Shorten receive pecuniary benefits in the form of employees and campaign workers, paid for by others and not disclosed. These are not mere oversights; they are not just the price of a Mars Bar or a meal at a local Chinese restaurant. We are talking about tens of thousands of dollars, and hundreds of thousands of dollars when it comes to the unions.

So, rather than the opposition trying to play a constructive and positive role in the affairs of the country, they are seeking to denigrate one of our best and most learned former justices in Dyson Heydon. It does them no good, I have to say, because the Australian people are actually interested in outcomes rather than the fire and brimstone produced by those opposite. None, or few, can conjure up the fire and brimstone like Senator Wong or Senator Conroy or even Senator Collins, with her confected outrage about how she has been harshly dealt with and poorly treated.

Yesterday's question time was very disappointing. I have to say. In one sense, it is very fortunate that it was not broadcast to the Australian people—in that they would be very disappointed in the conduct of the members opposite—but I am disappointed in the sense that the Australian people did not get to see firsthand just how shameless and how shallow the modern Labor Party has become. It is no longer about policy; it is no longer about doing the best thing by Australians; it is only about power for power's sake. We are seeing that through the royal commission exposing the union movement, where it was all about getting votes to
control more of the Labor Party so you could get more of your people into government, get the largesse of government, become ministers and hold positions of authority.

That is not what this place is meant to be about. Politics is not meant to be about that; it is meant to be about coming in here with a vision of how you would like to shape the country—a vision of how you would like to help Australians do better. We are going to have differences in that vision, but it is not meant to be about self. That is one of the things the modern labour movement need to align themselves with. It should not be about them as individuals; it should not be about enriching the union movement; it should not be about progressing up the greasy pole. It should be about lifting Australians and helping Australia to become better and better.

If I sound disappointed, I am—because you need a good opposition to make governments even better, and I want to see governments of all stripes made much better.

Senator STERLE (Western Australia) (15:20): I too wish to take note of answers to questions asked by members on this side of the chamber. I will try a different tack today, which I do not normally do: I will go through some notes and lay it all out so that those listening can get a handle on what has been going on. I want to talk about the situation with the perceived bias of the royal commissioner. In 2010, the inaugural Sir Garfield Barwick Address was organised by the Liberal Party and, of course, the current Attorney-General, Senator Brandis, spoke to it. This year's event was advertised on the New South Wales Bar Association website with a Liberal Party logo. It said that money was payable—it is undeniable—to the Liberal Party of Australia, New South Wales division and included the disclaimer that political donation laws apply to fundraising events. It is pretty simple: it was a Liberal fundraiser.

Mr Heydon received an email from a Mr Gregory Burton, who was the organiser of the Sir Garfield Barwick Address, on 10 April 2014. In Mr Burton's email, he disclosed that he is the chair of professional engagement for the New South Wales Liberal Party's lawyer branch. He stated: … we trust we show the party in a favourable light!

The party being the Liberal Party. He declared that the Garfield Barwick address is the, in his words, 'flagship event' of his branch. Mr Burton wrote to ask if Mr Heydon would be amenable to delivering the address, if the commission was completed, suggesting that Mr Burton perceived a conflict of interest back in April 2014. Mr Heydon replied that he would be happy to give the address.

The royal commission into trade unions was extended in October last year, and we know that. Justice Heydon was reminded of the address in March 2015 and he confirmed his interest to address them. Through a series of conversations and questions being put to Commissioner Heydon he later declared—not originally, but later after it was raised with him through the media—that he 'overlooked', which was the word he used, the fact that the event was organised by the Liberal Party, and that he had been asked to give the address only if the royal commission had finished. Commissioner Heydon said:

I overlooked the connection between the person or persons organising the event and the Liberal Party which had been stated in the email of 10 April, 2014.

He went on to say that he also overlooked the fact his agreement to speak at that time had been:
conditional on the work of the commission being completed before that time.

Commissioner Heydon was sent an email with attachments by a Liberal Party member on 12 June of this year declaring the event a fundraiser, including a political donation declaration on Liberal Party letterhead. Commissioner Heydon said that the email and attachments were printed by a personal assistant and that he did not read the attachments. Commissioner Heydon's personal assistant was emailed on 12 August 2015 by a Liberal Party member confirming details of the event. They said that the party would not be mentioned on advertisements in public Bar Association publications. The email noted:

... of course people will disclose if they go over the state donation limit.

On 13 August journalists obtained New South Wales Liberal Party flyers, one of which was sent to Commissioner Heydon in June, announcing that the event was a Liberal Party fundraiser and advising those attending to make cheques payable to the Liberal Party New South Wales Division. It said, very clearly, that all proceeds would be applied to state election campaigns with a disclaimer that donations over $12,000 would need to be disclosed to the Australian Electoral Commission.

It does not matter how much that side of the chamber try to cover up and not tell us what the cost is. It was clearly a very poor choice by Commissioner Heydon. What makes it looks even murkier to the public is that that side of the chamber are doing everything they can to try to defend that it was not Liberal Party, that he did not see it, that the assistant missed it, that the dog ate his homework. It reeks. (Time expired)

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (15:25): I did my best to listen to the contributions, word for word, of Senator Sterle and Senator Collins to this motion as they spoke earlier this afternoon. I thought I captured all of Senator Sterle's assertions of the relevant facts, but it is important in this case to actually outline that those facts do not support the conclusion that those opposite have arrived at. The single, most important fact here is that, upon realising and upon being made aware of it—a fact to which he has admitted—Justice Heydon made it clear he would not address that particular function. He did not actually undertake any activity that is party political.

Let us put this in context as I try not to assign a motive to those with whom I have a different view. If there were some consistency in approach from those opposite, one would not have to do this. I cannot help but refer to some other instances where I have not heard any expression of outrage from those opposite. In these instances the lectures were delivered, the functions were held, the person in question turned up and gave the address. It is the exact opposite of what Justice Heydon has done in this case, when he, rightly, said it would be inappropriate for him to deliver the address. He made that clear and released all the facts immediately upon him becoming aware of them.

On 11 November last year, and fortuitously for the Labor Party I realise that some were discussing the Sir Garfield Barwick Address, His Honour Judge Greg Woods delivered the Frank Walker Memorial Lecture to the New South Wales Society of Labor Lawyers.

Senator Conroy interjecting—

Senator Ryan: Thank you, Mr Deputy President. Before anyone rises to correct me, it is Labor Lawyers spelt simply with an O as in L-A-B-O-R. It is not any suggestion that it is a small L or people simply working in labour law. I might also say, as was highlighted in the other place within the last hour, that Justices Gaudron, McHugh and Kirby all addressed Labor Lawyers functions, but there was no cry from those opposite. Again, it is immediately apparent to anyone that examines the facts in this case that Justice Heydon, upon realising this function was associated with the Liberal Party, immediately made clear that it was not appropriate for him to do it and withdrew from the function.

This is where we get to the truth of the matter. I have rarely seen such—

Senator Conroy interjecting—

The Deputy President: Senator Ryan, resume your seat. I ask the Senate to come to order, and Senator Ryan should be heard in silence.

Senator Ryan: Thank you, Mr Deputy President. I have, in my seven-and-a-bit years in this place, rarely seem such contrived and confected outrage. One can only go to the motive of those opposite. As the news of endemic corruption in certain parts of Australia's labour movement bleeds out across the country, in an attempt to refer the pain or hide it, the Labor Party opposite sort of stubs its toe and tries to contrive some outrage of an event that did not occur.

The most important fact here is that Justice Heydon immediately withdrew. Those opposite are trying to pull together issues of the cost of a royal commission and issues of the timing of emails. They will not accept at face value the word of the commissioner and they try to imply that, somehow, there is a party political activity happening here, and it simply did not happen. There is no debate over that fact; it did not occur.

I note that Senator Collins, in her contribution during question time, referred to the cost of the royal commission. Quite rightly, given the scale of racketeering and illegal conduct in certain parts of the labour movement, particularly in my home state of Victoria, particularly here in the ACT as has already been brought to public attention by this commission, the costs to the community in terms of public infrastructure—every hospital we build, every private building of any significant size and all our infrastructure—are much, much greater.

This is an attempt at diversion. It is an attempt at diversion from the news that the Labor Party opposite is desperate that the Australian people not know. They do not want the Australian people to know that their masters, their mistresses, those who they work for, those who control their preselections, those who control and provide their slush funds, are involved in serious activity that is being uncovered by this royal admission and has already led to activity in the justice space which I will not go into in any more detail. Before anyone mentions any other events, that is the simple point that the Labor Party is trying to hide.

Senator McAllister (New South Wales) (15:30): I also rise to speak on the motion to take note of answers to questions asked by Senators Collins and Conroy. What did we learn from the answers to these questions? As I am coming to understand, not a great deal. But what did we learn from the answers to these questions? As I am coming to understand, not a great deal. But we did learn from the Attorney-General, Senator Brandis, that Dyson Heydon was selected by the government on his recommendation. It is a reminder, if we needed one, that this royal commission is absolutely a creature of the government. It is a creature of the executive.
It is worth reflecting on the consequences for our nation's institutions of their decision to pursue this royal commission. In this circumstance it is curious to consider that one of the hallmarks of political conservatism is supposed to be respect for our political institutions. Royal commissions are one of the legal institutions of this nation. They have played a respected role in dealing with issues that normal legal and political processes are incapable of dealing with. The Prime Minister showed no respect for the institution of the royal commission when he decided to establish one to inquire into trade unions. This is a blatantly political inquiry for blatantly political purposes. I know it, the people in this chamber know it and the public at large knows it. In establishing the inquiry, the Prime Minister has compromised the respect that royal commissions have previously enjoyed.

On this, it is perhaps worth quoting former Prime Minister John Howard, who said quite recently:

I'm uneasy about the idea of having royal commissions or inquiries into essentially a political decision on which the public has already delivered a verdict. I don't think you should ever begin to go down the American path of using the law for narrow targeted political purposes.

Well, that advice was not heeded. Instead, what we have had is an $80 million exercise that is simply designed to smear political opponents. Despite the pious statements today, the government has used the royal commission relentlessly to smear and pursue political opponents.

Of course, this commission now faces a new and more serious challenge. As Senator Sterle outlined in his remarks, a series of events has led the commissioner to reveal circumstances that, quite reasonably, create an apprehension of bias. This comment is not just being made by people on this side of the chamber, but it is being made broadly in the commentary within the community. It is worth reflecting on this. It is a serious and significant matter in relation to a political institution that in the past has served our country well.

The government has relied at times on Julian Burnside, who of course has clarified his position in recent days. In so doing, he made reference to a previous circumstance where a person chairing an inquiry found themselves in a similar position. Just yesterday, Julian Burnside said that in the Australian Broadcasting Authority inquiry into cash for comment a very similar situation arose. The person chairing the inquiry, David Flint, was careless enough to go on air with John Laws when the cross-examination of John Laws had not been completed. He eventually saw the difficulty and stepped aside. That is the explanation that Julian Burnside provided about how people behave in this circumstance. It is quite reasonable for people in this place and people outside this place to raise their concerns about this process.

The royal commission into trade unions is quickly degenerating into a farce. Everybody understands the bias that is present. Everybody understands the way that the government has been using this process simply to smear people it does not like, political organisations it does not like, people who do not agree with the conservative views that they themselves hold. It is time for Mr Abbott, who is the owner, the person who initiated this commission, to recognise what everybody else in the country has realised, not to wait three weeks, as he did with Bronwyn Bishop, but to act now to make his concerns plain and to bring this to an end.

Question agreed to.
Trade with China

Senator WHISH-WILSON (Tasmania) (15:35): I move:

That the Senate take note of the answers given by the Minister for Human Services (Senator Payne) to questions without notice asked by Senator Bushby and the Leader of the Opposition in the Senate (Senator Wong) today relating to the China Australia Free Trade Agreement.

The last thing that this country needs is more spin from the trade minister, Andrew Robb, on so-called free trade deals. We get enough of that from all his press conferences, from his Press Club appearances and from some of the nauseating information that is given out by people in this chamber—the relentless rollout of the messaging around the so-called benefits of these free trade deals.

You have to ask yourself, why is the government spending $24 million of taxpayers' money to sell something that is not even signed yet, that has not even been passed into law? The deal has not even been closed. I will tell you why they need taxpayers' money to sell it: because they have failed to convince the Australian people that this deal is actually going to benefit them at all. It is the third trade deal they have signed, and now they have to go out and spend $24 million of taxpayers' money to sell it. They are not doing this because of a union advertising campaign against the China free trade deal. If this deal was as good as it sounds it would stand on its own merits. They are doing this because it has failed the pub test. This deal, just like the Korean deal, has failed the pub test, just as I am sure the Trans-Pacific Partnership Agreement—another secret deal that has been signed behind closed doors—will also fail the pub test. They will fail for a really simple reason. It is because these deals are secret and there is no information. Nobody knows what is going on behind closed doors.

The special interests that had the minister's ear might get what they want. While that is good for them it is not necessarily in the national interest. People are sick and tired of hearing about it. This is a government that said in its Governor-General speech it was going to hang its hat on being the government of free-trade deals. There was a rush to sign them, a rush to have as many headlines as possible, press conferences standing next to flags, standing next to national dignitaries—

Senator O'Sullivan: Fancy the Greens giving us a lecture on that!

Senator WHISH-WILSON: and then going out to the bush, like they have today—thank you for reminding me, Senator O'Sullivan, through you, Mr President—to spruik these dodgy trade deals with farmers. Hopefully, by now, farmers should know better than to listen to this government on trade. They have seen the other side of the equation—that is, what damage these cheap imports can do in the markets they are trying to compete in.

While it is fine to pluck numbers out of the proverbial on how much money this will contribute to the economy, they never talk about the downsides or risks. They never talk about the damage to our sovereignty, the risk to workers or the risk to the environment. They do not talk about the risk of getting sued by foreign corporations because we are giving them special rights under these deals to challenge laws and regulations, in this country, that we as parliamentarians representing the Australian people will bring into practice.

These deals are going down the gurgler. The Australian public does not want to have $24 million of its own money spent on an advertising campaign that will be nothing but political spin. What we need to do, if we want the Australian public to participate in these trade deals,
is give them the information. It is pretty simple. Fix the treaty-making process, like the Senate defence foreign affairs committee recommended, so that these deals are made public before they are signed and before they are politicised by a government that is desperate to do anything to get headlines and distract from the total sham and chaos of a government that it is. It is using trade deals to promote its own political agenda.

Now they are using $24 million of taxpayers' money to promote their deal. I have no doubt that during that Governor-General's speech—the first speech the Prime Minister gave to this country—they expected that signing and promoting trade deals would be their bread and butter. But there is nothing on the plate. There is no interest in these deals. That is because of the process that underlies them and the fact that they have included things in these deals—like in the Chinese trade deal—for the first time ever, where special clauses will potentially undermine the rights of Australian workers.

These things, like intellectual property law relating to pharmaceutical medicines, should be debated in parliament. We should not see a total rort of taxpayers' money being used to sell dodgy trade deals on TV. I have other things I want to watch when I switch on the box.

Question agreed to.

PETITIONS

Paid Parental Leave

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

HANDS OFF PAID PARENTAL LEAVE, MR ABBOTT.

To the Honourable President and Members of the Senate in the Parliament assembled:
The petition of the undersigned express their deep concern at the Abbott Government's cut to the Paid Parental Leave Scheme. This cut, announced in the 2015-16 Federal Budget, will make around 80,000 new mothers each year up to $11,500 worse off.

We note that the current government scheme had bi-partisan support when introduced in 2011. The combined benefit of the Paid Parental Leave Scheme and employer contributions means working women can spend more time with their babies—that's how the scheme was designed to work. The Productivity Commission, the Fair Work Ombudsman and business groups all agree.

We therefore ask the Senate to oppose this measure on behalf of working families.

by Senator McEwen (from 478 citizens).

Petitions received.

NOTICES

Presentation

Senator Gallacher to move:

That the following matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by the last sitting day in March 2016:

The capability of Defence’s physical science and engineering (PSE) workforce, with particular reference to:

(a) the importance of the PSE workforce to Defence projects;
(b) the current PSE capability within Defence, the Defence Materiel Organisation (DMO) and the Defence Science and Technology Organisation (DSTO);
(c) the potential risks of a skills shortage in the PSE workforce and a decline in Defence’s PSE capability;
(d) the ability of Defence to have relevant PSE capabilities to meet future technological needs;
(e) the ability of new technologies discovered by the PSE workforce to be incorporated into Australia’s defence capability planning;
(f) the effect of project outsourcing on Defence’s PSE capability;
(g) the ability to attract and retain a highly skilled PSE workforce in Defence, DMO and DSTO; and
(h) any other related matters.

Senator Back to move:
That the following matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 3 December 2015:

Australia’s relationship with Mexico, with particular reference to:
(a) Mexico’s continued elevation in the global geo-political and economic order and its implications for Australia;
(b) opportunities for enhanced relations, including the potential for increased bilateral engagement and also through jointly held memberships such as the G20, APEC, OECD and MIKTA;
(c) potential opportunities for enhanced trade and investment ties, in particular those emanating from the proposed Trans Pacific Partnership (TPP);
(d) the scope for increased collaboration in the education sector and the potential for extending scholarship programs to Mexico;
(e) the scope for increased trade and commercial exchange in the resources sectors with particular reference to hard rock mining and the oil and gas sector in the Gulf of Mexico;
(f) the scope for cross investment and joint ventures in Australian and Mexican infrastructure projects; and
(g) any other related matters.

Senator Moore to move:
That the Senate—
(a) notes the hard work of the Lyme Disease Association of Australia in its ongoing work to raise awareness and funds to provide ongoing advocacy for people living with Lyme disease;
(b) recognises that Lyme disease can be debilitating and have a devastating impact on the lives of people living with it; and
(c) calls on the Government to continue to work with the Lyme Disease Association of Australia to accept Lyme disease as a disease, undertake research, develop a national plan to collect statistics, and develop treatments for people living with Lyme disease.

Senator Muir to move:
That the Senate—
(a) notes that:
   (i) Type 1 Diabetes Mellitus is an autoimmune (not lifestyle) condition which affects over 120 000 Australians,
   (ii) people diagnosed with Type 1 Diabetes require insulin to manage their diabetes for life,
   (iii) Type 1 Diabetes is one of the most common chronic diseases affecting children in Australia, and
(iv) Type 1 Diabetes creates a significant financial and emotional burden for its patients, families and the community; and
(b) acknowledges the importance of access to optical medical management for people with Type 1 Diabetes regardless of geographic location or social status.

Senator Carr to move:

That—

(a) the Senate notes that:

(i) National Science Week is an important annual event, celebrating the achievements of Australian science and engaging young people with the wonder of science,

(ii) the Minister for Industry and Science (Mr Macfarlane) made a ministerial statement in the House of Representatives chamber on Monday, 17 August 2015, in recognition of National Science Week, and

(iii) contrary to usual custom and practice, the ministerial statement, ‘Science and innovation building Australia’s industries of the future’ has not been tabled in the Senate; and
(b) there be laid on the table by the Minister representing the Minister for Industry and Science, no later than 3.30 pm on Thursday, 20 August 2015, a copy of that ministerial statement.

Senator Rice to move:

That the following matter be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 16 September 2015:

The matter of a popular vote, in the form of a plebiscite or referendum, on the matter of marriage in Australia, with particular reference to:

(a) an assessment of the content and implications of a question to be put to electors;
(b) an examination of the resources required to enact such an activity, including the question of the contribution of Commonwealth funding to the ‘yes’ and ‘no’ campaigns;
(c) an assessment of the impact of the timing of such an activity, including the opportunity for it to coincide with a general election;
(d) whether such an activity is an appropriate method to address matters of equality and human rights;
(e) the terms of the Marriage Equality Plebiscite Bill 2015 currently before the Senate; and
(f) any other related matters.

Senator Wright to move:

That the Senate—

(a) notes:

(i) the ongoing political crisis in Afghanistan,

(ii) that the costs of this political crisis fall disproportionately on the rights and wellbeing of Afghan women, and

(iii) that the Support Association for the Women of Afghanistan (SAWA)—Australia was established in 2004, and that SAWA—Australia (South Australia) was set up in 2010 as its first state branch;

(b) acknowledges the valuable work of these organisations, dedicated to raising funds and awareness for human rights, education, nutrition, health, safety and improving the self-esteem of Afghanistan’s women and children; and

(c) acknowledges and welcomes the ongoing work of Mr Matthias Tomczak in his role as convenor of SAWA—Australia (South Australia) and as a leader in promoting the rights and wellbeing of women in Afghanistan.
Senator O'Sullivan to move:

That the Senate notes:

(a) the importance of the Galilee Basin and Abbot Point to the future development of northern Australia;

(b) the ongoing support of the Queensland and the Australian governments for the responsible and sustainable development of the Galilee Basin and Abbot Point;

(c) the actions of anti-coal activists which have delayed billions of dollars in investment and thousands of much needed jobs; and

(d) the importance of maintaining the reputation of Queensland and Australia as a mining and resource hub by removing legal loopholes that allow for the hijacking of approval processes for political purposes.

Senator Rhiannon to move:

That the Senate—

(a) notes that:

(i) the Federal Government will give over $2.6 billion in grants to local governments in 2015-16, and this amount is frozen until at least 2017-18, cutting $287 million from local councils’ budgets,

(ii) the New South Wales State Government is proposing to dramatically reduce the number of councils through amalgamations in its ‘Fit for the Future’ process,

(iii) the New South Wales Office of Local Government has not produced any evidence to support the notion that amalgamations produce lower council rates, and

(iv) local councils are closest to the community and are in the best position to identify and respond to the needs of the community, and in each jurisdiction where forced amalgamations have been imposed on communities, residents have faced significant rate increases and diminished local representation; and

(b) calls on the Federal Government to write to the New South Wales State Government demanding it abandon the ‘Fit for the Future’ process and support the right of communities to determine the future of their own local councils through municipal-wide referendums.

Senator Moore to move:

That the Senate—

(a) notes:

(i) that National Science Week 2015 runs from 15 August to 23 August 2015,

(ii) the importance of inspiring and supporting young Australians to study and pursue careers in science, technology, engineering and mathematics, and

(iii) that science and research are critical to building the jobs of the future;

(b) congratulates the organisers of the 1 500 National Science Week events around the nation, aimed at engaging Australians of all ages with the wonders of science; and

(c) condemns:

(i) the short-sighted cuts to science and research in the Government’s first two budgets, totalling more than $1 billion,

(ii) the Government’s attempts to undermine Australia’s publicly-funded research agencies, by slashing funding and jobs, including overseeing the largest job losses at the Commonwealth Scientific and Industrial Research Organisation (CSIRO) in the organisation’s history,

(iii) the complete failure of the Government to understand and advocate for basic research, which delivers new knowledge and underpins technological innovation, and
(iv) the total lack of vision or commitment on the part of the Government when it comes to creating and sustaining the jobs of the future.

**Senator McKenzie** to move:

That the Senate—

(a) congratulates the Australian Netball Diamonds on their achievement in claiming a record 11th world title;

(b) recognises the wonderful success of Australia in hosting the world’s top 16 netball nations over 10 days and 64 matches for the 14th edition of the Netball World Cup, an event estimated to have contributed more than $6 million in visitor expenditure, with an ever larger cumulative impact to the economy from around 4 000 domestic and international visitors, culminating in a final before a new world record crowd of 16 752 spectators; and

(c) notes that:

(i) the Australian Sports Diplomacy Strategy 2015-18 has been developed to take full advantage of partnerships between the Australian Government and sporting organisations in hosting major sporting events, establishing and maximising people-to-people links, development, cultural, trade, investment, education and tourism opportunities, and

(ii) the Netball World Cup, Sydney 2015, has joined the AFC Asian Cup and the ICC Cricket World Cup as showcases of Australia’s excellence in hosting major sporting events on the global stage.

**Senator Lazarus** to move:

That the following matter be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by the last sitting day in June 2016:

The establishment of a national registration system for Australian paramedics to improve and ensure patient and community safety, with particular reference to:

(a) the role and contribution made by those in the paramedic profession, including the circumstances in which they are required to operate;

(b) the comparative frameworks that exist to regulate the following professions, including training and qualification requirements and continuing professional development:

(i) paramedics,

(ii) doctors, and

(iii) registered nurses;

(c) the comparative duties of paramedics, doctors and registered nurses;

(d) whether a system of accreditation should exist nationally and, if so, whether the Australian Health Practitioners Regulation Agency is an appropriate body to do so;

(e) the viability and appropriateness of a national register to enable national registration for the paramedic profession to support and enable the seamless and unrestricted movement of paramedic officers across the country for employment purposes; and

(f) any other related matters.

**Senator Madigan** to move:

That the Senate—

(a) notes:

(i) the importance of trade with China to the Australian economy,
(ii) that on 17 June 2015, Australia’s Minister for Trade and Investment (Mr Robb) and China’s Minister of Commerce (Mr Gao Hucheng) signed the China-Australia Free Trade Agreement (ChAFTA),

(iii) that Article 10.4 of ChAFTA, in combination with other provisions, removes the requirement for Chinese companies operating in Australia to carry out ‘labour market testing’, ‘economic needs testing’ or ‘other procedures of similar effect’ before nominating foreign workers on temporary 457 work visas,

(iv) that a letter from the Minister for Trade and Investment to Mr Hucheng, dated 17 June 2015, which is stated to form part of ChAFTA, removes requirements for mandatory skills assessments for Chinese nationals entering Australia on certain types of temporary 457 work visas for ten occupations, including automotive electricians, general electricians and motor mechanics,

(v) that Chapter 9 of ChAFTA includes Investor State Dispute Settlement provisions of the type that have been utilised by foreign companies to bring claims against governments for legislative changes made for legitimate public purposes, such as the current claim by Phillip Morris against the Australian Government seeking compensation in relation to tobacco plain packaging legislation, and

(vi) that these aspects of ChAFTA are contrary to the national interest as they will cost Australian jobs, undermine the regulatory framework that ensures the safety of Australian worksites, and constrain the legislative process; and

(b) calls on the Government to renegotiate ChAFTA so as to remove these aspects of the agreement, or, alternatively, to abandon the agreement by not ratifying it.

Senator Siewert to move:

That the Senate—

(a) notes:

(i) that it has been 6 years since the Montara oil spill, and

(ii) the recent report from the Australian Lawyers Alliance, After the spill, investigating the impact of Australia’s Montara oil disaster in Indonesia, which finds that local economies in the East Nusa Tenggara region of Indonesia have lost billions of Australian dollars, and reported widespread sickness and health conditions which they believe were caused by the oil spill; and

(b) calls on the Federal Government to negotiate with Indonesia for a full investigation, that can pinpoint the cause of economic and environmental devastation experienced by seaside communities in Indonesia following the worst offshore oil spill in Australia’s history.

Postponement

The following items of business were postponed:

General business notice of motion no. 674 standing in the names of Senators Rice and Wright for today, proposing the introduction of the Automotive Transformation Scheme Amendment (Sustainable Jobs in the Auto Component Industry) Bill 2015, postponed till 13 October 2015.

General business notice of motion no. 816 standing in the name of the Leader of the Opposition in the Senate (Senator Wong) for today, proposing an address to the Governor-General, postponed till 7 September 2015.

MOTIONS

Country of Origin Labelling

Senator XENOPHON (South Australia) (15:42): I, and also on behalf of Senators Xenophon, Sterle, Whish-Wilson, Madigan, Lambie, Lazarus and Wang move:

That the Senate—

(a) notes:
(i) the current compulsory country of origin labelling regime in the Northern Territory for seafood sold for immediate consumption, and the benefits it has provided to consumers, retailers and the fishing and aquaculture industries, and

(ii) the findings of the Rural and Regional Affairs and Transport References Committee report Current requirements for labelling of seafood and seafood products, and particularly in relation to the economic benefits of extending such a mandatory scheme across Australia, including:

‘3.61 The committee holds the view that mandating country of origin labelling in relation to fish products sold in restaurants and other cooked seafood outlets comprises an effective, simple and cost-effective means of achieving a level playing field for Australian and overseas seafood producers. To this end, the committee recommends the immediate removal of the exemption under Standard 1.2.11 of the Code’, and

the following recommendation:

‘3.63 The committee recommends that the exemption regarding country of origin labelling under Standard 1.2.11 of the Australia New Zealand Food Standards Code for cooked or pre-prepared seafood sold by the food services sector be removed, subject to a transition period of no more than 12 months’; and

(b) calls on the Government to take urgent action to introduce a compulsory country of origin labelling regime for seafood sold for immediate consumption within no later than the next 12 months.


The PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: The government appreciates the intent of this motion but we cannot support it. We recognise that the sponsors of this motion are very concerned about country-of-origin labelling. As the government we recognise that consumers want to know the origin of their food and the government has made considerable progress on country-of-origin labelling.

We also note that the senators concerned work on the Rural and Regional Affairs and Transport Legislation Committee inquiry into seafood labelling and acknowledge the hard work of that committee in the inquiry process.

The government is currently considering its response to the recommendations from the inquiry into the current requirements of the labelling of seafood and seafood products. We are continuing to consult with the industry on this issue. The government is precluded from acting unilaterally to introduce a compulsory regime. As stated previously in the chamber, the Commonwealth has limited legislative power in the area of food regulation and although standards may be developed by FSANZ, their development enforcement is undertaken in collaboration between and are reliant upon state and territory legislation in Australia and New Zealand.

Senator XENOPHON (South Australia) (15:44): I seek leave to make a short one-minute statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator XENOPHON: I am disappointed with the coalition’s response, notwithstanding that there were many coalition senators—including from the National Party—who had made a terrific contribution to the Senate committee inquiry on changing the law. We can make a difference, in terms of seafood labelling. That will make a huge difference to Australian jobs in this country. Thousands of jobs could be created.
I acknowledge Senator Nigel Scullion’s work in the Northern Territory. He was the pioneer who got this through in the Northern Territory, where it has been a terrific success. So to say that the Commonwealth cannot act unilaterally, to say that it is all too hard—with respect to the government, if there is a political will on the part of the Commonwealth to show leadership from government, they can do it. I have contrary advice that says that it can be done. But I do want to genuinely acknowledge the coalition senators who have supported this privately and publicly, and I hope that sooner rather than later we will have these seafood labelling laws so that Australian consumers know what they are buying in their restaurant or takeaway shop.

Question agreed to.

BILLS

Marriage Equality Plebiscite Bill 2015

First Reading

Senator RICE (Victoria) (15:45): I, and also on behalf of Senators Lazarus, Leyonhjelm, Lambie, Muir and Xenophon, move:

That the following bill be introduced: A Bill for an Act to require a plebiscite on marriage equality, and for related purposes. Marriage Equality Plebiscite Bill 2015.

Question agreed to.

Senator RICE: 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 RICE (Victoria) (15:46): I move:

That this bill be now read a second time.

I table an explanatory memorandum, and I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

The Marriage Equality Plebiscite Bill 2015 will require a national plebiscite on the issue of same-sex marriage, to be conducted at the next general election.

The Bill will determine the timing and question of a plebiscite that will enable electors to indicate their views regarding the issue of marriage equality.

This Bill proposes the question “Do you support Australia allowing marriage between 2 people regardless of their gender?”.

The sponsors of this Bill share the view that the Parliament should enact specific legislation to direct the question and other machinations of a plebiscite on the issue of marriage equality in Australia, rather than allow these important matters to be determined solely by the Government.

The Bill outlines that there will be compulsory voting in this plebiscite and that it should be held at the same time as the next general election. This choice of timing would significantly reduce the cost of holding the plebiscite.
The issue of funding for both the 'yes' and 'no' cases is dealt with in this Bill, such that Commonwealth funding will be provided as set out in the Referendum (Machinery Provisions) Act 1984, specifically subsection 11(4). This means only the basic materials containing arguments in favour of and opposed to the proposed question would be distributed to electors.

If the result of the plebiscite affirms support for marriage between two people regardless of their gender, the Bill affirms it is the intention of the Parliament that this change be legislated within six months of this result being determined.

The sponsors of the Bill share the view that it is essential for the Parliament to legislate to determine the question and other important parameters of a plebiscite on marriage in Australia. For this reason, I/we call on the Senate to support this Bill.

Senator RICE: I seek leave to continue my remarks later.

Leave granted; debate adjourned.

DOCUMENTS

Royal Commission into Trade Union Governance and Corruption
Order for the Production of Documents

Senator MOORE (Queensland) (15:47): I move:

That there be laid on the table by the Attorney-General, no later than midday on Thursday, 20 August 2015, all documents related to the proposed attendance of Commissioner Dyson Heydon at a Liberal Party function on 26 August 2015, including:

(a) documents held by Commissioner Dyson Heydon, and the Royal Commission into Trade Union Governance and Corruption, including any communication or record of communication with organisers of the Liberal Party's 2015 Sir Garfield Barwick Lecture;

(b) any communication or record of communication between:

(i) the Attorney-General or his office, the Attorney-General's Department, the Prime Minister or his office, or the Department of the Prime Minister and Cabinet, and

(ii) Commissioner Dyson Heydon, the Royal Commission into Trade Union Governance and Corruption, or the organisers of the Liberal Party's 2015 Sir Garfield Barwick Lecture;

(c) any communication or record of communication between the Attorney-General or his office and the Prime Minister or his office; and

(d) any communication or record of communication between the Attorney-General's Department and the Department of the Prime Minister and Cabinet.

The Senate divided. [15:51]

(Ayes..................................................................33
Noes..................................................................33
Majority.........................................................0

AYES

Brown, CL                                      Bullock, J.W.
Cameron, DN                                    Carr, KJ
Collins, JMA                                    Conroy, SM
Dastyari, S                                     Di Natale, R
Gallacher, AM                                   Gallagher, KR
Hanson-Young, SC                                Ketter, CR
Lambie, J                                       Lazarus, GP

(The President—Senator Parry)
Lines, S  
Ludwig, JW  
McEwen, A (teller)  
Moore, CM  
Peris, N  
Rice, J  
Singh, LM  
Urquhart, AE  
Whish-Wilson, PS  
Xenophon, N

Ayes

Ludlam, S  
McAllister, J  
McLucas, J  
O'Neill, DM  
Rhiannon, L  
Siewert, R  
Sterle, G  
Waters, LJ  
Wright, PL

Noes

Back, CJ  
Bernardi, C  
Birmingham, SJ  
Brandis, GH  
Bushby, DC (teller)  
Canavan, M.J.  
Cash, MC  
Colbeck, R  
Day, R.J.  
Edwards, S  
Fawcett, DJ  
Fierravanti-Wells, C  
Fifield, MP  
Heffernan, W  
Johnston, D  
Leyonhjelm, DE  
Lindgren, JM  
Macdonald, ID  
Madigan, JJ  
McGrath, J  
Muir, R  
Nash, F  
O'Sullivan, B  
Parry, S  
Payne, MA  
Reynolds, L  
Ronaldson, M  
Ruston, A  
Ryan, SM  
Smith, D  
Wang, Z  
Williams, JR

Pairs

Bilyk, CL  
Marshall, GM  
Polley, H  
Wong, P  
Cormann, M  
Scullion, NG  
Sinodinos, A  
Seselja, Z

Question negatived.

Senator Abetz did not vote, to compensate for the vacancy caused by the resignation of Senator Milne.

Motions

Beef Industry

Senator WHISH-WILSON (Tasmania) (15:54): I move:

That the Senate notes:

(a) the seven recommendations of the Rural and Regional Affairs and Transport References Committee's inquiry into industry structures and systems governing levies on grass-fed cattle;
(b) that the Minister for Agriculture (Mr Joyce):
(i) has only supported, in principle, two of the seven recommendations, and
(ii) has rejected the primary recommendation, being the establishment of a legislated producer-owned body;
(c) that the Australian Beef Association, the Cattle Council of Australia, and the Australian Meat Producers Group and Concerned Beef Producers have presented a united voice to the Minister for Agriculture in support of the primary recommendation to establish a legislated producer-owned body; and
(d) that claims by the Liberal and National parties that they are supporters of the Australian beef industry are undermined by the failure of the Minister for Agriculture to support the united voice of beef producers.

I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator WHISH-WILSON: Last year the Rural and Regional Affairs and Transport References Committee put down a Senate report that recommended a total overhaul of the beef levy system in this country. Ten years prior to that the same committee made the same recommendation. There was a considerable amount of hope and optimism among beef producers around this country that we would actually see an overhaul of the beef levy system. Twelve months and seven recommendations later, only two of them have been given in-principle support by the government but there has been absolutely no action. This motion is very clear here today. This is a rocket from the Senate to go underneath the Minister for Agriculture. I admit, it may not lift him off the ground but it will make him uncomfortable. He needs to act on the Senate recommendations and he needs to act now. If he really does support beef producers—

An honourable senator interjecting—

Senator WHISH-WILSON: The same to you, Senator—the Senate will reaffirm the position the Senate took 12 months ago. (Time expired)

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (15:55): I seek leave to make a short statement, Mr President.

The PRESIDENT: Leave is granted for one minute.

Senator O'SULLIVAN: This is both a false and a misleading motion in the way it has been drafted. What producers wanted was transparency, accountability and better resourcing for peak bodies and that is happening. They wanted reform and we are seeing the most progressive reform we have seen in decades in the body that governs this, Meat and Livestock Australia. Let me tell all Australians who might be listening one thing. When you want to find out what needs to happen in agriculture, you should not listen to the anti-jobs and the anti-agriculture body of the Greens. They are against live exports. They do not just want to change the way things happen in agriculture; they want it to stop. I recommend that the Senate consider this motion carefully and reject it.

Question negatived.

Sugar Industry

Senator LAZARUS (Queensland) (15:57): I move:

That the Senate—
(a) notes that:
   (i) the Australian sugar industry directly employs approximately 16,000 people across the growing, harvesting and transport sectors,
   (ii) 95 per cent of the sugar produced in Australia is grown in Queensland with the balance grown in New South Wales,
   (iii) the sugar cane industry is one of Australia's largest and most important rural industries, and sugar has been identified as Queensland's most important rural crop,
   (iv) the Rural and Regional Affairs and Transport References committee in its report Current and future arrangements for the marketing of Australian sugar recommended the development and implementation of a mandatory sugar industry code of conduct, and
   (v) sugar cane growers are urgently seeking the assistance of the Government to support them in ensuring the long-term viability and health of the Australian sugar industry; and
(b) calls on the Government to act on the Committee's recommendation by working with stakeholders across the Australian sugar industry to develop an industry code of conduct, and to ensure that sugar cane growers have the flexibility to engage any party to undertake marketing and establish an independent arbitrator to undertake pre contractual commercial arbitration.


The PRESIDENT: Leave is granted for one minute.

Senator CANAVAN: I would like to indicate that the government cannot support this motion because it is a premature motion. Negotiations are still occurring between sugar mills and sugar growers and it is not the right time for the government to act before those negotiations are concluded. Everybody in the sector appreciates that the best outcome here is a commercial outcome, that the best outcome is for millers and growers to come back together. Indeed, they will have to do that at some point. This approach is consistent with the government's approach to the food and grocery industry code earlier this year.

I would also like to note that the Prime Minister has established a sugar marketing task force, which has reported. It took 32 submissions and had meetings with all interested stakeholders. We have had a Senate inquiry with three public hearings and 51 submissions which made recommendations. While I welcome the interest of my fellow senator from Queensland, I would like to note that he was not at any of those Senate hearings, he has not made a submission to that task force and he has not been involved in the process to date.

Senator LAZARUS (Queensland) (15:58): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator LAZARUS: I had the Burdekin Canegrowers in my office yesterday. Their biggest disappointment is the fact that the Queensland National senators will not even talk to them. They will not even reply to their phone calls. They are the people you represent. I am taking a great interest in the sugar industry in Queensland because they need help and I am here to do it.

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

The Senate divided. [16:00]

(The President—Senator Parry)
Ayes ......................34
Noes ......................32
Majority...............2

AYES

Brown, CL
Cameron, DN
Collins, JMA
Dastyari, S
Gallacher, AM
Hanson-Young, SC
Lambie, J
Lines, S
Ludwig, JW
McEwen, A (teller)
Moore, CM
Peris, N
Rice, J
Singh, LM
Urquhart, AE
Waters, LJ
Wright, PL

Bullock, J.W.
Carr, KJ
Conroy, SM
Di Natale, R
Gallagher, KR
Ketter, CR
Lazarus, GP
Ludlam, S
McAllister, J
O’Neill, DM
Rhannnon, L
Siewert, R
Sterle, G
Wang, Z
Whish-Wilson, PS
Xenophon, N

NOES

Back, CJ
Birmingham, SJ
Bushby, DC (teller)
Cash, MC
Day, R.J.
Fawcett, DJ
Fifield, MP
Johnston, D
Lindgren, JM
Madigan, JJ
McKenzie, B
Nash, F
Parry, S
Reynolds, L
Ruston, A
Smith, D

Bernardi, C
Brandis, GH
Canavan, M.J.
Colbeck, R
Edwards, S
Fierravanti-Wells, C
Heffernan, W
Leyonhjelm, DE
Macdonald, ID
McGrath, J
Muir, R
O’Sullivan, B
Payne, MA
Ronaldson, M
Ryan, SM
Williams, JR

PAIRS

Bilyk, CL
Marshall, GM
Polley, H
Wong, P

Cormann, M
Scullion, NG
Sinodinos, A
Seselja, Z

Question agreed to.

Senator Abetz did not vote, to compensate for the vacancy caused by the resignation of Senator Milne.
Beef Industry

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:03): Mr President, I seek leave to revisit notice of motion No. 817 and to recommit for a vote the motion standing in the name of Senator Whish-Wilson relating to the beef industry. I suspect that the call you made on Senator Whish-Wilson relating to the beef industry. I understand, in fact, that the Labor Party would have supported that vote. I ask that you recommit the vote.

Leave granted.

The PRESIDENT: I would just remind senators that it is sometimes difficult if I do not get enough callers on these motions in the first instance. The question is that the question that was moved by Senator Whish-Wilson regarding notice of motion No. 817 be agreed to.

Question agreed to.

DOCUMENTS

Consideration

The government documents tabled today and general business orders of the day Nos 1 to 8 relating to government documents were called on but no motion was moved.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator McEWEN (South Australia—Opposition Whip in the Senate) (16:05): On behalf of Senator Polley, I present the eighth report of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 8, dated 2015.

Ordered that the report be printed.

Regulations and Ordinances Committee

Delegated Legislation Monitor

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (16:06): On behalf of the Chair of the Senate Standing Committee on Regulations and Ordinances, I present the Delegated Legislation Monitor No. 9 of 2015.

Ordered that the report be printed.

Parliamentary Joint Committee on Human Rights

Report

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (16:06): On behalf of the Chair of the Parliamentary Joint Committee on Human Rights, I present the 26th report of the 44th Parliament, the Human rights scrutiny report.

Ordered that the document be printed.

Senator BUSHBY: 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—
PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS
SENATE TABLING STATEMENT
Tuesday 18 August 2015

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' Twenty-Sixth Report of the 44th Parliament.

The committee's report examines the compatibility of bills and legislative instruments with Australia's human rights obligations, and this report considers bills introduced into the Parliament from 10 August to 13 August 2015, and legislative instruments received from 12 June to 6 August 2015.

The report also includes the committee's consideration of responses to matters raised in previous reports.

Of the 7 bills examined in this report, six are assessed as not raising human rights concerns and one has been deferred as it was introduced late last week. Accordingly, chapter one of the committee's report focuses on legislative instruments. It is often an area of the committee's mandate that is overlooked, however, much of the committee's work is scrutinising the large volume of regulations made each year.

In this report, the committee has examined 421 instruments and considered that 17 of those require further information from the relevant minister. This report covers eight instruments, while the remaining nine have been deferred. Looking at those statistics indicates that less than 4% of the instruments made in the relevant period were assessed by the committee as requiring further comment by the committee. Expressed in another way, over 96% of the regulations made raised no human rights issues requiring further analysis and comment by the committee.

One of the regulations considered by the committee that has not found its way into the report is the Australian Sports Anti-Doping Authority Amendment (Prohibited Association) Regulation 2015. Australia's anti-doping legislation was changed in 2014 to bring it into line with the World Anti-Doping Code. That code introduced a number of new doping violations which raised human rights concerns, including a new offence of associating with a prohibited person. This new offence raised questions about its compatibility with the right to freedom of association (which the committee commented on in August 2014).

This new regulation further expands the prohibition on associating with prohibited persons by assessing prohibited conduct retrospectively. Prior to the committee examining the instrument, the Minister for Health wrote to the committee to explain the objective behind the regulation and all relevant safeguards. The statement of compatibility for the regulation also fully explained the rights engaged and enabled the committee to conclude that the measure, while engaging human rights, was nevertheless compatible with those rights.

The key element of the committee's work is the scrutiny dialogue it maintains with executive departments and agencies regarding the consideration of human rights in the development of policies and legislation. As this regulation demonstrates, the committee's ability to appropriately perform its scrutiny function in assessing bills and instruments for compatibility with human rights is greatly influenced by the quality of the dialogue it undertakes with the proponents of legislation and their willingness to fully explain and justify the human rights compatibility of legislation in the statement of compatibility.

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 Twenty-sixth Report of the 44th Parliament to the Senate.
SENATE

Wednesday, 19 August 2015

Question agreed to.

Joint Standing Committee on Treaties

Report

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (16:07): On behalf of the Chair of the Joint Standing Committee on Treaties, I present the 152nd report of the Joint Standing Committee on Treaties—Treaty tabled on 16 June 2015.

Ordered that the report be printed.

Senator FAWCETT: I move:

That the Senate take note of the report.

The report contains the committee's views on amendments to the International Convention for the Prevention of Pollution from Ships, usually referred to as MARPOL. MARPOL is administered by the International Maritime Organization, the IMO, and provides an international regulatory framework for dealing with marine pollution. It addresses six types of marine pollution: oil, bulk noxious liquids, harmful substances in package form, sewage, garbage and air pollution. The regulations for each of these types of pollution are contained in the annexes to MARPOL.

We considered four amendments to the annexes, relating to: oil pollution, harmful substances carried at sea in package form, and air pollution. The first amendment was prompted by an incident in 2014 when a fishing vessel using heavy grade oil as ballast sank in the Antarctic. The clean-up exercise was both difficult and costly. Water is usually the ballast of choice, so this kind of accident had not been anticipated. It appears that extra fuel was being carried as ballast. This amendment will close this apparent loophole in the regulations, by prohibiting ships in the Antarctic from carrying heavy grade oils. Such ships will be restricted to carrying and using either marine diesel oil, marine gas oil or other lighter fuel blends. Explicitly banning the carrying of heavy grade oil will make sure that the original intent of MARPOL is enforceable in the Antarctic.

The second amendment will remove radioactive materials from the scope of the harmful substance criteria, as such substances are covered by other IMO regulations. This will get rid of the duplication of the requirement for labelling radioactive material in packaged form.

The third amendment relates to emissions of nitrous oxide from the burning of gas fuel. It will clarify the definition of 'fuel oil' to include 'gas'; and of 'marine diesel engine' to include 'gas fuelled engine'. The fourth amendment will improve the transparency of the international air pollution prevention certificate, making it easier to understand and allowing quicker verification.

The committee supports Australia's ratification of the amendments and recommends that binding treaty action be taken. On behalf of the committee I commend the report to the Senate.

Question agreed to.
Parliamentary Joint Committee on Intelligence and Security

Report

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (16:10): On behalf of the Chair of the Parliamentary Joint Committee on Intelligence and Security, I wish to present an oral report relating to the committee's inquiry into the Australian Citizenship Amendment ( Allegiance to Australia) Bill 2015, and I move:

That the Senate take note of the statement.

This is slightly unusual in that it is an oral report. The written reports, which are being distributed to committee members and others, are coming from Australia's overseas posts. The committee's work is not available publicly but, for accountability, the committee is reporting on the fact that a delegation of three members of the committee did travel for two weeks.

The issue of national security and foreign fighters is important to the nation. Past experience of foreign fighters has shown that the majority of those who have returned have ended up plotting to commit terrorist acts in Australia, and many of them are now in jail. We need effective measures to deter radicalisation where it is occurring; and to detect and then deny those people the opportunity to cause harm to Australians or others.

As a global citizen Australia also has an interest in seeing resolution to the humanitarian disaster that is unfolding in the Middle East. There are over seven million people displaced currently inside Syria and around four million refugees outside Syria in neighbouring countries. Due to foreign fighters and indigenous supporters of the Islamic State, or Daesh, around 3½ million people are displaced within Iraq. This means that there is a whole generation of children going without education, and families living in dire conditions, as well as young people at risk of radicalisation themselves. So coordination with our allies is crucial in both operational and policy responses.

So, along with the chair of the Parliamentary Joint Committee on Intelligence and Security, Mr Tehan, and the former Attorney-General, Mr Ruddock, I have just completed two weeks of meetings with counterparts in the US, UK and France, discussing a range of issues pertaining to security, shared intelligence and measures to counter violent extremism.

I should point out at this point in time that the original delegation of three was intended to include the deputy chair of the committee who is a Labor Party member. He unfortunately had to withdraw, which is why the committee voted for me to take his place. Normally this committee always conducts its activities in a bipartisan manner. But, as no other member of the opposition was available to go on that delegation, I took the third place.

The security relationship with the US and the UK has always been strong, and this was reflected in the willingness of agencies such as the CIA, the FBI, the NSA, the Department of Homeland Security, and the Department of State—and the UK equivalents—to provide detailed briefings and to engage in dialogue.

What was surprising and encouraging was the openness of the French government to provide access to their intelligence and counterterrorist agencies. In fact, we were informed that we were the first foreign delegation to gain access to the French intelligence services for such briefings and discussions. This highlights the high degree of concern and threat in Europe that is perceived from what is happening in Syria and Iraq and the advent the Daesh there.
The delegation also had productive meetings with legislators in each nation both from a policy and an oversight perspective. Discussions with members of both US congressional and US senate select committees on intelligence, the UK intelligence and security committee of the parliament and the French national intelligence coordinator were very constructive and informed our deliberations on the current tranche of legislation—the citizenship bill.

As I said, there is no written report, but I commend this verbal report of that activity to the Senate, and the Senate will be tabling its report on this legislation in coming weeks.

Question agreed to.

Community Affairs References Committee

Report

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:15): Pursuant to order, I present the report of the Community Affairs References Committee on out-of-home care, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator SIEWERT: I move:

That the Senate take note of this report.

This report is a very comprehensive report on the committee's inquiry into out-of-home care. We make 39 recommendations, which I will come back to shortly, on areas that need improvement in out-of-home care.

In 2013, the first report to the Australian parliament by the National Children's Commissioner highlighted serious concerns about Australia's out-of-home care system, particularly with the significant increase in the number of children placed in out-of-home care, including disproportionate numbers of Aboriginal and Torres Strait Islander children. This committee inquiry certainly found that to be evident.

We also found the numbers going into out-of-home care very significantly troubling. There were, at 30 June 2014, 43,009 children in out-of-home care. What we found was that, over the past 15 years, the number of children and young people entering and remaining in statutory out-of-home care has more than doubled, and Aboriginal and Torres Strait Islander children are almost 10 times more likely to be placed in out-of-home care than their peers. This is significantly troubling to the committee.

I would like to quote from Associate Professor Mendes, who gave evidence to the committee. He said:

If we as a community are going to give our government the power to coercively intervene in families where alleged significant abuse or neglect has occurred, then our government has both the moral and legal obligation to devote sufficient resources to ensure that the outcomes for those children are far better than if they had remained with their family of origin.

The committee recognises that parents have a responsibility to provide nurturing homes for their children, safe from abuse and neglect. The committee is, however, deeply concerned by the increasing number of children entering and remaining longer in out-of-home care. The committee recognises in our report that there are significant challenges facing Australia's out-of-home care system and that addressing these issues means addressing a range of complex
and interrelated social issues linked to social disadvantage, including family violence, drug and alcohol abuse and mental health services.

We find that there are certain systemic factors that contribute to the high number of children entering and remaining in out-of-home care. In particular, the lack of family support services means there is limited scope for at-risk parents to get the support they need to build safe and resilient families for their children. The lack of available supports and understanding of the specific needs of Aboriginal and Torres Strait Islander families and families with disabilities also contributes to an overrepresentation of these groups in out-of-home care.

Australia currently has in place a National Framework for Protecting Australia's Children. It started in 2009 and goes through to 2020. The committee is greatly disturbed by the fact that we have yet to see the outcomes from the significant work that has gone into the establishment of this framework. There is a third action plan to be developed by the states, territories and Commonwealth for the implementation of the national framework, and many of our recommendations go to the fact that this action plan is being developed, and we make a series of recommendations for attention in the action plan.

When we are talking about the number of Aboriginal children in care, Aboriginal children make up less than five per cent of our population yet across Australia they make up 35 per cent of the total number of children in care. In the Northern Territory and in my home state of Western Australia this is far higher. In WA this is just over 50 per cent, and in the Northern Territory it is even higher than that.

The cost of the abuse and neglect of children, when you take into account the cost of out-of-home care, has been calculated as $6 billion. The cost of out-of-home care itself is $2.2 billion for the 2013-14 financial year. Many witnesses said that clearly we should investing those resources up-front in supporting families, before children come to the point of having to enter out-of-home care. Witnesses talked to the inquiry of a system in crisis, broken and crisis-driven. They talked about a number of issues, and I will very quickly touch on them because I want to leave time for the rest of the committee members to comment.

The issues that we address in our recommendations address the need for data—how could community affairs ever have a report without talking about the issues around making sure we have good datasets? We talk about the need for independent child commissioners and guardians. We talk about a process for complaints for young people. We talk particularly about the need for the voices of young people in decision making for out-of-home care. We talk about the need for addressing the issues around transition when young people are leaving out-of-home care.

An important point—and it relates directly to that—is that the evidence suggests, from what we heard in the committee, that young people that have been in out-of-home care are having poorer life outcomes than children that have not been in out-of-home care. This also directly relates to transition age. Young people in out-of-home care are expected to leave their place of care at the age of 18. Not all of the evidence but most of the evidence pointed out that that was far too young, so we talk about the issues of transition and also suggest that states and territories should consider a transition age of at least 21.

We made some recommendations specifically aimed at Aboriginal and Torres Strait Islander people and people with disability, some recommendations about permanency
planning and about documentation. There are issues even around people coming into out-of-home care and young people being able to access documentation. We talk about better health outcomes, better education outcomes—all of which are poorer for those living in out-of-home care. The clear messages that I took from this inquiry were the importance of listening to the voice of young people and including them in decision making, and the importance of supporting parents who are at risk of losing their children and making sure their voices are heard in this process.

Before I conclude my comments, I would like to thank all of the witnesses who provided written submissions and who gave oral evidence to this inquiry. In many instances, it was pretty tough going. I particularly want to thank the young people who appeared before our committee. I think it was very courageous of them to come to the committee and tell us their accounts of their lives in out-of-home care.

I would also like to express the committee's thanks to the secretariat, who provided so much support for this inquiry. We had a lot of submissions and a lot of evidence and the secretariat provided the committee with an excellent report and with excellent support.

I would like to thank the committee members of the Community Affairs References Committee. We get tough inquiries and I think that that we provide here a set of recommendations that will help address some of the issues that we talked about in this inquiry. There are 39 recommendations. I urge Senators and the government to review those recommendations.

**Senator SESELJA** (Australian Capital Territory) (16:24): I am really grateful for the opportunity to speak on this issue. I think it is an issue of absolute critical importance. No-one can look at this area and not be frustrated and moved by the complexity and the size of this problem. There are no easy answers in this report. It does not pretend that there are any easy answers. It was a unanimous report, even if there were bits and pieces that we differed over. The broad thrust of the report, I think, is very good and lays out a whole range of really important recommendations. I commend the report to the Senate.

I want to come to an area of difference, where coalition senators drew some different conclusions from the evidence that we had. Before I do that, I would reinforce that some great work went into it. I thank very much all of the witnesses, all those who made themselves available, the experts, the young people we heard from, people caring for people. There was some outstanding evidence so I thank you for that.

I also wanted to make a brief note of some of the evidence of Greg Nicolau, from the Australian Childhood Trauma Group. Residential care is often where some of the kids who have done it toughest end up. It is often the kids who have been through many sets of foster carers who end up in these residential care group homes, which are managed by non-government organisations in most cases. Mr Nicolau raised some issues about some of these residences. We had pictures of residences presented to the committee, the standards which I thought were concerning. I hope that they do not represent the broader picture here. It is difficult for us to know. But certainly what was presented was concerning.

I note Mr Nicolau's suggestion of the best model as he sees it is the Jasper Mountain Centre in the United States. He said it provided the best example of therapeutic residential care in the world. He explained that under this model, children are sent away from the home in which
they have been abused and live in a large residence on the top of a mountain. It provides an intensive residential treatment program with a therapeutic school, a short-term residential centre, a treatment foster care program, a community based wraparound program and a crisis response services. This facility offers a combination of traditional psychological and psychiatric interventions with innovations in treating abused and emotionally disturbed children. I think it is worth getting that on the record. I think that is something that governments need to look at.

But where coalition senators and I took a slightly different view, having looked at the evidence, was on the issue of adoption and the place of adoption in the whole space. I think that the rates of adoption in this country are simply unacceptable when we look at the issues that we are dealing with and when we look at the numbers of children who are being taken from their parents, who are in many cases having long-term orders and who in many cases find themselves going from foster carer to foster carer. We heard evidence about that. This is something that I believe needs to change.

Senator Lindgren and I have made some additional comments in addition to the report. We believe that this is something we have to take another look at as a nation. This is something that we believe we have to do better on as a nation. It is worth going through some of the stats in relation to this. We looked at the 2012-13 figures, which were the most comprehensive and up-to-date. In the year 2012-13, 27,924 children had been in care home out-of-home care for two years or more. Most of those are on long-term orders until they are 18, sometimes from six months, from one year, from 18 months, from two years to 18. We have this situation where tens of thousands kids have been in out-of-home care for more than two years yet, in that same year, there were 210 local adoptions. That is less than one per cent. I do not see how you can say that that is a reasonable number. I know the complexities. One of the reasons I think there is this bias against adoption is that it is a reaction to failings in the past. We should be clear about that. It is in part a reaction to some of the serious failures in the past. We would never want to go back—and we never will—to the kind of forced adoptions that before my time this committee looked at. That is not a reason to not have adoption as a serious option in this nation. That is what it has become, unfortunately. It has become not a serious and genuine option.

We heard evidence to this effect. We heard from Barnardos:

The growing number of children in care is primarily driven by the fact that children are staying in care too long and entering care earlier. There is a failure to consider ensuring ‘exit’ from long-term care which leaves too many young people in unstable and damaging foster care. A proven way of doing so is through open adoption...Open adoption is valued highly by many children and Barnardos Australia has published extensively on our experience and can provide evidence from young people speaking themselves on the importance of this option. Both the USA and UK have a high number of children adopted from care.

To make that comparison that I have talked about: less than one per cent of kids who have been in out-of-home care for more than two years in Australia are adopted, and it is around six per cent in the UK. It is higher again in the United States. There does not seem to me to be any reasonable reason why, once these decisions have been made—and court orders have been made in many cases—that kids cannot return, we should not be looking at the option for adoption.
There is a short time left, and I wanted to touch on a couple of other things. I touch on the fact that the South Australian coroner has talked about this. We see the tragic cases, but the tragic cases are a different question. They are a question about whether or not we put kids at the centre, and there is a range of things about that, about where the kids were removed from harm—like Chloe Valentine, who was not and tragically died. There is a different issue here, but again it is about whether we want to be child centred or not. Do we want to be child centred? I say we have to be and I think everyone agrees, but what does that look like? As I say, adoption is not going to be the only answer. It is not going to be the answer for all kids, but it should be the answer for more kids.

We have locally here the Barnardos Mother of the Year. Chauntell McNamara talks about her experience with caring for foster kids. It has taken her six years to adopt her son, and she has now adopted a daughter. It was when her son said to her: 'I want that identity. I want to have the same name as you. I don't want to have two names. I want to have this identity.' And partly this is about giving kids that identity.

We heard from the New South Wales government, and I would like to commend the New South Wales government. We recommend that the New South Wales model be looked at nationally because it is a balanced and good model. It has a different hierarchy from what we have seen. As I say, there has been a bias against adoption in this country which I think is unreasonable and has gone too far—though I acknowledge some of the reasons why people have gone down that path.

This is the order of precedence in the New South Wales model. Family preservation and restoration, of course, is number one. If that can be done, that is the idea, but in many cases we know that it cannot. Where it cannot, we need to look at other options. The second option is long-term guardianship to relative or kin. If they can be found, that is ideal, but in many cases they cannot. The third option is adoption. Then the fourth option is parental responsibility to the minister. I would say that that is a model that should be looked at right around the county. I would say that the Australian government should be taking that to COAG and taking leadership on this. I know that the Prime Minister and the government are taking a lead on international adoptions, but what we are talking about is adoptions here in Australia.

Try and imagine the trauma for a young child of not just being removed once from a traumatic situation but then perhaps being removed a second time, a third time or a fourth time. Imagine if that is your child. I have got five children; my youngest is two. I cannot imagine her being taken away, but if in tragic circumstances she ever had to be taken away, I would not want her to be taken from safety again and again. That is potentially what some children face. We know it is not simple. This report does not pretend it is—I commend it—but we say we have to take another look. We cannot pretend that there are no answers. The New South Wales model presents some answers. I commend that model to other state governments, I commend it to COAG and I commend it to the Senate. (Time expired).

Senator PERIS (Northern Territory) (16:34): I too rise to speak on today's tabling of the report of the out-of-home-care inquiry. I am very glad to have had the opportunity to speak with so many professionals working in the out-of-home-care space during this inquiry. To them I want to say that I have the utmost respect for you. You have an extremely challenging and difficult job, huge responsibilities and increasing workloads with limited resources. You
also face the daily pressures of having to get it right and not least because young children and their families are depending on it.

Our inquiry heard that young people in out-of-home care have poor outcomes across a range of indicators whilst in the care. Then, when they leave care they are much more likely than any other children to experience homelessness, drug and alcohol abuse and physical and sexual abuse. Our children are killing themselves because they are unable to reconcile trauma in their lives and they cannot see any hope in their future. They need our help, and it is our responsibility to make sure they get help.

There is a disproportionate amount of Aboriginal children that are removed from their parents and placed in out-of-home care in the Northern Territory, and this is where I will focus because I think I have real opportunities to improve this situation.

Overwhelmingly, experts in the field told the inquiry that what is really needed is a greater focus on the early intervention programs because, clearly, with an ever increasing number of children going into out-of-home care, the statutory arrangements are not improving the situation. We need more programs that support vulnerable families. The experts say these families must be self-referred or referred by the community and that these programs need to be rolled out in more sites. There is also a shortage of experienced, skilled and trained professionals, social workers and community workers, including Aboriginal professionals in these roles, employed in the Northern Territory.

We say as a nation and the Northern Territory government says that they want to get Aboriginal people working. Here is our chance to make a solid investment in the mentoring, selection and training of Aboriginal people to work in the department and across whole of government—to be employed by NGOs working in this area of child protection. The staff case loads are huge and their burnout rate is high. Staff require better support systems so that their work includes early intervention so they can spend more time and care with families who want to keep their children with them at home. This is the best result we can have.

As a priority for the Northern Territory, it must create an Aboriginal child care agency to work with all the sectors but particularly with children and their families. There is currently no Aboriginal entity to play that essential role in identification of kinship carers, advocacy and the provision of advice on decisions to do with placements in general. I am glad that our recommendations look at establishing those functions in an Aboriginal organisation across every jurisdiction. The fact that there is not currently an Aboriginal organisation fulfilling that role shows us that the Northern Territory government still does not get it.

My greatest fear is that we are witnessing across this nation another type of stolen generation, an out-of-home care generation, and we are all complicit in this if we do not make hard and fast changes to the current system. We cannot stand idle whilst another whole generation of children are removed from their kin and their culture. We know that there are many extended families in our communities that already provide support to others within their kin. But sometimes, for various reasons, this cannot be made to work in the interests of the child and something must be done to safeguard the child so they can receive the appropriate care that they need.

The Northern Territory has a small and diverse population that consists of some large towns and a few cities and hundreds of smaller communities and homelands. We must
acknowledge the context of disadvantage in many of these communities—poverty and overcrowding, poor infrastructure and poor or no access to employment, education and health services. These social determinants and others conspire to ferment domestic violence and neglect and, unfortunately, in some cases abuse that leads to the need for child protection measures like out-of-home care.

Of the types of out-of-home care available in the Northern Territory, kinship care has many positives. With kinship care we automatically have people who can translate and interpret the directions of the department both to the child and their family, whilst keeping the child better connected to their culture. We need to recognise and utilise the strengths inherent within a community itself and enable carers to tap into the significant supports that are often already there in the community.

Out of 932 placements in a year, as a broad guide roughly 70 to 85 per cent of these children are Aboriginal in any given year. In the Northern Territory there are only 194 authorised kinship households. The Northern Territory has roughly one child placed in out-of-home care for every 250 Territorians, and the numbers are steadily increasing. It is an extraordinary figure when you think about it. There has been a steadily increasing demand for child protective services, and this increase is a major problem in and of itself. But the departmental budget was also cut by $9 million last year, which is staggering and is one of the reasons why the Northern Territory opposition, under Territory Labor Leader Michael Gunner, is putting children at the centre of its plans for government.

Some of the family support programs in the Territory are federally funded. The Intensive Family Support Services program, working in four locations in the Northern Territory, is funded through the Commonwealth Department of Social Services. The IFSS is doing fantastic prevention work with families and has been described by some stakeholders as the final chance to keep kids with their families. Often the families have entrenched problems that are complex and, when you are working at this level, the results are not always positive. Any achievements are hard won and do not come quickly, so there is a limit to what can be done at this end with the resources that are applied to the program.

Permanent care orders are a relatively new development in the Northern Territory and one with a number of question marks hanging over it. A permanent care order is made by the court that grants a person parental responsibility for a child until they turn 18 years of age. The permanent care order does not totally cut the legal ties of the child with their biological parents in the same way that adoption does. But it assigns the child with a carer who has the rights and full responsibilities of a parent. So under a permanent care order the carer is now the parent, in law, and can decide whether or not the child can have any contact with the real parents. To assist with this responsibility, the permanent carer receives a one-off payment of $5,000, but no other allowances, for the care of that child. The committee has recommended that there be a nationally consistent approach to permanent placement and that it is only considered when there is no chance whatsoever of the child returning to its family.

What concerned many of the witnesses is the perception that the Northern Territory department can tend to take into account the biological parent's past record without considering the current status and work done to improve that parent's situation in life. It would be tragic for a parent to undergo rehabilitation only to find that they are not allowed to have their biological child back in their lives because he or she is under a permanent care order.
Some children receive care—I know myself—up to the age of 25, and I think that is important as we want children to transition well from out-of-home care into society. Children in foster care, however, often leave that care at 15 or 16, and this is when kids can become most vulnerable. The National Disability Insurance Scheme will improve some of the supports for, for example, the 20 per cent of 16- to 18-year-olds in out-of-home care that have a disability, but this is still a very difficult area. Whilst it seems that the Territory's carers of disabled children do not seem to relinquish those children to the same extent as happens in other jurisdictions, it is still very difficult. Those carers need additional support, and this has been raised in other forums. Places of respite are seriously needed in the Northern Territory.

This is a snapshot of some of the issues in the Northern Territory. We have some serious issues to deal with in child protection, and I really appreciate all of those who have contributed to this fine report. I commend it to the Senate.

Senator LINDGREN (Queensland) (16:43): I rise to speak to the Community Affairs References Committee report on the inquiry into out-of-home care. One cannot speak of this issue without being affected emotionally. Clearly, when looking at children in out-of-home care, in the long term there needs to be a more viable option. On that note, I would like to thank those people who gave evidence and made submissions to the committee.

There is a bias against adoption as an option for children in out-of-home care. Adoption should always be a viable option to create a safe, stable home for children. One thought is clear, and that is that children should always come first. All children need stability and certainty. Children in care are unfortunately in care because they have already had a tough time one way or another. Let us facilitate this stability. Let us give them a loving, stable home. Let them be woken up by the same person who put them to bed. And let us examine the issues that currently surround adoption in Australia—in particular, removing the barriers so that safe, permanent care arrangements can be opened up.

Ms Maree Walk from the New South Wales Department of Families and Communities presented evidence of some of the most moving applications and discussion points. They were submissions from children who grew up in the system who voiced that they had wished their care families had adopted them. These children have also been the most vocal pro-adoption people. Permanency for children in out-of-home care can be achieved.

Currently, the Queensland figures linger at 170 to 190 people who are assessed and approved to adopt a child. However, only eight to 10 adoptions happened within the year. This then leaves young children in residential care.

The New South Wales model incorporates a preferred hierarchy of permanency with the family perseverance/restoration as the first priority, but when this cannot be achieved it uses further mechanisms to achieve stability for children. These include long-term guardianship with a relative or kin, or adoption. As a last measure, parental responsibility to the minister should only happen when the long-term guardianship and adoption have been considered inappropriate to ensure that time frames are legislated regarding the feasibility of restoration so as to provide stability and permanency for the child.

The Carmody recommendations of the Queensland Child Protection Commission of Inquiry, similar to that of the New South Wales methodology, were agreed to in a bipartisan approach. Children should always come first. The main aim is to offer stability for children
and young people. This improvement can be achieved in out-of-home care for children with the opening up of adoption. This is not to say that adoption is the right or the only path for an out-of-home care child, but the choice and ability needs to be there. We need to be able to offer our next generation a chance at stability. At all levels, a child-first approach should apply to all decisions.

The issues in regard to front-line services to support children to stay at home should be seen as separate to that of the decisions about the immediate and long-term safety and wellbeing of any child at risk. This can be seen in the very sad case of Chloe Valentine from South Australia, who died after Families SA failed to remove her from her drug-addicted parents. The coroner's report into Chloe's death stated, 'It seemed Chloe's interests had been forgotten while the focus was on Ashlee—Chloe's mother—and her demands.'

There is a greater need for parents to take seriously the responsibility of raising a child and if this responsibility is not undertaken and a child is placed at risk then they need to be held accountable. A larger focus needs to be placed on meeting the child's needs first. These needs in out-of-home care for at-risk children should always be front and centre of decisions. By placing decisions in the forefront of the out-of-home care, a child's welfare can be considered with a first approach to reunification with the family but also an acknowledgement for the removal of bias in regard to the adoption of children when reunification is not the best option.

Stability is needed for the child and a child's needs should always come first. An approach to make adoption a more acceptable and realistic option for children left in limbo in a system of out-of-home care should be seriously considered as there are many childless couples wanting to adopt and provide loving, stable homes.

Lastly, I would like to thank the committee for the work undertaken and for those who made submissions in the interest of putting children first. Ultimately, I would like to see the removal any bias against the adoption of children in the out-of-home care system. I seek leave to continue my remarks.

Leave granted; debate adjourned.

**Economics References Committee**

**Report**

**Senator KIM CARR** (Victoria) (16:48): I present the interim report of the Economics References Committee on Australia's automotive industry, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the reports be printed.

**Senator KIM CARR:** I move:

That the Senate take note of the report.

I seek leave to continue my remarks given the hour.

Leave granted; debate adjourned.

**Report**

**Senator KIM CARR** (Victoria) (16:49): I present the interim report of the Economics References Committee on Australia's innovation system, together with the *Hansard* record of proceedings and documents presented to the committee.
Ordered that the report be printed.

Senator KIM CARR: I move:

That the time for the presentation of the final report of the Economics References Committee on Australia's innovation system be extended to 25 November 2015.

Question agreed to.

Senator KIM CARR: I move:

That the Senate take note of the report.

I will speak briefly at this time. This interim report is in the form of an issues paper that has been written by Professor Roy Green, who has been engaged by the Economics References Committee to assist the committee in its assessment of the innovation system, following the receipt of 181 submissions to the inquiry. It goes to the issue of what is innovation and why it is important in Australia, and why it is so significant for the future economic prosperity of the nation. The detail of that is contained in the report.

The report also identifies a number of impediments to the development of the innovation system. While the committee enjoyed a number of public hearings, it did work in a highly collegiate manner. As a consequence, I believe that this is a report of substance and when it is finally concluded, the report will be of lasting benefit to the Senate. I am particularly concerned to highlight the issues that go to the weaknesses in the innovation system and the obstacles to the development of the innovation system. They are detailed in this interim report. The issues paper itself identifies a number of questions which others may wish to comment upon, and I trust that they will. There will be an opportunity for further submissions to be received by the committee. I commend the report to the chamber. I seek leave to continue my remarks.

Leave granted.

Senator KETTER (Queensland) (16:52): I will attempt to be brief. Labor initiated the inquiry in 2014 to fill the government's policy vacuum when it comes to science, research and innovation. Australia does need to plan to build an innovation ecosystem so we can create the high-tech, high-skill and high-wage industries and jobs out of the future.

The Senate referred to inquiry of the innovation system to the economic references committee and, as Senator Carr has indicated, we have so far received 181 submissions and have held four public hearings. The committee has agreed to table this interim report and to request an extension to present the final report by 25 November 2015.

The context of the report is that the OECD has stated that the capability to innovate and to bring innovation successfully to market will be a crucial determinant of the global competitiveness of nations over the coming decade. The OECD has also noted that innovative activity is the main driver of economic progress and wellbeing. This report goes to a number of those factors and draws on a number of submissions, and I quote the Professionals Australia, who have noted that innovation is a driver of both productivity and economic growth as shown by the United States where half of the economic growth in the last 50 years can be attributed to scientific innovation, despite a decline in mining productivity.

The reality we have at the moment—and Senator Carr has touched on this—is reflected in some of the statistics that are contained in the report which reveal that only 1½ per cent of Australia's companies developed new-to-the-world innovations in 2011 compared with
figures of 10 to 40 per cent for businesses in other countries. There is a need for some serious further work to be done on this issue.

There have been very constructive hearings in Brisbane and Melbourne. I will just touch on very briefly the Brisbane hearing at which we heard the CSIRO; Australian National Fabrication Facility; the Australian Institute for Bioengineering and Nanotechnology; the Toowoomba and Surat Basin Enterprise, who provided a very interesting submission; University of Southern Queensland; Queensland University of Technology, the Australian Research Council Centre of Excellence for Creative Industries and Innovation; Russell Mineral Equipment, the Chamber of Commerce and Industry of Queensland, Cook Medical; Dr Geoffrey Garrett; and Professor Mark Dodgson.

As Senator Carr has indicated, the inquiry has identified a number of barriers to the flow of ideas, mobility and funding between private and public sectors which ultimately impede innovation—I will not touch on those. Australia needs a plan to build for our future. The purpose of the report is to generate further discussion and spark debate about Australia's innovation, and we look forward to reading the final report. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

DOCUMENTS
Higher Education
Order for the Production of Documents

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (16:55): I table a document relating to the order for the production of documents concerning higher education reforms.

BILLS
Australian Defence Force Superannuation Bill 2015
Australian Defence Force Cover Bill 2015
Defence Legislation Amendment (Superannuation and ADF Cover) Bill 2015

First Reading
Bills received from the House of Representatives.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (16:56): I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Bills read a first time.

Second Reading

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (16:56): 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—*

**AUSTRALIAN DEFENCE FORCE SUPERANNUATION BILL 2015**

The Australian Government is resolutely committed to supporting Australian Defence Force (ADF) members throughout their service and in their retirement.

The *Australian Defence Force Superannuation Bill 2015* (the Bill) gives effect to the Government’s intent to introduce new, modern and flexible superannuation arrangements for people joining the ADF on and after 1 July 2016. The Bill establishes a new superannuation scheme to be known as ADF Super.

The Bill fixes some of the longest running grievances of the veteran and ex-service community, namely a lack of flexibility in the current military superannuation scheme and the lack of portability of a member’s superannuation benefit when they leave the ADF.

At the outset I thank the Defence Force Welfare Association, the RSL and the Australian Defence Association for their feedback and for supporting this legislation. I also acknowledge the opposition for their support for this important set of changes.

ADF Super forms a significant part of the Government’s plan to provide flexible service arrangements for all ADF members. Importantly, as part of this plan current serving personnel who are members of the Military Superannuation and Benefits Scheme (MSBS) may opt to join ADF Super, but they will not be compelled to do so.

ADF Super will be a modern, fully funded accumulation superannuation scheme.

ADF Super will, for the first time, allow ADF members to choose the superannuation fund they belong to. It will provide superannuation choice and enable ADF members to select any complying superannuation fund to invest their superannuation benefit.

A default military superannuation fund will be established and managed by the Commonwealth Superannuation Corporation, which is the trustee for the major Commonwealth superannuation schemes, including the current and past military superannuation schemes.

In recognising the unique nature of military service the Government has agreed to a single employer contribution rate of 16.4 per cent, which is a generous rate well above community standards.

ADF Super will apply to:

- those joining the ADF for the first time on and after 1 July 2016;
- contributing MSBS members who choose to join ADF Super;
- preserved MSBS members who re-join the ADF and choose to become a member of ADF Super; and
- MSBS and Defence Force Retirement and Death Benefits (DFRDB) scheme members who receive retirement pay and re-join the ADF on a full time basis or as a Reservist on Continuous Full Time Service on or after 1 July 2016.

Contributing DFRDB members do not have the option to transfer to ADF Super.

The current MSBS will be closed to new members from 1 July 2016.

Unlike previous military schemes, such as the MSBS which requires a minimum employee contribution of 5 per cent of salary, there will be no requirement for ADF Super members to make employee contributions to their superannuation.

As a result, contributing MSBS members who choose to become ADF Super members will immediately receive a 5 per cent increase to their take home pay as they are no longer required to make compulsory employee contributions.

Accompanying ADF Super will be a new statutory death and invalidity scheme, known as ADF Cover. ADF Cover will be consistent with the death and invalidity arrangements ADF personnel
currently receive as MSBS members. It will ensure that ADF members are properly looked after, for the rest of their life if required, in the event they are injured during their ADF service.

ADF Super recognises the unique nature of military service, and importantly, provides greater flexibility for individuals in how they manage their finances at various stages of their working life.

I commend the Bill

AUSTRALIAN DEFENCE FORCE COVER BILL 2015

The *Australian Defence Force Cover Bill 2015* (the Bill) gives effect to the Government's commitment to introduce new, modern superannuation arrangements for people joining the Australian Defence Force (ADF) on and after 1 July 2016. The Bill establishes a new statutory death and invalidity scheme to be known as ADF Cover.

Due to the unique nature of military service it is often difficult for ADF members to obtain death and invalidity cover at a reasonable cost under group insurance arrangements. ADF Cover addresses this issue by ensuring all ADF personnel who are members of the ADF Super scheme have full death and invalidity cover.

ADF Cover provides all members who join on and after 1 July 2016 with death and invalidity cover consistent with that provided to members of the current Military Superannuation and Benefits Scheme (MSBS). It will apply regardless of the superannuation fund chosen by the ADF member.

As is the case for current MSBS members, ADF members will not be required to make any contributions to ADF Cover and all benefits paid under ADF Cover will be met from consolidated revenue.

**Benefits for Incapacity**

ADF Cover will provide benefits for ADF members who are medically discharged and whose capacity to undertake civilian employment is limited as a result of a medical condition that occurs while serving in the ADF.

If that capacity is reduced by 60 per cent or more, they will be classified as Class A and receive an appropriate pension.

If that capacity is reduced by 30 per cent or more, but less than 60 per cent, then they will be classified as Class B and receive an appropriate pension.

If a member's capacity is reduced by less than 30 per cent they will be classified as Class C and their superannuation will be preserved in the fund of their choice. The preserved benefit is subject to the normal age preservation rules for release.

Under ADF Cover the death and invalidity benefits provided will be consistent with the death and invalidity benefits provided under the current MSBS.

**Benefits for Death**

If an ADF member dies in service, or if an invalid dies while receiving an invalidity pension, benefits will be paid to the dependants of that member or invalid, or to their estate.

In the case of an invalid or ADF member who dies, their spouse (if any) will receive a reversionary pension or lump sum. The pension will be increased if there are eligible children. If that spouse later dies and was themselves receiving a pension, any eligible children will also receive a reversionary pension.

If an invalid dies with no spouse but with eligible children, the eligible children will receive a reversionary pension. If an ADF member dies in service with no spouse but with eligible children, then the eligible children will receive a lump sum. In the case of an ADF member who has no spouse or
eligible children, a lump sum will go to the estate or the legal personal representative of the ADF member.

ADF Cover recognise{s} the unique nature of military service and offers important protection for ADF members and their family consistent with that provided under the current MSBS.

I commend the Bill

DEFENCE LEGISLATION AMENDMENT (SUPERANNUATION AND ADF COVER) BILL 2015

Measures to implement ADF Super and ADF Cover

The Australian Defence Legislation Amendment (Superannuation and ADF Cover) Bill 2015 (the Bill) contains the consequential amendments necessary to establish the ADF Super and ADF Cover arrangements. In line with the Government's drive to cut red tape, the Bill also contains a number of measures to reduce the administrative complexity of the current and previously closed military superannuation schemes.

Measures for Children

The current Military Superannuation and Benefits Scheme (MSBS) and closed Defence Force Retirement and Death Benefits (DFRDB) scheme provide pensions for children of deceased Australian Defence Force (ADF) members and former ADF members. To qualify for a benefit, children over 16 must demonstrate they are in full-time education.

In contemporary Australia the majority of high school students do not leave school until they reach 18. This Bill modernises the arrangements of the current and closed schemes so that children only have to demonstrate they are in full-time education once they reach the age of 18.

This will reduce the administrative burden on families receiving a benefit under the current and closed military schemes, as well as the burden on the administrator of those schemes.

Re-entered Members

At present all DFRDB retirement pay recipients who re-enter the ADF full time or as a Reservist on Continuous Full Time Service must make an election to either become a MSBS member, not become a MSBS member or to again become a DFRDB contributing member before commencing their further service.

If no election is made or the election is not made before commencing re-entered service, the re-entered member becomes a MSBS member by operation of the law.

If the person elects to become a member of the MSBS their retirement pay is suspended until such time they complete their period of service.

If the person elects to again become a DFRDB contributing member their retirement pay is cancelled and recalculated after the further period of service is completed, noting that the additional service must be for more than 12 months for this to apply.

After 1 July 2016, all DFRDB scheme retirement pay recipients who re-enter for further service will be able to choose which superannuation fund they belong to, noting they cannot re-join the closed DFRDB scheme.

Importantly, they will continue to receive their retirement pay while accumulating further superannuation benefits in the fund of their choice. Put another way, they will no longer have their retirement pay suspended or cancelled as is currently the case.

Likewise, those members currently receiving a MSBS pension who re-enter for a further period of service will also be able to join a superannuation fund of their choice, again noting they cannot re-join
the closed MSBS. They will also continue to receive their pension during that period of service while accumulating further superannuation benefits.

*Flexible Service*

The Bill also facilitates the introduction of significant reforms to the ADF’s future workforce model. This Bill enables a new category of flexible service for members of the Permanent ADF.

Defence is a modern, flexible and responsive employer. The introduction of Flexible Service Arrangements will better secure the ADF’s capability by:

- encouraging skilled and experienced people to stay in the ADF longer; and
- promoting greater consistency in the application of formal flexible service arrangements.

The Bill will enable permanent ADF members to seek flexible service arrangements that can be structured on the number of days worked per week, weeks per month, or even months per year.

Importantly, the application of the flexible service arrangements will remain cognisant of the need to balance the ADF member's needs with Defence's capability requirements.

ADF personnel should be encouraged to pursue longer-term and worthwhile careers within a modern and innovative Defence Force. This Bill facilitates the introduction of a new workforce model and will help to ensure Defence get the most out of its people and those people get the most out of their Defence career.

I commend the Bill

Debate adjourned.

**Tax and Superannuation Laws Amendment (2015 Measures No. 2) Bill 2015**

*First Reading*

Bill received from the House of Representatives.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (16:57): I move:

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

Question agreed to.

Bill read a first time.

*Second Reading*

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (16:57): I move:

That this bill be now read a second time.

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

Leave granted.

*The speech read as follows—*

Today I introduce a Bill that is yet another stepping stone towards repairing Australia's Budget.

Like the many tax bills since we took office, this Bill helps get the Budget back on track and amends various taxation laws to reduce uncertainty for investors and companies.

First, let’s talk about the Budget. We are all aware of the budget position that was left to us by the previous Government. In the 2013-14 Mid-Year Economic and Fiscal Outlook, gross debt was projected to grow to $667 billion by the end of the medium term.
Without taking action to address this debt, Australian families and businesses face a bleak future. Tackling the debt and getting the Budget back on track is vital to maintaining our living standards. And we need to maintain them so that our children and grandchildren can enjoy the same lifestyle we do.

Our fiscal plan will ensure government services are sustainable and stop borrowing at the expense of future taxpayers.

This Bill is another part of the job the Australian people elected us to do: to fix the nation's debt and build a strong, prosperous economy.

Second, this Bill reduces uncertainty and red tape for investors and companies, and ensures the tax system operates as intended. Because it is yet another step towards our commitment to clear the backlog of 92 announced but unenacted measures.

The changes in this Bill will make our tax system better support businesses, investors and mining exploration.

Specifically, this Bill makes four changes.

One—the Bill provides tax relief for some companies altering their mining practices.

Two—the Bill alters the way software expenses is treated for tax purposes, so that the effective life of in-house software is increased.

Three—the Bill confirms the long-standing industry tax treatment for investors in instalment warrants, and instalment receipts over certain assets.

Four—the Bill clarifies the ability of companies to carry forward losses.

**Schedule 1: Tax relief for certain mining realignments**

But first, to tax relief for certain mining practices.

Schedule 1 of this Bill will make sure that the immediate tax deduction, for rights and information used in resource exploration, fulfils its original purpose of encouraging genuine exploration.

Limiting the immediate deduction was intended to remove the exploration tax concession for trading of late stage exploration rights and information, where the price reflected the value of resources discovered rather than the right to explore.

It was not meant to remove the immediate deductibility of an exchange of an interest in a mining, quarrying or prospecting right in return for exploration services; otherwise known as a 'farm-in, farm-out' arrangement.

Nor was the integrity measure meant to affect parties to a joint venture, when they exchange interests in mining, quarrying or prospecting rights so that the owners of the project have a consistent ownership interest in all the reserves and resources of the project.

The resources sector was given assurances that these arrangements would not be affected when the changes were announced. Although not subject to the integrity concern, resource sector companies would be affected if not specifically exempted from the integrity provisions.

So, this Bill will maintain the tax neutrality of a 'farm-in, farm-out' arrangement where an interest in a mining, quarrying or prospecting right is exchanged in return for exploration services.

This Bill will also provide tax roll-over relief for an interest realignment, in which parties to a joint venture exchange their interests in mining, quarrying or prospecting rights to pursue a single development project.

It will also address a technical issue that may have prevented some taxpayers from claiming immediate deductions for expenses for enhancing mining, quarrying or prospecting information.

These arrangements mean that genuine exploration activities and other legitimate restructuring arrangements can continue without any unintended tax consequences.
And importantly, these amendments will minimise uncertainty for business, and prevent investment decisions in the mining and petroleum industries from being delayed.

**Schedule 2: Increasing the effective life of in-house software**

Speaking of investment, let me now talk about the change to the tax treatment of software expenses. Schedule 2 of this Bill makes a small change to the way expenditure on software is treated for tax purposes, to increase the effective life of in-house software.

Currently, taxpayers claim a tax deduction for software expenditure over four years. Software expenditure can include software bought off the shelf, as well as money spent on developing software in-house.

This Schedule changes the time period over which the tax deduction can be claimed from four to five years.

This will ensure that the effective life of software for tax purposes better reflects the typical useful life of software for businesses.

The new treatment will start for expenditure made on or after 1 July 2015, and will result in a saving of $420 million over the four years to 2017-18.

That's not far from half a billion dollars—money which can be redirected to fund other priorities.

**Schedule 3—Income tax look-through treatment for instalment warrants and similar arrangements**

As well as altering a tax treatment to help progress our repair of the nation's finances, this Bill confirms into law an existing tax treatment for investors in instalment warrants.

In this way, Schedule 3 of this Bill provides certainty to investors. Schedule 3 clarifies the income tax treatment for investors in instalment warrants and instalment receipts over certain assets.

Instalment warrants and receipts allow an investor to purchase an asset, such as a share, by paying in one or more instalments.

Under these arrangements the investor is entitled to receive the benefit of any income, such as dividends, from the underlying asset throughout the term of the arrangement.

Uncertainty has arisen about whether this industry practice is supported by the tax law.

So, the changes in this Schedule confirm the long-standing industry practice to ignore the instalment warrant or receipt for capital gains tax purposes.

These amendments treat an investor in an instalment warrant or receipt in certain widely held securities, as the owner of the underlying asset for income tax purposes.

Investors benefit from these changes, as there will be no capital gains tax applicable at the time the last instalment is paid.

Equally, the investor rather than trustee will be assessed on any dividends or income received from holding or selling the assets.

Consistent with providing this treatment for instalment warrants and receipts, regulated superannuation funds that borrow to buy assets in a particular way, including with instalment warrants, are also provided with this treatment for income tax purposes.

These changes provide much-needed certainty for individuals, businesses and superannuation funds.

**Schedule 4—Multiple classes of shares**

This Bill also provides certainty about the tax treatment of losses. Schedule 4 of the bill clarifies the ability of companies to carry forward losses.

Companies make a tax loss when their total deductions claimed are greater than their taxable income earned in a year.
Companies can carry forward these losses to offset future assessable income in future years.

To carry forward losses, companies must have either maintained the same ownership and control or carried on the same business since the loss was incurred. A number of tests are used to assess this.

There are a couple of minor technical issues with these tests which may result in the rules not operating as intended.

The Bill will:
• modify the continuity of ownership test for companies whose shares have unequal rights to dividends, capital distributions or voting power;
• ensure that companies do not have to trace ownership through certain entities, including complying superannuation funds; and
• clarify that in applying the same business test, the head company or members of a consolidated group will not need to take into account the history of a subsidiary member prior to the time that it joined the group.

Without these amendments, companies may be unable to meet the tests even though there was no significant change in underlying beneficial ownership, control or business during the period.

The amendments are good for business and will provide taxpayers with the certainty that they need.

In conclusion, this Bill is part of the Government’s plan to repair the budget and secure Australia’s future so that future generations can enjoy the same living standards as we do.

That plan is all about Government living within its means so that vital services can be sustained well into the future. It’s about laying the groundwork for the economy to grow and for all of us to participate. And it’s about building a future that is just and prosperous.

This Bill also ensures that genuine exploration activities and other legitimate restructuring arrangements can continue without any unintended tax consequences.

In addition, this Bill reduces both uncertainty and compliance costs for investors and businesses and restores integrity to the tax system.

Full details of each of the measures are contained in the explanatory memorandum.

Debate adjourned.

Civil Law and Justice Legislation Amendment Bill 2014

Assent

Message from the Governor-General reported informing the Senate of assent to the bill.

PARLIAMENTARY REPRESENTATION

Valedictory

The PRESIDENT (17:00): Order. It being 5 pm and pursuant to order of the Senate agreed to on 11 August this year, the Senate will now move to valedictory statements. I call Senator Wright.

Senator WRIGHT (South Australia) (17:00): I stand here to make my valedictory speech with an immense sense of gratitude. First, I am grateful for this opportunity to put a few things on the record and to say some much needed thankyou.

As many people already know, I have made a decision to step aside from my position as a senator for South Australia after only four years due to an illness in my family. It was not an easy decision to make, but it is the right one. I am also very grateful for the opportunity I have had to be the 546th Australian senator since 1901. It is an opportunity very few Australians
have. Through some great luck in 2010, it fell to me to be the second Greens senator for South Australia and the 95th senator elected to represent my state. I sincerely thank the South Australians who trusted me with their vote and I hope they feel I have vindicated their faith in me. So it has been four short years and four very long years since I first came into this place. It has flown by, but it also seems a lifetime ago that I made my first speech on 17 August 2011. I am definitely older and a bit greyer. I remember someone telling me that Senate years are like dog years: each year in the Senate is like seven ordinary years, and I am sure that is right. It has been an amazing journey.

When I first started, people asked me what it was like. I used to respond that it was equal parts exhilarating and terrifying. Most would understand, but occasionally someone would ask, 'Why?' and I would answer: 'Well, imagine you start a new job'—everyone can relate to that—and then imagine it is not one job but at least four. You are a policy maker, a salesperson, a media performer and a manager, but there is no job description and you are doing all of this on a stage with half the audience hoping you will fall off.' But, as we here all know, it is a job like no other. It is very creative, we make of it what we will and we make of it who we are.

For a stickybeak like me, a great aspect of this work has been the unique right that we have as senators to completely ignore our mothers' advice to mind our own business. Instead, we can indulge our curiosity, stick our noses into everyone else's business, invite ourselves to places, ask questions and find out things, and most people welcome it. I am prepared to admit there might be some notable exceptions—witnesses on Senate inquiries into tax avoidance spring to mind!—but of course we then need to turn that information to a purpose and do good in the world. The Senate committees are just a formal example of that, so I was very lucky to chair the Legal and Constitutional Affairs References Committee for close to four years as well as having a stint on the Parliamentary Joint Committee on Law Enforcement in my early days and as the Greens representative on the Parliamentary Joint Committee for Human Rights since it was first established in 2012.

Legal and con inquiries have covered a multitude of topics from court fees to forced marriages, but there are two which particularly stand out in my memory. One looked into the death of Reza Barati, the 23-year-old Iranian man who died a lonely death after a riot on Manus Island. He was the same age as my daughter. This was one of the hardest inquiries I have chaired, facing up each day to hear evidence that was very hard to process. I have never forgotten that, while we go about our daily lives with our families and with our friends, there are men living there on Manus Island, day after day, without any prospect at all that things will get better.

The other inquiry I am most proud of was the legal and con consideration of the value of a justice reinvestment approach to criminal justice in Australia which looked into our patently failing system of law enforcement and asked, 'What changes can we make to reduce the number of Aboriginal Australians being locked up in our jails?' They are some of the most imprisoned peoples in the world. I took heart from this inquiry because it demonstrated to me that exposure to ideas and new information can change minds and views. It is not a novel idea, I will admit, but reassuring all the same. Perhaps we do not see the evidence of that in here—and I count myself in that as much as anyone—as much as we would like to. But some of those who were sceptical about the notion of the inquiry at the start came to warmly

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endorse the principle of justice reinvestment by the end. This issue is unfinished business for me. I want to see our systems change to tackle the causes of crime and I want to see the amazing results in Australia that justice reinvestment has achieved in the US: fewer people in jail, stronger communities.

Being a senator exposes us to amazing experiences if we are willing to grab the vine as it swings past. So, soon after I started, I found myself sitting in a container in Queensland in full PPE—personal protective equipment, for those us in the know—as I was surrounded by flames licking up the walls of that structure. I was telling myself that the firefighters who had organised the whole shebang would surely not risk any scandalous headlines like 'Singed senators' or 'Poached pollies'. This was part of an inquiry into Adam Bandt's landmark bill to support firefighters who contract cancer in the course of their work. Again, the experiences we shared on this committee helped change minds, incontrovertibly demonstrating to us the debt that we owe firefighters because they are often the only ones running into a burning building when everyone else is running out. Adam's bill was ultimately passed unanimously, a rare but very agreeable example of our capacity to work together in this parliament for the national good.

There was also that time I donned a bite suit that made me look like the Michelin Man—not very stylish but highly practical, and apparently it is recommended couture for anyone being attacked from behind by a German shepherd. That was just one of the many pleasures I experienced when I visited Amberley air base for a week as part of the ADF Parliamentary Program.

Now that was a great opportunity to test some assumptions—on both sides—and I was made exceedingly welcome and learned lots. A highlight was travelling in a C17, the aircraft used for delivering aid supplies and assisting with medical evacuation when Australians are providing emergency responses at times of natural disaster and crisis—work that I am immensely proud of.

Less adrenalin fuelled but thoroughly rewarding was the extraordinary hospitality I experienced in rural Australia as I conducted a tour over about 18 months to hear about gaps in mental health services in country areas. Although the scones and lamingtons proved hazardous to my waistline, I just loved the chance to learn from people who could help me develop policy that was relevant to their needs. One Friday night after a few days on the road I was flying back to Sydney from Orange. The attendants solemnly went through the safety drill from the front of the plane determined not to be distracted by the fact that I was the sole passenger on the flight, sitting in the very back row of the 34-seat plane listening dutifully. At this point I probably should point out that, although I had the plane to myself, it was a regular scheduled flight. So any resemblance to Choppergate is purely coincidental.

My rural tour sums up my favourite part of the work that we do—the rewards from meeting people, hearing their hopes and fears, amplifying their voices and being able to reflect and validate their concerns in the national parliament. It is very good for democracy. For me, making connections, taking the risk to be real and listening with an open heart are really the most exciting parts of being a senator. And if it sounds like a 'Girl's Own Adventure', well, it really has been. I would like to see many more 'girls' coming on this adventure, and I hope that in some small way I have helped show that ours is a perfectly
respectable profession. I think the trick is to find a way of doing politics that is congruent with one's own personal style. Encouraging this will lead to more women putting their hands up.

We work in a challenging and often adversarial environment which rewards behaviours that would actually have you disciplined or ostracised in a normal workplace. As a guiding principle, I have found it helpful to remember the advice of one of my favourite cartoonists from the 1980s, Kaz Cooke—advice usually dispensed by the spikey-haired sharp-nosed young female figures that she drew—to 'keep yourself nice'. After all, when I leave here all I will really have left is me. I have also been mindful of the sage advice I heard once to 'be polite to those you pass on the way up as you may meet them again on the way down'.

As I look ahead, I know I am going to enjoy some sleep and luxuries like reading for pleasure, having the time to reflect and reconnecting with friends and neighbours, who we all miss in this place. While I am sorry to be leaving, I know that my party, the Australian Greens, is in a good and growing place. I am thankful that I have been able to work with wonderful colleagues—my Senate companions and Adam flying the green flag in the House of Representatives. I have experienced the inspiring leadership of three leaders: first Bob Brown, then Christine Milne and now, all too briefly, Richard Di Natale. I have worked in a variety of workplaces over my career, and I can say without any doubt that these are some of the most intelligent, talented and dedicated people I have ever had the privilege to work with. I am going to miss you all very much, my friends.

In South Australia, I am very heartened by the mature, collegiate state of the party Mark Parnell and I helped establish in 1995. We have come a long way since then. The calibre of the people who put their hands up to fill my position and the efficient and professional way the SA Greens responded to the challenge of a speedy but fair preselection process attests to this.

I also believe the Greens are in a strong place because the 21st century challenges are our challenges. They are pressing and they require an approach that is different to what has gone before. However comforting and tempting it is to turn back to old, familiar viewpoints and solutions, we cannot live in the past. We cannot 'unknow' what we know now; we just have to have the guts to face it and make decisions for the long term based on the information and evidence that we have. We only have this one beautiful, fragile planet with an atmosphere and an environment that we are a part of. Like any other animal species, if we destroy it we destroy our own chance of survival.

Before I finish I have quite a list of people to acknowledge—without whom I could not have done my job in this place. There are the Senate staff, led by Rosemary Laing, who have been unfailingly courteous and helpful—and proud! Right from that first day of Senate school, we newly elected senators, the class of 2010, were left in no doubt that democracy resides right here in this house of review, with the important job of scrutinising that sometimes wayward House of Representatives—with Odgers in our arsenal when the going gets tough or uncertain. Thank you to the committee secretaries and their excellent staff, who are so professional in all they do and who are willing to go above and beyond to get the job done. They spin hours of evidence and reams of documents into comprehensible gold. Thank you to the cleaners—those good fairies who visit while the rest of us are sleeping to keep our offices pleasant and habitable; the chamber attendants—so attentive and anticipating our every need; and the security guards who help keep us safe and endure what must be times of
acute boredom. Special thanks to Ian and Peter and the Comcar drivers, both here in Canberra and in Adelaide and elsewhere. If any of you are listening, please do not ever underestimate how lovely it is to be greeted with your smiles and kindness on a cold Canberra morning when we are a long way from our family and friends.

Finally, Mr President, at the risk of an awkward 'aw shucks' moment, I would like to place on the record my appreciation of the even-handed and considered approach you have brought to your role. I think we first met on the law enforcement committee—and we have both moved beyond that at this point. At a time when the position of presiding member of a parliamentary chamber would probably not be at the top of the pops in terms of career aspirations, you have been even-handed and thoughtful. You even listen carefully to the questions in question time! That may not be a strict breach of the standing orders, but I am sure it is a breach of the conventions!

Now to my staff—I could not have done it without you. Lisa Marlin has been my office manager since day one. I vividly remember walking with Lisa around our empty Adelaide CPO suite on that first day, her notebook and pen in hand, starting a 'to do' list that has never come to an end. Thank you, Lisa. Anna Chang has been a tower of strength while working for me as a campaigner and cheerfully turning her hand to any role or challenge that cropped up. Anna continues to support and encourage me, even to this day. Thank you to the policy advisers who served me over time: Graham Goss; Amy Barry-Macaulay, who is here today; Clare Quinn; Sarah Moulds; and Simon Bakker. I have been spoiled by your exceptional skills. Thank you to my campaigners: Shen Mann; Erin Brooks; Rachelle Sandow; Emma Gorman and Ogy Simic. And a huge thanks to Sharon Reid, who is so adaptable she morphed through three positions in the two years that she worked for me. Thank you to my media advisers: Lauren Zwaans; Jenny Maisel; Danielle Forsyth, who worked miracles for me; and, most latterly, Cambell Klose, who has been a great support in the last few challenging weeks. Thank you also to those staff who have helped me by filling in over the last few weeks and who are here today: Lucy, Emily, Olivia and Eithne.

Thank you also to my friends and the many people who have sent me some kind messages in recent times, especially my focus group, who would meet me for coffee on Saturday mornings to help me to focus on what really matters—and, as we all know, it is not always what we think is important in here. Special thanks to Pat Tobin, who has been a very good friend for me in Canberra—offering support, encouragement and friendship right from the early days when I was in a wheelchair after I had been hit by a car.

Finally, thank you to my family. My daughter, Ellie, follows politics with great interest and has had the uncanny knack of sending me cards and funny, encouraging text messages just when I needed them most. Thank you for the love and support of my big boy, Felix. I do not know if he has actually got here from Melbourne—yes? Good! It was a near thing. Felix is very interested in current affairs and ideas, but less fascinated by party politics. I had to laugh when I was sitting in that seat over there in June 2013 during the height of the leadership tensions in the last parliament, when a text message lit up my phone. It said: 'Hi Mum. Can I come over and use your kitchen to cook Ruth a chocolate mascarpone cake for her birthday?' I suspect he did not even know I was in Canberra. I responded by texting: 'Yes, love. And by the way—yes, I am in Canberra; and yes, we do have a new Prime Minister!' I love the fact that while he is clearly not a political tragic, I have raised a son who wants to make his
girlfriend his signature cake for her birthday. I have always told him that the ability to cook was a very attractive quality in a man. And thank you for the love and support of my youngest boy, Mungo, who has a great sensitivity to ideas and ethics, a soft heart and a gift with words. Indeed, I noticed a Facebook post he made today when he described me to a friend as 'a good egg with awesome values'. How could I argue with that?

My final thanks are reserved for my husband, Mark, who has accompanied me on this journey every step of the way and right up to this point. He knows that his most important job is to make me laugh and, so far, he has managed it pretty well. If he ever stops, he knows that is it—he is dropped! This has not been an easy decision to make, but it has been made easier by the fact that it is the right one, and I feel very lucky to have a husband and kids that I love above all other things.

In my first speech I concluded by saying:

When I stand here to make my last speech I would like to think that I have contributed to making Australia a kinder, fairer place.

Well, I have had a shorter time to try to achieve that than I would have anticipated, but I am confident that I have done the best I can. Thank you.

The PRESIDENT: Thank you, Senator Wright.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (17:22): It is my privilege on behalf of the coalition government to say a few words on the occasion of Senator Wright leaving us. First of all, I congratulate Senator Wright on what was, if I might say, a very folksy, charming and engaging valedictory speech. In the relatively short period Senator Wright has been here she has experienced a fairly dynamic period of Australian politics—a few Prime Ministers, a few Greens leaders and I think only one Liberal leader, possibly more to good luck than good management, but who knows. It was a very dynamic period and Senator Wright observed the coming into government and then the backing out of government of what we on this side called the Green-Labor government. Senator Wright, as a founding member of the Greens, undoubtedly was used to the ups and downs of politics on an organisational basis here in the parliament, where, in the parliamentary sense, it can be somewhat difficult.

If I might say so, Senator Wright gave a very good expression on behalf of all colleagues as to some of the issues we face when we are away from family. Noting Senator Wright's many portfolio positions, I simply to say that she threw herself into everything in the portfolios and areas of interest she had personally or was given by the Greens as her special responsibility.

As a foundation committee member and a former honorary legal adviser to the Jireh House women's shelter in the suburb in which I live, I share a strong affinity with Senator Wright's views on the topic of violence against women and domestic violence. I believe she has made a very thoughtful and good contribution in that particular area of public policy. I did note Senator Wright's comments about the fire fighters bill and the firefighters rushing into the building as everybody was rushing out. If sufficient time has now elapsed for me to divulge this, I was the shadow minister dealing with this bill. On my side of politics, I felt a bit like the one fire fighter running into the building when all of my colleagues were wanting us to
leave it, but after a period of time I was very pleased to see the outcome, to which Senator Wright referred, and that was the unanimity of the parliament. Sitting on one of my shelves is a gift from the firefighters union—I understand it is below the disclosable threshold. I will not tell my preselectors about it in case it harms my chances of reindorsement. The collegiality and the manner in which the parliament acted in relation to that bill showed the Senate at its very best and Senator Wright and Mr Adam Bandt from the other place played a very important role.

While we are often on the TV screens doing things to make people think we are as hard as nails, we do have families and we do have other concerns. Senator Wright has made a very tough decision and has put her family first. We on this side recognise that and we salute that. We wish Senator Wright personally all the very best, whatever the future may bring. We also extend those best wishes to your whole family. All the best for the future.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (17:27): I rise to contribute remarks on behalf of the opposition on the occasion of the valedictory for my fellow South Australian Senator Wright. It is unfortunate that the demanding nature of politics often leads to conflict with our family responsibilities. In this case, Senator Wright has chosen to put her family first. We respect and acknowledge that and pass on our best wishes to her family.

When reflecting on my contribution today and on Senator Wright's career, I thought particularly of the conviction of her beliefs and her dedication to the causes and issues she fervently believes in. As she referenced today in her speech, she is not a recent convert to green politics, having been a founding member of the Greens in South Australia over 20 years ago. In her first speech, Senator Wright remarked that she was lucky to be born into a big rambunctious family, number six of seven children. I am sure that prepared her well for her experiences in the Greens party room and in the Senate.

In relation to her comments about dog years, I think she is right. And when it comes to the greying of the hair, I hear you—that is all I can say. Not only has Senator Wright's time in this place demonstrated her passion for environmental causes, but also I have been particularly struck by her continued and deep commitment to human rights and the law, as well as to mental health and education. In her time in parliament, she has held positions most notably on the Senate Legal and Constitutional Affairs Committee including as chair of the references committee in the current parliament, as well as on the Joint Committee on Human Rights and on the Joint Committee on the Australian Commission for Law Enforcement and Integrity. These appointments reflect her interest and her expertise in this area, which she obviously brought to this place from her previous experience as a lawyer and advocate, which have also complemented her role as legal affairs spokesperson for the party.

Senator Wright has today spoken about some of the priorities of her work, including justice reinvestment. I would say this: Senator Wright came to this chamber as a lawyer, and in her work and focus in this place she has demonstrated a consistent adherence to some of the best and highest principles of the legal profession, including the rule of law and the rights of the individual.

Another significant portfolio responsibility that Senator Wright has held within her party throughout her time in the Senate is that of mental health. I know she has brought a dedicated and passionate approach to this policy area, which was overlooked for many years at the
highest level of public policy in this nation. Thankfully, I think that time has passed. She has also been an outspoken advocate for quality public education.

On a lighter note, I know that some people will now find it much less confusing that there is only one Penny W from South Australia in the Senate! In fact, I have had many people say to me that there clearly is a statistical advantage to being called 'Penny from South Australia' in terms of getting into the Senate! I understand that on one occasion a poster banner that Senator Wright had ordered about offshore drilling near Kangaroo Island was delivered to her office addressed to Senator Penny Wong. I am told that this was the source of much mirth amongst her staff. I am sure that was not the only occasion on which there has been a confusion of identity. I know I have regularly been asked about what it was like in the Greens party. There you go!

As Senator Wright has acknowledged in the statement she issued to announce her resignation, there are many things she is still keen to achieve. I suspect that is the case for almost everyone who comes into this place on the occasion of our leaving, because the nature of politics and the nature of political reform—particularly for those on the progressive side of politics—is that there is always something left to do. So, despite her time in the Senate being at an end, I hope that Senator Wright will continue to make a valuable contribution to the life of our nation in the future and, particularly, to the life of our state. We thank her for her service to the Australian people in the Australian Senate.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (17:31): It is with a great sense of sadness that I rise today to pay tribute to my colleague Senator Penny—[I was about to say 'Wong' but it is not!]—Senator Penny Wright.

Penny said that she was elected in 2010. We were elected at the same time, and she said that she was elected thanks to some great luck. I take issue with that. Penny was elected because the people of South Australia showed wonderful judgement and recognised a decent human being when they saw one.

We were both in the class of 2010, and when I first met Penny she was on crutches. She had a bung knee; she had suffered an horrendous bicycle accident. I thought that was a fairly drastic way of demonstrating her commitment to the Green cause! She struck me immediately as someone who was incredibly respectful, very curious and reflective—things that I think are in very short supply in our nation's parliament.

She is someone of great warmth, and has a very immediate connection with people. She has been able to connect with communities across South Australia in a way that few other people could. It is one of her great strengths, that she has been a very strong and powerful advocate for the people of South Australia. I know that she has done some amazing work on Kangaroo Island in standing alongside landowners to protect the environment, and taking on issues like oil and gas exploration.

Similarly, in the south-east of the state—around Mount Gambier and the Limestone Coast—she took a stand against unconventional gas exploration on farmland. She worked in Port Augusta to highlight the transition that was possible in moving away from polluting sources of energy to solar thermal power. And, of course, as we have heard, she worked closely with Adam Bandt in the lower house to ensure that firefighters were given the
protection they need in developing an act that protected them if they developed an occupational cancer.

She also took on her portfolios with great relish. Penny was handed the mental health portfolio. I can say this now: at the time I wondered, as the health portfolio holder, whether it was a wise idea to split health into health and mental health. I know that there is a strong argument in that direction, but I suppose I just wanted it for myself! But within a few months it was pretty clear that it was the right call. She took to that portfolio with relish, she worked incredibly hard on it and she leaves a very strong legacy in that area.

She conducted a rural tour—a tour of regional Australia—working with a number of communities in trying to find out what the best pathway was to address one of the great challenges that we have as a nation, and that is providing care for people with mental ill health. One of the things I think I am proudest of from the last election was a comment from Russell Roberts, who is the chair of the National Alliance for Rural and Regional Mental Health, who said that Penny was responsible for:

… one of the most sensible pieces of policy work I've seen from a political party, on rural mental health, in the last 25 years.

That is a great credit to you, Penny.

She did not just work, though, in developing policy for the election. She was able to work across party lines. Together with some of her colleagues she established the Parliamentary Friendship Group for Youth Mental Health in 2013 to highlight some of the unique challenges that face young people across the country. She also worked with people suffering from things like eating disorders and post-traumatic stress disorder. Again, I think that people who are suffering from mental ill health will be thankful for the great work that Penny has done.

Penny was also the chair of the Legal and Constitutional Affairs References Committee from 2011 until this year. I think it is fair to say that for some of that time she was driven to her wits' end. We have had many discussions about the standard of debate within that committee and, without wanting to cast any aspersions on other members in this place, let's just say that there were other members of that committee who pushed Penny to her limits—and if you know Penny, that is saying something.

She also did a lot of work through that committee that will not make it to the TV news. Justice reinvestment, for example—not a particularly glamorous area and not something that will make newspaper headlines, but a really important initiative. And she drove an inquiry into the value of justice reinvestment in Australia to deal with issues such as the high incarceration rate of Aboriginal people across the country, and looking at whether we can redirect our resources in a much more caring and cost-effective way.

She was involved in a disallowance motion—in fact, she led the charge on the abolition of the government's so-called divorce tax and was responsible for changes in that area. She has been such a strong defender for the rule of law. She is so considered in her contribution in our party room, and particularly at a moment when there is a battle going on around what is the appropriate response to some of the international issues that are facing us. She has been a champion for human rights and civil liberties, against some of the attacks we are currently seeing on the rule of law in Australia.
I remember fondly her contribution to the debate around racial discrimination. A particular encounter with the Attorney-General Senator Brandis comes to mind, when Senator Wright stood up and—let's just say, she gave as good as she got. She did an amazing job and she did us all proud.

She has worked hard on veterans' affairs and made a big contribution in that area, providing much-needed advocacy for the partners of veterans and their families; and raising awareness and understanding around a number of issues relating to veterans' mental health.

In schools and education she was a champion for a decent public education system and did her best working with other members in this place to see the Gonski reforms implemented. She has been a strong and vocal critic around NAPLAN testing and has highlighted some of the inadequacies in that area of education policy.

So it is with sadness that we all say goodbye to Penny. It always happens to the good people. I think Australia's has lost a great champion for human rights. I think Australia has lost a great defender of our precious environment. We Greens have lost a person of tremendous integrity, warmth and intelligence. But her family has gained a wonderful mother and wife. You have your family back. Our loss is your gain. Penny, on behalf of everybody here, we are going to miss you.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (17:39): I rise on behalf of the National Party to pay tribute to the time that Senator Penny Wright, spokesperson for the Greens in South Australia, has spent here since 2010.

Much has been said about the wonderful work that Penny has done here, but I would like to focus on some of the values that I think she has demonstrated throughout her time in this place. Interestingly, in her maiden speech she reflected forward to her valedictory speech. She said:

When I stand here to make my last speech I would like to think that I have contributed to making Australia a kinder, fairer place.

And there is much wisdom in her next line, which was:

If we practise kindness and fairness I believe that we can meet the challenges this century brings.

How true. I would like to use this speech to touch on some areas. Many have been covered but I think that Senator Wright has demonstrated her commitment to a kinder and fairer place.

Senator Wright is said to attribute her love of public speaking to an encouraging teacher in year 9. Her vocal abilities have since been a constant trait of all her occupations. And, Penny, I have to say, when I listen to you in this place, I think you bring a rare discipline. I have seen you really cranky and I can still understand what you are saying—and it is not the same with me.

So, whether it be the first time as a student or a teacher when lecturing at Flinders University, we have all heard in this place of your great passion and strong views about ensuring that we provide a fair education system. You have said:

I am … very proud to stand here … to make the case for a schooling system in Australia where every child will have the chance to succeed, and where not one child will be denied a future just because of their background.
During your time in this place, you have commendably advocated for the rights of society's most vulnerable; for education, particularly the education of our kids; for the safety of our kids; and for improved mental health for everyone, particularly more recently. I think the tempo of your advocacy has been a function of the need in the community.

You have also campaigned strongly in this place in an area of particular interest to me—that is, Aboriginal and Torres Strait Islander Australians. In particular, I would like to acknowledge and commend Senator Wright for ongoing promotion of the value of improving our approach to criminal justice for Indigenous Australians. Many people in this place would know about your passionate advocacy not only for justice reinvestment generally; you have also been a champion for rethinking and providing innovation in this space, challenging people to move from the position they are in, which is clearly not working, to a new one. So congratulations.

I think one of the legacies you will leave, Senator Wright, is particularly in the area that I work in, Indigenous affairs. Your multiparty approach—taking the politics out of Indigenous affairs—is something I think we should all take some leadership from.

You should also be commended for your aspirations to actually seek out like-minded politicians, people you think you can work with. You do not just have a multiparty approach; you also pick people you think you can work with and get a bit of gang around you on those matters. I have watched very carefully in great admiration the way you do that.

I think we all recall your steely determination to be a senator in this place. I can recall some vision of you campaigning from a wheelchair. We all know it is not easy campaigning anyway, but throughout 2010, following that terrible car accident, you continued to campaign. It is great credit to you. I am sorry to hear of the circumstances leading to your need to step away from politics. I wish you and your family all the best. I think, as you said, it is a good decision.

I would also like to commend you for your time as a senator for South Australia. I know a lot of senators here; I know who they are and what their values are but I often struggle to know exactly where they are from because it is a less politicised place in that regard. But I certainly know that you are from South Australia because of how passionately you speak about it and because you so often reference your life in South Australia. I would like to also commend you for your unyielding efforts for the people you represent. I congratulate you on the contribution you have made towards making Australia a kinder and fairer place. I wish you all success in the future and also for your family.

The President (17:44): There being no more speakers, could I just add my support to the comments already made by honourable senators. Senator Wright, we, the Senate, will certainly be poorer for you not being amongst us. We understand completely your reasons for leaving, although we still can be sad about that. I wish you and your family all the best.

(Quorum formed)
Debate resumed.

The CHAIRMAN (17:47): The committee is considering the Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015 as amended and amendment (2) on sheet 7736, moved by Senator Wright.

Senator FIERRAVANTI-WELLS (New South Wales—Parliamentary Secretary to the Attorney-General and Parliamentary Secretary to the Minister for Social Services) (17:48): I want to address some of the issues that were raised by those opposite. Senator Collins made some comments in relation to the government supporting the Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014. We agreed to this legislation without the mandatory minimum sentences to ensure that other important measures contained in the bill were passed without further delay. These important measures included introducing offences for the trafficking of firearms and firearm parts into and out of Australia and expanding the offences for trafficking firearms within Australia to include parts. We took to the election a commitment to implement tougher penalties for gun-related crime, and that is why we are now reintroducing the minimum sentences into this legislation.

Can I also address some of the comments that were raised in relation to the Parliamentary Joint Committee on Human Rights, in relation to a number of issues. Firstly, in relation to arbitrary detention we believe that there are appropriate limitations and safeguards in place to ensure that detention is reasonable, necessary and proportionate to each individual case. We consider that the mandatory minimum penalties for firearm trafficking are reasonable and necessary to deter people from diverting firearms into the illicit market, where they can be accessed by criminals and used in the commission of serious and violent crimes. Given that the provisions do not impose a mandatory nonparole period, the actual time a person will be incarcerated will remain at the discretion of the sentencing judge. And, consistent with these concerns raised by that committee, the government has amended the explanatory memorandum for the bill to note that the mandatory minimum sentence is not intended as a guide to the nonparole period, which in some cases may differ significantly from the head sentence. This level of judicial discretion provides protection against arbitrary detention and demonstrates the government’s commitment to limiting any infringement against this right. The provisions include a number of other limitations and safeguards against arbitrary detention, including that they do not apply to children—those under the age of 18—and do not prevent appeal of a conviction or of any sentence above the mandatory minimum.

Issues were also raised in relation to the Parliamentary Joint Committee on Human Rights in relation to the right to a fair trial. We do not believe that the mandatory minimum for firearms trafficking offences contravenes a person’s right to a fair trial. The minimum term of imprisonment will only apply if a person is convicted of an offence as a result of a fair trial, in accordance with such procedures as are established by law. Furthermore, the penalty does not prevent the appeal of a conviction or of any sentence above the mandatory minimum. And I note that the validity of mandatory minimum penalties for aggravated people-smuggling...
offences in the Migration Act was upheld as constitutionally valid by the High Court in the matter of Magaming v The Queen.

Can I also address the issue of advice from the Law Council of Australia suggesting that mandatory minimums reduce the likelihood of offenders pleading guilty. The government notes the concerns of the Law Council of Australia in relation to mandatory minimum sentencing; however, the government is of the firm view that the introduction of these penalties will send a strong deterrent message to those who would otherwise engage in firearms trafficking.

We note that the Law Council of Australia has suggested that the presence of mandatory minimum sentences reduces the likelihood of offenders pleading guilty as offenders are aware that a guilty plea will still result in the prescribed minimum sentence. However, the government has not attached a non-parole period to the mandatory minimum sentence to ensure there is still an incentive to enter a guilty plea as the particular circumstances of each case will be considered by the court and the sentencing judge will be able to exercise their discretion in determining the amount of time that an offender actually spends in jail.

The CHAIRMAN: The question is that schedule 6 stand as printed.

The committee divided. [17:57]

(The Chairman—Senator Marshall)

Ayes ......................30
Noes ......................34
Majority ...............4

AYES

Back, CJ
Bernardi, C
Birmingham, SJ
Brandis, GH
Bushby, DC
Canavan, M.J.
Colbeck, R
Day, R.J.
Edwards, S
Fawcett, DJ
Fierravanti-Wells, C
Fifield, MP
Heffernan, W
Johnston, D
Lambie, J
Lindgren, JM
McGrath, J
McKenzie, B
Nash, F
O'Sullivan, B
Parry, S
Payne, MA
Reynolds, L
Ronaldson, M
Ruston, A (teller)
Ryan, SM
Scullion, NG
Seselja, Z
Smith, D
Williams, JR

NOES

Bilyk, CL (teller)
Brown, CL
Bullock, J.W.
Cameron, DN
Collins, JMA
Conroy, SM
Dastyari, S
Di Natale, R
Gallacher, AM
Gallagher, KR
Hanson-Young, SC
Ketter, CR
Lazarus, GP
Leyonhjelm, DE
Ludlam, S
Ludwig, JW

CHAMBER
Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator FIERRAVANTI-WELLS (New South Wales—Parliamentary Secretary to the Attorney-General and Parliamentary Secretary to the Minister for Social Services) (18:01): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Bill 2015

Second Reading

Senator CAROL BROWN (Tasmania) (18:00): I rise to speak on the Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Bill 2015. Labor agrees with the intention of this bill but cannot support it in its present form. The idea of statutorily defining and regulating the use of force in detention centres is a laudable one. At present, the use of force by officers in detention centres, whether they are public servants or employees of contracting companies, come under common law. They have the same powers as private citizens do in responding to disturbances. This places the officers in an uncertain and undesirable position because reliance on the common law can make it difficult to decide whether the level of force applied in any particular set of circumstances is reasonable, so clarifying when and how officers are able to use force ought to be an improvement. It should
not only reduce the uncertainty but also create a regulatory framework for staff training and qualifications to ensure the safety of officers and detainees.

The bill we have before us; however, does not reduce uncertainty. On the contrary, the power to use force as defined in this bill is too broad and too subjective. This is also the view expressed by the Australian Human Rights Commission and the Australian Law Council in their submissions to the Senate inquiry into the bill. As the commission pointed out, the bill's threshold for determining when force may be used is lower than that which applies to the Australian Federal Police—the AFP.

The commission made nine recommendations for improving the bill, and Labor will move amendments to give effect to those recommendations. The amendments will provide a clear, objective test of reasonableness and necessity for the use of force. We will also move a further amendment requiring all staff and contractors in detention facilities to report instances of child abuse. People working in Australian funded facilities will be required to report instances of child abuse to the Border Force Commissioner, who must notify law enforcement authorities. Failure to report abuse will be a criminal offence. If our amendments do not pass, we will be unable to support the bill.

We also support the commission's recommendation that the government clarify whether this bill is intended to allow employees of contracted service providers to use lethal force. If so, the government should explain what limits and controls will be put in place to protect life as far as possible.

The bill also creates a statutory complaints mechanism in relation to the use of force. Complaints will be investigated by the Secretary of the Department of Immigration and Border Protection, who may transfer the complaint to another appropriate agency such as the Commonwealth Ombudsman or the Australian Federal Police. Complainants will still have the ability to approach directly other agencies, including the Australian Human Rights Commission, and the non-government organisations such as the Red Cross. Labor is concerned; however, that when the secretary conducts an investigation it can be done in any way he or she deems appropriate. Under certain circumstances the secretary may decide not to investigate the complaint at all. A further problem is the bill does not specify outcomes for the complaints mechanism either in practical remedies for complainants or in disciplinary consequences for authorised officers and service providers. Nor is there a proposal for independent oversight of the use of force in detention or of the complaints mechanism.

Labor is concerned that the bill provides the Commonwealth and those acting on the Commonwealth's behalf, such as detention centre providers, with immunity from legal action in cases where the use of force is deemed reasonable and exercised in good faith. This goes beyond the existing law regarding police. Individual police officers have protection from legal action, but the Commonwealth remains liable for actions taken by an AFP or Australian Protective Service Officer. The explanatory memorandum to the bill seeks to justify the immunity in this way:

Without at least some degree of this kind of protection, employees of the immigration detention services provider may be reluctant to use reasonable force to protect a person or to contain a disturbance in an immigration detention facility.
The broad immunity granted in this bill appears to be without precedent. As Labor senators noted in their dissenting report to the inquiry, we are not aware of similar provisions in state or territory legislation on the powers of police or correctional service officers.

Associate Professor Gabrielle Appleby of the University of New South Wales law school, told the committee:

... there is no justification for such an unusual protection provision in the context of immigration detention. Other statutes conferring power to use reasonable force provide for personal protections or indemnities for the officers but not the complete immunity we see in this bill.

The Human Rights Commission has commented that the relevant section of the bill does not make clear that there are two criteria that should be satisfied for immunity to be obtained: an officer's use of force must not exceed what has been authorised, and the use of force must be exercised in good faith.

On the latter criterion, Associate Professor Appleby has said that a possible reading of the bill is that the immunity applies even if the level of force exceeds what has been authorised provided it was exercised in good faith:

Certainly, when I initially read the provision, my interpretation was ... that, provided that good faith could be shown—and it is very difficult to show bad faith, then the bar on proceedings would apply.

The president of the Human Rights Commission, Professor Gillian Triggs, told the inquiry that the immunity provisions in the bill were potentially in conflict with Australia's international treaty obligations:

... Australia is of course bound by the International Covenant on Civil and Political Rights, which requires a remedy for those whose rights have been violated. If the use of force is excessive, the person responsible should be accountable before the courts. The bill's proposed section 197BF gives immunity to contract guards, even if the force used is excessive, so long as that force is used in good faith. I think we all understand that it is almost impossible to demonstrate bad faith.

On the separate immunity the bill provides for the Commonwealth, the Human Rights Commission stated:

The justification given by the Government for providing an immunity to authorised officers is to remove any reluctance they may have to using reasonable force to the extent they are authorised to do so. There does not appear to be any justification for providing an immunity that extends beyond the authorised officers who are exercising the relevant power.

Labor agrees. Denying people the right to sue is no small matter. If people believe they have legitimate cause to seek awards for damages, they should get their day in court.

The bill also provides that a person cannot be approved as an authorised officer under the Migration Act 1958 who is able to use reasonable force unless that person has the necessary training and qualifications. However, the necessary training and qualifications are not specified in the bill. In its evidence to the Senate inquiry, the Department of Immigration and Border Protection could not clarify the exact nature of the training requirement. As Labor senators stated in their dissenting report, departmental officers giving evidence to the inquiry 'seemed to be at odds' with what is now required, what would be required in future, who would provide additional training and how it would be provided. The officers were unable to state clearly how the minister's requirements would be conveyed to a private contractor managing a detention centre. They said that this may form part of the contractual arrangements—which would be unlikely to be available for public scrutiny because of
commercial-in-confidence provisions. The present situation is that officers are required to obtain a certificate II in security operations, a qualification for workers whose duties involve securing premises. Labor believes this qualification to be inadequate even in the present circumstances of detention centres. It would certainly be inadequate, therefore, for officers who under this bill would be authorised to use force.

This bill undermines its own intention of providing clarity in the use of force by officers in detention centres. It creates difficulties that need not have arisen and diminishes the rights of persons in detention while increasing the rights of those who guard them and are supposed to protect them. It would be unconscionable to pass this bill in its present form.

Senator HANSON-YOUNG (South Australia) (18:10): I rise tonight to speak to the Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Bill 2015 and put very clearly on the record the Greens' objection to the bill. I participated in the Senate inquiry into this piece of legislation and, having watched how previous pieces of legislation have been pursued in this place, I will be moving a number of amendments that go to dealing with some of the worst aspects that currently exist within our immigration detention network—namely, the lack of mandatory reporting of abuse and assaults, particularly involving children; media access to detention facilities; the secrecy provisions that have been introduced under the new Border Force Act; and training standards for guards, which relates directly to the principles of this piece of legislation.

The Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Bill 2015 has revealed a deluge of concerns from the community, human rights advocates and legal experts. The bill confers excessive immunities and powers upon authorised officers, without adequate safeguards. The government have not been able to control the behaviour of people who work within these facilities already. Just this year, questions at Senate estimates have revealed that, in the three months between February and May this year, there were 15 sexual assaults inside the detention network, two involving children, and 259 assaults of a non-sexual nature, 11 involving children. There have also been numerous well-publicised incidents of guards who have physically assaulted and abused asylum seekers within their care on both Manus Island and Nauru. If the government cannot control things as it is, if they cannot control the appropriate behaviour of staff as it is, then why on earth should we be asked to trust that giving officers in these places even more excessive powers would be acceptable?

We also know that there have been at least a dozen requests by the media for access to detention centres in the last financial year and that all 12 of these requests were denied by the immigration department. Even though media are able to request to be able to visit detention centres and can sign up to all of the protocols as outlined by the immigration department, not one journalist was given access to any of Australia's immigration detention facilities. These are facilities that are shrouded in secrecy. The staff are gagged from speaking out when they see things that are going on that are wrong. The media are locked out, and asylum seekers are silenced from being able to speak for themselves and tell their own stories about what is going on inside.

The passage of the Border Force Act 2015 recently means that any staff who dare to speak out publicly or above their superiors in relation to abuse, ill treatment and poor conditions inside detention facilities can be jailed for two years. We have this ridiculous situation where
there is no mandatory reporting requirements for security officers—the staff who are on the
ground floor, face-to-face with asylum seekers—to report abuse when they see it; no
mandatory reporting for those staff. Yet, for everybody else, including guards, but whether
they be doctors, nurses, social workers, mental health workers or people who work in such
facilities, if they see a child being abused or an asylum seeker in the care of the contractors
being assaulted, they are not allowed to raise it and they are not allowed to speak out. The
only way that those people can report those abuses is to their managers. We know that once
this threat of jail, of prosecution, has been put directly to these staff, people are intimidated
from speaking up and speaking out by virtue of the fear of what will happen to them and their
jobs.

Detention centre staff are subject to very, very strict confidentiality clauses in their
contracts. Staff are gagged from saying what goes on in these places, even when it comes to
issues of child abuse and assault. Given the extreme level of secrecy, there is absolutely no
way that the Australian people, or indeed parliamentarians, can trust that the government has
control of what goes on in these places in the best interests of the individuals who are meant
to be being cared for.

There is no way that we can trust that each person employed in these facilities will always
act within proper responsibilities. And here we have before us a piece of legislation that
effectively gives force powers to security officers who have no more training than a certificate
II. That is the same training, of course, as a nightclub bouncer. Yet, the immunities that come
within the provisions of this bill and the signal it sends to staff that force is, effectively, okay
set up a very, very dangerous context and circumstance.

This bill has been on the Senate table for a number of months now and there have been
many, many concerns raised by members of the community and by experts in the field of
immigration law and in the general provisions of how facilities like this operate. Because of
that, we do not support the passage of this bill. Here are a number of the key reasons: the
excessive and unjustified powers that it confers on guards; the lack of safeguards, restricting
the use of force; the absence of any time limit on the extent of force permissible; and the
failure to address the real problem of mixing the people there. Some of the people may indeed
be convicted criminals not asylum seekers, not people seeking refuge and protection. Some of
people may indeed have broken the law and they are put in the same facilities alongside
Somali families, alongside a young Afghan asylum seeker or alongside families from Syria.

Other failures of this bill include the insufficient training prescribed for guards with new
powers; the insufficient oversight prescribed for guards with new powers; the excessive and
unjustified immunities from legal action for guards who exceed force; and, of course, above
all else, the lack of transparency as to what actually goes on in these horrid places. If the
government was fair dinkum about wanting more powers of force for the officers who work
in these places, it should have come to this place with a deal to be more transparent and more
open—a check on power, an openness about what the public and the parliament can see about
how these places operate and the rules, the treatment and the conditions inside. You have to
wonder what on earth the government are hiding from in terms of the conditions inside
Australia's detention camps when they lock out the media, they gag the staff and they threaten
anybody who questions the confidentiality and gag rules of the contracts that are signed by
the government.
This bill provides that force may be used whenever officers believe that force is reasonably necessary. All you need do is walk down Hindley Street in Adelaide or somewhere in Kings Cross on a Saturday night and you can see that individuals who act as security officers for nightclubs, nightclub bouncers, do not always get the decisions right about how they engage with members of the general public. Yet, here we have officers whose minimum qualifications are that of a nightclub bouncer being given authorisation by the Commonwealth to treat the people in their care, effectively, how they want, giving them excessive force powers. All they have to do is say, 'I thought it was reasonable.' It is a recipe for disaster.

This 'reasonably necessary' standard is extremely low and relies upon an unauthorised officer's subjective belief. Prison guards and the Australian Federal Police are subject to a stricter and objective standard. If we expect more of our police officers, if we require more of the guards who guard our prisons, why on earth should this place be expected to give unfettered force powers to security guards, who are meant to be looking after asylum seekers and refugees?

The breadth of the circumstances in which force may be used is also far too wide—using force to maintain good order, whatever that means. I tell you what: good order is humane conditions inside these horrid camps; and children who feel safe and secure, not children who feel terrified on a daily basis that they are going to be woken up at two or three o'clock in the morning and moved to a different detention centre. Good order means allowing media and advocates into these facilities so there is transparency about what goes on. But of course that is not the nature or the description of good order as outlined by this government's piece of legislation.

The measures outlined in this bill also remove the right to peaceful protest from those who are detained inside, and force may be used on them at any given time in line with these new laws and to move them within the facilities. Every person in this country has the right to peaceful protest. Every person in this country has the right to speak up and question, particularly when they believe they are being treated inhumanely and unfairly.

The mothers, who recently protested peacefully in the Darwin facility at Wickham Point, did so because they were terrified that their young babies and toddlers were going to be sent to Nauru. Under this piece of legislation, they would be subjecting themselves to the use of force.

There are no safeguards for restricting the use of force in this piece of legislation. Under this bill, there is no limit on the extent of force permissible. This legislation gives unfettered power to physically restrain or use force against a person—man woman or child—if indeed the security officer at the time believes that it is reasonable, a security officer who has no more qualifications than a nightclub bouncer.

One of my biggest concerns in relation to this legislation is that it is setting up those officers who work in detention centres to be very unclear and to feel uneasy about what they are and are not allowed to do. There has been some talk that this bill was going to provide clarity so that officers knew what the extent of their powers was. There is no clarity apart from: whatever goes will be okay—hands off; treat people however you want; we will turn a blind eye; and we won't care. The media will never find out about it, because they are not allowed in, and any other staff who want to talk will be targeted, prosecuted and liable for up to two years jail. I do not think that that is going to make any officer in Australia's detention
facilities tonight feel any safer, more secure or give them any more clarity about what their role entails.

As I have mentioned a number of times, there is insufficient training outlined in this legislation—a minimum standard of a certificate II, a night club bouncer. The bill permits the minister to determine the level of qualifications required by officers to use force. It was listed in the explanatory memorandum as a certificate II. I can tell you: Minister Dutton is the last person who should be setting the standards for training security officers to deal effectively and responsibly with the use of force in Australia's detention facilities.

Certificate II in security takes about 16 days to complete. Most of the training is on the job. There is no requirement for people to have an understanding of the struggles and difficulties of somebody who has fled a war zone, the mental health issues, the post-traumatic stress from their experiences or the years and years and years of being locked up in indefinite detention.

There is nothing in this legislation to help people who work in these facilities to deal with the real struggles, the realities of asylum seekers in Australia's detention centres every day—attempted suicide, self-harm. We are giving them excessive and unfettered powers to use force and to determine as an individual when that force should be used. But we are not giving them the training to deal with a young man from Afghanistan who has lost all hope and tries to hang himself in the bathroom.

This government's priorities are wrong when it comes to the staff and training issues that are required in our immigration facilities. There is of course, like many other areas in relation to this government's agenda on immigration and border protection, insufficient oversight of how these powers will be implemented, how they will be used and what happens when inevitably something goes wrong.

The complaints mechanism is a farce. Having to simply call a hotline in the immigration department to dob in your work mate or your boss does not give you confidence that, when things go wrong, they will be dealt with appropriately

The recent Senate inquiry into the conditions in Nauru have highlighted very, very clearly that staff who work in these places who are trying to do their jobs well despite the lack of expertise, assistance or understanding, often from their own contracted employers or indeed the department have no confidence that the complaints that they make about conditions and the treatment of people will be taken seriously. Philip Moss's review of the conditions inside the Nauru detention centre highlighted clearly that underreporting of incidents is a regular occurrence and is a serious problem because staff themselves have no confidence in the government's systems to respond seriously. That is why we must have mandatory reporting of abuse and assaults of all staff inside our facilities. It is why we must allow the media to access our facilities. It is why we need sufficient training requirements for all staff, particularly guards. Above all else, it is important that we remove the threat of jail that hangs over the head of staff simply for speaking out when things go wrong.

Senator SINODINOS (New South Wales) (18:31): I rise to speak on the Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Bill 2015. I think the very title says it all: maintaining the good order of immigration detention facilities. There are two parts to that. One part is the action that the Commonwealth takes to maintain
good order, and the other action, the reciprocal of that, is the behaviour of people who are in these facilities.

Like so many things that governments have to deal with, it is a matter of mutual obligation. The migration amendment bill amends the Migration Act 1958 to support the government's commitment to strong border protection and the establishment of a safe and effective system of immigration detention. We as a government have a responsibility to detainees and other people in our immigration detention facilities to ensure that they are free from harm. We are also responsible to ensure that these facilities themselves are in good order, peaceful and secure. What we are doing is to provide those working in our detention facilities with the tools they need to protect the life, the health and the safety of any person and to maintain the good order, peace and security of an immigration facility. The amendments in this bill address issues arising from incidents at a number of immigration detention facilities, which highlighted uncertainty on the part of the immigration detention service providers as to when they may act when confronted with public order disturbances in immigration detention facilities. It is good that guidance is provided. This cannot simply be a matter of discretion. There have to be guidelines. This uncertainty was considered in the independent review of the incidents at the Christmas Island Immigration Detention Centre and Villawood Immigration Detention Centre in the Hawke-Williams report, conducted by distinguished former public servants Dr Allan Hawke AC and Ms Helen Williams AO in 2011.

The Hawke-Williams report recommended that the Department of Immigration and Border Protection more clearly articulate the responsibility of public order management between the Department of Immigration and Border Protection, the immigration detention service provider, the Australian Federal Police and other police forces who may attend an immigration detention facility, and that would include state police forces. The amendments in this bill provide a legislative framework for the use of reasonable force within immigration detention facilities in Australia. It provides clear authority for use of reasonable force in immigration detention in Australia to protect a person's life, health or safety or maintain the good order, the peace or the security of the facility. Its provision of a legislative framework for the use of reasonable force will provide the immigration detention service provider with the tools needed to provide the first line of response and ensure the operation of the immigration detention network remains viable against a backdrop of a change in the demography of immigration detention facilities.

This was something that was brought home to me a few weeks ago when I visited the Villawood detention centre in Sydney as part of my responsibilities as a senator for New South Wales. I visited there on 6 August. I was taken around along with a number of members of my staff by Tim Fitzgerald, the commander in New South Wales and the ACT, and Brett Totten, the superintendent of the Villawood Immigration Detention Centre. I want to thank both Mr Fitzgerald and Mr Totten for that visit. It lasted a couple of hours. They were both very professional in the way they undertook the tour of facilities. What struck me first and foremost is the change in the demography of these facilities. The network now holds an increasing number of detainees who present behavioural challenges, including an increasing number of people subject to adverse security assessments; people who have been convicted of violent crime, drug or other serious criminal offences; and others deemed to be of a high-security risk such as members of outlawed motorcycle gangs.
The presence of high-risk detainees with behavioural challenges has the potential to jeopardise the peace, good order and security of our immigration detention facilities and the safety of all people within those facilities, including staff and visitors. You would sometimes think, from the way the public debate on these matters is conducted, that we are talking about facilities that are housing, essentially, large numbers of people who may have come here seeking asylum. But, as I mentioned, the demography of these facilities is changing. The other point I should stress and which was brought home to me, as I said, on my visit to Villawood is that these facilities are actually divided into high, medium and low risk. Families, for example, have their own part of the facility. There are some people who are in medium security and others in high security, and often the high-security ones are the ones who are a particular risk not only to themselves but to other people. There is a lot of care and a lot of thought that goes into the layout, the design and the construction of these sorts of facilities. This is something we must remember when we look at why the government is seeking to clarify the powers that should be available to those providing detention services in these facilities.

The use of reasonable force in these circumstances is not a new concept to the Migration Act 1958. Various provisions in the Migration Act authorise the use of reasonable force in specific circumstances. For example, it may be necessary in certain circumstances to use reasonable force to carry out identification tests. There are currently, however, no provisions in the Migration Act 1958 that authorise the use of reasonable force as proposed in this amendment. In the absence of legislation, officers and staff of the detention services provider rely on common law powers, as conferred on ordinary citizens, to exercise reasonable force when it is necessary to protect themselves and others from harm or threat of harm. The extent of this authority is, however, limited. Clearly, using reasonable force to manage issues of physical safety, good order, peace and security in an immigration detention facility is a matter for parliament to decide, not the common law. It is one of the matters for which we should be accountable. We provide a framework of certainty around the exercise of such powers.

This bill provides for suitably trained and qualified authorised officers to use such reasonable force against any person or thing as the authorised officer reasonably believes is necessary to protect the life, health or safety of any person in an immigration detention facility and to maintain the good order, peace or security of an immigration detention facility. In particular, the bill provides for an authorised officer to use reasonable force if that officer reasonably believes it is necessary to protect a person from harm or a threat of harm; protect a detainee from self-harm or a threat of self-harm; prevent the escape of a detainee from an immigration detention facility; move a detainee within an immigration detention facility; and prevent action in an immigration detention facility by any person that endangers the life, health or safety of any person or disturbs the good order, peace or security of that facility—for example the detention service provider having to use reasonable force to separate visitors who are fighting.

The bill inserts into the Migration Act 1958 the new definition of 'immigration detention facility'—that is, a detention centre established under the Migration Act 1958 or a place approved by the minister as a place of immigration detention. This restricts the powers in this bill to immigration detention facilities in Australia, including Christmas Island.
The bill inserts a provision that prevents the minister or the secretary from authorising an officer as an authorised officer unless the officer satisfies the training and qualification requirements determined by the minister in writing. It has not been considered appropriate to list the training and qualifications that officers must undergo to be authorised officers in the Migration Act itself or in the migration regulations. This is because those qualifications and training change over time, as does the content of the training. This is a dynamic process. It would not be practical to amend the act or the regulations on a regular basis to reflect these changing and updated training requirements. It is expected that the standard of training and qualifications will be delivered by an accredited nationally registered training organisation.

At this time, the qualification and training requirements that are likely to be determined by the minister in writing for the purposes of new subsection 197BA(7) of the Migration Act include the Certificate level II in Security Operations. This certificate course includes the units of competency 'respond to security situations' and 'follow workplace safety procedures in the security industry'. These units cover the full range of knowledge and skills required for authorised officer to use reasonable force in an immigration detention facility, including identify a security risk situation; respond to a security risk situation; use negotiation techniques to defuse and resolve conflict; and identify and comply with applicable legal and procedural requirements.

This is not about bouncers in Kings Cross. This goes way beyond that—for example, use negotiation techniques to defuse and resolve conflict; identify and comply with applicable legal and procedural requirements. Having visited these types of facilities, I can tell you that the type of people who are working there and the officers of the Department of Immigration and Border Protection, the Border Protection Force and the like are very serious and dedicated individuals, and they are very conscious of the scrutiny that applies to people who work in these facilities. Don't forget that these facilities are also being visited on an almost daily basis by members of the community and members of the legal profession.

As I said before, care is taken to ensure the segregation of different risk categories of detainees. No-one pretends that being in detention is going to be an overwhelmingly positive experience. But a lot of care is taken, including, for example, kids whose parents may be in detention being taken to the local school. In that situation, a vehicle, which does not look like a police vehicle or an Immigration and Border Protection vehicle, is despatched to take the kids to school and pick them up in the afternoon. Every care is taken within the facility, through the use of separate housing, for example, to create a family-like atmosphere for families who are in the facility. And they are not put at risk by being placed in the same place as high-risk prisoners.

I have met and spoken to some of the security officers who work there. These people are articulate and credible and are dedicated to looking after the people in their care and recognise that they have a duty of care. There is nothing wrong with a government spelling out in legislation the obligations and responsibilities of the people who must work in these facilities and giving them protection and guidance about the circumstances in which reasonable force can be used.

Provided the reasonable force is exercised in good faith, the bill bars court proceedings against the Commonwealth, including an authorised officer. This provision provides the appropriate balance between protecting authorised officers in the exercise of the power to use
reasonable force and ensuring that the power is exercised in good faith. The provisions in this bill send a very clear message to authorised officers that force is not to be exercised capriciously or inappropriately. The bill inserts provisions that specifically limit the exercise of the power to use reasonable force by authorised officers, preventing them from doing any of the following: using reasonable force to give nourishment or fluids to a detainee in an immigration detention facility; subjecting a person to greater indignity than the officer reasonably believes is necessary in the circumstances; and doing anything likely to cause a person grievous bodily harm, unless the officer reasonably believes that doing so is necessary to protect the life of, or to prevent serious injury to, another person, including the authorised officer.

To further ensure that the use of force will not be abused, the bill will provide for a statutory complaints mechanism. This mechanism will allow persons to complain to the secretary about the exercise of the power to use reasonable force. These amendments will require the secretary to provide appropriate assistance to any complainant. This complaints mechanism, I stress, does not restrict a person from making a complaint directly to another source such as the state or territory police services, the Australian Federal Police or the Ombudsman. An appropriate complaints mechanism is an important accountability measure in relation to the exercise of the power to use reasonable force. The government considers that safe and effective immigration detention policies and strong border protection measures are not incompatible. We seek to strike an appropriate balance between maintaining the good order of a facility and the safety of the people within it and the need to ensure that the use of force is reasonable, proportionate and appropriate. The government is maintaining strong border security measures but is ensuring that all people in immigration detention facilities—including the detainees themselves—are safe from harm.

The preparation for the passage of this bill includes the introduction of risk mitigation measures and governance controls. These measures will be in place and ready for the implementation of this legislation. These measures include the development and implementation of appropriate governance instructions and admin arrangements to guide authorised officers in the use of reasonable force—in other words, there is no vacuum here; we are talking here about the development of a well-articulated framework to guide authorised officers in the use of reasonable force—and the establishment of agreed protocols for the handover of responsibility for dealing with disturbances in immigration detention facilities between the department, the detention service provider, the Australian Federal Police and state and territory police forces. It is very important to have those sorts of protocols in place to avoid misunderstandings about the division of responsibility between these various stakeholders, if you like, in good order in these detention facilities. Other measures include ensuring the authorised officers meet capability and training standards and hold appropriate qualifications to enable them to appropriately use reasonable force in immigration detention facilities, and the use of rigorous incident reporting mechanisms for advising of all instances where reasonable force is used in these immigration detention facilities.

This is a good and decent country, and this has always been a difficult area of policy because we do not have the capacity—if I am talking now about border protection—to take everyone who wants to come to this country. We seek to strike a balance in the composition
of our immigration program; we then seek to deal as best we can with those who seek refugee status on coming to Australia. But the fact of the matter is that, unless you have strong border protection policies in place, you may encourage people to put themselves at risk to come to Australia. You always have to be balanced and proportionate in how you deal with these situations. The government has always sought, according to law, to deal with this situation in as humane a way as possible to maximise the prospects of having good, strong, appropriate refugee humanitarian programs while protecting our borders. It is very important for the sustainability and for the social licence, if you like, of our immigration program in the community that we are able to show that, as a government, we have control over our borders and who comes here and the circumstances in which they come and, in the case of detainees, the circumstances in which they are held.

There are many countries which are grappling with these issues. Australia has done its best to provide the appropriate balance. An immigration detention facility is not the nicest place in Australia to be, but the Australian government and the officers who I have met in places like Villawood strive to exercise their responsibilities in as humane a way as possible. There are plenty of mechanisms in this legislation to seek to balance the need for appropriate use of force with humane treatment of people in these facilities. It is a free and democratic country. There are plenty of avenues of scrutiny, and I believe that this balance is struck by this legislation.

Senator LINES (Western Australia) (18:50): I rise to oppose the Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Bill 2015. I would like to start by dispelling some of the myths that we have heard, as usual, from the Abbott government in relation to this bill. The first myth I would like to dispel is this blatant misuse of the Hawke-Williams report that the Abbott government has cited as being the magic bullet—the formulaic response, if you like, to why we are going down this track. The Hawke-Williams report does not mention anything in relation to the use of force, yet we hear the Abbott government use that report as a justification for where this use of force comes from. But the Parliamentary Joint Committee on Human Rights when assessing this bill, said:

Further, the committee notes that the Hawke-Williams report, which is cited in support of the stated objective of the measure, does not contain any reference to the inadequacy of the common law regarding the use of force and did not recommend creating a statutory use of force power for employees of an IDSP. Rather, it focused on ensuring appropriate arrangements to clarify the respective roles and responsibilities of managing security between the department, the IDSP and the police … And it recommended the establishment of a protocol. That is what the report says, so anything we hear from the Abbott government saying that somehow the Hawke-Williams report backed in the use of force is completely incorrect.

The second issue, which I will mention briefly, is training. In my former role as an official at United Voice, I organised detention centres, so I am well aware of what happens in them from the perspective of the guards. Again, we heard somehow that these guards, if they were given the power to use force, would be appropriately trained.

We just heard the certificate II mentioned. The certificate II is already the certification sought by detention officers. They already have a certificate II in security operations. Let me tell you a little bit about that certificate. One of the other roles I had at United Voice was to organise security officers, and I sat on national training boards and state training boards and I
signed off on these certifications. So I think I have a fair amount of experience when it comes to knowing what a certificate II in security operations is for. That certificate is for people who act as security officers standing outside banks or shopping centres, or who drive around at night patrolling premises. It has nothing to do with detention facilities. The only reason it is used is that it is an inadequate response to the requirement to have trained officers. It was never ever intended for detention centres. It is for the use of people who are licensed security officers under state police acts to guard premises—banks, shopping centres, supermarkets—or who undertake what are called 'mobile patrols' where they patrol buildings usually at night and leave their card. It is an entirely inadequate certificate for this type of work—completely inadequate.

The Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Bill seeks to formally establish a use of force regime in Australian detention centres. In opposing this bill, it is worth stepping back and identifying who will be given the authority and sanction to use force. Australian detention centres are run by private, profit-making services. The current operator of Australian detention centres is Serco, a large multinational company with a controversial history in running private prisons in the UK.

In my home state of Western Australia, Serco has been completely incompetent in running WA's brand new flagship Fiona Stanley Hospital. It was the Barnett government's decision to privatise this hospital. It has been nothing but chaos since this ill-considered decision was made. The last bungle involved the sterilisation of instruments used in surgery. Serco showed itself to be incapable of running this essential part of the hospital, so much so that the Barnett government was forced to take the sterilisation service back in house, back into the hands of competently, directly employed professionals.

What I can say about detention centre contracts, again from my experience as an official at United Voice, is that these contractors are usually awarded to the cheapest contractor. You will not hear the government say that but in my long experience of organising in detention centres, when contracts changed they always went to the cheapest contractor. This means that the workforce is often low paid and certainly in the case of detention centre staff their wages are significantly behind those of similar officers employed in the Public Service, which is essentially why this service is contracted out—it comes down to dollars.

Opportunities for training and building a career are limited as many contract detention staff are employed part time and casual. These are the officers who have just been described as professionals. Taking nothing away from the individuals who do the job, I agree with Senator Sinodinos. They are often fine people but they are employed part time and in substantial numbers they are casual, so they do not have any prospect of ongoing employment. In any event, there is little or no scope for moving up the scale or taking a career opportunity as there are effectively two levels of officers within the Serco detention centre—entry level and post entry level and then there are supervisory levels. A low-paid, casual workforce does not create a workplace where employees feel valued or where workers feel they have the support of them employers as they battle for shifts and decent pay.

Just a few months back, Serco concluded an agreement with the union, United Voice, and no provision has been made for this new position of authorised officer. Despite those opposite telling us that this was a professional position, that these would be highly trained authorised
officers, in their wages and conditions no allowance has been made for this new authorised position with the onerous responsibilities that come with the use of force—nothing.

Despite the government's bill, which would give contract detention staff the new authority to use force, a bar to legal proceedings and questionable additional training, which will be some secret deal between the minister and the private profit-making contractor Serco, there is no mention of this new classification. Some in this place might be surprised to learn that detention centre officers earn a maximum base pay of $29 per hour. There is a requirement for formal training but only to the level of certificate II in security operations, which I have just described as a certificate applying to static guards, people who guard banks or mobile officers who patrol around and guard buildings usually at night. Again, this is entirely inappropriate as this qualification is a general security qualification and is designed for security officers to manage shopping centres and banks, not people seeking asylum.

If you look at the training and the competencies for a certificate II security officer, their skills and knowledge are completely at odds with the skills and knowledge an 'authorised' officer will be expected to deploy when faced with a decision on whether to use force. It is likely that an authorised officer will find him or herself in a complex situation and will be required to make an instant decision—a heat-of-the-moment decision—to use what the bill describes as 'reasonable force'. The training at the certificate II level describes a competent person—someone who has completed the course and met the competencies—as being able to demonstrate 'limited' judgement in 'structured and stable contexts' and within 'narrow parameters'. That is not heat of the moment and that is not having to make that snap decision about whether to use force. The Australian qualification, which is the Certificate II in Security Operations, criteria clearly sets out that a person at that level is not competent to undertake that level of decision making.

And yet the government does not blink. The government has paid no attention to the upskilling of detention centre officers and, despite the enterprise bargaining agreement just being concluded, Serco made no attempt to include the new 'authorised' officer classification, increase the qualification level or suggest a higher rate of pay for an officer who will, if this bill passes, be given the enormous responsibility, beyond the level of their competency—their level II training—of using reasonable force.

Now, it is easy to figure out why Serco did not want to include this new classification in its enterprise agreement—because it would eat into their profits. It is harder to figure out why the government is disregarding its duty of care towards asylum seekers by presenting the Senate with a bill which is found wanting on all its key components.

During the Senate inquiry, when I asked the government department responsible for this legislation if they were aware of ongoing negotiations between Serco and the union, they took the question on notice. And their response was inadequate to say the least, stating that it was a matter for the parties not the government. This was from a government that wants to change substantially the duties of detention centre officers. Somehow, it did not think that it should be involved in that. What a cop out, when the government itself is asking this parliament to give contract detention centre officers more powers than the Federal Police and more powers than prison officers. They are washing their hands of training requirements and applicable rates of pay.
In fact, when questioned during the hearing, the department said in evidence that contract detention centre officers had similar training to that of Western Australian prison officers and Victorian police. Nothing could be further from the truth. Victorian police undertake a Diploma of Public Safety: 33 weeks full-time with a further on-the-job training component of 83 weeks, which gives a total training period of two years and three months. Compare that for a moment with a Certificate II in Security Operations, which you can get on a weekend. This is the training qualification which the government says is adequate to give detention centre staff the authorisation to use force.

Of course, the qualification which the Victorian police undertake is a diploma qualification—not a certificate II, a diploma qualification—a stark contrast to a Certificate II in Security Operations which, as I said, can be done over two days. And the application of knowledge and skills could not be more different. In Victoria the use of force is defined as 'reasonable and necessary'—a test that the Abbott government does not want to put into this use of force in detention centres.

And let's not forget that this inadequate training will be a secret between the minister and the contractor. At the end of this diploma qualification, Victorian police have the skills and knowledge to demonstrate:

... autonomy, judgement and defined responsibility in known or changing skills contexts ...

Compare that with the outcome for a certificate II security officer, which is 'in stable conditions' and under supervision.

Obviously, government senators at the hearing were concerned about this secret deal. In their majority report they recommended that the training be a legislative instrument and not a secret deal between the minister and the private, for-profit contractor.

And who is the government saying must be protected? There were at the time of the hearing around 1,655 people in Australian detention centres and, despite the broken promise and rhetoric of the government in its dirty deal in the Senate about releasing children by last Christmas, there were around 115 children in detention in Australia. If you take the children out it leaves about 1,520 adults in detention. We were told at the Senate inquiry into this bill that there were around eight per cent of this population that the government were concerned about—the bikie gangs and all the other labels that they like to add. That means that this bill is really being put in place to deal with around 120 people—120 people! They want to put into place a good order bill that gives detention centre officers the right to use force for about 120 people. That is really what we are talking about here—120 people.

In the explanatory memoranda, the minister sets out the reasons for this bill, which seem to go to:

The presence of high risk detainees with behavioural challenges, such as members of outlaw motorcycle gangs, jeopardises the safety, security and peace of our immigration detention facilities and the safety of all persons within those facilities.

Of course I am concerned about the safety of people in detention centres whether they are refugees or staff. But, seriously, the way the government flies refugees around this country, I think it could gather up the 120 people and put them in one place and hold them securely. I would suggest you do that, before you pass a bill that unilaterally gives detention centre officers who are low paid and poorly trained the authority to use force.
Seriously, the government wants to introduce a bill which gives sweeping powers to contract detention centre staff to use force, and the only test for the use of this force is that it is ‘reasonable’—to use that against just 121 individuals whom the government is actively seeking to deport? Seriously, this beggars belief.

I believe this bill is more about demonising the bulk of those 1,635 individuals—men, women and children—who have a legitimate right to seek asylum in this country. The government are trying to interfere with that right by slowing down the application process and attempting to paint their usual picture of people as 'queue-jumpers', as 'illegals', as 'illegal maritime arrivals'—and whatever other labels they attempt to use in this place. They are trying to say that these are somehow people that law-abiding Australians ought to be frightened of. Nothing could be further from the truth.

I heard in evidence at the inquiry that people who had been granted asylum were still waiting in detention centres, and that on average people waited for around 400 days once their paperwork was submitted. Of course, in reality people wait much longer, as getting to the submitting stage can take years. And of course frustrations will rise when people are held for indefinite periods with no end in sight. Ensuring that processing is done in a timely fashion and keeping people informed about their application for asylum would go a long way to keeping frustration levels low.

The committee received a number of submissions from law experts and the Human Rights Commission, and they all expressed the same grave concerns about the use of force and the bar on legal proceedings—and the whole of this bill. Even the government's own senators raised concerns about the use of force and the need for clarification.

Despite that, the government seems hell-bent on pushing this bill through the parliament. Labor and others have significant amendments to this bill, and I hope they are accepted by the government.

Senator CANAVAN (Queensland) (19:10): I want to start my contribution by picking up on some of the arguments Senator Lines put just then. Much of Senator Lines's contribution was focused on the fact that the particular training provided to Serco employees or employees more generally at these facilities is not sufficient for them to use reasonable force. She also made the point that the changes in this bill were not specific recommendations of the review into the detention centre facilities—the Hawke review, I think it was. I have the Hawke review right here on my trusty smartphone—my iPad is dead—and on page 153, it says:

The four week induction course—
This is a course provided by Serco—
provides a Certificate II Security Operations qualification—
as Senator Lines said—
and covers areas relevant to security management at an immigration detention centre, including use of reasonable force and restraints …

Senator Lines spent most of her contribution saying that this training course does not provide people with the skills and experience to use reasonable force. She also said that the review did not cover the aspects that we are debating here today. Well it did. And the training does. So Senator Lines's argument is completely wrong. The training course that is provided by Serco does provide training sufficient for the use of reasonable force. And the review that the
previous Labor government commissioned into these incidents admitted that, or claimed that. So I think that is good enough. It is good enough for a review that Chris Bowen released while he was Immigration Minister. I think it is good enough for us for this bill's purposes.

It is true, as Senator Lines said, that the report did not make specific recommendations about the use of reasonable force. What it did say, though, was that the department had to more clearly articulate the responsibility for public order and management between the department and the detention service provider and any police services.

This particular review was conducted in relation to two particular incidents at Christmas Island and the Villawood immigration detention centres in 2011. These were some serious incidents that did involve the use of police services. There had been—and the report outlined—difficulties in transitioning from a detention service providers to the police forces, in terms of who had responsibility for bringing public order and safety back into some balance. That is why the review recommended that more clarity needed to be provided. And this bill provides that greater clarity. That is what this bill is about. It is about authorised officers at a detention centre, employed by a detention centre provider, having the authority to use reasonable force.

It is important to establish or to point out that employees at the moment can use reasonable force. This is not new. This bill does not establish something new there. What it does is provide greater clarity and certainty. Officers right now can use reasonable force. Indeed, my understanding of common law is that most of us could use reasonable force if necessary in our own working lives. The employers of detention centres do need to rely on the common law provisions that allow for the use of reasonable force where a court could look objectively that it was a reasonable response in the circumstances. But relying on the common law does not provide officers with the degree of certainty that our police forces have and the protections in state acts for them or that wardens at prisons have and protections for them. They have protections for the use of reasonable force that are codified and included in the various laws that govern their professions. This bill does the same. It is saying that there is a common-law provision that there is a basic right to use force when it is reasonable, but we should provide the employees in these facilities, who put their own safety at risk, with some greater certainty that they too have the protections afforded to other officers in similar roles, particularly those employed by state and territory governments.

So what does this do? This bill outlines specifically what an authorised officer may use as reasonable force, so it provides that clarity I was speaking about. In the case of an authorised officer who reasonably believes it is necessary to protect a person, including the authorised officer himself or herself, in an immigration detention facility from harm or the threat of harm, reasonable force can be used. Reasonable force can be used if it is reasonably needed to protect a detainee in an immigration facility from self-harm or a threat of self-harm; to prevent the escape of a detainee from an immigration detention facility; to prevent a person from damaging, destroying or interfering with property in an immigration detention facility; to move a detainee within an immigration detention facility; or to prevent action in an immigration detention facility by any person that endangers the life, health or safety of any person in the facility or disturbs the good order, peace or security of the facility.

Those provisions specifically outline, with some clarity, what officers can use reasonable force for, and that is not something that currently exists for them, relying on the common law.
I understand Senator Lines's care for the welfare of officers and employees of our detention service providers, but I disagree with her. It is my view that these protections are actually all about protecting those employers. It is about providing them with safety and security so that they can act to protect their own safety and the good working order of the detention facilities they work in.

It is also the case that, while the clarity has been provided in that case for what could constitute reasonable force, this bill does not seek specifically to define reasonable force per se.

Under policy, reasonable force must be no more than that required to ensure the life, health or safety of any person in the facility, be consistent with the seriousness of the incident, be proportional to the level of resistance offered by the person, avoid inflicting injury if possible, and be used only as a measure of last resort.

What I just quoted is from the explanatory memorandum, and it explicitly outlines that reasonable force can only be used where those criteria are met, in accordance with the general policy for the use of reasonable force, and there are a number of protections in there.

This bill also introduces other protections. There are requirements on officers to use reasonable force only as a last resort and only where it is a reasonable use of that force. This bill also will establish a statutory complaints mechanism that will allow anyone that would like to make a complaint about the use of force by a detention service provider to make that complaint and have it dealt with.

Senator Lines mentioned there were only 120 people she thought were a great threat. Well, 120 people can do a lot of damage. They can disrupt and cause harm to many people, and I actually want to put the interests of the employees of the detention service providers ahead of those 120 people that Senator Lines admits are troublemakers when they are in detention facilities. So this bill should be something that is supported and implemented by this government. I would like to seek leave to continue my remarks at a later stage.

Leave granted; debate adjourned.

MINISTERIAL STATEMENTS

Science and Innovation: Building Australia's Industries of the Future

Senator PAYNE (New South Wales—Minister for Human Services) (19:19): I table for the information of honourable senators the statement by the Minister for Industry and Science, the Hon. Ian Macfarlane MP, entitled Science and innovation building Australia's industries of the future, given in the House of Representatives on 17 August 2015.

ADJOURNMENT

That the Senate do now adjourn.

Land Rover

Senator McGRATH (Queensland) (19:19): Tonight I wish—

Senator Conroy interjecting—
Senator McGrath: It is another record from Senator Conroy, the parliamentary embodiment of jazz hands.

Tonight I wish to pay homage to the passing of a car. Indeed, the car I mourn passes further into folklore when it ceases production in December this year. To confuse matters even further, it is not a car, and other descriptors like 'utility vehicle' or 'automobile' fail to do this most beautiful of creatures justice. Of course I am mourning, in that most platonic of relationships—between man and woman and the Land Rover Defender—the sad end of the Land Rover Defender's production.

I am the proud owner of a 2012 model Land Rover 110. I will own it until the day I die. It is called Boris, after I ran a poll on Facebook during the 2013 election campaign. It is white, with LNP stickers on the back and a Fulham Football Club sticker on the side. I do not think I have cleaned it since we began our relationship back in 2012, but to me that adds to the patina of its greatness. There is golden retriever hair from one end of the Land Rover to the other. There are remnants of stale Macca's chips down the seats, and a few stains of doubtful parentage decorate the interior.

Ever since I was a small boy I have dreamt of owning a Land Rover Defender. Others may dream of walking on the moon or playing cricket for Australia, but I wanted a clunky, 'brick on wheels', 'tough as nanna's teeth' beast of a vehicle. Perhaps it is from my childhood in regional Queensland, but there is something about a tractor or a cane harvester that makes me quite excited. But the one vehicle that stands out from them all, the one vehicle that makes me very, very excited, is the Land Rover Defender. Her Majesty the Queen is known to be quite fond of the Land Rover, which has become a symbol of British sturdiness.

Land Rover owners are a special bunch, and anyone who owns or drives or falls in love with a Land Rover is a pretty solid citizen. While driving along we always give ourselves a wave to the other drivers, because good manners cost nothing, while owning a Land Rover is priceless. But sadly, after 67 years of continuous production, the nanny-staters and crypto-communists in the European Union have killed off this great vehicle, with production to cease at the end of this year.

So, let us reflect on the Land Rover Defender and on the Land Rover. The genesis of the Land Rover occurred on a Welsh beach in 1947, when Maurice Wilks, chairman of the Rover company, sketched out the silhouette of the vehicle in the sand. And to be brutally honest, the shape of the Land Rover has not changed much since the late 1940s and that adds to the special magic of the Defender. The first Defenders rolled out in early 1948 when Ben Chifley was Prime Minister and George VI was on the throne. It was brought out because it was thought British farmers and indeed Commonwealth farmers would need a cheap, sturdy off-road vehicle.

The Land Rover was made from cheap aluminium and painted in military green because that was the only paint that was left after the end of the Second World War. Though lacking in comfort—and any Land Rover driver will tell you that even the modern versions are particularly uncomfortable—the Land Rover fulfilled the need for a sturdy and powerful vehicle to deal with whatever nature could throw up. Land Rovers became used by the British military, which bought thousands of vehicles for everyone from the medical corps to the SAS. Civilian versions were modelled for tanks, trains, conveyor belts, snowploughs, fire engines and hover vans.
Over the decades since, the Land Rover has become as synonymous with farming, adventure, life-saving, exploring and enterprise as it has with warfare and it has also become synonymous with the LNP Queensland in 2012-13, when Senator Canavan joined me on some particularly bumpy rides up and down the Bruce Highway. The modern specifications of the Land Rover Defender are something to behold. I would encourage you to go to the Land Rover website using the internet machine to find out how fantastic these vehicles are. I am not acting on a commission here but, Mr Acting Deputy President Dastyari, I think you will agree with me that they are so good that you will want to go and buy one.

Every single Land Rover has been made in the same factory in Solihull since 1948. There is even a test track of rugged terrain, water and mud, trees and hills—something I experienced while on a regional tour with my then boss, the chairman of the Conservative Party, Francis Maude, now Lord Maude, who happened to get bogged on one occasion.

Interestingly, another random fun fact is that Top Gear presenter Richard Hammond was born in Solihull. So it was quite fitting that Top Gear dedicated a special to the Land Rover earlier this year. Hammond took a 64-year-old Land Rover Defender to the Claerwen dam in Wales and climbed up the dam face using a strong winch powered by a secondary engine, replicating an ad which showed off the Land Rover back in the 1960s. If ever you needed a demonstration that this machine could do anything, it was that.

But now, it is all coming to an end. Tata, the current owners of Jaguar Land Rover, say that the decision to stop production is ‘mainly legislation based’, which is code for green-tape. Indeed, new European emission standards are making the Land Rover Defender illegal in Europe. It has become too much effort to comply with the environmental activists in Brussels. And so the Land Rover is going to be produced in Eastern Europe. The twentieth of December 2015 will be a very sad day, when the last Land Rover rolls off the production line at Solihull. We must be vigilant here in Australia that we do not allow Australian resource industries to suffer a similar fate at the hands of eco-terrorists and socialists, especially when they are trying to use the law to cut jobs and cut Australian industries. The only thing wrong with the Land Rover Defender is its parentage—it should be Australian rather than British.

Canning Electorate

Senator LINES (Western Australia) (19:26): I rise tonight to speak about the federal electorate of Canning. As a young mother, I lived in the federal seat of Canning for around 12 years. My children went to primary school in the electorate, and we used the public hospital and other services. I completed my secondary schooling in this electorate and indeed completed mature age university entrance at Kelmscott Senior High School. My father, at 93, still lives in the electorate and is active in his community of Mandurah. It is an area I know well and it is an area well and truly let down by the Abbott government. It is an electorate which showcases Abbott's broken promises and cruel budget cuts. It is an electorate which has been deserted by the Abbott government.

Let us start with unemployment. For a government that goes on and on about jobs, they have forgotten the electorate of Canning, particularly the Mandurah precinct. When Labor was in government, unemployment in Mandurah was just four per cent—and we had moved that figure down from around six per cent. Under the Abbott government it is a whopping and disgraceful 8.6 per cent, well above the national average. With Youth unemployment at an all-time high of 14.6 per cent in the Mandurah precinct coupled with adult unemployment of
8.6 per cent, imagine Abbott's unemployment waiting period playing out in the Mandurah precinct. It showed how out of touch they were when Abbott government ministers, backbenchers and senators said to young unemployed people, 'You will be okay. Fall back on your family; families will help.' I would suggest that with 8.6 per cent adult unemployment in Mandurah, that statement will be very hard for young unemployed people.

What of the Abbott government's jobs plan? It is all about punishing and blaming young people. Who could forget those comments when they were looking at forcing young people, in fact anyone under the age of 30, onto no benefits for six months and those cruel comments we heard about how it was all about people just lying on couches playing Xbox. Again it showed how out of touch they are. It is not that people in Mandurah do not want work; they are desperate for work. Under Labor, unemployment in the Mandurah precinct was four per cent. Through the Abbott government's neglect, their no-jobs plan and their no-care attitude it has now disgracefully crept up to 8.6 per cent. The Abbott government has done nothing and knows nothing about job creation.

And what about seniors? Again, this is a showcase of the Abbott government's cruel budget cuts. The federal electorate of Canning has double the average number of seniors living in the electorate. I am sure they know how the Abbott government has made their lives much harder. They are people who through their working lives have well and truly paid their way, and how have they been rewarded by the Abbott government? They have not been rewarded at all—quite the opposite. Again, they have been told: 'Suck it up, buckle up. You're in for a tough ride.'

The Abbott government wants to increase the retirement age to 70, it wants to reduce pensions and together with the Barnett government, who sit on a projected deficit into the billions, they have abolished the pensioner discounts—discounts that people in the federal electorate of Canning relied upon and were surely entitled to after a long working life, discounts on vehicle licencing, council charges, water rates and the emergency services levy. Despite the electorate of Canning under the state Labor governments being well-serviced by public transport, pensioners still rely on their cars, although there was that classic comment from the Treasurer, Mr Hockey, when he said, 'Poor people don't drive cars.' He was forced to correct that and he finally said, 'If they do drive cars, they don't drive them very far'—again, completely out of touch. Again, in the federal electorate of Canning there is twice the average number of pensioners, and yet we see the worst of the Abbott government's budget cuts being played out in that federal seat.

What about the indexation cuts the Abbott government wants to put in place on pensions? According to ACOSS, they are likely to leave pensioners about $80 a week worse off into the future. You cannot keep cutting people's pay whether it is penalty rates or whether it is indexation. That takes money out of the economy, it forces people to reduce their costs and it puts them further and further towards the poverty line and, in the case of pensioners, under the poverty line.

According to the Parliamentary Budget Office, changes to indexation of the age pension will result in $23 billion less being paid to pensioners if this cut goes ahead by 2024. Twenty-three billion dollars being taken away from pensioners who have spent their lives paying their taxes, looking after their families and doing the right thing. Yet in their retirement all the Abbott government wants to do to the pensioners in Canning is continue to punish them.
If Mr Abbott gets his way and increases the pension age to 70, Australia will have the highest pension age in the world. That is the future for pensioners in the electorate of Canning if they continue with the Abbott government as their government.

Let's not forget that, at the same time as wanting to cut pensions and increase the retirement age, Mr Abbott has imposed a new tax on going to the GP. People in the federal electorate of Canning in some cases do rely on bulk-billing and, where they have to pay above that levy, it comes out of their pockets. The Abbott government wants to take more out of their pockets by that sneaky tax it put on visits to the GP.

Let us look at Labor's record in the electorate of Canning. we created the NBN. Mandurah has a very fast and efficient NBN. It also has a digital hub, which provides a gateway for local people young and old to improve their online skills at no cost. It also gives them the skills to access the National Broadband Network in their home. When we were in government, I was very proud to go down and be one of the people invited to the opening of that hub. The City of Mandurah, the mayor and all of the users who came to the opening were really very proud. They set their hub up in their library because their library is well utilised. It is a fantastic space. They were very proud of their digital hub. They showed me that. They had children accessing it and senior citizens. It was well-received and no doubt is well used in the precinct of Mandurah. You can get training for any level, you can do you online job applications and you can Skype. And there are all sorts of activities for children in that Mandurah hub.

The other thing that I was proud to be part of in Mandurah was opening the National Rental Affordability Scheme. Part of that funding was used to create a hub near the Mandurah train station. It will be a combination of high-density living, low-density housing, affordable housing—all sorts of housing to create a real community around that train station. Again, an initiative of the Labor government, and where has that gone? Completely scrapped.

Lots of other things happened in the electorate of Canning when Labor was in government, and I will take my time over the next couple of weeks to inform the Senate about those. But the housing that is being built at the Mandurah train station, again like the digital hub, is something I am very proud to be able to say was a Labor initiative well-received by the private developers, the council and the people who are occupying some of those new homes. The federal electorate of Canning deserves a lot better.

Lapoinya

Senator WHISH-WILSON (Tasmania) (19:36): Recently, when the late Malcolm Fraser passed away, it was fascinating for me, as a proud Green, to look at his environmental track record as a progressive—one could perhaps say one of the last true Liberals. He achieved some magnificent outcomes for the environment. One that was near and dear to my heart was the ban on commercial whaling. He had a leadership role in that. I was just having a look tonight at some other examples, and I thought it would be a really interesting way to frame a speech I would like to talk about a very small, special place in Tasmania that is under threat. It is called Lapoinya. Before I go there, I want to talk about another Liberal Prime Minister, Mr John Gorton, who today would be classified as a green 'vigilante'. I have in my hands a copy of a press release from 1 July 1970: 'Statement by the Prime Minister, Mr John Gorton'. It says:

The Commonwealth will meet the reasonable legal costs, including Counsels' fees, of five conservationist bodies appearing before the Royal Commission on Barrier Reef Petroleum Drilling.
Requests for financial assistance for full-time legal representation were received from the Australian Conservation Foundation and four Queensland scientific or conservationist organisations: The Great Barrier Reef Committee, the Queensland Littoral Society, the Save the Barrier Reef Committee and the Wild Life Preservation Society of Queensland.

Earlier, 35 members of the Queensland Bar had offered their services gratuitously to assist the conservationists in presenting their evidence. This would have resulted in each set of counsel appearing for one week at a time, a course which would have presented obvious difficulties.

Here we had a Liberal Prime Minister who financed a legal case by conservationists to stop Joh Bjelke-Petersen from petroleum drilling in the Great Barrier Reef. I certainly hope all of us here in the Senate in today's day and age would agree that that would have been a stupid thing to do and a total disaster. But it gives you an idea perhaps of how much things change—but then again how much they stay the same, with the fact that these areas are still under threat.

But I would like to talk, as I mentioned a second ago, about a little place in Tasmania that is under threat. This place, Lapoinya, is a 49-hectare coupe, so not a big coupe by any means. The official coupe is FD053A. It is a polygon coupe. It is an area of forest left over from the Flowerdale reserve, which is a much larger—260 hectares—area of conservation forest that has been separated by a road. People have brought up families and lived their lives in this area of the north-west of Tasmania, and now they are facing the real threat of this coupe being logged. So I rise tonight to speak about this little pocket of tranquillity in north-west Tasmania known as Lapoinya, and I would like to highlight the failure of the EPBC Act to protect this classic Tasmanian gem.

It is a tiny settlement tucked away in deep valleys adjacent to the Flowerdale River catchment. It is not a big place. Some would say it is not a grand place, but it is a special place, especially to the locals who live in the Wynyard area. This is shaping up to be a symbolic fight, not just for the community in Lapoinya, who want to protect the area that they have grown up in and all their memories, all the special times they have had in the area and the immense value that they get and have got out of this forest for generations; it is also symbolic for the whole state. Forestry Tasmania has been pretty much bankrupt, in the figurative sense, and has not been logging on a large scale for many months. But it is about to start up again soon, and coupes such as Lapoinya are clearly under threat in the logging madness that we expect to see commence again in October. It is an unthinkable and unprofitable approach, not just for Tasmania's natural heritage but also for the economy. Forestry Tasmania expects, from this small 49-hectare coupe, to harvest 12,500 tonnes. As is often the way, more than half of these logs will be destined for the woodchip mill—some byproduct!

Had Acting Deputy President Dastyari been lucky enough to get to Launceston to talk about the forestry managed investment scheme, he would have met John Lawrence in person. John Lawrence is well-respected economist, accountant, commentator on financial matters and font of all knowledge in matters forestry and finance. He has estimated that Forestry Tasmania could expect to get about $5,000 per hectare in revenue at current market rates. He also estimates that the cost of getting the logs out will be about $6,000 per hectare, mostly because roads and bridges need to be built into the forest. This equates to a cash loss of $50,000 for the entire coupe. On top of this, FT, Forestry Tasmania, will have to write down nearly $200,000 in assets once the trees are chopped down. If we add carbon accounting
costs, the opportunity costs of logging these trees, then what we are looking at is another loss-making proposition for Forestry Tasmania, which is going to do an incredible amount of damage to the social fabric of the community in the Wynyard area who have grown up around this beautiful piece of landscape.

So, in the time-honoured tradition of Tasmanian communities organising to try and stop their state government from destroying Tasmania's natural heritage—which is now at the forefront of Tasmania being one of the true tourism icons, not just in Australia but internationally, being recognised right across the board, by Lonely Planet and a whole range of different tourism publications; MONA even got into the top 20 international attractions for Lonely Planet—the community are coming together. I was very fortunate to be able to sneak in a couple of hours, before I flew out of Wynyard to Canberra last Sunday, to attend a fantastic rally in the local pub there. It was attended by 300 or 400 people.

This was the first time the community has come together in such numbers—to resist the stupidity of this coupe being logged, at a significant loss, and the damage it is going to do to the community. They want to see that stopped. I have been to the coupe and I have walked through the coupe. I have flown over it and got aerial footage for the community. I have talked to people there. I was very lucky to be given morning tea and a tour by Barbara and Stewart Hoyt, two of the key organisers of the community in the area. I spent a day with Dave Reid, who is another one of the community organisers, a stalwart for protecting what is valuable about the north-west of Tasmania. And I would like to recognise John Powell, Mike Buckley and a whole group of other people that have organised these rallies and got the community together. Over the last 18 months, they have been starting to put together a really logical and passionate approach to making sure that this coupe does not get logged—unprofitably logged at the expense of the taxpayer for no good reason at all when there are other timber resources available.

One of the reasons that they are struggling to be heard is the EPBC Act. There are a lot of the problems in that act. It is now 15 years old. It has worked in some ways, but it has fallen short in others. It was reviewed under the Rudd government and then it was reviewed and ditched under the Gillard government before it could be implemented.

The issue specifically with Lapoinya, of course, is that there is a large population of freshwater crayfish, not to mention Tasmanian devils and an incredible abundance of botany. Once you start taking out the management plan areas to protect the crayfish, there is really very little else left there to log. It really beggars belief that we would still be considering going into this place. But it is symbolic in Tasmania because the community will stand up to it. They will stand up and put it on the line to make sure this place does not get logged. I really hope that the Tasmanian government has a close look at this and walks away from it.

Another place that I will talk about another night is Bruny Island. It is truly a tourism icon within Tasmania. It is now going to be logged again. They are going to take logging trucks on the ferries to take the trees off Bruny Island. That is another issue that we are certainly going to be hearing a lot more about.

The Lapoinya action group have come together and I was very proud to be there to represent the Greens. This is the kind of environmental destruction that Tasmania needs to move on from and the kind of social destruction that Tasmania needs to move on from, and we need to find much better ideas for our future.
Country to Canberra Essay Competition
Women in Parliament

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (19:46): It is with great pleasure tonight that I rise to talk about something that is very close to my heart: empowering young women to believe they can do whatever they want to do in this world and not be in any way deterred from trying to achieve the very best they can in their lives. Today, we launched the Country to Canberra essay competition, which is open to young women in year 10 and year 12 from rural, regional and remote communities in Australia who aspire to be future leaders. It is a 500-word essay competition and this year the subject of the essay was, 'If you were Prime Minister for a day, what would you do to help to achieve gender equality?'

This is the second year of the competition. I would like to acknowledge Hannah Wandel, a young lady from Blyth in South Australia, my home state, who came up with the idea for this competition and ran it all herself. Last year, she had very limited resources, but she managed to get some sponsorship, which enabled her to bring a winner from three states to Canberra. She was able to pay for their expenses and include a tour of Parliament House and a tour of the War Memorial. The winners were able to meet a number of women in this parliament, including the Minister for Foreign Affairs, Julie Bishop, and some who work in the federal government. Barnaby Joyce also spoke to them. The then ACT Chief Minister and now colleague here in the Senate, Katy Gallagher, also met with them. They were able to meet people who had already achieved success in their careers.

The essays that were put forward by these young women had an amazing diversity of opinion. Last year, the essay topic was along the lines of whether they believed they had been encumbered in any way in achieving what they wanted to achieve because they were women. Listening to some of the comments we got from those who came to Canberra was interesting, including the competition winner, Vesna Clarke, who said:

The main message I took away with me from the trip was to take risks, no matter what people say or if you doubt yourself, just do it. Almost always, you will surprise yourself.

The whole experience, including actually writing the essay, being published and the Power Trip was life changing. I became more confident in my writing and opinions, sharing them with others and being published on Country to Canberra was even more of a confidence boost! I have learnt to not hold back and that writing is one of the most powerful ways to express your ideas.

That was a very positive response by Vesna to her success. Another finalist last year, Ella Graham from Melrose in South Australia, gave her essay the title 'Licked before we have begun'. She told the story of her country sport experience and spoke about mothers who defend the position of football as being more important than netball. Ella wrote:

It's disheartening to watch strong, intelligent women, hide their brains and accept that their daughter's lives don't have equal value to their sons.

Ella highlighted that more needs to be done to empower women and young girls in her particular community and that the sporting community is a really good place to start.

The diversity of views was really interesting and there were many views in between, but I picked those two because they were so contrasting. It clearly demonstrates the different views
that some women are given the opportunity of empowerment more easily within their communities than others and some of them see the opportunities more readily than others.

Before I conclude, I would like to mention that last weekend was the 70th anniversary of the Women's Committee Council of the Liberal Party. The celebrations were held in Adelaide. One issue that was raised was having greater women representation in the Liberal Party in this place and in other parliaments around Australia. It was interesting to hear the views of those who spoke at the conference and it was also heartening to hear the Prime Minister say that he was going to champion the cause, stop talking and actually start walking, and doing some proactive things to make sure that we see more women in parliament. A number of comments were made during the conference but there are a few I will put on the record. A comment I made was that I do not support quotas, I do not support lists and I certainly do not support captain's picks.

I am a great believer in meritocracy but, every now and again, we have to make sure that the people that we have in place do meet that meritocracy rule. As time goes by, we see many women perhaps who three or four years ago may not have met the criterion of being the best person for the job but maybe these days they do.

It is very clear that: if we are going to say that we do not support quotas, lists and captain's picks—and I say I do not—then we have to be more proactive and create an environment where women feel more encouraged to put their hand up in the first place, where they are prepared to start on the journey to be in this place. It is certainly a journey that has been extraordinarily fulfilling for me—and I am sure Senator Payne would also say that it has been a fantastic opportunity. Somehow we have to communicate the opportunities that this place offers to the women who we seek to sponsor or mentor.

We must create a work environment that has the flexibility for women, particularly women with children, to have the power to make decisions within their workplace that best suit their particular circumstances. It takes me eight hours to get here from my home. I am lucky that my youngest child no longer requires my 24-hour care, because he is now at boarding school—I had to make the decision to put him in boarding school, because I was here. We must create a family-friendly environment so that people, not just women, who have families feel they have the tools and the flexibility to work here and that they can manage a work-life balance that is not going to prohibit them from putting their hand up to come here in the first place.

It is the responsibility of all of us—not just the women in this place, not just the women of the world—including the men, to make sure that we mentor, we sponsor and we encourage young people, whether they be men or women, but particularly women, so they understand that a career as a federal member of parliament, a state member of parliament or even a local government representative is worth while and something to aspire to. We have got to stop demeaning politics and this place. We have got to start putting some integrity and respect back into the profession. Until we do that, it is very easy for people to decide that they do not actually want to be politicians, because the respect has gone out of the profession.

In conclusion, I would like to congratulate Hannah Wandel and the young women who have put the Country to Canberra essay competition together. It is wonderful to see young women being so proactive when others have not been. I look forward to reading the essays from the contributors this year. I look forward to welcoming the winners from each state to
Canberra. We have the resources to bring the winners to Canberra so they can meet the women who represent this parliament, whether from my side, the government side; the opposition; the crossbenches; the Greens; or senior members of the public service. They will also meet other young women from rural and regional areas and have the same opportunities to access people that many of our city cousins have.

As somebody who took on the role of being a country senator, I make sure that my primary focus in this place is always to represent people from rural and regional South Australia. It is something that is close to my heart in two respects: firstly, it encourages and empowers women to take control and achieve the best they can; and, secondly, that those young women come from rural and regional areas in Australia.

Senate adjourned at 19:56

DOCUMENTS
Tabling
The following document was tabled by the Clerk pursuant to statute:


Tabling
The following documents were tabled pursuant to standing order 61(1)(b):


Land Sector Carbon and Biodiversity Board—Explanatory statement, in place of an annual report for 2013-14 and all subsequent years.

Port of Gladstone—Independent reviews—Bund Wall at the Port of Gladstone—Report on findings, dated April 2014.

Government response to the Port of Gladstone and the Bund Wall at the Port of Gladstone reports on findings, dated August 2015.


Supplementary report, dated October 2013.

*Schools Assistance Act 2008*—Report on financial assistance granted to each state in respect of 2013.


Indexed List of Files
The following document was tabled by the Clerk pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2015—Statement of compliance—Finance portfolio.