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SITTING DAYS—2015

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FORTY-FOURTH PARLIAMENT
FIRST SESSION—SEVENTH PERIOD

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

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

Senate Party Leaders and Whips
Leader of the Liberal Party in the Senate—Senator Hon. George Henry Brandis QC
Deputy Leader of the Liberal Party in the Senate—Senator Hon. Mathias Cormann
Leader of The Nationals in the Senate—Senator Hon. Nigel Scullion
Deputy Leader of The Nationals in the Senate—Senator Hon. Fiona Nash
Leader of the Opposition in the Senate—Senator Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator Hon. Stephen Conroy
Leader of the Australian Greens—Senator Richard Di Natale
Co-deputy Leaders of the Australian Greens in the Senate—Senator Scott Ludlam and
Senator Larissa Joy Waters
Chief Government Whip—Senator David Christopher Bushby
Deputy Government Whips—Senators David Julian Fawcett, and Dean Anthony Smith
The Nationals Whip—Senator Matthew James Canavan
Chief Opposition Whip—Senator Anne McEwen
Deputy Opposition Whips—Senators Catryna Louise Bilyk and Anne Elizabeth Urquhart
Australian Greens Whip—Senator Rachel Siewert

Printed by authority of the Senate
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### Senator

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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.

### Territory

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(1) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice R. Carr), pursuant to section 15 of the Constitution.
(2) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice J Faulkner), pursuant to section 15 of the Constitution.
(3) Chosen by the Australian Capital Territory Legislative Assembly to fill a casual vacancy (vice K. Lundy), pursuant to section 15 of the Constitution.
(4) Chosen by the Parliament of Queensland to fill a casual vacancy (vice B. Mason), pursuant to section 15 of the Constitution.
(5) Chosen by the Parliament of Tasmania to fill a casual vacancy (vice C. Milne), pursuant to section 15 of the Constitution.
(6) Chosen by the Parliament of South Australia to fill a casual vacancy (vice P Wright), pursuant to section 15 of the Constitution.
PARTY ABBREVIATIONS
AG—Australian Greens; ALP—Australian Labor Party;
AMEP—Australian Motoring Enthusiast Party; CLP—Country Liberal Party;
FFP—Family First Party; IND—Independent, LDP—Liberal Democratic Party;
LNP—Liberal National Party; LP—Liberal Party of Australia;
NATS—The Nationals; PUP—Palmer United Party

Heads of Parliamentary Departments
Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Acting Secretary, Department of Parliamentary Services—D Heriot
Parliamentary Budget Officer—P Bowen
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<tr>
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<td>Hon Malcolm Turnbull MP</td>
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<tr>
<td>Minister for Indigenous Affairs</td>
<td>Senator Hon Nigel Scullion</td>
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<tr>
<td>Minister for Women</td>
<td>Senator Hon Arthur Sinodinos AO</td>
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<tr>
<td>Cabinet Secretary</td>
<td>Senator Hon Michaelia Cash</td>
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<tr>
<td><em>Minister Assisting the Prime Minister for the Public Service</em></td>
<td>Senator Hon Michaelia Cash</td>
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<tr>
<td><em>Minister Assisting the Prime Minister for Digital Government</em></td>
<td>Senator Hon Mitch Fifield</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for Counter Terrorism</em></td>
<td>Hon Michael Keenan MP</td>
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<tr>
<td>Assistant Minister to the Prime Minister</td>
<td>Hon Alan Tudge MP</td>
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<tr>
<td>Assistant Minister to the Prime Minister</td>
<td>Senator Hon James McGrath</td>
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<tr>
<td>Assistant Minister for Productivity</td>
<td>Hon Dr Peter Hendy MP</td>
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<tr>
<td>Assistant Cabinet Secretary</td>
<td>Senator Hon Scott Ryan</td>
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<tr>
<td>Minister for Infrastructure and Regional Development (Deputy Prime Minister)</td>
<td>Hon Warren Truss MP</td>
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<tr>
<td>Minister for Resources, Energy and Northern Australia</td>
<td>Hon Josh Frydenberg MP</td>
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<tr>
<td>Minister for Territories, Local Government and Major Projects</td>
<td>Hon Paul Fletcher MP</td>
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<tr>
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<td>Hon Michael McCormack MP</td>
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<td>Minister for Foreign Affairs</td>
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<td>Attorney-General (Vice-President of the Executive Council)</td>
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<td>(Leader of the Government in the Senate)</td>
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<td>Hon Morrison MP</td>
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<td>Hon Scott Wells MP</td>
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<td>Hon Alex Haake MP</td>
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<td>Minister for Cities and the Built Environment</td>
<td>Hon Jamie Briggs MP</td>
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<tr>
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<tr>
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<td>Hon Stuart Robert MP</td>
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<tr>
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Thursday, 3 December 2015

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

DOCUMENTS

Tabling

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

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

COMMITTEES

Select Committee on Unconventional Gas Mining

Meeting

The Clerk: A proposal has been lodged by the Select Committee on Unconventional Gas Mining to hold a private meeting today from 12.45 pm.

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

BUSINESS

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (09:31): I seek leave to move a motion relating to the hours of meeting and routine of business for today.

Leave not granted.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (09:31): Pursuant to contingent notice standing in the name of the Leader of the Government in the Senate, Senator Brandis, I move:

That so much of the standing orders be suspended as would prevent me moving a motion to provide for the consideration of a matter, namely a motion to give precedence to a motion relating to the hours of meeting and routine of business for today.

The motion that I am seeking leave to move today is one that is fairly unexceptional for the last sitting day of the year. As I have often said in this place, the management of business in the Senate chamber, a place where there is no one grouping who has a majority, is a collective responsibility of all senators. That collective responsibility in this place is exercised on different occasions by different combinations. Sometimes it might be the government together with the opposition agreeing on a proposition for the management of business. Sometimes it might be the government and the Australian Greens agreeing on a proposition for the management of business in this place, and sometimes it might be the government and combinations of crossbenchers agreeing with the proposition to manage business in this place.

The motion that I am seeking leave to move is a fairly modest motion in terms of its legislative objectives. There are three bills listed, which is probably the shortest list of bills
for this stage of the sitting year that I have seen in this place. I contrast the approach that the government takes in relation to these particular motions, as we get towards the end of the year, with that of the previous government. For those colleagues in this place who might not have been here when the Senate was in its previous incarnation, when the current government was in opposition, it was not uncommon for the Australian Labor Party to move motions in the final week of sittings that would contain something of the order of 55 bills. In some cases, this would allow precisely no time—not a single minute—for debate. A bill was listed and if it was not dealt with by a particular time it would be put to a vote, in all stages, without any debate—no second reading debate, no committee stage, and amendments put without debate.

What the government is putting forward here is very reasonable and very appropriate. I am not listing 55 bills here. I am not seeking to guillotine or gag. The government is not seeking to do any of those things. We are just looking to have an orderly process for a limited number of bills so that we can deal with them in the ordinary course of events. This motion is not seeking to take away anyone’s opportunity to speak on a bill. This motion is not seeking to impose a time frame by which a particular bill must be dealt with. I think it is very important for colleagues to appreciate the very different approach that this government is taking compared to that of our predecessors.

There are three bills here. They are important pieces of legislation to deal with by the end of the year. Over the last couple of weeks we as a government have endeavoured to focus on those bills that are really critical before the end of the year. That has been a desire that a number of colleagues in the chamber have expressed—that we really focus on that which needs to be dealt with by the time that we rise.

It is for these reasons that I am seeking to move this motion. I am disappointed that leave was not granted to move the motion, but hopefully, after the vote on this suspension of standing orders motion, we will have the opportunity to move the motion so that we can get on with the business of this place, as the community expects us to do.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (09:36): Let’s understand why we are going to be dealing with the motion that the minister has moved. We are dealing with this motion because the Australian Greens have done a dirty deal with the government and they want to bring the deal on for a vote. In the dead of night last night, what we know is that the Australian Greens sat down with the Treasurer and cut a deal to sell out the crossbench and the Labor Party, cut a deal to sell out Australian taxpayers and cut a deal to lessen the transparency that this Senate was insisting on, all so that they could show that they were players. They are the tax transparency traders. That is what the Australian Greens are: the tax transparency traders.

The motion moved by the minister is different to the one which was circulated to the chamber and which would have got agreement. There were all of the fine words from the minister about consultation and so forth. We would have agreed to the motion as previously circulated, but at 10 past nine what we get is a motion which includes this bill, the tax legislation, because Senator Di Natale and his colleagues have suddenly decided that they do not care about transparency in relation to firms earning over $100 million.

I am reminded of Senator McKim’s contribution on the citizenship bill. As part of the ‘Nick the leader’ campaign that we were all watching with great interest, he stood up and had a go at us for doing deals in the dead of night, and so forth. On the citizenship bill public inquiry, a
bill was out for everyone to see. We still have not seen the amendments you have cut a deal on and we are about to vote on them, because you have done a deal with the government. We still have not seen the amendments. How much transparency is that? How is the dead-of-night dealing going, Senator McKim? I do not know if Senator McKim knows that he is going to be voting for a motion which brings the citizenship bill on. That is what the Greens are going to do: they are going to bring the citizenship bill on, as part of their deal with the government to limit tax transparency.

What we are being asked to vote for is a motion which brings on a dirty deal that the Greens have done overnight and that this chamber has still not seen. We have seen some nice little press releases from the Australian Greens. Senator Whish-Wilson, who was previously with us on this issue, now decides it is time to attack the Labor Party on this issue.

  

  Senator Siewert interjecting—

  Senator WONG: I know Senator Siewert wants to yell at us. You have sold out Australian taxpayers and you will vote with the coalition to sell out Australian taxpayers.

  The PRESIDENT: To the chair.

  Senator WONG: This is the Australian Greens' Meg Lees moment. The Meg Lees of Australian politics. That is what Senator Di Natale wants.

  The PRESIDENT: Pause the clock.

  Senator Canavan: Mr President, I rise on a point of order. Senator Wong has repeatedly referred to other senators not through you, chair, and I ask you that she make those comments through you.

  The PRESIDENT: On the point of order, Senator Canavan, remarks have to be directed to the chair, not through the chair. Senator Wong, you have the call.

  Senator WONG: Mr President, I will direct this remark to you: how humiliating that the Australian Greens are being defended by Senator Canavan. Senator Canavan's views on almost every issue are diametrically opposed to the Greens and he heckles them at every turn when they ask questions in question time and when they speak. Senator Canavan now, because they have done a deal with the government, is springing to the defence of the Australian Greens. How humiliating: the National Party having to defend the Australian Greens because they have done a deal.

  Senator Siewert interjecting—

  Senator WONG: Senator Siewert says, 'This is only an hour's motion.' This is not just an hour's motion; this is the delivery of the deal. This is a motion which ensures we first debate the tax legislation that you have done a deal on. So this hour's motion is intrinsically tied up with a deal that was done in the dead of night by Senator Richard Di Natale and which was pushed through his party room this morning. They were out there backgrounding on it, but no amount of backgrounding will change this fact: the Australian Greens will vote for less tax transparency in this country—end of story. The Australian Greens will change position and ensure that the tax transparency that this Senate was insisting on will be diminished. Who will lose out and who will win out of that? Taxpayers lose out and companies earning over $100 million will win. The Australian Greens are on the side of companies earning between $100
million and $200 million. What are the values of the Australian Greens, one wonders? I expect this from the coalition. I expect better from the Australian Greens.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (09:42): I have Senator Wong's earlier words ringing in my ears: the easiest thing to do in this business is to shout from the sidelines. 

Honourable senators interjecting—

Senator DI NATALE: The easiest thing to do is to shout from the sidelines, not demonstrate any responsibility and be on the fringes of politics. That is where the Labor Party are right now. We have a choice. The choice is simple: we either get nothing or we get significant strides forward when it comes to combatting multinational tax avoidance. It is a simple equation. It is a straightforward equation. This legislation would not have passed the parliament today. As a consequence of that, the multinationals with a turnover of over a billion dollars would not be publishing the amount of tax that they pay. What we would see is private companies with a turnover of over $200 million not having to publish the amount of tax that they pay and, as a consequence of legislation now coming before the parliament, we are going to see, for the first time in this country, significant steps forward when it comes to multinational tax transparency. The insider nonsense that goes on in this place—

Opposition senators interjecting—

The PRESIDENT: Order on my left!

Senator DI NATALE: The consequence of this motion is that we, as a parliament, get to vote for tax transparency around multinationals when, at the moment, there is nothing. If you are a multinational—

Opposition senators interjecting—

The PRESIDENT: Order on my left! Everyone on my left.

Senator DI NATALE: Isn't it interesting that we have the Labor Party, who keep talking about the Greens being purer than pure and holding out for perfection, and here they are on the fringes and irrelevant. The choice is a very clear one. We can leave this parliament today with companies who have a turnover of over $1 billion not having to declare their affairs. That would be the consequence of not passing this legislation before the parliament today.

Senator Cameron interjecting—

Senator Whish-Wilson interjecting—

The PRESIDENT: Senator Cameron and Senator Whish-Wilson.

Senator DI NATALE: The options, as far as the Australian Greens see them, are quite straightforward. We get nothing if we do not deal with this legislation today, a bit fat zero. If you are News Limited, if you are a big pharmaceutical company, or if you are Glencore, you do not have to declare your accounts. You do not have to demonstrate the amount of tax you pay. We can walk away from this parliament protecting News Limited, protecting the pharmaceutical industry, protecting Glencore, and not allowing them to publish their accounts, or we can pass this legislation. That means, for the first time in this country, those companies with a turnover of more than $1 billion now have to publish their full accounts. Those private Australian companies with a turnover of more than $200 million now have to
Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (09:47): What a lot of hot air from the Labor Party. The Labor Party say that they want to take action against multinational tax avoidance. It is all talk and no action. Here we have a piece of legislation in front of the parliament, in front of the Senate, which is going to help Australia get its fair share of tax from multinational companies, and the Labor Party say that it is with multinational tax avoiders. That is what the Labor Party are doing. When you hear the yelling, the squealing, the yapping and the barking, it must be very uncomfortable sitting on the sidelines of the public policy debate in Australia. The truth is that Labor, today, continue to stand in the way of stronger action to tackle multinational tax avoidance. The government are committed to taking effective action against multinational tax avoidance, and we are very pleased that the Greens are working with us to help make that happen.

Let me just remind the chamber what this is all about. The government have been working very hard and continue to take strong action to combat multinational tax avoidance. Last year we took action to tighten Australia's thin capitalisation rules to limit the scope for multinationals to claim excessive debt reductions. This bill in front of the Senate today implements the government's 2015-16 budget measures to combat multinational tax avoidance. These measures will force multinational companies with significant activities in Australia to pay their fair share of tax and will level the playing field for all taxpayers.

The new multinational anti-avoidance law will ensure the Commissioner of Taxation can force multinationals that have significant activities in Australia to pay tax on profits from economic activities undertaken here. Multinationals will no longer be able to justify, using contrived schemes, avoiding paying tax. This rule will strengthen our anti-avoidance rules for multinationals by capturing arrangements that are designed to obtain both Australian foreign tax benefits to stop companies claiming they are only seeking to avoid foreign tax and lowering the purpose from sole or dominant purpose to one of the principal purposes and making it easier to apply.

Where a scheme is captured, the Commissioner of Taxation will be able to look through the contrived scheme and apply the tax rules if the multinational made the profit in Australia. This means that they will now pay tax on profits from the Australian activities. Penalties for large companies that enter into tax avoidance or profit-shifting schemes will be doubled from 1 July 2015 and country-by-country reporting will require large multinationals to report additional information to the ATO. This is a significant improvement in transparency and will help the ATO undertake targeted assessments of transfer pricing risk.

This is the legislation that Labor stands against and that the Greens are, today, helping to facilitate through the Senate. Labor can run whatever spin they want to. Labor is standing in the way of that legislation successfully passing the parliament, whereas the Greens are working with the government to make sure that this legislation passes. You can jump up and down and run whatever sort of smoke-and-mirrors campaign you like. We have been able to work with the Greens, positively and constructively, to achieve a beneficial public policy outcome for Australia, which is in our national interest.
We were open to achieving a majority in the Senate with the Labor Party, but the Labor Party was completely not prepared to engage. The Labor Party was standing on the sidelines. In fact, as the Manager of the Government Business confirmed with me this morning, we did not even hear back from the Labor Party in relation to arrangements for the legislative program in the Senate today. That is right, isn’t it?

Senator Fifield: Correct.

Senator Cormann: So Senator Fifield confirms. The Labor Party did not even have the courtesy to get back to us. So we are getting on with it. We are very grateful that the Greens have chosen to engage positively and constructively with the government. This will significantly help to combat multinational tax avoidance here in Australia, which of course will lower the tax burden on other Australians who otherwise would be forced to pick up the tab.

Senator Conroy (Victoria—Deputy Leader of the Opposition in the Senate) (09:52): What we are seeing here this morning is one of the more spineless performances by a man who models himself on Andrew Murray. You are modelling yourself on Andrew Murray. He will be urging you to vote for a GST of 15 per cent on food next—that is where he will be. That is exactly where he is going to be next, because he is just so desperate. He has got a bit of pressure. It will not be long, Senator McKim—you will have that seat all to yourself, don't you worry! But you know what they say in the classics: you cannot stab someone in the back until you are right behind them—and we know you are right behind him! And you deserve it. After watching what has happened this morning, we will be voting for you, don't you worry! What you have agreed to today is to keep protecting tax avoiders in this country, because you will remember, Senator Whish-Wilson—

The President interjecting—

Senator Conroy: Through you, Mr President—

The President: To me.

Senator Conroy: Senator Whish-Wilson will remember my last contribution on this particular topic where we talked about wanting to expose the fact that companies were not paying tax. We wanted the details to be out there. We have both been seeking to achieve this, and you have now turned your back on it. You have now turned your back on making sure that Australians know how little tax is being paid by these corporations and these entities. You are now allowing the Australian public to be kept in the dark because the big end of town put the weights on those people over there. I never thought you would cave to the big end of town.

The President: To the chair!

Senator Conroy: My apologies, Mr President. I never thought that the Greens would cave to the big end of town's cries. But that is exactly what they have done. The Australian public deserve to know the truth, and the Greens are now standing behind the government in protecting the big end of town—

An opposition senator: 7-Eleven.

Senator Conroy: As one of my Senate colleagues just said, 7-Eleven—hiding, because of you Greens. All that has gone on at 7-Eleven is now being hidden because of you. They are
protected by what you have just done. They are protected because of you. Tax avoiders in this country can lift a glass today and go, 'Yoo-hoo!' to the Greens, and, 'Thank goodness Senator Di Natale's in charge of them! Thank goodness!' because you Greens are contributing to making sure Australians do not know the truth.

I thought, from listening to their contributions when the Greens spoke last time, that they actually believed in what they were saying and that they actually believed that they wanted the big end of town to have to explain how they organise their tax affairs: how they put them through the Cayman Islands, how they put them through Bermuda—how they put them through all those tax havens. I actually believed you when you stood up and gave those speeches. I believed you wanted the Australian public to have this information. And you have now exempted 80 per cent of the companies. Eighty per cent of the companies that should be revealing their tax affairs are now not. So the scam will go on.

The party of the big end of town have got some new best mates. Your supporters will realise that you have sold out. When we had the numbers to make the government agree to this bill, you folded. You are spineless! And when your supporters realise how spineless you are, and the path you are taking them down, they will know what to do about it. They will desert you in droves when they find out you are protecting the big end of town in tax.

I expect that. The Greens are now the friends of the tax avoiders. We know the government are. We know the government are the friends of the tax avoiders, but you Greens now join them in this hall of shame, because we had the numbers—combined, the opposition, the Greens, the minor parties and the independents had the numbers to get the truth made available to the Australian public. You know what a joke the tax system is in how it works—just like how Google and all those companies turned up in front of the British inquiry and said, 'We only pay the amount of tax you ask us to pay. How can you be attacking us?' They were mocking the stupidity of those members of parliament. Well, you are now doing the same to yourself and your own supporters.

Senator WHISH-WILSON (Tasmania) (09:57): It was pointed out to me this morning by Senator Dastyari that the government was close to caving in on this. Absolute BS! What that is code for is: 'We were going to do a deal with the government, but you beat us first.' That is what that is code for.

Let me tell you: I sat in your chair, Mr President, when this party let the kidnap amendment go to a vote without putting up speakers and without even so much as a 'No' on the division. It was the Greens that put this amendment back into the mix and rescued this national debate. The Labor Party did absolutely nothing—absolutely nothing. They rolled over and had their tummies tickled.

We have led on this through the Senate inquiry. Senator Milne got this Senate inquiry up. We put this amendment back into the national conversation, and I am glad that we are still having it today. It is the Greens that have led on this, and we want an outcome for those—

Senator Dastyari: Mr President, I rise on a point of order. Senator Whish-Wilson is misleading the Senate. He sat there and begged me—

The PRESIDENT: That is no point of order.

Senator Dastyari: He begged me to let him move it, because he needed—

The PRESIDENT: Resume your seat, Senator Dastyari! There is no point of order.
Senator WHISH-WILSON: Let me tell you of the people that came into our offices and every single senator's office and said, 'We need politicians in this country to do something about multinational tax avoidance': the Oaktree foundation; Micah Challenge; the Tax Justice Network. We are doing something about that here today, but the Labor Party are shouting from the sidelines because they want to score political points. They do not want to deliver an outcome for those who have worked so hard in this country to get tax justice in Australia.

Let me tell you—these stakeholders will be coming out today saying: 'Thank you for doing a deal. This is what we want. Thank you for standing up for us today.' We are here representing the Australian people. We are leading on this debate. All the Labor Party are doing is scoring cheap political points. We are happy to debate this through to the early hours of the morning because we are on the side of angels. To quote your leader, 'The Greens are on the side of angels.' I can certainly tell you, Mr President, we want to see outcomes.

Let me say this just shows today how irrelevant the Labor Party have become. They have been dealt out of getting an outcome on tax justice in this country. We have looked at this, we have talked to stakeholders and we have made a decision. We could have all scored political points against the government on this. We could have loaded this up and given it back to the government as a Christmas present. But do you know what? There would be no Christmas present in this country for those who want tax justice. This would have been a political point for the Labor Party and for the Greens if we had wanted to go down the dog whistle politics road. What we have done today is delivered for stakeholders in this country. We have delivered. I am proud to say that we have general purpose accounting, Senator Xenophon's amendment. We have agreement—

The PRESIDENT: Senator Conroy interjecting—

Senator CONROY: The BCA have endorsed you today!

The PRESIDENT: Through the chair!

Senator WHISH-WILSON: The Greens brought this back, and now we have begun to bring the debate on transparency back to the Senate, and we have delivered a result. I am proud to stand here today and say that we have delivered a result on tax justice in this country. It will become clear when all the 'BS' clears from this chamber that we have actually got a good result here today. Is it the end of this debate? No, it is not. We have a long way to go,
but I am proud to take the first steps in getting a result, and we will take the leadership on the next steps if that is what it takes. *(Time expired)*

**The PRESIDENT:** The question is that the motion to suspend standing orders, moved by Senator Fifield, be agreed to.

The Senate divided. [10:07]

(The President—Senator Parry)

Ayes ...................... 44
Noes ...................... 23
Majority ............... 21

**AYES**

Abetz, E
Brandis, GH
Canavan, MJ
Colbeck, R
Day, RJ
Edwards, S
Fierravanti-Wells, C
Hanson-Young, SC
Johnston, D
Ludlam, S
Madigan, JJ
McKenzie, B
Muir, R
Parry, S
Reynolds, L
Rice, J
Ruston, A
Scullion, NG
Siewert, R
Sinodinos, A
Wang, Z
Williams, JR

Bernardi, C
Cash, MC
Cormann, M
Di Natale, R
Fawcett, DJ
Fifield, MP
Heffernan, W
Lindgren, JM
Macdonald, ID
McGrath, J
McKim, NJ
Nash, F
Payne, MA
Rhiannon, L
Ronaldson, M
Ryan, SM
Seselja, Z
Simms, RA
Smith, D
Whish-Wilson, PS
Xenophon, N

**NOES**

Bilyk, CL
Bullock, JW
Carr, KJ
Dastyari, S
Ketter, CR
Leyonhjelm, DE
Ludwig, JW
McAllister, J
O’Neill, DM
Polley, H
Sterle, G
Wong, P

Brown, CL
Cameron, DN
Conroy, SM
Gallagher, KR
Lambie, J
Lines, S
Marshall, GM
McLucas, J
Peris, N
Singh, LM
Urquhart, AE (teller)
Question agreed to.

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (10:09): I move:

That the motion to relating to the hours of meeting and routine of business for today may be moved immediately and determined without amendment or debate.

The **PRESIDENT**: The question is that the motion moved by the minister be agreed to.

The Senate divided. [10:10]

(The President—Senator Parry)

Ayes .................... 44
Noes ..................... 23
Majority.................. 21

**AYES**

Abetz, E
Brandis, GH
Canavan, MJ
Colbeck, R
Day, RJ
Edwards, S
Fierravanti-Wells, C
Hanson-Young, SC
Johnston, D
Ludlam, S
Madigan, JJ
McKenzie, B
Muir, R
Parry, S
Reynolds, L
Rice, J
Ruston, A
Scullion, NG
Siewert, R
Sinodinos, A
Wang, Z
Williams, JR

**NOES**

Bilyk, CL
Bullock, JW
Carr, KJ
Dastyari, S

Brown, CL
Cameron, DN
Conroy, SM
Gallagher, KR
Thursday, 3 December 2015

NOES
Ketter, CR
Lambie, J
Leyonhjelm, DE
Lines, S
Ludwig, JW
McAllister, J
McLucas, J
Moore, CM
O'Neil, DM
Peris, N
Polley, H
Singh, LM
Sterle, G
Urquhart, AE (teller)
Wong, P

PAIRS
Back, CJ
McEwen, A
Birmingham, SJ
Collins, JMA
O'Sullivan, B
Gallacher, AM
Waters, LJ
Marshall, GM

Question agreed to.

The PRESIDENT: I now call the minister to move the motion to vary the routine of business.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (10:13): I move the motion as circulated:

(a) the hours of meeting shall be 9.30 am to adjournment;

(b) consideration of bills under standing order 57(1) (d) (i) relating to private senators' bills shall not be proceeded with and that government business shall have precedence over all other business for 2 hours and 20 minutes and that the following government business orders of the day shall be considered:
   - No. 6 Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015
   - No. 1 Australian Citizenship Amendment (Allegiance to Australia) Bill 2015
   - No. 2 Labor 2013-14 Budget Savings (Measures No. 2) Bill 2015;

(c) from not later than 12.45 pm, the government business order of the day relating to the Export Control Amendment (Quotas) Bill 2015 shall be considered;

(d) government business shall be called on after consideration of the bill listed in paragraph (c) and considered till not later than 2 pm;

(e) if by 2 pm the following bills have not been finally considered:
   - Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015
   - Australian Citizenship Amendment (Allegiance to Australia) Bill 2015
   - Export Control Amendment (Quotas) Bill 2015
   - Labor 2013-14 Budget Savings (Measures No. 2) Bill 2015, then
   - consideration of general business and consideration of committee reports, government responses and Auditor General’s reports under standing order 62(1) and (2) shall not be proceeded with,
   - the routine of business from not later than 4.30 pm shall be government business only,
   - divisions may take place after 4.30 pm, and
(iv) the question for the adjournment of the Senate shall be proposed after it has finally considered the bills listed above, or a motion for the adjournment is moved by a minister, whichever is the earlier.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (10:13): I seek leave to move an amendment to the motion.

Leave not granted.

Senator WONG: Pursuant to contingent notice of motion, I move:

That so much of standing orders be suspended as would prevent me from moving an amendment to the motion before the chair.

The PRESIDENT: Senator Wong, it is in order and you can speak. I will just clarify to the chamber that if a division occurs at the end of this debate you will need an absolute majority to win the vote on the motion.

Senator WONG: I am seeking to suspend standing orders so as to move two amendments to this motion—to omit from paragraph (b) 'No. 6 Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015' and to omit from paragraph (e) 'Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015'—so that the Senate can get on with debating those bills, which have been agreed and discussed previously, but not to enable the bringing on of the dirty deal that the Australian Greens have done, because we do not believe it is in the Senate's or the taxpayer's interest to facilitate debate on what is a dirty deal done in the middle of the night, in the dead of night, by Senator Di Natale with the coalition.

And I do want to go to the substance of some of the issues, because it is pretty extraordinary listening to some of the contributions from the Australian Greens in this chamber. Senator Whish-Wilson says the Greens are on the side of the angels, but they are more on the side of tax dodgers and multinational companies. The Greens are against tax transparency. In order to play themselves into the political game they have done a deal which lessens what this Senate would have insisted on in terms of tax transparency. Who would have thought?

I did sit there watching Senator Di Natale as he said: 'You know, a "better than nothing" approach is what we are taking. This is better than nothing. The Labor Party want to take an all or nothing approach.' And I thought to myself, 'This is the same man who voted with Cory Bernardi and Eric Abetz some six years ago against the carbon price.' We remember that day.

Senator Ian Macdonald: Mr Acting Deputy President, I raise a point of order. Could you ask the speaker to refer to senators by their correct titles?

The ACTING DEPUTY PRESIDENT (Senator Williams): I certainly will. Senator Wong, you said, 'Cory Bernardi and Eric Abetz'. Please address them by their correct titles. Continue, Senator Wong.

Senator WONG: Sorry, Mr Acting Deputy President. Senator Bernardi. Then, less than two years later, they voted for an almost identical scheme with almost identical—in fact, slightly more generous—assistance to the big polluters. That was a great deal! And now they want to tell us, 'I know we once stood with all the climate sceptics against a carbon price, but today we have to compromise and take a "better than nothing" approach.' This is the new Australian Greens. Mr President—Acting Deputy President—

The ACTING DEPUTY PRESIDENT: Thanks for the promotion, Senator!
Senator WONG: The Greens are establishing a track record in this place as the party of dirty deals done dirt cheap. They pretend to their voters that they are going to come here and fight for ordinary Australians, but do you know what? They do not fight; they fold. They pretend they are holier than thou, but they end up abandoning their principles and not standing for what they believe in. How is it progressive to stitch up a deal with a conservative side of politics, to sell out the Australian taxpayer just in order to be able to say, 'We're in the game'? How is that a progressive position?

This Senate had the numbers to insist on a greater level of tax transparency. That is what this Senate had. But what we have is the Australians Greens, who would rather play themselves into the game than actually stand up for what is right for Australian taxpayers, putting the interests of multinationals ahead of the interests of the Australian people. The Greens sell out the Australian people, and they do not even secure worthwhile benefits in return. They just say to Mr Abbott and Mr Turnbull, 'Pick up the phone—here we are!' This is a dirty Greens deal done dirt cheap. That is what this Greens party is under Senator Richard Di Natale. I think what we have seen is what we also see with the Greens voting with the government to try and gag debate on this amendment—that is what they did. They are the ones who always say: 'We want debate, we want debate,' but they voted for a motion where I have to suspend standing orders to move an amendment, and they will vote with them again because they do not want a debate on this issue.

What we have is a Greens party who are lousy negotiators, unprincipled deal makers and, most of all, political opportunists. We know that, because all you had to do was listen to Senator Di Natale as he said, 'Oh, well, this is better than nothing.' So we ought to suspend standing orders to amend this motion, because this Senate deserves better than the dirty deal that the political opportunists at the end of the chamber have done.

Senator DASTYARI (New South Wales) (10:19): I have to say that, as disgusted and appalled as I am with this amendment, I think there is a serious point that needs to be made here. We knew that Senator Di Natale was cheap, but I had no idea that Senator Di Natale was this cheap—to sell out tax transparency, to sell out what has been a two-year community campaign that has involved—

Senator Heffernan: Mr Acting Deputy President, on a point of order, could someone just remind Senator Dastyari that we are not on camera today. He does not have to put on all the antics.

The ACTING DEPUTY PRESIDENT (Senator Williams): There is no point of order, Senator Heffernan. Continue, Senator Dastyari.

Senator DASTYARI: The fact that Senator Heffernan has to run a protection racket for Senator Di Natale tells us about where this Senate is actually now heading. This is a dirty deal that has been done by the Greens that has sold out a two-year campaign for tax transparency—a campaign that has brought together community groups, organisations, unions, activists and people across the nation demanding a better deal, demanding more transparency, demanding more information. It was something that, up until now, the Greens were participating in. But, under Richard Di Natale, they will sell out every time. They will sell out their cause.

The ACTING DEPUTY PRESIDENT: Order, Senator Dastyari. Please refer to people by their correct title in this chamber.
Senator DASTYARI: Under Senator Di Natale they will sell out every time, and they have sold out again here today. The prospect is that the Greens are going to come to this chamber and, as they have told us this morning, are going to vote for a watered-down version—a weak, watered-down version—of what the Senate had already passed. Not only that, but they were bragging that they are going to vote against the amendments that were circulated by Senator Muir and Senator Lambie about grandfathering and the grandfathering exemptions—1,500 companies that, once again, will ride again.

We had finally been able to build enough community pressure to actually be able to tackle what had been a very, very difficult issue. This is a sell-out. This is going weak and it is all about Senator Di Natale trying to make himself relevant or important in this debate. The way he has done it is by selling out the cause of tax transparency. If the Australian Greens think that we are going to lie down and let them walk all over us, that we are going to allow them to have these multinational companies have their way then, frankly, they have another thing coming.

Let's be clear here. The government had moved the Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015, which did not go far enough—that was the view of the majority of this chamber. Amendments were made to make the government improve its own legislation. What we have here is a last minute, dead of the night, dirty deal done dirt cheap by a desperate leader of the Greens political party to sell out the cause of all the people, all the evidence, all the testimony, all the community groups, all the organisations that have worked together for two years to make sure that we have greater transparency, that we actually have accountability for what is happening with the Australian tax system. All of that gets undermined when a cheap deal gets done by a desperate leader of a desperate political party who, frankly, either does not understand what he has done or does not care, and I am just not sure which one of those is worse.

The ACTING DEPUTY PRESIDENT (Senator Williams): Thank you, Senator Dastyari. The question is the motion—

Senator DASTYARI: No, I am still going.

The ACTING DEPUTY PRESIDENT: Sorry, continue. My apologies.

Senator DASTYARI: I am going to be going all day. Fundamentally, what they have done by removing the threshold from $100 million to $200 million is a complete carve-out of almost 80 per cent of the companies that would have had to report if they had been strong enough and brave enough to have actually stayed firm.

I tell you who are the types of people who will fall out of the list. We know that Mr Withers, the head of 7-Eleven, is out. Thank you, Senator Di Natale!

Senator Di Natale interjecting—

Senator DASTYARI: No, he is out because of you. What we have is at least 500 private companies sold out because of a desperate leader of a desperate political party, desperate for relevance, selling out in the cause of tax transparency. (Time expired)

Senator KIM CARR (Victoria) (10:25): In May when Senator Richard Di Natale took over the leadership of the Greens, he said he wanted to lead the Greens to mainstream values. He made the point that he was tired of the Greens being a party of protest and he wanted to take a more moderate direction. We all understand what 'moderate direction' means in this
context. It means the capitulation of the Greens and their traditional values in favour of fawning capitulation to the Tories of this country.

What we have here is that the Greens are now the party of millionaires. We know what is happening across the central suburbs of this country. We know that they are becoming increasingly the party of the ultrarich. This is the party that takes the view that they are going to have the best social conscience that money can buy. Here we have an example of it, yet again, of the Greens now becoming the quislings of the tax avoidance industry. This is a party that wants to pretend that it is on the left of politics but constantly strives to be at the centre of the right of politics in this country. They are now so desperate to prove their relevance that they are prepared to capitulate to these incredibly important matters in regard to people paying enough tax.

What is at stake here? It is the Greens' capitulation to the idea that people might have to tell the people of this country how much tax they are paying. The principle of that is that as soon as they do that they will be exposed because they are not paying enough tax. When these issues were raised when the Senate passed a series of amendments to toughen up this government's position, we heard in the other place the Greens' representative describe this arrangement as a 'government of blue bloods', but they are now in lock step with them. This is a government about which Mr Adam Bandt said, 'Only a blue blood government with a born-to-rule mentality would call democracy a shabby process.' Of course, what we are seeing is the capitulation of Senator Di Natale in his desperate bid to be moderate, to be at the centre of politics, to claim that he is the mainstream player.

What we have seen here is that this is a political party that is desperate to prove how relevant they are to the Business Council of Australia and the international finance sector, and desperate to demonstrate that they are the friends of the big end of town. Who are the beneficiaries of these arrangements? They are mainly donors to the Liberal Party and people with contracts with government. These are the people you are defending in your desperate quest to be relevant and moderate, your desperate attempt to prove how important you are.

This is a matter that goes to the heart of your capitulation and you are now in league with the knuckle-draggers of the Liberal Party. The knuckle-draggers of the Liberal Party are your best friends, because you are so anxious to show this country how relevant you are, how moderate you are, how right wing you are. This is a betrayal of the people who look to you as being to the left of the Labor Party. What a joke! In the centre of Melbourne they will know the truth of this. They will know that you are in fact the party of millionaires, that you are of course desperate to demonstrate your worth to the international capital system, because that is exactly what you are about now—defending the status quo. You are not about proving social change; you are about protecting the tax avoiders—the people that do not pay their proper share, the people who you claim you are so opposed to when, in reality, you are now licksplittles in your desperate attempt to show how moderate and relevant you are.

We all know the truth about the Greens: started off as the party of protest and now of course we see the party of the quislings of the international finance and the tax avoidance industries. You ought to be ashamed of yourselves.

**Senator Heffernan:** Mr Acting Deputy President, I was going to make a point of order. I do not think this chamber should tolerate—
Senator Bullock: Sit down!

Senator Heffernan: I won't sit down. If you want to come outside, I'll come outside—you boofhead!

The ACTING DEPUTY PRESIDENT (Senator Williams): Order! Senator Heffernan.

Senator Heffernan: The bloody slush funds of the union. The point I want to make—and I am on my feet—is: I do not think it is appropriate for a senator to call people 'lickspittle'.

The ACTING DEPUTY PRESIDENT: Senator Heffernan, resume your seat.

Senator Wong: Mr Acting Deputy President, on a point of order: he ought have been sat down immediately. He ought withdraw. On four or five occasions, there were accusations which were completely unparliamentary. He ought to have been sat down earlier. I have been on my feet for some time. You ought ask him to withdraw and you ought ensure that he not be given the permission to continue to engage in unparliamentary language.

Senator Brandis: Mr Acting Deputy President, on a point of order: I think that Senator Heffernan's contribution has been robust but I do not think he has used any unparliamentarily language, if I may say so.

The ACTING DEPUTY PRESIDENT: Order! Senator Heffernan, you have the right to make a point of order but your language was unparliamentary and I ask you to withdraw—

Senator Heffernan: If you could point—

The ACTING DEPUTY PRESIDENT: Order! Senator Heffernan, resume your seat till I finish. You have a right to make a point of order. I have ruled your presentation was unparliamentary and I ask you to withdraw those comments.

Senator Heffernan: Could I just beg your indulgence to tell me what was unparliamentary?

The ACTING DEPUTY PRESIDENT: I am asking you to withdraw the unparliamentary—

Senator Heffernan: I am not withdrawing. I think it is unfair for those people over there to be called 'lickspittle'—that is my point.

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT: Order! Senator Heffernan, you used the term 'boofhead'. It is unparliamentary and I ask you to withdraw it.

Senator Heffernan: Who did I refer to as a boofhead? Was it Conroy?

Senator Bullock interjecting—

The ACTING DEPUTY PRESIDENT: Order! Senator Heffernan.

Senator Heffernan: I withdraw.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Heffernan. The debate will continue.

Senator Polley: Mr Acting Deputy President, on a point of order: it is so hypocritical for people in this chamber to come in and talk about family violence while we have to sit here and hear the sort of abuse that we have just heard from our colleague. Also, he invited people to go outside so he could take care of them—that is so unparliamentary.
The ACTING DEPUTY PRESIDENT: Senator Polley, I have made the point and he has withdrawn it.

Senator CAMERON (New South Wales) (10:33): Who would have ever thought that Senator Heffernan would be in here defending the Greens? Who would have ever thought? This is the new approach from this so-called new government: a coalition with the Greens to rip off families in this country. What must the families of this country be thinking, if they are listening to this debate, when the so-called Left progressives of the Greens party are out there siding with their friends in big business and saying that they are on the side of the angels?

Most people here know: I am not religious. I do not know much about angels but I think there is such a thing as a dark angel—I even think Lucifer was an angel. Well, you are on the side of Lucifer on this one. You are definitely on the side of the forces of evil when you are siding with the National Party and the Liberal Party to make sure that big business do not pay their fair share of tax in this country.

To have Senator Heffernan stand up and defend you—Senator Heffernan, who despises every value that the Greens claim they stand for—side by side as an ally, is an absolute joke. What will the families of Australia be thinking when the Greens are saying that they are on the side of the angels and they have consulted widely? I bet they have consulted widely. Consulted with the banks—did you consult with the banks? Did you consult with the finance sector? Did you consult with the billionaires who will be doing okay out of this? Did you talk to the families that this mob want to stick a GST on? So you give up on big business paying their fair share of tax and you have been siding with this mob and a GST. To say you are on the side of the angels—what is wrong with you? Where do your values disappear to when you are desperate for relevance? It is just an absolute joke.

You said that this was a Christmas present. You have provided the biggest Christmas present to the multibillionaires and the big end of town that they have ever had. Senator Whish-Wilson's contribution was so strident, so defensive and so unbelievable: that someone who claims to be a progressive can stand up and try and defend handing over more money, more power, more privilege to the big end of town—that is what you have just done. You have just sided with the coalition to make sure that the top one per cent continues to get more and more and that inequality will continue to reign in this country. Your position was to support inequality because, unless the big end of town pays its fair share of tax, inequality continues.

Unless the big end of town pays its fair share of tax and unless the multinationals pay their fair share of tax then there will be continued pressure from the extremists on the other side to push a GST. I suppose you might want to be on the side of the angels and vote for a GST. I suppose you might want to be on the side of the angels and screw working families even more than they may get screwed under this lot now. What is next? Is it the GST from the Greens? Is it industrial relations capitulation from the Greens? You have capitulated on what should be inviolable principle from a progressive party—that is, to make sure that the big end of town, the multinationals, pay their fair share. I do not think 'lickspittle' goes far enough in describing what you have just done. I do not know how to describe it, but lickspittle, to me, just seems too small a smear against the Greens, who have just given up. They are absolute capitulation merchants of the highest order. (Time expired)
Senator MOORE (Queensland) (10:38): We moved the suspension of standing orders to allow Senator Wong to move her amendment to the process put in place this morning by Senator Fifield about the hours of business for today. In terms of the process, we have had considerable discussions this week. We had a couple of meetings earlier in the week about hours. We waited until Wednesday night to hear from the government around a proposal for today. We had nothing for yesterday. We had a proposal last night from Senator Fifield, quite rightly, putting forward a proposition for the hours of business today. We had a short discussion on the phone last night about which bills would come before the Senate today. We actually had a number of bills listed that were to be included in the proposal. One bill that was not listed in the proposal given to us last night was the Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill.

That bill was not listed on the proposal that we had last evening, but this morning, as we were going through the process of looking at what we would do and were preparing ourselves to respond to Senator Fifield's proposal, what popped up but this extraordinarily important bill. It was to be added to the debate today, which we knew was going to be difficult on the last day of session. What popped up—adding to the bills that we talked about yesterday—but the Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015 as the first order of business.

In relation to the other things that we talked about that we needed to have on the agenda today, I expect that Senator Fifield circulated the same proposal to all of us last night—the government, the opposition, the Greens and the Independents. We were going to look at the agenda for the last sitting day. It is always a difficult time, as you know, Mr Acting Deputy President. You have to look at the time allowed to consider legislation so that the agenda allows for effective debate. I expect that all senators in this place had that information last evening.

We have heard plenty of discussion so far about who was talking to whom and what deals were being made. But bringing on another bill at this time is, I think, an abuse of the process that Senator Fifield spoke so passionately about earlier this morning. He spoke of the responsibilities of running this place effectively and of having fair debate. He said it was a shared responsibility. He said we would all have a role and an opportunity to provide information and argument so there would be a proper process in this place about how the agenda would operate.

I believe that Senator Wong's proposal to remove the Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015 from the agenda returns us to what we expected the process would be today. Removing this bill from the agenda, which is the content of the amendment she has put before us, means that we can consider the bills that we expected to be on the agenda and there is effective time to discuss the legislation. These are important bills, and the citizenship bill is core. We know that many senators feel very strongly about that bill. The Greens actually said in the debate that they needed more time to consider the citizenship bill; they wanted to have more debate. We have been accused—and I am appalled by the suggestion—of being involved in some kind of dirty discussion to have that removed. That is untrue. We wanted effective discussion. We wanted a chance for this chamber, before we rose, to have effective, engaging discussion around this important piece of legislation. That is what we expected to happen today—that the No. 1 order of business was going to be the
citizenship bill. We expected that. As we ended debate last night a number of senators said: 'We want to get back to this tomorrow.'

But, no, that dropped off, and we actually had this tax laws amendment bill pop up. We have heard people say how that could have happened. I am not going there, Mr Acting Deputy President. I would not expect that there would be deals like that made, but other senators feel as though that is true. What has happened is that the proposal that was given to us in good faith last night has changed and I think that is incorrect. (Time expired)

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (10:43): It is with great pleasure that I get a chance to respond to Senator Whish-Wilson's earlier commentary about being on the side of the angels. If being on the side of the angels is delivering a tax bill that actually delivers a revenue outcome of an asterisk because they do not believe in it and they are not really trying to do it—they want to give themselves a political fig leaf so they can pretend to the Australian public they are dealing with the scourge of tax shifting to international tax zero jurisdictions—you have given them that fig leaf.

This is a government that belongs to the big end of town. The analysis that was done shows that the people that you have now exempted from having to reveal their tax affairs are the major Liberal Party donors. On the one hand, you are barracking and claiming you have had a victory because you have helped the government deliver its fig leaf of an asterisk of tax revenue that is a zero. You are too embarrassed to put a 'zero' in the bill. You have helped the government pretend that they are serious about making the big end of town and the big multinationals pay tax in this country. That is what you have done, and you want to pretend you have had a magnificent victory on the side of the angels. You are on the same side as the 7-Eleven guy and Gina Rinehart—go through that list of Liberal Party donors, and you are on their side. You have protected them. You have protected this government from being exposed for being the fraud it is when it talks about dealing with multinational tax shifting.

This bill is forecast to raise zero dollars on the government's own estimates, and you have all said: 'We think that's a good outcome. We're happy with the balance.' On the forecast the multinational corporations will pay zero tax, and we have exempted all these Liberal Party donors from having to tell the truth about what their tax affairs are and how little they actually pay, and you have exempted them all. You are trying to pretend, because you have got $100 million raised to $200 million, that you had a victory, that you won a compromise. When those opposite stand up to give their points of order in defence they will not do it with a straight face. Let me promise you that they are laughing at you, not with you. When you stand there and say, 'We've done the right thing'; this is the side of the angels,' keep repeating that yourselves in the mirror in your bathrooms each morning, because you are the only people you are convincing. There is no-one out there in the broader community, there is no-one in your party membership and there is no-one in the community that votes for the Greens, when they come to understand that you have sold out. You have joined tax avoiders, the tax minimisers, the big end of town and the government who is their mouthpiece. The Business Council of Australia are likely to put a press release out saying, 'Thank you, Senator Whish-Wilson; thank you, Senator Di Natale,' because you have delivered the exact amount of tax transparency that the Business Council of Australia wants. You now have their gratitude. They will invite you to their Christmas party for this, and I hope you enjoy it, because this is a monumental sell-out by the Greens.
The Greens gave us a lecture. They stood up and attacked us, because of a mix-up in a vote. This is not a mix-up in a vote; this is quite literally a sell-out to ensure that the now leader of the Greens can parade himself around and pretend he is in the centre of politics—

**Senator O'Neill:** He's the new Meg Lees!

**Senator CONROY:** I think he is the new Andrew Murray. I have been here long enough to have been exposed to both of them. The person who thought he was smarter than everybody else when it came to tax was Mr Andrew Murray, who delivered the GST—good news for the Greens, because it destroyed the Democrats. When the Democrats sold out on their core principles they collapsed, to the Greens’ benefit largely, but you will now go down the same path. Your supporters will know you cannot be relied on to deliver on your principles, because as long as you have a leader that wants to be in the centre of politics, wants to be a moderate, he will sell your principles out. And you— *(Time expired)*

**The ACTING DEPUTY PRESIDENT (Senator Williams):** The question is that the motion moved by Senator Wong be agreed to.

The Senate Divided. [10:53]

(The Acting Deputy President—Senator Williams)

AYS

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NOES

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Question negatived.

**Senator Wong** (South Australia—Leader of the Opposition in the Senate) (10:56): I seek leave to move a motion adjourning the two items of business—adjourning the Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015 to a later hour.

Leave not granted.

Senator Wong: I move:

That so much of standing orders be suspended as would prevent me moving a motion adjourning these items to a later hour of the day.

Senator Fifield: Mr Acting Deputy President, I rise on a point of order. The Senate has already determined that the motion which I was seeking to move and have indeed moved would be moved immediately and determined without amendment or debate. There is currently a question before the chair. Senator Wong sought leave to suspend standing orders to move an amendment to the motion that I had moved. The Senate determined that that should not happen. Senator Wong is now seeking to bring an entirely different question before the chamber. She is not seeking to amend my motion, so the motion which I have moved needs to be determined before there can be another question put before the chamber.

Senator Wong: I am not sure; I may have misspoken or the manager may have misunderstood. I moved that the question on this motion be adjourned to a later hour.

Senator Heffernan: I move we go home for Christmas!

Senator Wong: Hear, hear!

The Acting Deputy President (Senator Williams): My advice is that, even if leave was granted, I could not entertain such a motion. I will put the question. The question is—

Senator Wong: Sorry; I ask for an explanation on your ruling.

The Acting Deputy President: The motion put before the chair needs to be without amendment or debate; therefore, your motion is not in order.

Senator Wong: To clarify: I am seeking leave to move that the question on this motion be adjourned to a later hour.
The ACTING DEPUTY PRESIDENT: Yes, and leave has been denied.

Senator WONG: And I am seeking, therefore, to move that so much of standing orders be suspended as would prevent me from moving that the question on this motion be adjourned to a later hour pursuant to contingent notice of motion.

Senator Cormann: Mr Acting Deputy President, I rise on a point of order. The Leader of the Opposition in the Senate is now defying your ruling. You have already ruled that there is a question before the chair. There is a motion to be settled without amendment or debate, and we now should proceed with the vote on that motion.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Cormann.

Senator Conroy interjecting—

The ACTING DEPUTY PRESIDENT: Order! Order, Senator Conroy! I am not going to take your point of order at the moment, Senator Cameron; I want to clarify things. The Senate has determined that the motion moved by Senator Fifield be determined without amendment or debate. As suspension of the standing orders has already been entertained, extended and debated, to allow further motions to suspend standing orders would undermine the will of the Senate.

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT: Order!

Senator WONG: I have a question of clarification, Mr Acting Deputy President. I am moving that the question on the motion be adjourned to a later hour. With respect, I do not understand why the Senate cannot determine that issue. I am not sure it is opposite.

Senator Fifield interjecting—

The ACTING DEPUTY PRESIDENT: Order! Order, Senator Fifield. The motion is not in order. This is in accordance with the proceedings of the Senate, and that is the situation and the advice I have had.

Senator WONG: Mr Acting Deputy President, what I would submit is that it is for the Senate to determine its will, not the chair, and the Senate—

The ACTING DEPUTY PRESIDENT: The Senate has now debated the issue on the standing orders, Senator Wong, and the motion will be now put.

The PRESIDENT: The question is that the motion moved by the minister be agreed to. The Senate divided. [11:05]

(The President—Senator Parry)

Ayes .................39
Noes ...............22
Majority..........17

AYES

Abetz, E
Brandis, GH
Canavan, MJ
Colbeck, R
Di Natale, R

Bernardi, C
Bushby, DC (teller)
Cash, MC
Cormann, M
Edwards, S

CHAMBER
Question agreed to.

**BILLS**

**Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015**

**Consideration of House of Representatives Message**

Message received from the House of Representatives disagreeing to the amendments made by the Senate.

Ordered that the message be considered in Committee of the Whole immediately.
Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (11:08): I move:

That the committee does not insist on its amendments to which the House of Representatives has disagreed.

Senator DASTYARI (New South Wales) (11:08): I ask that the question be divided in respect of each of the amendments and foreshadow that I have an alternative amendment to move in relation to amendment (3) and wish to vote differently in relation to amendments (1) and (2).

The CHAIRMAN: The question before the chair is that the amendments that have been passed by the Senate not be insisted upon. Senators may recall there were three amendments passed by the Senate when it last dealt with this matter. Senator Dastyari has asked that the question be applied individually to each of those three amendments, on the basis that he wishes to replace one of those amendments with his own amendment. That is in order, so I will separate those amendments and deal with them separately. The first question is that the committee does not insist on amendment (1) with which the House has disagreed.

Senator DASTYARI: I think it is a shame that there has been a rush to get this legislation through. I believe that there is an hours motion in place which now means that we will not be leaving this chamber until this bill has been dealt with. I think that is a disappointing development for the Greens political party, who have made it pretty clear to us in the past that they do not support these types of gags. But in effect there is a gag being placed here. They realise that the opportunity for proper, detailed discussion, for us to have a proper analysis of the details of the dirty deal that has been done here, has been removed. In the next 24 hours or so we will have to vote on this, and the opportunity to go away and actually talk to people and analyse these amendments is lacking.

It is amazing. We had Senator McKim the other night go on this big rant, in relation to a different piece of legislation, about a lack of information and how quickly and how soon all this had been sprung on him. That was a piece of legislation with amendments that had gone through an entire committee process, that had gone through public canvassing, that had been part of the public debate for weeks, if not months—months of public debate. And yet here we find out that late last night there was a dirty deal being done by Senator Di Natale. It is amazing what one night in in the Treasurer's office can get you—one night with the Treasurer. I have heard of deals done cheap. I just was not sure that this things were done that cheap.

Senator Kim Carr: Macfarlane's joined the National Party!

Senator DASTYARI: Ian Macfarlane has joined the National Party? Jeez.

Senator Kim Carr: You'll take anybody!

Senator DASTYARI: They will take anyone.

Senator Kim Carr: You'll have Richard Di Natale next!

Senator DASTYARI: Well, they vote together now, the Greens and the Nationals.

What is so amazing is that we are dealing with amendments now that, yes, were supported just weeks ago by the Australian Labor Party, the Australian Greens and the majority of crossbench senators. And yet it appears that those same amendments that were good enough just two or three weeks ago are now being dealt with as going too far. There is this premise
that we somehow do not need to stay firm and that any deal is better than no deal. Frankly, Senator Di Natale, there were better deals that could have been done. What is so disappointing here is not just the type of deal you have done but that you did it so cheaply and so stupidly. That you were prepared to sell out for so little is unbelievable.

Let us be clear. The government tried to foist these kinds of cheap, dirty deals on everyone in this chamber. They tried to do it with the crossbenchers. They tried to do it with the Labor Party. They went to each Independent individually and made these types of offers. Everyone else who actually had advocated in the past for these tax transparency measures, thought to themselves: 'Let's not sell out. Let's stay true to some principles. Let's believe in something.'

Let's demand a better deal.' But there was one conversation from Scott Morrison with the leader of the Greens, where he said, 'It's this or nothing,' and, like the doormat that the Greens have become under Senator Di Natale, they just rolled over. They roll over every time. They just fold. They have clearly been learning from the Nats. The Nats are growing—you just got a new member. They just roll over every time.

This is the worst negotiation tactic imaginable. If you want to negotiate with Senator Di Natale, all you have to do is go in there, make some kind of outrageous claim, and he will fold. He folds every time. What is so shocking here is that he has folded on a matter that was something that, frankly, I wrongly believed was a point of principle for the Greens political party. I thought it was something that they actually had passion about and had fought for. I have said in this chamber many, many times, and I have paid respect to the incredible work of former Senator Christine Milne in this place on the issue of tax transparency. To see those measures, those bills, those matters watered down, rolled back under Senator Di Natale is just appalling.

Senator, I want to make it clear to you just exactly who it is that you are actually going to be protecting today. Senator Di Natale made it very clear earlier this morning—he was upfront and frank about it—that he would not be supporting the amendments in the names of Senator Muir and Senator Lambie regarding grandfathering, which is a difficult issue that took a long period of time to build the necessary level of political will. Let us not kid ourselves. One in six of the 1,498 companies we are talking about here, the list of which was published in full by the *Guardian*—is a political donor or government contractor. Senator Di Natale, one in six of them.

Today there was going to be an amendment before the Senate—there are two that are very similar—in the name of either Senator Lambie or Senator Muir, to actually shut down that loophole. This morning you announced that you would be voting against any such amendment. Yesterday we confirmed that the numbers were there in the Senate to pass that amendment. Of course, the big lobbyists and the big donors are beside themselves with glee. The threat of the government having to disclose and actually closing that loophole has now been removed for them. Why? Because Senator Di Natale did a dirty deal—a desperate, dirty deal. Senator Di Natale, I am not aware of whether you actually understood the enormity of what you have sold out or whether you just do not understand this issue well enough. And I really do not know which of those two is worse.

On tax transparency and the issue of disclosure, the argument will be, 'It's a $200 million disclosure instead of a $100 million disclosure. It was an arbitrary figure to begin with.' True. The $100 million figure was meant to capture in the vicinity of the 1,000 largest private
companies. That is where the figure came from. The idea was built around: how do you get a figure around the 1,000 largest companies? Almost 75 per cent of them have now been exempted because of the deal that you have done. Why? Because of some threat from the government that they would not pass their own legislation if you tried to improve it on the front of transparency. That is the deal you did. That is the con you fell for. The government's own legislation, their own MAAL bill—it was Joe Hockey's legacy item. It was a bill that everybody supported, and they went to you and said, 'We're not going to pass our own bill that everybody supports unless you fold on everything else.' And Senator Di Natale says, 'Then I'd better fold on everything now.' That is what a negotiation with you must be like. It must be fantastic. I would love to buy a property off you.

Senator Lines: You'd get it dirt cheap!

Senator DASTYARI: That's right. You would get it cheap. I am not sure what you would have to do in the office—

Senator Edwards interjecting—

Senator DASTYARI: I am outraged, Senator Edwards. I am disgusted. I am appalled. Look, I am fairly new to this place, so maybe I have been naive the whole time because, frankly, I expected better from Senator Di Natale. I expected better from a Greens political party, the rhetoric of which on this issue has been so strong for so many years, who have always said the right thing, and when the opportunity comes for them to actually stay tough and force a better bill, he folds. And he folds under some lie or premise that there is some kind of threat that the bill will not pass and the government is going to dump its own legislation. Senator Di Natale, through the chair: if you believe that, you will believe anything. The idea that you are going to fold on every matter, every issue and every point of principle just because the government is prepared to do this—

Senator Conroy: He'd better take his bat and ball and go home. Seriously. You fell for it.

Senator DASTYARI: No, no—I think it is important to understand what would have happened if Senator Di Natale had stood firm on this. The government would have had one of two options. One is that they would have had to bring back their own bill today and they would have accepted what the Senate was going to do and adopted it. He believes they would have gone all the way to $200 million, but they could not possibly have gone to $100 million because those 500 companies need to be protected. Why do those 500 companies need to be protected, Senator Di Natale? Why would you fold on that? Why would you fold on those 500 companies needing to be protected? The other option is that the government would have had to bring back the bill early in the new year because the MAAL bill involved measures they needed to get through for their G20 commitments.

That was the leverage to get a better bill. You have sold out the leverage to get better legislation. That is the con you fell for. They would have had to bring it back early in the new year, at the latest. The fact that they needed that legislation to pass before the budget would have been the opportunity for those of us who believe in transparency, who believe in a better bill and who believe in more accountability to get the best legislation. But at the first chance you got, you went soft.

Senator Edwards: It needed to start on 1 January.

Senator DASTYARI: No, this legislation could comfortably—
Senator Edwards: Tax reform needs to start on 1 January. This is the last sitting day.

Senator DASTYARI: There would have been amendments and then it would have been early February legislation. But you are ramming it through at the first chance, the first opportunity, the first sit-down—

Senator Edwards: This is nonsense.

The CHAIRMAN: Senator Edwards, you will have an opportunity if you want to contribute to the debate. We are in committee.

Senator DASTYARI: Mate, we are going to have all day to do this, Sean.

Senator Canavan: Proper title, please.

Senator DASTYARI: Sorry; Senator Edwards—who, may I say, is looking remarkably handsome now that he has shaved off his moustache. Senator Di Natale is doing this at the first opportunity, the first sit down and, I hate to say it, the first date and, I hate to say it, the first date—faults and everything. So we have a situation where the entire leverage of this movement and what this campaign had been building towards, with all the work that had been done over two full years now not only by the Labor Party—and the Labor Party played a very big role—but also people like Christine Milne, community groups, activities and movements everywhere has been sold out.

I am going to have a lot to say today about how some of these groups feel about it all. He has gone to all of them and said, 'I'm going to fold on the first opportunity I get. I'm going to fold because it is easier to fold.' Yes, Senator Di Natale, it is always easier to cop out. It is always easier to give up on principle. It is always easier to say, 'You know what? They are a bunch of really powerful companies and the government here is playing a big role in protecting them, and the easiest thing for me to do is just to have the debate go away.' It is disappointing, it is disgusting and it is horrible that someone who professes to actually be passionate about these issues, who professes to care about these issues, who professes that these issues are a priority for them and their political party would come into this chamber and sell out on this point of principle.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (11:24): There was one point in particular that Senator Whish-Wilson made earlier that I took some offence at that, and that was when he claimed that Labor were just upset because the Greens had done the deal before Labor. Let me just put some facts on the record. Last night we rejected the final begging, grovelling approaches from the big end of town's representatives on the other side of the chamber and we said, 'No, we will not compromise on this. You have to fold and you have to deliver this bill with full tax transparency.' When offered the same 30 pieces of silver, we rejected it. Those who have now signed this deal—the political geniuses sitting down there preparing their notes to speak—took the 30 pieces of silver.

So I want to absolutely put on the record that, when Senator Whish-Wilson said that Labor were just upset because the Greens did the deal before we did, he could not have misled this chamber more seriously and, importantly, besmirched those on this side, who have been campaigning for full tax transparency for a vast number of years along with many, many members of the Greens. And they will be horrified that the geniuses in charge of the Greens decided that they could do a filthy deal and exempt all of these companies that are donors to the Liberal Party. That is on their head and their head alone.
If you had a spine or some political courage, there was no need to roll over and give the government this bill. They needed this bill. It was important legislation. It is flawed and it does not go far enough, but the government needed this bill—and all they had to do was agree to reveal the level of tax that these companies were paying. Let us not forget that Malcolm Turnbull's own company was in there. But you have chosen to give the government a leave pass. The Australian public is being kept in the dark because of the Australian Greens' lack of spine on this. And you will pay a price—and you deserve to pay a price.

Senator CAMERON (New South Wales) (11:27): I was a union official for 27 years, and my day-to-day job was negotiation. Some of the negotiations that you entered into were negotiations that you did not think that you had a lot of chance of winning. But you had to work out a strategy, you had to sit down and look at what you can achieve and you had to push a little bit further than what you thought the employer was going to give you. When the employer eyeballed you and said, 'That's all we've got. If you don't accept what we are offering, you can go on strike or you can leave. You can do what you like, but we are not going to give you anymore,' that is when the tough choices had to be made. That is when you had to dig in. That is when working people dug in and said, 'We will call the bluff.' If workers and unions had behaved like the Greens have behaved in this set of negotiations, workers would still be earning very little, their penalty rates would be gone and their annual leave loading would be gone.

From time to time you actually have to show some courage and be tough in negotiations—the exact opposite to what the Greens have done in relation to these negotiations on tax avoidance and tax transparency in this country. They have just given in. They were weak in their strategic approach to the negotiations. They were incapable of understanding that what we should have achieved here was much more transparency and a much better outcome for the public purse and the national interest. The Greens did not show any courage. They did not show any negotiating skills. They did not show any capacity to actually understand the importance of this issue to the public purse. It is tragic that they would keel over so quickly to the Liberal Party and the National Party on this issue.

When you see Senator Heffernan up defending the Greens you know there is a problem. You know something has gone wrong. What has gone wrong is that Senator Di Natale did not have the capacity, did not have the courage and did not have the commitment to actually deal with this issue effectively, and I am not sure whether he had the backing of his party to do so. By simply giving in at the first sign of a bullet flying past you, by simply conceding at the first sign of the coalition eyeballing you and staring you down, demonstrates a major weakness in the Greens and a major weakness in their strategy and a major weakness in their leader's capacity to understand what is important for the Australian public.

You see, this issue now means that the political donors—the multimillionaires that are running companies around this country—who donate to the National Party and the Liberal Party, who fund their election campaigns, will now not pay their fair share of tax. They will continue to hide exactly how much tax they pay, yet ordinary workers in this country and families in this country are being told by those opposite that everything is on the table in terms of tax, including a GST. We know that a GST would leave families thousands of dollars worse off. They are maintaining a GST on the table to take more tax from ordinary working families who are battling to keep their heads above water now, battling to ensure that they can
put school shoes on their kids' feet, battling to buy books for their kids to go to school and probably have not had a holiday for some years. They are the ones who are being targeted by this mob over here, while their mates who donate to them, who donate millions of dollars to the Liberal Party election coffers, are being let off scot-free. That is the problem here: if you donate to the Liberal Party and if you are a mate of the Liberal Party, then they will cover for you in terms of how much tax you pay.

The perfect example of that is 7-Eleven. The head of 7-Eleven presided over a company that ripped off migrant workers, that ripped off 457 workers and that ripped off every franchise it could. Do they have to indicate how much tax they have paid? No, they do not, and why don't they? Because the Greens capitulated. Because the Greens did not have the courage, the capacity or the will to take on the coalition for transparency.

If you go back to the former Greens leader, the Greens were not a party that was determined to be in the mainstream. What is the mainstream for the Greens? Obviously, the mainstream for the Greens is to sit side-by-side with the coalition and their big business backers to hide what is happening in relation to tax in this country. If that is the mainstream, it is not the mainstream where the Labor Party wants to be. We do not want to be there. We want to be in the spot that makes sure that everybody pays their fair share of tax, especially the multimillionaires and especially those companies that are ripping off workers and want to get rid of their penalty rates while not paying an appropriate amount of tax in this country.

What did Christine Milne say back a few years ago? She said, 'Corporate tax avoidance in Australia is endemic.' Will this bill deal with the endemic tax avoidance? Of course it won't. The Greens have sold out their former leader in terms of the vision and the values that Christine Milne had. She said, 'Billions are being lost to Australians via so-called aggressive tax planning.' Will this bill resolve the aggressive tax planning for those that are ripping off the tax system in this country? Of course it won't. So Senator Di Natale and the Greens again have sold out on a value and a principle that former Greens leader Christine Milne aspired to achieve. Former Greens leader Senator Milne said:

Big corporates are exploiting loopholes in our tax laws and the global nature of their business to avoid tax. That means that it is Tony Abbott and Joe Hockey's job to act now.

Does this bill resolve that position? No, it does not, because it still leaves corporations in this country ripping off the taxpayer. She went onto say:

Tony Abbott and Joe Hockey are going to extreme lengths to defend the indefensible and protect the profits of the big end of town.

This was a press release from Senator Milne. I hope she puts a press release out today and says that Senator Di Natale and the Greens are going to extreme lengths to defend the indefensible and protect the profits of the big end of town, because that is exactly what is happening here. Everything that Senator Melne stood for is being trashed by this Greens party room today—absolutely trashed. What does this do about defending the indefensible? A Greens leader standing here defending what they are doing now is indefensible. Senator Milne's press release goes on to say that:

As well as increased transparency and reporting of subsidiaries, strengthening the tax act on profit shifting and properly resourcing the tax office, some further immediate steps we can take have been identified during the inquiry.
So Senator Milne kicked off the inquiry, Senator Dastyari took on that inquiry and took it to levels I do not think many other people would have taken it to in terms of exposing the rorts that were going on and exposing the unfairness of the tax system in this country. Senator Dastyari has done that and, after all that work, what do we have? We have the Greens doing a deal in return for what? In return for nothing. Did they get any deal on tax profit sharing and tax profit shifting, as their former leader wanted? No, they did not. Did they get more resources for the tax office as a result of negotiations on this bill? No, they did not. They sold out completely and utterly. Why did they sell out? Because they want to be so-called 'relevant'. They want to be in the mainstream.

My lesson for the Greens is that you do not become relevant and you do not judge the mainstream as supporting tax avoidance in this country and, if you continue to support tax avoidance in this country, what you will get is more pressure on ordinary families to give up more of their support systems from government. The coalition will continue to try to cut pensions. The coalition will continue to try to cut support from seniors. The coalition will continue to cut health in this country, to cut education funding in this country and will force the states to argue for a GST that will hit everybody and will hit the poorest hardest. That is the strategy that the coalition have set out to achieve.

I never thought for a minute that the Greens would be the ones who would not have any idea about that strategy or would capitulate to that strategy so quickly, capitulate in a way that leaves ordinary people in this country open to further attacks on their standard of living while the big end of town walks away untouched. That is what has happened with the Greens and, if that is the mainstream, the Greens should not be in the mainstream on these issues because the mainstream, according to your mates across on the bench with whom you are voting today, is about protecting the tax avoiders, protecting those who have wealth, power and privilege, making sure that inequality in this country increases because the big end of town, those who are rich, will not be paying the proper tax and ordinary battlers out there who go to work every day, battling hard to make a quid, battling hard to get food on the table for their family, they pay their mortgage or they pay their rent, they are going to have to pay more because this bill allows the tax rorters, the tax scammers and the tax avoiders to get away with it. That is what the coalition have done—backed in the avoiders, the scammers and the rorters. That is what has happened here.

There are people who are on standard of living that ordinary Australians could never dream of because they are not paying their fair share of tax. They are getting richer by the year as the poorer in this country battle every day to put food on the family table. That is what the Greens have done. How obnoxious is it that the Greens could have descended so low in a debate of such importance. They have descended to a position of simply backing in the rorters, the tax avoiders and the people who do not want to make a contribution to health, to education. That is what has happened with the Greens here. What former Senator Christine Milne said was that she wanted:

… the Abbott government to immediately make public the ATO's settlement register so that everyone knows to what extent we are missing out on revenue from the big end of town.

Does this meet the test that the former Leader of the Greens set? No, it absolutely does not. The Greens are an absolute disgrace on this issue. They have sold out the working class in this
country. They have capitulated to the Liberals. They are simply supporting tax avoidance and tax rorting. They should be absolutely ashamed of themselves. *(Time expired)*

**Senator XENOPHON** (South Australia) *(11:43)*: I am going to be a bit boring and ask a number of questions about the technical aspects of these amendments because insofar as we are dealing with the first set of amendments and it was entirely appropriate that—

**Senator Canavan:** Relevant, I think you mean.

**Senator XENOPHON:** Don't taunt me, Senator Canavan. I just want to get on with it. We will never know whether we could have got a better deal. My preference was to have got a better deal, but I am not going to engage in who is to blame—I do not think that is helpful. I want to understand this. In the context of general purpose accounting, which is a real issue of concern, this is about companies with turnover of a billion dollars or more—the Googles, the Apples, the Microsofts—which for many years have been getting away with special purpose accounting where they give very little information about transfer pricing and about a whole range of measures, where they simply get away with blue murder by saying as little as possible about their finances. I moved the amendment; it was supported by the Australian Labor Party, the Australian Greens and a number of my crossbench colleagues. That passed and this is one of the amendments that is in contention.

From the brief discussion I have had this morning with government advisers in relation to this, the Australian Greens, through Senator Di Natale, will be moving an amendment relating to general purpose accounting, but it will be different in some respects. It will be different in respect of the reporting requirement. Instead of going to the ATO, it will go to ASIC. I do not have a problem with that but I do have a series of questions to ask about it.

**Senator Cameron:** ASIC have no money.

**Senator XENOPHON:** Senator Cameron says that ASIC have no money—well, they have money, but whether they can do the enforcement that they are meant to is another issue. So I would be grateful if the minister could advise: in what material respects is the amendment being proposed by Senator Di Natale any different to the amendment that the Senate agreed upon in terms of general-purpose accounting? That is the first question. I understand that the first difference may be in terms of reporting to ASIC or to the ATO. The other concern is: will this do what is intended in the amended form by the government? Will those companies that have been grandfathered out of the system, that have been exempted, be exempt from these provisions in respect of what the government is proposing?

That is for starters. I know I am being boring, but I want to deal with the substantive measures here. I want to see what we are getting as an alternative in respect of this and whether it will deal with that key issue. At the risk of damaging his journalistic career, I call this the Michael West amendment, because Fairfax business journalist Michael West has been writing about this articulately for some considerable time and it was his investigative work that influenced me to put this amendment up in the first place.

**Senator CORMANN** (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) *(11:46)*: To clarify, the government is not moving any amendments and the government is not intending to move any amendments. The only motion the government has moved, that I have moved on behalf of the government, is that the committee does not insist on its amendments with which the House has disagreed. Now
Senator Dastyari has asked for that question to be taken in detail one by one, and that is fine, but the government does not intend to move any amendments.

Senator CAMERON (New South Wales) (11:47): I want to draw the Senate's attention to the fact that moving responsibility from the ATO to ASIC is fraught with danger. The key regulator, ASIC, themselves warn that their ability to have an impact and to do their job properly and supervise markets and companies was substantially reduced by the $120 million cut in the first coalition budget, which brought so much devastation to families around this country. We all remember that first budget. We remember the former Treasurer and Senator Cormann sitting out there with their Havanass, puffing away with great satisfaction after they had ripped into pensioners, ripped into welfare recipients and forced more costs onto workers every time they went to see the doctor. They were very satisfied with that. But what the public did not understand was that some of the regulation that put checks and balances into the corporate system was also ripped away in that first budget, to the extent that the ASIC chairman, Greg Medcraft, had said that their capacity to fulfil their role would be substantially reduced.

I recently participated in the insolvency inquiry into the building and construction industry, and what ASIC were clearly demonstrating there was that they have limited capacity to handle corporate malfeasance because they do not have the money. They just do not have the resources. So to put a proposition here that takes responsibility away from the ATO, which has had its funding cut as well, and gives it to ASIC and to present that as an acceptable proposition—to put that responsibility to an organisation that does not have the money and the resources to fulfil its existing obligations and responsibilities—shows just what this bill is about. It is about making sure that there is no capacity for the regulators to actually track down the tax rorters and the tax avoiders.

How the Greens could possibly agree to that amendment beggars belief. Surely someone in the Greens understands that both the tax office and ASIC are being starved of funding as part of the austerity approach to 'balance the budget' from the coalition. It was one of these 'budget emergencies'. We do not hear about budget emergencies anymore, even though our position is deteriorating under the coalition. We do not hear about that anymore, but we still see the cuts going into the corporate regulators who are there to try and ensure that business pays its fair share of tax. This proposition that you take it away from the ATO and put it into ASIC and ASIC will be able to handle it is just not true, and it should not be agreed to. Mr Medcraft is saying they want to push the case for user-funded models, because they are desperate to get cash so that they can do their job.

In that committee I was in it was clear that people could 'phoenix' companies in the building and construction industry and generally across the economy. That means they could deliberately kill a company and leave it with all its debts and set up another company that would be a new company—it would be what is described as a phoenix company. The evidence we had was that they could do that with impunity because ASIC did not have the resources or the funding to deal properly with phoenixing in any industry in this country. But now we are being told that, as part of this bill, we will take more responsibility from the ATO and put it into ASIC, and ASIC will be able to handle it. Well, ASIC will not be able to handle it.
The outcome of that will be exactly what the coalition want—that is, to ensure that there are no checks and balances on their mates that provide the funding for their election resources. That is what it is about. They just do not want their mates in the big end of town to pay their fair share of tax. Everyone else in the country can pay a higher GST—15 per cent GST. We know the secret plans there. That was reported yesterday. It is there—15 per cent GST on everything; on health, on education, on fresh food. That is where it is at.

Yet, what we have from the other side now are all these manoeuvres to try to make sure that if there is any capacity for this bill to deal with tax evasion properly, it will be diminished because ASIC are the organisation that have to deal with it and ASIC will not have the resources. This is another demonstration that Senator Di Natale was comprehensively outmanoeuvred, comprehensively done over, comprehensively pushed aside by whoever negotiated on behalf of the coalition—a great victory for the coalition, a great defeat for the Australian public. The Australian public are the ones who are going to have to pay the price for this. To actually contemplate asking ASIC to do more oversight and overview work with reduced resources is just not an acceptable proposition.

We even had Nationals Senator John Williams calling for a user-pays system to be introduced for financial advisers so that ASIC could better police the industry. I have a lot of differences with Senator Williams, and certainly the National Party, but there is one thing you can say about Senator Williams: he is on to this issue; he is on to the issue about corporate rorting. He is a lone voice in the coalition on this. He has understood the need for extra resources. Why couldn't the Greens understand that? Why couldn't the Greens understand that by moving any responsibility out of the tax office in to ASIC, we end up moving the responsibility to an organisation that does not have the resources or the capacity to deal with this effectively?

It is bad enough being totally outmanoeuvred in your negotiating position, as the Greens have been, it is bad enough just capitulating, as the Greens have, and it is bad enough making workers in this country pay more because you are not prepared to make sure that the big end of town pays their fair share, but to come here and argue on technical points that ASIC can do the job is just a complete misunderstanding of how things work and what has happened under this Abbott Turnbull government.

They look after the big end of town. They look after your mates. They do not care about those who are battling to look after their families, who are struggling to keep their heads above water, who know how difficult it is to buy the school uniforms and get the kids off to school, who know how expensive it is to go on public transport that could cost an extra 15 per cent in terms of GST. They do not care. I never thought I would see the day when the Greens would not care either. By passing this amendment, or supporting this bill, it shows that they really do not care, or they either do not care or do not understand the key issues affecting the Australian public in trying to simply get a fair go on taxation. Capitalising to the negotiating strategy of the coalition is not about being on the side of the angels, as the Greens would have had us have it this morning. It is not about being on the side of the angels; it is about capitulating. It is about an absolutely amateurish approach to negotiation. It is about not having the courage to stand up for your convictions. It is about not having the values that your previous leader had in relation to making sure that everybody pays their fair share. What a capitulation from the Greens. What a disgrace. For a party who say
they are progressive, for a party who say that they stand up for the battler, it is an absolute nonsense.

This is an area where this Senate had an opportunity to make sure that the rorters, the tax avoiders and the big businesses that are ripping off their workers paid their fair share of tax. This bill makes sure that that will not happen because there will be secrecy in place—we will not know what is in there. Joe Stiglitz, the Nobel winning economist, spoke about information asymmetry. That means you need to get all the information that you can for a properly operating market. Well, the market will not operate properly when you have certain companies that are not paying tax and nobody knows what is happening. There can be no public pressure on these companies because it is all kept quiet and secret.

Why is it kept quiet and secret? It is kept quiet and secret because these are the people who fund the coalition's election campaigns. They are the ones who are out arguing to rip off workers, get rid of their penalty rates, rip off 457 workers, rip off migrant workers. The big end of town are the people who are being protected under this bill. They will not even be required to disclose how much tax they are paying. ASIC will not be able to enforce it because they do not have the resources. This is an absolute joke. This is an area where the Greens have been absolutely outmanoeuvred, treated like absolute mugs, and they have not done what their previous leader said they should do—that is, deal with a comprehensive problem, an endemic problem, that meant that ordinary working people paid more tax. We heard that we were starting a journey. You do not start a long journey without a suitcase or without anything in it. Let me tell you: this long journey that the Greens think that they are starting on—the suitcase is empty, because they get no extra resources for ASIC. They get no extra resources for the ATO. They get no protection for the ordinary families of this country. It is an absolute debacle what has happened here.

I cannot understand the Greens for a minute who argue that they are the protectors of working people in this country. What an absolute joke! How can you protect ordinary working families when you simply give in to the big end of town—when you do not have the backbone, when you do not have the intellect and when you do not have the strength and courage of your convictions to stand up to the Havana-smoking frontbenchers over there who want to rip working people off? How can you have any credibility in this debate at all?

This is a party that has completely lost its way. What for? They want to be relevant—you are not relevant to the Australian public, if you allow the rip-offs to go on. You are not relevant to the Australian public, if you do not stand up for them. You are simply trying to achieve relevance, and relevance at any cost. Relevance of numbers and year do not automatically mean relevance for the Australian public. I think the relevance that is important is to stand up against the rip-off merchants, the big end of town and the rorters that are out there.

Senator Milne had it right: the former leader of the Greens identified the problems and the issues that had to be dealt with. Senator Dastyari took that work on, and we have got a way forward. But the Greens capitulated. They let the Havana-smoking frontbenchers over there—the supporters of the big end of town—take them to the cleaners with absolutely no capacity to negotiate, no courage to eyeball the coalition and no attempt to support ordinary working people. It is a disgrace. (Time expired)
Senator XENOPHON (South Australia) (12:02): Whilst we are dealing with the first lot of amendments—appropriately moved by Senator Dastyari so that it will be split—it is relevant to understand, before we vote on this, the context of the amendments that are being proposed as a result of the agreement between the Australian Greens and the coalition in relation to this. Senator Di Natale has an amendment that he will be moving that seeks to supplant the amendment that was accepted and voted on by the Senate—3D, reporting of information about significant global entities. My question to the Minister for Finance is: to what extent is what has been agreed between the government and the Australian Greens in terms of the significant global entities reporting requirements—this relates to general purpose accounts? It is very important to find out, as Senator Cameron alluded to, how the Googles, the Apples and these large multinational corporations and pharmaceutical companies, Big Pharma—and I acknowledge the work that Senator Dastyari has done on this and indeed former Senator Milne.

I am just trying to understand for the purposes of this debate: what are the differences between the two? When you have international tax experts who do not work for the big end of town asking questions, will it be based on consolidated revenue—I am asking specific questions, for instance, whether it applies to consolidated revenues? Does it have to be a general purpose financial statement Tier 1 as set out in accounting standard AASB 1053, the same as for companies listed on the ASX—these are technical questions but they are important as to how this will work. I just want to make sure that it does what it is intended to, so I ask these questions genuinely of the finance minister. I just want to get to the core of the substance of what we are dealing with here.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (12:04): Again, the amendments that Senator Xenophon is referring to, at this stage, have not been moved—the Senate does not actually have these amendments in front of it. However, the only difference I am advised is that they are better drafted. They actually do give effect to the intention that Senator Xenophon previously articulated. The amendments that were previously put to and adopted by the Senate actually were not technically as effective.

Senator XENOPHON (South Australia) (12:04): I wish to put a number of questions to the finance minister. I do not have an issue, if the Minister for Finance gets back to the committee stages not immediately but within a few minutes or half an hour so we can just understand this, because they are technical in nature.

I am very pleased that the finance minister has said on the record that they are better drafted—although I think that the Senate drafting office does a pretty damn good job, given their resources and the pressures they are put under. He says that this will give effect to what is intended. What was intended in the course of the debate on and the committee stages of this bill was to ensure that general purpose accounting requirements apply. So I am very pleased and I thank the finance minister for saying that.

My specific questions are: firstly, is the test for the application based on consolidated revenues as defined by accounting standards—that is, the same as in a large proprietary company test in the Corporations Act? For ease of reference to the advisers, I will provide a copy of these questions—that might be useful.
The second question I want to put on record is: does it apply to the Australian group defined as the ultimate Australian holding company and all of the entities it controls? Thirdly, does it relate to general purpose financial statements Tier 1 as set out in accounting standard AASB 1053—that is, the same as for companies listed on the ASX? Fourthly, is the same timely financial information being lodged with the ATO no later than four months after year end—the same deadline as in the Corporations Act? Fifthly, does it have to be audited and the lead audit partner has to rotate every five years—the same requirements applying for the Corporations Act?

I genuinely thank the finance minister for saying that this is about a better drafting for the intent of what the Senate wanted to do in terms of general-purpose accounts. I am grateful for that. I will go and see the advisers and give them a copy of these specific questions.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (12:07): The answer to the first question is yes. The answer to the question in relation to timing is that under this amendment the timing would be connected to the timing of the tax return, so the timing is different.

Senator LINES (Western Australia) (12:07): I guess my journey on tax advocacy really started in around 2006. I am just really disgusted that we are here today responding to a dirty deal done by the Greens in the middle of the night. It just shows how little they understand what they are actually doing. But I want to talk for a moment about my journey. It shows again the inexperience of the Greens. I come out of a trade union, and I have spent the majority of my working life working with low-paid workers.

In 2006 we thought we, along with members, had done a really good deal at a public hospital. We had got workers a four per cent wage increase. But, when we put it to the general membership, they rejected it overwhelmingly. We were really shocked because we did think this was a good deal. We had done it with members. The issue that they raised with us was that the cost of living for them had gotten to the stage where they needed a much bigger increase than the four per cent that was on offer by the state government. Their rent had gone up. Their utilities costs had gone up. Food costs had gone up. And four per cent really was not going to cut it.

So we sat down with union delegates and low-paid hospital workers—orderlies, cleaners, personal care workers, enrolled nurses, technicians and so on—and we worked out that there was no way we could ask the state government for the sort of money, the sort of wage increase, that those low-paid hospital workers needed to cover their costs. So we started to look at what the tax system offered us. What did it offer for low-paid workers? Obviously, to try to lobby the state government and agitate for the state government to give workers the sort of increase in wages they needed was not possible without additional revenue. That was really when my tax journey started. It was absolutely motivated by low-income workers in Western Australia saying to me, as their elected representative, 'A four per cent wage increase just doesn't cut it.'

It just shows how out of touch the Greens are that they do not appreciate, that they do not understand, because none of them have ever really been in front of low-paid workers, that the deal that they have done here today to lock away the transparency of private companies absolutely hurts low-income workers because it stops the government getting increased revenue. I have heard the Greens go on about how we have a revenue problem in this country.
It just shows that their words speak a lot louder than their actions. Someone who really believes that we have a revenue problem in this country would not have done the dirty deal that they have done in the middle of the night. It hurts low-paid workers, like hospital workers in Western Australia, because the government continues to get a shrinking revenue. Let us see how they explain that.

But of course low-income workers do not support the Greens. Low-income workers do not look to the Greens for their salvation. Labor stand for low-income workers, and we stand for tax transparency.

It is amazing. I am not quite sure how the Greens who have sat on the Senate committee that has looked at the kinds of rorts of 7-Eleven—a company on the secret list, a company the Greens have just given an exemption to—think. How do they justify the stories we have heard from 7-Eleven workers who have been ripped off? Yet today they have sat with the government and said, 'It's okay for 7-Eleven to rip workers off, and we're going to continue to allow them to sit on a secret list so that ordinary Australians don't really get to see the sorts of profits that 7-Eleven have made.' I can tell you that 7-Eleven have given us the run-around on that Senate inquiry. We keep calling them back, and we keep calling them back, and we ask them more questions, and they can hide. They can hide, and the Greens on that committee are going to allow 7-Eleven to continue to hide.

I wonder what the Greens will say to the low-paid cleaners in this place, who need the government to increase its revenue so they can get a decent wage. They are on strike this week. Those cleaners are on strike this week. Maybe the Greens have not noticed. They certainly do not care, because if they cared they would not have done the dirty deal they have done this week. It shows how out of touch they are with low-paid workers, particularly cleaners cleaning their offices. What are they going to say to them? They say: 'Look, we've done a dirty deal. We're going to allow these companies—to continue to be on a secret list. We're going to allow these companies to avoid paying tax. That's what we're going to do as the Greens party.' What a disgrace.

Last night we had an event here at Parliament House which a couple of the Greens came to. When you came to meet with those sacked MV Portland workers last night, you did not have the decency to tell them you had done a dirty deal with the government. You proudly stood there and said, 'We're with workers.' Well, I tell you what: I have already told the MV Portland workers that came here last night that the Greens do not stand with them. How could they front that function last night and say to those MV Portland workers, 'We're with you'? Clearly, the Greens are not with them, because no-one who stands with sacked MV Portland workers would have done that deal that the Greens did in the middle of the night. Had they already done the deal when they were standing in front of the MV Portland workers? Who knows? But you do not stand there and say one thing, 'We're with you,' and then turn around and do this dirty deal with the government on the other hand. You do not do that. It is hypocrisy.

And we have heard them today—what wusses. I am glad none of them were union officials, because boy they have sold out really easily. You have to be tough in negotiations. You have to stand up to the government, and this is a just cause. The Australian tax network must be throwing its hands up saying, 'We've done all this work for a couple of years and the
Greens, in the middle of the night, on the second last day of sitting for this year, struck a deal with the government.

My union, United Voice, have advocated so hard for tax reform, because tax reform is a salvation for low-income workers. I do not know what they will be saying about the dirty deal the Greens have done this morning. Again, it just demonstrates that they have no understanding of what it is like to walk a day in the shoes of a low-paid cleaner, a low-paid hospital worker, a low-paid early childhood educator or a low-paid hospitality worker. They have no idea, because they so quickly sold them out.

They are allowing these companies to continue behind this veil of secrecy. This morning we heard Senator Dastyari say in this place that one in six of those companies on that secret list are either political donors or government contractors, and of course we know who they donate to: they donate to the Liberal Party and the National Party. That is the deal the Greens have done. Let them hold their heads up and stand like they did last night with the MV Portland workers and say that the Greens were proud to do a deal that continues to let one in six on that list donate to the Liberal Party and the National Party in order to get government contracts but to hide their tax obligations. That is the deal the Greens have done in the middle of the night.

As Senator Dastyari also told us this morning, the $100 million figure was not just plucked out of the air, and the Greens know that. It was there because it captures 1,000 of Australia's largest private companies. We all understand that the Turnbull government always wants to protect its mates at the big end of town, and we also know that Mr Turnbull and his wife have a company that was on the secret list. A couple of weeks ago in this place, when that list was first published, I stood up and informed the Senate of that—and guess what those opposite did? They tried to call a point of order on me. They did not want me, through the Senate, to tell the Australian public that Mr Turnbull and his wife, Lucy, are on that list! The Greens know that, and that is who are they are protecting. Who would have thought the Greens would line up behind the Prime Minister of this country and run a protection racket? That is what they have done today, and I am angry about it, because I stand for low-paid Australians.

I stand for paying my tax, and I have never, ever complained about paying my tax. It is my obligation as a citizen in this country to pay my tax, not to set up some shonky scheme to avoid it. I do not hold any shares, and you can look at my senators’ interests. I have no interest in hiding my tax. I do not have private companies. I want to pay my tax, and I can tell you that members I work with at United Voice also want to pay their tax. Why is it that we pay our taxes but the Turnbull government and the Greens want to allow the Prime Minister and companies like 7-Eleven to be on this secret list to avoid that transparency? Why have the Greens done that? It is because they do not represent ordinary working Australians; that is why the Greens have done that. And how dare they stand with those MV Portland workers last night and somehow pretend they are with them? They are not with people when they do that—they are absolutely not.

This legislation is flawed because it does not go far enough, and for Labor it was worth hanging out for a better deal. Just two weeks ago the Greens were with us, but we heard
Senator Di Natale stand in this place and say this bit of legislation was ‘better than nothing’. It is not. We should have stared the government down, but again the Greens are trying to find some relevancy, just like the deal they did a couple of months back that affected part pensions in this country. And now most organisations believe the Greens sold out middle Australia with that deal, which they did. They are just not experienced at this stuff. It is not where they come from. Their hearts are not with ordinary working Australians. Their hearts are now with the Turnbull government, who just wants to continue to protect these big companies, and this is not good enough.

We know where the Liberals stand on tax transparency. They have always voted against Labor's move. They are predictable. We know they want to protect their mates at the big end of town. They voted against the moves that Labor put up when we were in government time and time again. It is what we expect from them. Their constituency is very clear. They do not support ordinary working Australians. They have been completely silent on what is happening to those Australian seafarers on the MV Portland. They apparently have little understanding of or compassion for cleaners on strike in this building this week. They took money out of the pockets of early childhood educators. They took money out of the pockets of aged-care workers, and now the Greens have joined them. That is now what the Greens stand for. Well, let's see where the Greens stand on the GST. We know where Labor stands. We oppose a big fat new tax. We oppose an increase in the GST to 15 per cent. We oppose it. We believe it, and it is who we are.

It is not who the Greens are. Maybe the next thing they will be trotting up to support the government on is a big, fat new increase in the GST to 15 per cent and putting it on everything. They do not represent low-paid workers; Labor does. That is who our constituency is. We know the damage a GST would do to low-income earners. But let's see where the Greens go next on the GST—striving for relevance, clinging to the tails of the Turnbull government. What a place to find yourself in at the end of the year. What a place to be. I am proud to be Labor. I am proud to stand for tax transparency. 

Senator McALLISTER (New South Wales) (12:22): We have been told quite a bit in the last week about the government's desire to have a mature, grown-up conversation about taxation. To that end the government has been keen to assure us that they have not ruled out GST. In fact, not a single member of the government has been willing to rule out the introduction of an increased GST in either its level or the breadth of its application.

But I will stay to government senators that it is a pretty funny way to start a mature conversation.

Senator Cormann: Mr Chairman, I rise on a point of order. I appreciate that this is a wide-ranging debate, but there is a question before the chair and the question before the chair does not relate in any way, shape or form to the GST or other matters that the senator has started to touch on. The issue that we are dealing with is a government bill to combat multinational tax avoidance and how the Senate proposes to deal with a position adopted in the House of Representatives. I ask you to draw the senator back to the question before the chair.

Senator McALLISTER: On the point of order: I am simply seeking to place the matters before this chamber in the context of the broader debate on taxation.
The CHAIRMAN: While the minister is right—there is a question before the chair—Senator McAllister has only been speaking for less than a minute. We will see whether her comments become relevant in due course.

Senator McALLISTER: I simply wanted to observe that it is a funny way to have a conversation about taxation when all of the things that do seem on the table relate to penalties for low-income people in the tax-and-transfer system. Very few of the things that are on the table go to the question of corporate taxation and of the big end of town paying its fair share. That is, of course, the debate that we are having here this morning.

The Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015 was an opportunity for the government to demonstrate that they would be even-handed in this mature conversation that we are embarking upon about taxation. Sadly, that is not what has been presented to us this morning and is not what has been presented to us over recent months. This bill in general has been supported by Labor, but our sense is that it is utterly inadequate in addressing the very real challenges of corporate tax avoidance that are presented to us. The bill, of course, takes a completely untested approach to closing some of the loopholes present in our corporate tax system. There are no precedents for the approach around the world.

The extraordinary thing—and I remember looking at this on budget evening—is that in the budget papers the measures provided for in this bill could not be quantified. Instead of a number, the usual thing that one expects to see in budget papers, there was a series of asterisks which substituted for an actual quantified assessment of the impact of this bill on levels of revenue for the government. I think that tells you quite a lot about the seriousness with which the government has approached this task. I draw people's attention to the way that we might have been treated if we had put forward a set of propositions around corporate tax reform but just put a series of asterisks in place. That would have been laughed out of town. That would have been a case for serious mockery. But this government has had the effrontery to present their arguments with absolutely zero information about what the likely impacts of the bill will be in addressing serious problems.

The specific questions that the chamber is debating this morning go to transparency. It has been the subject of quite some examination in both the Senate Economics References Committee and here in the chamber over the last two years, as previous speakers have pointed out. Of course, when last in government, the senators on this side of the chamber and Labor ministers took this issue seriously. We passed legislation in government that required the Australian Taxation Office to publish information about the income and tax paid by companies earning more than $100 million. Ever since we put that legislation through, this has been the source of real anxiety for the government but, more particularly, real anxiety for the very wealthy individuals who fear that their own tax affairs may be the subject of additional scrutiny and, quite frankly, should they be scrutinised, might not really stand up to that scrutiny.

The truth is that there are quite a number of companies in this country that are in legally grey areas. The ATO has said that privately owned corporate groups, often controlled by a wealthy individual or a family, pose significant tax compliance risks. These are the very companies that our legislation sought to target and these are the very companies that the government today, with the agreement of the Australian Greens, is seeking to exempt from scrutiny.
The thing about these companies is that in many instances their arrangements may well be legal. It may be that they are in strict compliance with the tax laws in a black-letter sense. But if we do want to have a mature and serious debate about taxation then we need to understand that, in certain instances, people may well be in compliance with the law but nonetheless the practices that the law enables may not be fair. They may not see very large, very wealthy organisations paying a level of tax that ordinary Australians struggling to get by would consider reasonable. They may also see particular individuals using a large number of companies interlinked in complex ways to avoid paying the income tax that they also would be reasonably expected by the rest of the public to pay.

Throughout this debate there have been people on the other side of the chamber who have said that the publication of this information, putting this information into the public domain, could cause misunderstanding, and that perhaps the Australian public are not smart enough or mature enough to understand the information that would be put before them when this information is published. My assessment is that the opposite is true. People are not really afraid that the Australian public will not understand the information that is put before them. People are afraid that the Australian public will understand the information that is put before them. They will understand that the situation where one in five private companies is paying zero tax is unfair and unreasonable and sees a small group of people shirking their obligation to contribute to the services that are valued by all Australians, because that is the truth of it. When we are talking about tax, we are also talking about government services.

As my colleague Senator Lines pointed out, the social wage in this country is absolutely essential to the support of so many very low-paid workers who struggle day to day to get by buying food, buying clothing and supporting their children through education. Those families are dependent on a health system that works. In their retirement they will be dependent on an age pension, and they will be dependent from time to time, if they fall into unemployment or underemployment, on some level of government support to keep their family on their feet until such time as they can, once again, provide for themselves. Each of these measures that a civilised government provides are absolutely dependent on adequate levels of taxation. It is, to that end, most important that we are able to have a serious debate about tax in this country. But you cannot have the debate if you do not have the information.

There has also been a series of spurious arguments made about some of the personal security risks presented by the publication of tax information. We saw the embarrassing circumstance where government agencies contradicted these arguments, pointing out that the AFP had never provided any concrete examples of threats to individuals arising from their financial information being in the public domain. We also saw arguments that the disclosure of this information would harm Australian owned private companies in their market environment. Of course, what we do understand is that, in any market, competition is absolutely dependent on fair information and an even playing field. We ought to be looking to even up the playing field between publicly listed companies, whose financial reporting gives a clearer picture of the risks related to the companies, and the private companies. This lack of reporting about their tax affairs may well conceal some risks associated with those companies. We have heard about compliance costs. This cannot be a serious reason for opposing tax transparency. Compliance, of course, must also always be proportional. We must always be
balanced. But if there is some public good, it is not unreasonable to ask compliance costs to be borne by these businesses.

What is astonishing then is to come into this chamber this morning and hear news that the hard-fought efforts of, the hard-fought gains won by, many in this chamber to improve levels of tax transparency—against the wishes of the government—have been undermined overnight by a deal by the Australian Greens in concert with their friends in the government. We are frequently lectured on this side of the chamber by the Australian Greens about their role in protecting progressive interests in this country. We have been told by Senator Di Natale that his goal is for the Greens to become the natural home for mainstream aggressive voters.

It is a pretty funny way to go about it, because if I were looking to displace the Australian Labor Party—which, of course, is the true home for mainstream progressive voters—I would not set about doing that by repudiating hard-fought gains in tax transparency. I would stand with the only progressive party that is capable of forming government in this country, and I would stand by the legislation that they put in place to improve the level of tax transparency in this country. What I would not do, similarly, is defend this proposed legislation. I would not come into the chamber and say, 'This half-baked deal gets us somewhere.' It really does not. There was a majority view formed in this chamber to stick with the arrangements that Labor had put in place. The unilateral decision by the Australian Greens to walk away from that view for some, as yet unexplained, benefit—which, I suspect, is not going to prove to be particularly impressive—is really inexplicable to me and I think will be a source of real disappointment for many progressive activists out there who do look to the progressive parties in this chamber to defend their interests and their beliefs.

I note that the Australian Greens are fond of putting up enthusiastic memes and enthusiastic posters like, 'We did it!' Well, what have we done today? We did it; we managed to work with the government senators to water down tax transparency provisions in this chamber. I say to all senators here: I think that this is a very great shame. It does not reflect well on the Australian Greens, but the Australian Labor Party will not walk away from our commitments on this matter.

Senator KETTER (Queensland) (12:36): Across Australia this morning, and I trust tomorrow morning as well, supporters of the Australian Greens will be choking on their Weet-Bix. They will be spitting out their coffee, and they will be absolutely astounded that the trust that they placed in the Australian Greens to defend their interests in this issue of tax transparency has been entirely misplaced. They have been betrayed by the Australian Greens. One must give some credit to former Senator Milne for her work in being part of the instigation of the Senate Economics Committee's inquiry into tax transparency. But that work has been betrayed by the current leadership of the Australian Greens.

We have woken up today to see that the Australian Greens have undercut the good work that Labor and the crossbenchers have been doing, working together to try to bring about a better outcome when it comes to tax transparency. What I am specifically referring to is the fact that the Greens have sided with the government in raising the threshold for the disclosure of tax. We know that, under the $100 million threshold which had been passed through this place, about 900 private firms would have been required to disclose their tax arrangements. Under this new threshold of $200 million of income, it is now likely to be fewer than 300 companies. Some estimates put it as low as 281 private Australian companies. This number
could be even lower, because it is well open to billionaires to come forward, as they are prone to do, to restructure their businesses and to hive off parts of their structures so that they come below the proposed $200 million threshold.

This is the sort of activity that people in this area get up to because they are particularly keen to ensure that the light of day is not shone on their tax arrangements. There are many prominent Australians who have come out and said they want sunlight to be shone on these tax dealings. We have had Mr Dick Smith come out. He actually savaged the Prime Minister for shielding the rich from tax transparency and he accused the Prime Minister of 'ratting' on typical Australians who pay their tax if the coalition goes through with plans to shield large private companies from having to disclose how much tax they pay.

We know that trust is the important thing. A key pillar of any successful economy is trust. Market driven systems are inherently based on trust—trust by workers that they will be paid by their employers; trust by businesses that other businesses will fulfil contract obligations; trust by everyone in the banks and the financial system; and, above all, trust in the government. We are currently at a low point in public trust in our institutions. The past year of publicity on the devious ways in which multinationals avoid paying taxes in Australia, albeit through legal loopholes, has eroded public confidence in the government's commitment to ensuring that there is a level playing field when it comes to tax.

While the tax office hounds our small businesses to register for GST, submit quarterly statements and deliver chapter and verse on their financial affairs, we are aware that Australia's richest individuals employ expensive tax accountants to find the loopholes that help them to minimise their tax. Tax data from the 2012-13 financial year reveals that 40 of Australia's top income earners claimed $42½ million for their tax advisers, an average spend of over $1 million each to bring down their taxable payments. Most Australians will never see $1 million in their lifetimes. It is hard for an average Australian to understand that someone gets $1 million deducted from their taxes just to pay for their tax accountant. It is not surprising their confidence in our tax system and in our values of fairness for all is being sorely tested.

But there was bipartisan support to expose and close the rorts that global multinationals are getting away with via a myriad of complex overseas arrangements that reduce their tax exposure in Australia. Everybody agrees that multinationals need to pay their fair share of tax that relates to their activities in Australia. But what about the many Australian companies and the private holdings of our wealthy individuals? Are Australians expected simply to take the government's word that our Australian owned businesses are beyond scrutiny, that we can expect them all to do the right thing, even though we know that many of our top income earners pay no tax whatsoever? If these companies and private trusts have nothing to hide, then why are the government and its Treasurer so outraged that the wealthy should be asked to put very basic financial information on the public record? As Dick Smith has recently said, we know who most of them are. There are currently around 1,498 Australian companies that enjoy an exemption from the normal financial reporting requirements that apply to all other Australian companies with revenue over $25 million.

In light of the recent exposure of how multinationals are avoiding tax in Australia, we should return to the issue of why so many of the top Australian businesses are able to keep their tax affairs secret. There were some temporary exemptions from full financial reporting,
but this is now something which we are focused on. There is a reason why we have joined in the bipartisan effort to combat multinational tax avoidance. It is that we are sick and tired of hearing all the stories of how much tax many global, iconic companies here in Australia are not paying—companies like Chevron, Glencore, Uber, Apple, Google et cetera. But are we simply to accept, without any information whatsoever, that our own wealthy Australians, whether they be companies like Myer or Linfox or simply wealthy Australian families, are paying their taxes here? Our tax transparency proposals would go a long way to redressing the suspicion that Australians hold about how fair our tax system is. Greater transparency would ensure that the public is better informed about the tax contributions that our large corporations are making, discourage aggressive tax minimisation practices that we know exist and inform our ongoing debate about the efficiency and equity of our tax system.

We are not asking for a lot of information, which makes it all the more surprising that the Treasurer is so outraged by our proposal. We believe that the government's stand here to maintain secrecy is a matter which ordinary Australians should be particularly concerned about. What are they trying to hide and why? In this era of corporate ethics and responsibility, shouldn't the wealthy bend over backwards to demonstrate how great their contribution is?

Progress reported.

Export Control Amendment (Quotas) Bill 2015
Second Reading

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

Senator CAMERON (New South Wales) (12:45): The Export Control Amendment (Quotas) Bill 2015 is an uncontroversial bill. But even though it is an uncontroversial bill it does go to many of the issues that are important for Australia to maintain a strong export capacity in the agricultural area. I will come to some of those issues shortly.

This bill consolidates four pieces of legislation which govern export quotas and it allows quota certification arrangements for agriculture to be carried out under one set of powers. That is a good thing; people know where they are going, we consolidate it and we get one set of powers. Australia is, of course, a great producer of food and fibre product—despite the fact that Australia faces many, many challenges as a food-producing nation. We are challenged by water scarcity, we have less than optimal soils, and we are challenged more than most countries by climate change. Climate change is an issue that I think the coalition have not dealt with seriously in terms of their policy, which is the direct action policy. Most people now understand that the direct action policy is, as the current Prime Minister said, a fig leaf policy—a policy that will not deliver the goods.

In relation to our capacity to export into the future, a decent, proper climate change policy that is understood across the country is the key issue for agriculture going ahead with benefits to the nation into the future. It should be a policy that is non-controversial in terms of anyone with any scientific understanding at all or anyone who has been briefed properly by the scientists.

We have got vast distances between the farm gate and our markets—both our domestic markets and our export markets. These vast distances that we send our produce across are also coming under the threat of climate change. Not that long ago countries were saying that if you
do not play your part in climate change you could be faced with a climate change tariff at the border when you bring goods into another country. That is another challenge that the agricultural industry faces, and that is why it is important for the good of our agricultural industry and for the benefit of our economy into the future that we play our part in dealing with the challenge of climate change. As we have seen this week, climate change is becoming a bigger issue around the world with countries trying to deal with its scourge. Despite all of these challenges, the value of our farm output, for an island nation of only 24 million people, is more than $50 billion annually, and our exports are more than $30 billion. In other words, we export around two-thirds of the food product we produce.

While we should always be cautious and alert to our food security issues, talk of food insecurity in Australia is really rather silly. Food security is not one of our challenges in food production and this is made clear by the fact that we export two-thirds of everything we produce. It is also why much of the debate around foreign ownership is so silly. If we are to grow our agricultural opportunities we will also need a lot of investment in agriculture over the coming decades. With a small population and a limited savings capacity, much of that investment will need to come from other sources, as it always has done in all of our history.

I would simply say to those who are behaving in an alarmist way in relation to foreign ownership that they should turn some of the alarm that they have about the future of farms in this country to properly understanding the science that governs climate change—the physics of climate change, what the scientists are telling us are the problems for our agricultural industry arising from climate change.

We have got to be willing and able to provide leadership and strategic guidance in an increasingly globally competitive market for our agricultural products. When I hear about all the great benefits that we are about to achieve in relation to free trade agreements through ChAFTA or China, if you go onto the websites of the departments of agriculture of our competitors—Canada, the USA, Brazil and elsewhere—you will see that they are saying, if not exactly the same thing, similar things to us. We have signed this free trade agreement and look at the great opportunities we are going to reap. What none of those websites says is that all of the countries that are importing have the same challenge, and that is to be competitive—to be able to deliver the produce at the right price, the right quality and on time.

From the speeches that we hear here in the Senate from the coalition, we must be up to about 25 million new jobs in relation to free trade. In relation to agriculture, nothing is guaranteed. The econometric modelling that is done about the benefits that agriculture will achieve through free trade are simply that—they are econometric models. They are economists' best guesses. As the deputy secretary of the Treasury once told the Economics Committee, econometric modelling is not accurate but it is better than asking your Uncle Ted. It is not a science. As they say, you can put garbage and you can get garbage out.

So the modelling in terms of our export capacity is something that we have to understand, and we also have to understand that everyone is claiming the same benefits as us. Every one of our competitors who has signed a China free trade agreement, and every one of our competitors who has signed any free trade agreements, is claiming the same benefits as us. China will not be importing from everyone; China will be using their best endeavours to reduce the costs into China. They will be looking at the quality and at on-time delivery. We
need to understand that our competitors are catching up and some of our competitors will be able to service those markets equally as well as us.

So effective management of our limited natural resources—more importantly, our water and soil resources—is critically important. The question in the future will be: how do we do more with less water and soil resources? We are already the driest continent on earth. I have to say that that is the debate I would have thought the National Party would have been engaging in. The National Party, who claim to represent rural and regional Australia and claim to represent the farming community, have not, in my view, made one constructive contribution to the debate about the sustainability of farming in this country. In fact, when the then Labor government tried to do something in relation to our contribution to global warming their position was to ridicule our contribution and run a scare campaign about a $100 leg of lamb. We all remember the $100 leg of lamb, and we all remember that 'Whyalla would disappear as a town'—wiping out Whyalla. That is the sort of rhetoric and rubbish we hear from the National Party, instead of focusing on the key issues affecting the farming community: global warming, climate change and the need to conserve both our water and our natural resources.

As we become a dryer continent, our droughts are becoming more protracted. And we are entering into another El Nino period, which means that these challenges are going to become greater. We need to focus on how we better manage our soils, including our capacity to retain water in our soils. How are these challenges being met by the current government? They are being met in what I would describe as a very dopey way. In fact, they are reducing the capacity, the scientific capacity, of the Department of Agriculture and Water Resources to properly analyse and deal with the biggest challenge to farming into the future, and that is climate change. The office within the agriculture department dealing with climate change has basically been disbanded.

The minister's focus is on how he can increase the cronyism in the National Party by promising his mates in regional Australia that he will move jobs out of Canberra and into regional areas where he thinks that will benefit himself and the National Party politically. Departments within agriculture are now saying that they are going to lose all their history, all their capacity and all the people who actually know the industry, because those people have lived in Canberra, their families are in Canberra, they have commitments in Canberra and they cannot move out of Canberra for personal reasons or as a matter of choice. So Minister Joyce's big policy issue was to dismantle an effective operation or organisations under the umbrella of the department of agriculture and try to move them for political purposes into the bush. I do not think that is a very smart thing.

It would have been far better for the minister to actually concentrate on the big issues in the bush. How do we ensure the survival of the industry in areas that will be affected by climate change and El Nino? How do we meet the growing competition from overseas? How do we keep the head of cattle that we need to be a competitive exporter when the breeding cattle are being shot as a result of drought of El Nino? They are the big challenges for the department. I never hear the minister talking about any of those issues. So while we are talking here about export control amendments and consolidating different bills and being a bit more efficient in terms of the regulation of the industry, the major challenges facing the industry are not being dealt with effectively at all. I think it is quite clear that Minister Joyce really does not have a
great understanding of the challenges that face the industry. He might be able to go out and gladhand, he might be able to talk the talk and he might be able to go out there and have the latest joke at someone else's expense, but I do not see much more in this minister than that.

The clown prince of the Senate has now become the clown prince of the House of Representatives, and he wants to be the leader of the National Party—what a joke! We have seen the Nationals start to manoeuvre to try and get more influence in the government, and that influence is going to be because people are now deflection from the Liberals to the Nationals. I think I have said here before the Liberals hate the Nationals, the Nationals hate the Liberals and the Liberals hate each other, and that is where we are. It is a rabble that is under the guise of a government that is actually going to deliver. They are an absolute rabble. We know that, no matter how shiny the new apple or the new peach is, the grub is in there eating away at the heart of this coalition, and we have seen that today when we now have defections.

Instead of playing petty politics, as in the reports in the press this morning by Minister Joyce, he should stop playing petty politics. He should stop trying to pork-barrel for his members in rural and regional Australia. He should actually focus on the real issues. How do we conserve water? How do we use water more efficiently? How do we conserve our resources? Are there family farms that, year after year, do not produce any profits but simply rely on support from government? When is it time to say enough is enough?

It did not take the coalition long to say they were not prepared to support manufacturing workers in the car industry. But, for the sake of this rotten and crumbling coalition between the two parties, they are prepared to continue to support and to put public money—good money after bad money—into some areas that, quite frankly and quite sadly, are not sustainable. But, really, there have to be some hard headed decisions. Is Minister Joyce in a position to do that? I do not think so. The minister has not ever, in my view, dealt with the key issues in terms of rural and regional Australia. If we do not deal with climate change and if we do not deal with the economic issues that are impacting on the social sustainability of rural and regional Australia, then we have lost the plot.

Headline grabs of $100 legs of lamb are not good enough. We need a government that is actually focused on the key issues. How much support do we give agribusiness? How do we ensure that agribusiness in this country can compete against the challenges from our overseas competitors? How do we ensure the quality of our produce with declining resources in terms of water and land? A dry continent and more droughts: these are the issues that we need to deal with.

I am not a farmer. The closest I got to being a farmer was living for 12 years in Muswellbrook. In Muswellbrook I could see great farming families, families that have been there for years and years, challenged by the impingement of the coal industry and challenged by global warming. They had huge challenges about conserving water. Yet we have a minister who disassembles the capacity of his department to deal with these issues. I am of the view that, while we support these bills, we would call on the government and call on the minister to actually concentrate on the real issues that are facing the farming community in this country. Show some leadership and stop playing politics. Be serious about the environment. Be serious about the future of our agricultural industry and deal with the real issues. Stop playing games and get on with the main issues affecting the country.
Senator DAY (South Australia) (13:05): I acknowledge this bill is being resolved in the non-controversial section of business this week and Family First supports the bill. I speak on this bill today, as opportunities are rare to talk on behalf of our farming constituents on quotas and tariffs which affect export opportunities and farm gate returns. I was also eager to speak on this topic because my political mentor, the late Bert Kelly, the former member for the South Australian seat of Wakefield—and regular columnist under the name 'The Modest Member'—was committed to removing the tariff barriers because of their impact on our exporters, and it is pleasing to see the progress being made on free trade under this government.

I rise today to acknowledge that a modest member's work is never done, and this bill relates to the quotas that still remain. There are some 33 export quotas currently managed by the Department of Agriculture and Water Resources—and I will come to those in a moment. There are, of course, further quota limits that we do not manage but are managed by the destination country. There are about 1,300 quota arrangements around the world. I cannot say how many affect Australian exports but Australia applies only one to its importers, and that is the cheese and curd quota. However, let us put that solitary quota into context. The World Trade Organisation says this single Australian import quota represents coverage of just 0.9 per cent of all agricultural imports. South Korea's comparison rate for instance is 13 per cent, the European Union is 11 per cent, Canada is nine per cent, Israel is seven per cent, Thailand is seven per cent, Japan is six per cent, Malaysia is five per cent, China and the USA are five per cent, Russia is three per cent, Indonesia is one per cent and India is the same as us at just under one per cent. While we impose quotas on cheese coming into Australia, two significant jurisdictions, perhaps the last two bastions of protectionism, namely the European Union and the United States of America, impose major quotas on our cheese.

Australia is also subject to quotas imposed on our meat exports into the United States and the European Union. These are two quotas that we manage. Thankfully, our free trade agreement with the US sees its quota on our beef rise until 2022, when there will be no quota at all. Whilst we almost hit the EU quota levels almost every year because it is a very low threshold, in recent history we had barely got over half the total annual US quota level. However, a recent surge in our beef exports to the US saw us, in the most recent quota quarter, hit quota control levels during November. A driving force for this has been the lowest US cattle herd level in 60 years and the relatively high US dollar hurting US domestic beef supply and making imports from Australia more attractive. Our beef, sheep and goat meat exports are being hampered by the EU's low quotas, and that is one of the many reasons I have been regularly saying we need to pursue free trade with the European Union.

Our recent free trade deal with Japan has been important on the question of quotas because Japan imposes multiple quotas on pork, poultry, apple and orange juices, and honey. I am advised that under the Trans-Pacific Partnership deal, the Japanese honey and apple juice tariffs will be eliminated by 2024. The quotas I have described so far are all quotas that are managed by our government through the processes modified by this bill. As I foreshadowed earlier, there are 33 quotas but a further 1,267 might apply to Australian exports—that is, quotas regulated by the government of the receiving country. I will touch on a few key quotas affecting Australian trade.
A significant quota that we do not manage is the sugar quota in the United States. Exporting sugar to the United States is something very close to the heart of Senate colleagues in the Liberal National Party from Queensland. Without going into the numbers, Canada and Mexico get preferential treatment for exporting refined sugar into the USA, leaving very little of their quota for Australia to supply. Getting more Australian refined sugar into America is hard work and no doubt a big disappointment for sugar exporters from the recent Trans-Pacific Partnership negotiations. This blatant protectionist behaviour of the Americans is artificially keeping their sugar prices high for their farmers and is forcing the market to shift behaviour at the ultimate disadvantage of the farmers it is meant to help.

I also note in relation to the China-Australia Free Trade Agreement that, whilst China has a total worldwide import quota of 287,000 tonnes of wool, under ChAFTA Australia got an exclusive, duty-free country-specific quota of 30,000 tonnes of clean wool—about 43,000 tonnes of greasy wool—rising five per cent per annum to 45,000 tonnes clean by 2024. I am told this is the best deal any nation has had for wool exports to China to supply its textile industry.

Another significant quota managed by the destination country is Indonesia's quota on Australian beef cattle. Its imports have been growing significantly, but due to shameful acts by people in this place, radical animal rights activists and elements in the media, those exports were shut down by the Indonesians. I note the Australian beef industry is suing the government for $1 billion for the former government's actions in relation to that matter. It is taking some time for Indonesia to restore previous quota levels of around 250,000 head of cattle per quarter. For instance, in July the Indonesians set our quota at a low 50,000. So whilst this bill is being resolved in the non-controversial section of business in the Senate today, the question of quotas and controls is a very important issue to our nation, as the government is fond of saying, quite rightly, 'Australia is a great exporting nation.'

My key message in putting these figures on the record today is that there is far more work yet to be done in reducing quotas, not just those managed by the department, but through expanding free trade to give our sugar, beef and indeed agricultural, horticultural, manufacturing and other exporters the best opportunity to sell high-quality products to the world.

Senator MOORE (Queensland) (13:14): As we all know, the Export Control Amendment (Quotas) Bill 2015 is listed as uncontroversial and Labor, of course, will be supporting it. I want to complement Minister Joyce for getting his bill on the agenda this week because, as we know, it was not on the agenda on Monday, but now as it is on the agenda today it is going to be able to be passed. He obviously had the power within cabinet.

Today I wanted to have the opportunity to speak on this bill because my family is from the Darling Downs and has many long years of experience in the beef industry, and this is a really important issue for them. As people in the chamber would understand, at the moment the beef industry is going through a process where beef prices are extraordinarily high. Anyone who is looking at buying beef for their Christmas period will know that the whole area of beef has very high prices at the moment, which is great for the producers. The sad thing, of course, is that they have gone through a period of crippling drought—and I know that adjective is used a lot, but in this case it is absolutely true. It is ironic and sad, and also quite real in the agriculture industry, that you face this particular position: at the time when the prices are so
high and people are able to benefit so well, many people in the beef industry and other producers have suffered greatly and are not able to benefit from this time of great wealth because they have had to destroy stock and they are still facing great drought, particularly in the far west area—the Darling Downs and into the upper area of central and western Queensland.

I wanted to talk on this bill so I could talk about how important the export control amendment is to people who are planning their agricultural futures. I am not expert in this area, but there are discussions around tables and in phone conversations about prices and about what should be done to save the country. As you would know, Mr Acting Deputy President, some of those family conversations about what we should be doing to save the country are quite extensive. In my family there is not always an absolute understanding that the Labor Party, when we are talking with the farm producers, are the key to moving forward in this particular process. But I believe we are, and I actually win some of those arguments on the phone.

In terms of today's bill—the export control amendment—I went to the explanatory memorandum because I had to check out, when I was talking about the issue of quotas and how they operated, exactly how they worked. We know that this bill is bringing four different groups into one and we know it will simplify things. I hate the term 'red tape'. We keep talking about reducing red tape, which is often an excuse for changing things that do not need to be changed and not actually looking at the importance of regulation, because regulation has its place and we need to have it. But I know the minister has said in his contribution that this is one of the bills that are cutting red tape, so in this case I am prepared to say that the removal of regulation may well be of benefit. But I then went back and checked exactly how Australia administers our quotas. The explanatory memorandum told me:

Australia administers quotas in a way that:
- minimises market distortion from quota administration
- minimises regulatory intervention and barriers to exporting
- optimises the commercial value and use of the quota
- ensures consistent, transparent and efficient administration
- considers commercial arrangements, and—

I think most importantly in the case of our producers—
- rewards market development.

That is how the quota system operates in Australia.

Export tariff rate quotas are established by trade agreements, and we know that there has been a lot of discussion about trade agreements recently in this place, but by no means has this discussion been limited to just the last 2½ years. There has been a long history of free trade and trade agreements put in place in this place over a series of governments. This particular legislation is not only relevant to the last couple of years and the ChAFTA and the Korean trade agreement; it goes back a long time in terms of the way the tariff rate quotas are developed. I think it is important to know that this system has been evolving over a period of time. It is not new. It has been there for a long time and it works out, as I said, those points for which it is developed. The explanatory memorandum says:
Where export tariff rate quotas are established by trade agreements Australia seeks to manage the quotas in order to offer exporters the maximum concessions possible on agricultural products.

Indeed, that is the idea: that we maximise the concession for agricultural products, get the best deal and—a very great point—reward market development so that, as people develop their industries and develop their skills, they will get the best possible return when their government negotiates the agreements that will look at the export trade.

The current bill before us consolidates the four acts that govern tariff rate quotas into one act that covers all commodities. This is important because, in our producing area, there are many more producers who now act in more than one specific area—there are a lot of mixed farms, a lot of mixed businesses. So it is important that, for simplification purposes, there is this consolidation so that the one act covers all commodities. I think that reflects the work that has been done over many years, again, to make this simpler. I know the department has been working in this area for a very long time, and the guarantee that we have been given is that the department and the minister have taken significant consultation—not just recently but over a period of time—to look at how this could best operate. The information that was provided to the opposition in the extensive discussions that Minister Joyce had with our shadow minister, Joel Fitzgibbon, talked about this as one element of the ongoing work to make sure our agricultural area is best rewarded.

We had information from the department through Minister Joyce that the stakeholders consulted included DFAT, because of its position in terms of developing trade agreements; the Australian Meat Industry Council, which, as I have said, is a particular area of interest for me, though I do put on record again that I am the vegetarian in the family; and the fruit juice council and the Australian Honey Bee Industry Council, which are probably areas that I would understand better in terms of my own particular taste. In terms of the consultation process, it is most important, as I have said, that it included the Australian Meat Industry Council and also Australian Pork Limited—again, an important area in our economy at the moment and one that has had significantly tough times in the past. The pork industry have faced significantly difficult times in the recent past not just because of climate conditions but also because of imports and their ability to get reward for their product. It is important that they were involved in this consultation as well as the Chicken Meat Federation. So for all these groups with all their particular needs and particular interests, the government has absolutely committed that there has been full consultation with them and that they favour the approach put forward in the legislation before the chamber.

The bill also enables the secretary of the department to make orders in relation to the establishment and administration of a system or systems of tariff rate quotas for the export of goods. Orders may be made to cover goods currently subject to quota regulation but could cover any other goods that quotas may apply to in the future. These quotas come as trade agreements are developed and agreed through this place. More quotas could come as we have more trade agreements. The recent Japanese free trade agreement resulted in 33 new quotas. I think that is what I heard. I am looking desperately across the chamber at the officer in advise box. Eight new quotas—okay. That is a great difference—33 to eight. Maybe we will get more in the future. Eight, thank you. As we get the new trade agreements, more quotas will be introduced. These orders can be made to take into account any new quotas that come in the future.
Importantly, the bill provides the ability for the secretary to make directions in relation to matters covered by an order—orders that I have previously spoken about. The real importance are the directions, which provide flexibility to deal with complex situations relating to an individual exporter in a fair and transparent manner. The amendments enable the directions to override an order, and that is consistent with subsection 17(4) of the Australian Meat and Live-stock Industry Act 1997, which provides that if a direction given by the secretary is inconsistent with an order the direction prevails. The important element here is the fact that they are transparent and fair and also flexible.

We talk a lot in this place about the importance of transparency. We know the area of concern from, in this case, producers is if they do not really understand the basis of a decision—if they do not understand why something is happening. I value the fact that the department has prioritised the process under this legislation to be done in a fair and transparent manner. That means people will have a better understanding and that automatically means there will be less confusion. When decisions are being made about what will impact on their production, what will impact on the industry, what will impact on their livelihood, it is absolutely essential that there is a clear and transparent understanding. That is one of the real strengths of this legislation.

Also, there is clear priority on flexibility in the explanation as to how the bill will operate and in the contribution made by the minister in the other place, as well as by many of the other speakers. They talked about the need for flexibility, because they understand that our agricultural market is becoming more complex. The days of people concentrating exclusively in one area are changing. Whilst, of course, we will have specialists; we will also have many more people where their industries and commercial interests cross over, and it is important to have the flexibility to ensure that these orders and directions apply consistently, and that there is transparency.

Also in the explanatory memorandum is that exporter participation in a scheme of tariff rate quotas is voluntary. That is something about which I was unaware before I looked into this bill. Whilst it is voluntary, an exporter's failure to comply with an order or a direction would be a relevant factor in the use of the secretary's discretion under an order in respect of quota entitlements, certificates, conditions, audit and reporting requirements. It is not compulsory for exporter participation in the scheme of tariff rate quotas. But if the exporters do not choose to be involved in this scheme of tariff rate quotas, it could be taken into account when the secretary is making a decision. The secretary has discretion to make decisions about quota entitlements and the other things that go with that—the certificates, conditions, audit and reporting requirements. It is important that the scheme is transparent. It is important that people understand this process and understand the impact of a decision they make on any decision by the secretary. That element is clarified and transparent and it can move forward.

The bill also introduces new powers consistent with contemporary, flexible and efficient legislation. These are adjectives with which we all agree—contemporary, flexible and efficient. The proponents of this legislation state that this bill will work to introduce powers which will make all these things contemporary, flexible and efficient. They are bringing in the use of registers and computer systems to make decisions under a system of tariff rate quotas.

I note with some caution the introduction of the computer system. I would hope that the minister will be able to guarantee that the computer systems will be up to date and that we can
have confidence that the introduction of this new system with the new computer system will be safe and on time and that the necessary resources to ensure the computer systems work are dedicated to this purpose.

Whilst we aim to have a consistent, contemporary, flexible and efficient system, we also need to have a transparent and fair system. I am all too aware of the resultant aggravation and concern, if computer systems, which are there to ensure that the system will work, are not working, and this can be quite significant. There could well be some problems, if we are relying on this system being contemporary, flexible and efficient, relying on the registers and the computer systems, and the development process is not in place to meet the requirements of bringing this legislation in on a particular date.

The bill has been designed to facilitate reduction in red tape, as I have said before. In this particular case, I will applaud the reduction in red tape, because we have been assured that this is going to happen. It is most important. I know that, when talking with my family members, the amount of paperwork and discussion they have often raises their concerns and their blood pressure to the extent to which it becomes a health issue. If this bill can guarantee that there will be fewer complications and people can get on with the business that they want to be in, that is a really great result for the legislation and one of the reasons that Labor is supporting this bill without any conditions.

We know that bringing regulation of quotas under the same legislation as other export controls for the same commodities will offer opportunities for synergies in the deployment of staff. It is always a good thing to have synergies, and this legislation will make more efficient use of resources in our departments not only for the departments working with this system but for the producers and the people in the export markets who are trying to use the systems. It will enable a consistent approach to the appointment of third parties as authorised officers, where permitted, by importing countries.

Again, we welcome the fact that the consistency of approach will ensure less confusion and more confidence in the people who we are trying to help through those items, as I said earlier. It minimises those interventions that made it more difficult for producers to ensure that they get the best possible result for the work that they do and it gives an incentive to look at market developments and bring forward best practice in their own industries.

Therefore it is important that we cooperate in this process to ensure that the bill is passed today. It appears to be a bill that we can all agree on and that this is one more step in the ongoing work within the Department of Agriculture, with the producers and everybody in this parliament, to ensure that the regulation is appropriate and the approach is consistent in making sure that we meet our requirements internally in development and maximise our effect in the export market.

Senator O’NEILL (New South Wales) (13:37): I rise, alongside my Labor colleagues, to indicate our support for this bill—declared a non-controversial piece of law making today called the Export Control Amendment (Quotas) Bill 2015.

It is uncontroversial in that it seeks to do something rather simple but nonetheless effective by consolidating four pieces of legislation that govern export quotas and allows for quota certification arrangements for agriculture to be carried out under one set of powers.
I want to speak on this, because it is a bill that goes to issues of trade. I think it is important to get on the record that Labor is the party of trade and that we have a very profound and outward-looking view to the world with regard to trade. It was in fact Chifley in 1948 who, in the Bretton Woods project postwar that saw an economic architecture established that was outward looking, understood the power and importance of trade—not just traditional trade back to the mother country but burgeoning new opportunities for trade, which particularly focused on America in the first instance but also started to look, through Labor eyes, for a way to create markets and jobs of quality for Australians and to Asia. It was that vision that drove Labor early in the last century to be the party of trade.

I think also people listening to this debate and perhaps those here with us in the gallery might recognise the importance of the Labor contributions to trade in 1973 with the decisions of the Whitlam government to cut tariffs by 25 per cent. I know that this was controversial at the time and there was much debate about it; however, it recognised that there was nothing very progressive about a policy that meant working people were not able to afford things such as children's school shoes.

The intimacy of our trading patterns, what we do in terms of trade and the way in which we live are all intertwined. The government tries to talk about families in one breath as a liability for the country—cutting family tax benefit A, putting a GST on school, health and education; that is their agenda—and, at the same time, they are saying, 'We are the party of trade,' as if these things are separate. Labor understands that they have a deep and intimate connection.

Again, in 1998 and 1991, Labor, under the Hawke-Keating governments, continued to make sure that Australia remained a competitive economy. It has been estimated that the tariff cuts of the Hawke-Keating era put nearly $4,000 per year into the pocket of the average Australian household. This is a very important part of understanding how trade and our everyday lives are intertwined.

I also wish to refer to the fact that Australia is a great producer of food and fibre product and we are so despite the fact that we have many challenges as a food-producing nation. In fact, we are clearly challenged by water scarcity. We have less than optimal soils, and we are challenged much more than many countries by climate change. Indeed, I would like to refer to the Climate Commission's report *The critical decade 2013: climate change science, risk and responses*. I know that there are, alive and well, climate sceptics on the other side, and I know that there are many still in the media who have more access to the Australian ear than I think is their right and continue to peddle nonsense about alternative views of the world that do not involve science, but this report is critical. In fact, it declares Australia as 'the world's driest inhabited continent'. It says:

The impacts of climate change on Australia's water resources are therefore of critical importance for our communities, agriculture, industries and environment.

We do know.

Just last weekend, I was in the beautiful part of New South Wales known as the Riverina in the city of Wagga and prior to that, earlier this year, down in the areas of Leeton and Griffith. They very clearly understand that 'river flows in Australia vary substantially from year to year and decade to decade' and exacerbate 'the multiple conflicting demands' on water supplies for Australia. This is a critical issue that impacts on our capacity to trade and on our capacity to innovate in agriculture. We are known for being a remarkably successful, science and
evidence based agricultural nation, and that is one of our great export capacities. We actually take dryland farming to other, similar parts of the world and share that expertise from our great farming communities right across rural and regional Australia.

Of course, we do have vast distances between the farm gate and our markets, both our domestic markets and our export markets, but, despite all of that and the many challenges that face Australian producers, the value of our farm output—for an island nation of only 23 million or 24 million—is more than $50 billion annually, and our exports are worth more than $30 billion. In other words, we export around two-thirds of the food we produce. While we should always be cautious and alert to our food security issues, talk of food security in Australia really is rather silly. It might grab the odd headline. It might titillate those who want to peddle and continue to peddle a climate of fear in this nation, but fear will not help us advance. We need a language of hope, and we need policies of endeavour and recognition for effort.

Sadly, that is not the game that is being played in this space by many of those in the government. They compromise the very people that they claim to represent. The National Party are the party of the bush, they say. Well, regional and rural Australia is sadly let down by that party day after day in this place. Continuing escalation of fear about food security plays into the hands of those who would limit our capacity as a nation, not those who would enable it. Food security is not one of our challenges in food production. That is made clear by the evidence that we export two-thirds of everything we produce, and it is why much of the debate that is going on around foreign ownership is also silly and misinformed. If we are going to grow our agricultural opportunities, we need a lot of investment in agriculture, and we will need it over the coming decades. We have a small population, and, with limited savings capacity, much of that investment will have to come from other sources. And that is as it has always been in all of our recent history.

There are many things that will determine the extent of our success in agriculture over the coming decades, and these are some of the issues that this bill is attempting to contend with. The first element that it attends to is the extent to which the government is willing and able to provide leadership and strategic guidance in an increasingly globally competitive market for agricultural products.

The second is the effectiveness of the management of our limited natural resources—most importantly, as I indicated, our water and our soil resources. The question in the future will be: how do we do more with less water and fewer soil resources? We are already the driest continent on earth and becoming a drier continent because we are finding our droughts becoming more protracted, and entering an El Nino period signals that those challenges will just become greater. We need more focus on how we better manage our soils, including how we develop the capacity to retain water in our soils. And everything that we do in agricultural planning has to take into account the sustainability of what we do—how we ensure that those precious resources are available not just for today but for decades to come.

The third is our performance in research, development and extension, and our embrace of biotechnology. These are going to be critical also to our future success.

The fourth element is the extent to which we are able to lift productivity and our cost competitiveness. Clearly, that is a comment that speaks for itself. I know that the remarks of
Senator Moore and Senator Cameron, who spoke just prior to me, addressed many of those issues.

The fifth—and I want to spend some time on this—is the issue of how we deal with the challenges of having a workforce in the regions. We have the reality of an ageing population. We have an ageing workforce generally, but in particular these are significant challenges for Australian agriculture. We are dealing right now with the question: how do we attract people to agricultural employment? Can I tell you: we do not attract people to agricultural employment or to employment in the regions of this country by slashing their wages. That is what this government is pushing forwards with: the cuts to penalty rates.

Many of the jobs in our regions are supported by people who work in the retail industry. Right across the state of New South Wales this summer, this Christmas, people who need to travel quite long distances across the great state of New South Wales to spend time with their families will now be forced to work on Boxing Day. That is not because the law actually says that but because the workplace practices have now been liberated by a vote in the New South Wales parliament to enable exploitative employers to push people to work on Boxing Day. This means that, for families who once were able to say, 'Yes, I'll be home for Christmas on Christmas Eve; we'll have two days together, Christmas and Boxing Day,' that will become a thing of the past in New South Wales unless the review in two years overturns a disgraceful decision that was enabled by the so-called family-friendly Fred Nile in the upper house of New South Wales.

These sorts of decisions that are made around workforce capacity and possibilities in our regional and rural areas impact on people's lives in profound and significant ways. While this party of government, the Turnbull-Abbott government, say that they care about the bush, cutting penalty rates for workers who work unreasonable and extraordinary hours is not going to enable our communities in the bush, in regional and rural Australia, to thrive and grow. We need people to come back to the farm, and they will do that when good money is there to be made and they can assure themselves of a few important things—that they can give their families the opportunities they need to succeed.

We want to trade. We want to export. We have capacity and we have expertise. But there are a few things that are missing. The seat of Farrer, the seat of Riverina and the seat of Hume, three of the duty electorates that I have, are definitely rural. But closer to Sydney, on the Central Coast, where I live. I think of Mangrove Mountain and that plateau, which has been a significant part of the food bowl of Sydney. The resources that people need to have to do their work there and to do it efficiently involve access to a global market. That is what we are talking about: trade with the rest of the world. And instead of a visionary NBN, where we were getting fibre to the premise, fibre to businesses and fibre to homes right across this country, with ubiquitous access, we saw Mr Turnbull, the current Prime Minister, when he was the Minister for Communication, rip that visionary infrastructure project to absolute shreds to deliver a dog's breakfast called the mixed technology mode, better known as 'Malcolm Turnbull's Mess' across this country.

You can talk to anybody in regional Australia, whether it is the Northern Territory, Queensland or Western Australia, and all of them know that they need access to the internet. Their kids need access to the internet. They will not stay and farm in our communities and generate the income for this country that we need and have relied on if they cannot give their
kids access to the future that they need or if they cannot run their businesses because they cannot compete because this miserly government, with a limited vision for the country, has ripped away a vital piece of infrastructure that they need to grow and compete.

But that is not the only thing that is challenging us in terms of our capacity to create trade and to benefit our country. People in the bush are screaming at me every time I am out in the country when we are looking at health and hospital access. This is a government that has taken $57 billion out of our hospitals across the country. In Melbourne a couple of weeks ago, they told us it is the equivalent of shutting down two hospitals. In Queensland it is taking $11.8 billion out. It is 4½ thousand jobs that should be coming to Queensland that will not come because this government has decided that health is not its bag. It has just decided to walk away. It has torn up national partnership agreements, and the impact is on the people of the bush. That is a critical reason for why they are leaving the bush. If your child is born with a speech pathology problem and you want to live in the country and work in the bush, in regional and rural Australia, you cannot have access to those services, because they have been torn apart by this government—

Senator Canavan: Mr Acting Deputy President, on a point of order, I believe we are still on the Export Control Amendment (Quotas) Bill 2015. I am not exactly sure what the topics that Senator O'Neill is mentioning have to do with that bill. I think they are completely irrelevant, and on relevance I would ask you to draw her to the question before the chair.

Senator Cameron: On the point of order, I have been listening to the senator, and she has been absolutely on the key issues facing the agricultural community, and that is the problem and why this point of order has been raised, because the Nationals are embarrassed about being exposed the way this is exposing them. If they did their jobs then they would not need to stand up and pull stupid points of order.

The ACTING DEPUTY PRESIDENT (Senator Gallacher): There is no point of order.

Senator O'Neill: I have to concur with the comments made by my colleague here in the Senate, Senator Cameron. The reality is we have a wonderful agricultural industry. We have fantastic capacity there, but we have communities leaving rural and regional Australia in droves because the representation that they thought they were going to get when they voted National-Liberal is not delivering anything that they need or expect. You cannot go out and farm by day and come back and watch your children unable to get to the doctor because you cannot afford it anymore because they have tried to put a $7 GP tax on, which we stopped. They had another go at adjusting the funding for local doctors, which we stopped, and then they had—

Senator Canavan interjecting—

Senator Cameron: Mr Acting Deputy President, on a point of order, Senator Canavan is being constantly disorderly. This is his modus operandi in here, and every time one of the female senators stands up in here he is after them. He is constantly trying to disrupt them. It is unacceptable and he should just shut up.

The ACTING DEPUTY PRESIDENT: There is no point of order. I remind senators that interjections are disorderly and that each senator is entitled to be heard in silence.

Senator O'Neill: We can see the resistance coming from there, because they do not want this conversation to happen. They do not want Australian people to hear how much the
National Party have abrogated their responsibilities to the people of regional and rural Australia, and that is before I even get to education.

If you want a decent education in the bush, do not look for these guys to give it to you. In addition to taking $57 billion out of health, on the Gonski reforms, which they backed 100 per cent before they got in, the minute they walk through the door they tear up the agreements and they destroy any agreements still under construction. Then they add another insult to the people of the bush by taking $30 billion out of investment in our kids. That is $1,000 per child that these guys want to take away, and in country and regional Australia it is even more, because the needs elements are escalated in the bush. We have more Indigenous kids and more kids from low SES who need that support, and that is where the money would go. That is what needs-based funding does. The bush stands to benefit from the needs-based funding of the Gonski model. But these guys, who said they backed it 100 per cent before the last election, do not back it at all. They are trying to pull away from that all of the time, and that will hurt the bush. That will hurt our capacity to have a workforce that can continue to do the great work in the agricultural field that Australia is well known for around the world.

In addition to this, they talk about being trade oriented and wanting to do business with Asia. I am proud that the China free trade agreement was finally signed onto with very significant restrictions around 457 visas, hard-won by Labor to make sure that the government pulled back from the edge of completely ruining the opportunity for good workplaces in this country. But we have seen that this mob have even had a go at the curriculum to take out any Asia focus. Here they are: 'We want to help build trade. Let's increase our trade with Asia but let's just make sure our kids don't understand anything about Asia.' That is how hypocritical this government is.

In the minutes that remain to me I want to go to one of the major concerns that I think needs to be addressed with this government. We know that agriculture needs strategic guidance from the government. It does not need a government that is sending signals in a very competitive market that foreign capital is not welcome in the country. That is what it has been determined to do in recent months. There have been amazingly confused messages to an international market. It is playing to the crowd. I fear it is playing on fear in our community that somehow Asian investment in agriculture is not good for this country. I can only say that, having been to see the Ord stage 1 and stage 2, it is amazing when we see this level of investment and what it can generate in regional economies in terms of jobs, higher quality experiences, bringing in doctors, bringing in health professionals and creating communities where people really can see a future for their children.

This government should instead be showing leadership. They should be going out and saying, 'We need investment and we're in competition for it with others.' Without that investment we cannot be internationally competitive and we will not exporting more. We will not be pushing our agricultural product up the value curve. We should be working together in this place to send a very clear message to the Australian community that they should not fear foreign investment in our agricultural land and agribusinesses in the country. We need that investment, and without it we will fall further behind.

Labor once again appeals to this government to give up the folly of trading off on what sorts of investment they think are acceptable today and what they might think tomorrow. Stop playing to the crowd. Recognise that, to meet all our aspirations in agriculture, we are going
to need $600 billion of agricultural investment in this country by 2050. It is not going to come from within. Even if we put all of our super funds into agriculture tomorrow, it still would not be enough. By necessity, growing our agricultural capacity is going to need income and investment from foreign sources. We are in competition with others and we need to be inviting it—discerning it but absolutely inviting it.

This bill does represent one of the many things that will develop our attractiveness. I support the bill and commend it to the Senate.

**Senator KIM CARR** (Victoria) (13:55): The Export Control Amendment (Quotas) Bill 2015 is important to the meat industry. It is a bill that once again facilitates the reduction in red tape, according to the government. It is a bill that, of course, goes to a major export industry said to be worth some $30 billion. It is an industry where, I understand, we are producing something like $50 billion worth of product a year, so two-thirds of the industry is about exports.

Tomorrow I will, hopefully, get the opportunity to discuss with the Australasian Meat Industry Employees Union in Melbourne at the annual Christmas party these issues that are being canvassed. The concern that the meat industry union would have on behalf of the workers who actually produce this $30 billion worth of export product would be the way in which the deregulation approach of this government, if allowed to be implemented, could see substantial increases in the abuse and exploitation of meatworkers, all of which we have seen too often in this industry as a result of unscrupulous employers, who rely upon the skills of meat industry workers to ensure that we have the high-quality product that produces such wealth for this nation. The meat industry union tomorrow at its Christmas party will undoubtedly want to know the position of this parliament about the measures that are being taken to protect wages and conditions in the industry and what actions this government has taken to undermine unions’ rights to organise and ensure that the conditions of labour are protected in such a way as to preserve the living standards of meatworkers in this country.

When we are discussing a bill of this importance, we ought to be making sure we understand the value of workers who produce the wealth of this nation and the capacity of this government to increase the level of exploitation and abuse of workers as we have seen particularly through the immigration system, which has now seen a massive number of cases emerge in meatworks. We have seen people being abused under 457 visas, backpacker visas and various other holiday-maker visas designed to undermine the wages and conditions of workers in the meat industry—a proposition which I strongly condemn.

**Senator McGrath** (Queensland—Assistant Minister to the Prime Minister) (13:58): I thank senators for their contribution on this debate and commend the bill to the Senate.

Question agreed to.

Bill read a second time.

**Third Reading**

**The President** (13:58): 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 McGrath** (Queensland—Assistant Minister to the Prime Minister) (13:58): I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

DISTINGUISHED VISITORS
The PRESIDENT (13:59): I acknowledge the presence in the President's Gallery of a former President of the Senate, Senator Paul Calvert.
Honourable senators: Hear, hear!
The PRESIDENT: It being 2 pm, we now proceed to questions without notice.

QUESTIONS WITHOUT NOTICE
Special Minister of State

Senator CAMERON (New South Wales) (14:00): My question is to the Minister representing the Prime Minister, Senator Brandis. I refer to Senator Bernardi's assessment: 'In the end the appointment of ministers is always a captain's call.' Doesn't Mr Turnbull's refusal to stand Mr Brough aside demonstrate this captain has the same bad judgement as Mr Abbott?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:00): Senator Cameron, I have not seen Senator Bernardi's remarks. I follow Senator Bernardi's public contribution with much admiration. I think Senator Bernardi has many wise things to say about a range of issues, though I am bound to say that I do not always agree with everything Senator Bernardi says. I have not, on this occasion, seen those remarks, Senator Cameron, and you would not expect me to comment on remarks that I have not seen or read.

Senator CAMERON (New South Wales) (14:01): I have a supplementary question. I refer to LNP Senator Matt Canavan, who says that the future of his Queensland colleague Mr Brough is 'duly the responsibility of the Prime Minister'. When will the Prime Minister accept responsibility for his captain's call and stand Mr Brough aside? Or will he wait for more of his Liberal colleagues, like Mr Macfarlane, to jump ship before he takes the necessary action?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:02): Unlike the prior Labor government, this government works on the principle of ministerial responsibility. What that means is that every minister takes responsibility for every decision they make. In relation to Mr Brough, you know, Senator Cameron, because you have made much of this during question time and debate in this chamber this week, that there is currently a police investigation underway. Public denunciations do not prove guilt. No charges have been laid against Mr Brough. There is a police investigation underway, and I suggest we allow that investigation to take its course.

Opposition senators interjecting—

The PRESIDENT: On my left. We will not proceed till there is silence.

Government senators interjecting—

The PRESIDENT: On my right as well.
Senator CAMERON (New South Wales) (14:03): I have a final supplementary question. I refer to media reports that the Prime Minister is leaving it up to Mr Brough to decide on whether to stay or go. Who will decide Mr Brough's fate: the Prime Minister or Mr Brough?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:03): As I said, there is a police investigation underway. Mr Brough has been charged with nothing. I suggest we allow that police investigation to take its course. As you know, Senator Cameron, ultimately, all ministers serve at the pleasure of the Prime Minister.

Opposition senators interjecting—

The PRESIDENT: Order on my left!

Environment

Senator REYNOLDS (Western Australia) (14:04): My question is to the Minister for Education and Training, Senator Birmingham, representing the Minister for the Environment. Can the minister inform the Senate how innovation and technology will enable Australia to achieve both stronger growth and a cleaner environment?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:04): I thank Senator Reynolds for her question, because her question goes to the heart of how it is that Australia can contribute and will contribute to achieving a cleaner environment through such investment and commitment to innovation and technology and to doing so as part of strong global agreements. Australia, at present, has been in Paris negotiating for a truly global climate agreement and one that will drive inventiveness and new technologies to help ensure that we do deliver a cleaner climate and environment in the future.

In Paris, the Prime Minister announced that we will ratify the second commitment period of the Kyoto Protocol. Our Kyoto target will be completely consistent with our 2020 targets of minus five per cent on 2000 levels by 2020. Ratification will not change Australia's targets, obligations or domestic policies but will affirm what we have agreed and is consistent with what we are doing. Australia, of course, beat the first Kyoto target, and we are on track to meet and beat our second. Australia is a country that does and delivers on what it promises in these global agreements, and we will do so, absolutely, again.

During discussions in Paris we have reconfirmed our commitment to the 2030 reductions target of between 26 and 28 per cent, which will halve Australia's per capita emissions, and it is one of the largest reductions of any G20 country. Unlike Labor's failed carbon tax, our climate change policies are working and will help to drive innovation and inventiveness. That is why Australia has joined the Mission Innovation program, which aims to double clean energy technology investment over the next five years. We know that policies that drive innovation will result in and deliver a cleaner environment for Australia and the world.

Senator REYNOLDS (Western Australia) (14:06): Mr President, I ask a supplementary question. Can the minister also inform the Senate what practical initiatives the government is undertaking to ensure Australia continues to lead the way internationally in reducing our emissions by supporting innovation and new technologies?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:06): The Turnbull government is delivering on the Emissions Reduction Fund and the auctions under that fund, which are genuinely reducing emissions in Australia. The first two
Emissions Reduction Fund auctions secured nearly 93 million tonnes of emissions reductions, at an average price of $13.12 per tonne. This is vastly more efficient and effective than anything that was achieved under Labor's carbon tax. This includes 35 bushfire prevention projects in our northern savannas, which will reduce emissions by nearly seven million tonnes from those projects alone. Australian researchers have demonstrated that they are at the forefront of energy and climate innovation. For example, by 2018 our researchers will develop the technology that is applying in over 60 per cent of the world's solar cells. We are also supporting the French '4 per 1000' soils for food security and climate initiative, because we recognise all that can be achieved from soil carbon efficiency. (Time expired)

Senator REYNOLDS (Western Australia) (14:07): Mr President, I ask a further supplementary question. Can the minister advise the Senate if he is aware of any threats to government efforts to reduce emissions without a tax on electricity?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:08): Sadly, I am. Despite the success we are having with the Emissions Reduction Fund delivering reductions in emissions at an average price of $13.12 per tonne, those opposite are committed to bringing back a carbon tax, and the targets that Mr Shorten has been talking about, of 45 per cent, would see a carbon tax running in the range of $209 per tonne. That is $209 per tonne for their tax on electricity, compared with emissions reductions being delivered under our policies at around $13 per tonne. That is the difference. Those opposite just want a tax on electricity. We actually want to see effective delivery of emissions reductions at the lowest possible price. The lowest possible price we are delivering at $13 per tonne versus their $209 per tonne tax on all Australian businesses, households and investment, which can only harm the Australian economy, without delivering the types of effective emissions reductions our government is delivering. (Time expired)

Special Minister of State

Senator JACINTA COLLINS (Victoria) (14:09): My question is to the Minister representing the Special Minister of State, Senator Cormann. I refer to Mr Brough's statement on 60 Minutes in 2014 when asked, 'Did you ask James Ashby to procure copies of Peter Slipper's diary for you?' He confessed, 'Yes, I did.' When asked the same question in parliament yesterday, Mr Brough recanted and said, 'No.' When was the minister telling the truth—on television or in parliament?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:09): I thank Senator Collins for that question. Minister Brough has provided extensive answers to many questions in the House of Representatives on this for some time, and I do not have anything else to add.

Senator JACINTA COLLINS (Victoria) (14:10): Mr President, I ask a supplementary question. How can a minister who has misled parliament and is subject to a criminal investigation by the Australian Federal Police remain responsible for the integrity of parliamentary entitlements and our electoral system?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:10): I do not accept the premise of the question. There are processes currently underway that should be allowed to take their course.
Senator JACINTA COLLINS (Victoria) (14:10): Mr President, I ask a further supplementary question. Did the Special Minister of State tell the Prime Minister or the Minister for Finance he proposed to change his story on the James Ashby affair? Does the Minister for Finance maintain confidence in his junior minister?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:11): Minister Brough has addressed these issues in some detail, and I do not have anything further to add.

Opposition senators interjecting—

The PRESIDENT: Order on my left! A point of order, Senator Wong?

Senator Wong: Mr President, my point of order is on direct relevance. The minister was not asked about what the Special Minister of State has said previously. In this question he was asked whether or not the Prime Minister or he were told that Mr Brough proposed to change his story. The Minister for Finance was also asked whether he maintained confidence in his junior minister. He has answered neither of those questions.

The PRESIDENT: Minister, have you concluded your answer? The minister has concluded his answer.

Road Infrastructure

Senator RHIANNON (New South Wales) (14:11): My question is to the Minister representing the Minister for Infrastructure—

Opposition senators interjecting—

The PRESIDENT: Just a moment, Senator Rhiannon. I cannot hear you. Order on my left! Senator Rhiannon, would you start again?

Senator RHIANNON: My question is to the Minister representing the Minister for Infrastructure and Regional Development, Senator Colbeck. My question relates to the release of the updated WestConnex business case, which shows a massive cost blow-out, from $10 billion to $16.8 billion. Considering Infrastructure Australia's assessment of the previous business case—

Honourable senators interjecting—

The PRESIDENT: Just a moment, Senator Rhiannon. Order! On my left! Senators on my left and my right! I need to hear the question. Senator Rhiannon, please continue.

Senator RHIANNON: Considering Infrastructure Australia's assessment of the previous business case showed the costs were wrongly estimated because those in the New South Wales government did not follow the correct guidelines, when will the minister insist on a review by the Commonwealth Auditor-General of federal funding and financial risks?

Senator COLBECK (Tasmania—Minister for Tourism and International Education and Minister Assisting the Minister for Trade and Investment) (14:13): I do not have a particular brief on the specifics of Senator Rhiannon's question, but the coalition is obviously committed to its investment program into infrastructure, particularly the WestConnex project, which is something that we have been committed to for a considerable period of time. We are working closely with the New South Wales government on the delivery of the project, and we will continue to do so. We take our investment in infrastructure in this country very seriously. I will have to ask Minister Truss's office for further information regarding the specifics of the
question, but I reiterate to the chamber that we remain committed to the project and we remain committed to working closely with the New South Wales government on delivery of what is a very, very important piece of infrastructure. It means a lot to those who are going to be impacted by reducing traffic congestion in those areas, and, despite the fact that we understand the Greens do not like the construction of major pieces of road infrastructure—which is their right, quite obviously, in a policy sense—we will continue to support the project.

Senator RHIANNON (New South Wales) (14:15): Mr President, I ask a supplementary question. As the minister is in the Turnbull government, it is surprising that he could not answer the question in terms of the responsible use of public money. Hopefully, he can answer this one: given the cost blow-out—and that the planning and delivery of WestConnex has been transferred to a private corporation, the Sydney Motorway Corporation, which is not subject to New South Wales freedom of information requests—how can the minister, or anybody, be confident that the $3.5 billion of federal funds, public money—(Time expired)

Senator Edwards: What was the question?

Senator COLBECK (Tasmania—Minister for Tourism and International Education and Minister Assisting the Minister for Trade and Investment) (14:15): That is a fair question, Senator Edwards: what was the question? The government obviously is working with the New South Wales government on the delivery of this major piece of infrastructure. We see it as an important one. There are a range of checks and balances that are put into place with respect to the management of the project between the state and the Commonwealth to ensure that Commonwealth funds—and state funds, for that matter—are used correctly. Despite the Greens railing against these important pieces of infrastructure, we remain committed to these projects, which are very important for those who are going to be positively impacted by them. As I said in my previous answer, we remain committed to the project and we are committed to ensuring that taxpayers' money is properly used for the delivery of important infrastructure. (Time expired)

Senator RHIANNON (New South Wales) (14:16): Mr President, I ask a supplementary question. Minister, when you say you 'remain committed' what you are committed to are urban motorway projects that have been financial failures. The Cross City Tunnel, the Lane Cove Tunnel, the CLEM7 Tunnel and the Brisbane airport link had traffic forecasts that were widely inflated. How can you justify gambling billions in federal funds on WestConnex, instead of spending it on public transport? That is how we can reduce congestion and decrease travel times.

Senator COLBECK (Tasmania—Minister for Tourism and International Education and Minister Assisting the Minister for Trade and Investment) (14:17): In a policy sense, the Greens have their own policy priorities and the government has theirs.

Senator Kim Carr interjecting—

The PRESIDENT: Pause the clock. Senator Carr!

Honourable senators interjecting—

The PRESIDENT: Order on both sides!

Senator COLBECK: The Greens are quite free to express their policy preferences, but the government is committed to this project. We remain committed to the project. It was a
significant commitment that this government made coming through the last election, and we will roll the project out. The Greens can rail against it all they like; that is not going to change the circumstance. We will continue to support the project.

**Broadband**

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (14:18): My question is to the Minister for Communications, Senator Fifield. On 12 December 2013 Mr Turnbull said that his strategic review of the NBN was a ‘thorough and objective analysis’. I refer to leaked nbn documents—

*Senator Ian Macdonald interjecting—*

Senator BILYK: which show that the cost of fixing up the old copper network that Mr Turnbull bought back from Telstra has blown out by up to 900 per cent. Did this government direct nbn to roll out a second-rate network on the basis of advice that was hopelessly wrong?

Senator Wong: Mr President, on a point of order: Senator Macdonald interjects on every opposition question every single time. I am asking you, as President, to get him to desist.

*Government senators interjecting—*

A government senator: Are you serious?

Senator Wong: Yes, I am serious. He does it every single time on every single opposition question. Frankly, I know that you hear it, and, with respect, Mr President, something ought to be done about it.

Senator Cormann: Mr President, on the point of order: Senator Wong may well be right that, on occasion, Senator Macdonald interjects on opposition questions. But the Leader of the Opposition in the Senate interjects on every government answer. On the point of order: there should be one rule for all. If there is a rule that the Leader of the Opposition in the Senate wants to impose on this side of the chamber, she should comply with it herself.

*The PRESIDENT: On the points of order: both points of order are absolutely correct, and I remind all senators, as I have done on numerous occasions this week, that interjections are disorderly during a question or an answer, or at any other time. If I had to pull up every senator for every interjection, we would not get to question 1, possibly. Every senator has a responsibility not to interject.*

Senator Sterle: Good one, Macca. Now we are all in trouble!

*The PRESIDENT: Yes, Senator Sterle; you all are in trouble.*

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (14:20): I could answer Senator Bilyk with one word by saying 'no'. But I will not do that, because there has been a bit of action between Senator Bilyk asking her question and my opportunity to answer, so I will give a fuller answer. I think Senator Bilyk is referring to a leaked document from the nbn, which appeared in *The Australian* newspaper today. Let me share with you a media statement from nbn co, headed 'nbn refutes cost claims', which says:

*nbn* has refuted the accuracy of claims made in today’s media, saying that any costs related to build of the *nbn* network have already been included in the Corporate Plan released in August.
So the headline in the paper today saying ‘new cost blow-out’ is wrong. Nbn updated its figures in the August corporate plan. The release goes on to say:

With 550,000 Fibre-to-the-Node premises now in construction and a further 40,000 able to connect, nbn is confident that the cost per premises for Fibre-to-the-Node, as outlined in the Corporate Plan, is accurate.

As released in August this year and discussed at length, nbn has a comprehensive plan built from a true history of actuals and experience in building the network at scale.

It then goes on to say:

Risks and mitigation plans for the network are outlined in the Corporate Plan, and the revised peak funding figure takes these scenarios into account. We have produced a peak funding range and provided a contingency, as prudent measures to manage a project of this size and complexity.

Senator Bilyk, I appreciate the opportunity to provide comfort and reassurance to you. You do not need to be worried about the mischaracterisation of that document in the paper today. It was an early draft, it was an internal planning document and, because what is contained in there is commercial-in-confidence and the final numbers may have varied, I will not speak further to that.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (14:22): Mr President, I ask a supplementary question. I again refer to Mr Turnbull in December 2013 when he said:

... all forecasts in the Strategic Review ... are both conservative and achievable.

Yet leaked internal nbn documents show the cost per home for rolling out this government's second-rate copper NBN has nearly tripled, from $600 to $1,600. What is conservative or achievable about this outcome?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (14:23): The strategic review which Senator Bilyk refers to was based on the best available information at that time. Obviously, between that time and the corporate plan, nbn had real-life information available, so it updated its peak funding numbers, which took into account all of the available information. It is a matter of record that that which was inherited by this government in relation to the NBN was a train wreck. Senator Conroy, we know, did not take a technological approach to the NBN; he took a theological approach. We have, in fact, moved from a faith based system under Senator Conroy to one that, in terms of delivery, is technology-agnostic. There was the whole system of belief that developed around Senator Conroy, of which, I have said, he was the high priest. We are taking a real-life approach, unlike that of Senator Conroy.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (14:24): Mr President, I ask a further supplementary question. I again refer to leaked nbn documents which reveal that the cost of patching up the copper network is nearly 10 times what the government budgeted in December 2013. When will this government concede that the Prime Minister's second-rate copper NBN is a debacle?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (14:24): We will deliver the NBN quicker and at lower cost than those
opposite would have. This government and nbn management take a clear-eyed view of the NBN and they update, as is appropriate, in the corporate plan. Senator Conroy, in contrast, sought to create a culture of fear and denial in the nbn organisation. Anyone who came forward and said anything other than—

The PRESIDENT: Pause the clock. Order, Minister.

Senator Wong: Mr President, I rise on a point of order going to direct relevance. I know Senator Conroy is big enough and tough enough to listen endlessly to Senator Fifield's obsession with him, but we were not asking about Senator Fifield's obsession with Senator Conroy; we were asking him questions about this government and their policy.

The PRESIDENT: Thank you, Senator Wong. I did hear the minister say at the beginning of his answer, basically, that he did not concede. He did not use those words, but that was the inference drawn, and that was the question: would the government concede. I will ask the minister to continue.

Senator FIFIELD: This government is being open, up-front and transparent, as is nbn co, but Senator Conroy only wanted to hear good news that did not reflect the reality from the nbn organisation.

Senator Wong: Mr President, I rise on a point of order. How is a question, which—

Senator Cormann: Are you the protection racket for Senator Conroy?

Senator Wong: I will take the interjection. The protection racket is on Mr Brough. We have seen it all in here and we have seen it in the other place.

The PRESIDENT: No, you will not take the interjection. Senator Wong, stick to the point of order.

Senator Wong: I ask you, Mr President, to rule, in response to a question about government policy, on how it can possibly be relevant and in accordance with the standing orders for the minister to consistently and persistently talk about a senator who is no longer a minister? How can it possibly be 'directly relevant' as per the standing orders, which you, Mr President, are obliged to uphold?

The PRESIDENT: Thank you, Senator Wong. As I indicated earlier, I believe the minister, by inference in his answer, indicated that the government did not concede. I have always allowed ministers to enhance their answers, providing they stay on topic. I will be listening carefully to the minister's response.

Senator FIFIELD: Mr President, I am guilty as charged. My fondness for Senator Conroy has been laid bare. I admit it. But I reject the assertion that nbn's costs are not taken into account in the corporate plan.

Noncompliant Building Products

Senator MADIGAN (Victoria) (14:27): My question is to the Minister for Industry, Innovation and Science, Senator Sinodinos. Minister, the Construction, Forestry, Mining and Energy Union wrote to all state and territory building ministers in May asking them to conduct audits of highly combustible cladding used in high-rise buildings, the type of which contributed to an inferno at the Docklands Lacrosse Building in Melbourne, risking the lives of 400 people. I understand the union has informed the federal government of these requests.
What has the government done in response to this information? Has it requested the states and territories carry out the required orders?

Senator SINODINOS (New South Wales—Cabinet Secretary) (14:28): I thank the honourable senator for his question. I actually received it during question time. I do not have a briefing with me on this point, but I appreciate the seriousness of the matter that he has raised and I will follow it up.

Senator MADIGAN (Victoria) (14:29): Mr President, I ask a supplementary question. Minister, as reported in The Australian newspaper, the Melbourne Metropolitan Fire Brigade gave evidence to the Senate inquiry into nonconforming building products last month to the effect that major Australian cities are at the mercy of noncompliant building products and that a national audit is required as numerous buildings in our cities are ticking time bombs. Given this issue was on the agenda at the COAG building ministers forum on 31 July, why is there still no commitment by either the federal government or state and territory— (Time expired)

Senator SINODINOS (New South Wales—Cabinet Secretary) (14:29): The Building Ministers' Forum agreed at its 31 July meeting to establish a working group to report to ministers within six months on strategies to minimise the risk to consumers, to businesses and to the community associated with the failure of building products to conform to relevant laws. The ABCB would investigate options for a possible mandatory scheme for high-risk building products with life-safety implications and report to ministers within six months.

Senator MADIGAN (Victoria) (14:30): Mr President, I ask a further supplementary question. Minister, if, when the Building Ministers' Forum convenes in February there is no commitment by state and territory governments to carry out comprehensive audits in their respective states and territories, will the federal government request that this occur, or alternatively begin work on the establishment of a national audit in the interests of ensuring that the ongoing risk to the lives of occupants and firefighters is abated?

Senator SINODINOS (New South Wales—Cabinet Secretary) (14:30): I can assure the honourable senator that, once we receive the report, in concert with our state colleagues we will move expeditiously to do what we can to deal with this issue, and I will follow up on his behalf.

Foreign Investment

Senator WILLIAMS (New South Wales) (14:31): Mr President, I take this opportunity to wish you and your family, and all senators and their spouses and families, all the best for Christmas. I hope that 2016 is a very, very successful year for the Turnbull-Truss government. My question is to the Minister for Finance, Senator Cormann, representing the Treasurer. Will the minister inform the Senate of the government's new foreign investment measures which will increase the transparency of foreign investment into Australia?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:31): I thank Senator Williams for that question and, as Senator Williams knows, I am a very strong supporter of increased levels of foreign investment into Australia. Indeed, the government are a very strong supporter of increased foreign investment into Australia because we understand that increased levels of foreign investment provides additional capital to strengthen economic growth, to create more jobs and to improve consumer choice, and it also promotes healthy competition. Because we
underscoring the importance of foreign investment to the future success of our economy, we
also understand that we need to have an appropriately framed regulatory regime in place to
manage foreign investment to ensure that people can have confidence that any foreign
investment which is contrary to the national interest is not able to proceed. In that context, of
course, it is very important to have thresholds to ensure that the appropriate levels of
investments have the right levels of scrutiny.

The new measures, which came into effect on Tuesday this week following the passage of
the Foreign Acquisitions and Takeovers Legislation Amendment Bill 2015, are the result of
extensive consultations across business, industry and the community. They reflect the policies
which the coalition took to the last election, and we can be sure that the Australian people can
have confidence in the foreign investment framework in place in Australia and that is fit for a
21st century economic environment.

Among the key changes, the new measures better align the foreign investment framework
with other corporate legislation. The Australian Taxation Office has been given responsibility
for regulating foreign investment in residential real estate. Stricter penalties will make it
easier to pursue foreign investors that breach the rules. Application fees will ensure that
Australian taxpayers no longer have to fund the cost of administering the system, and there
are a range of other measures that were also part of the legislation, which becomes effective
this week. (Time expired)

Senator WILLIAMS (New South Wales) (14:33): Mr President, I ask a supplementary
question. Can the minister further inform the Senate how the new arrangements around the
purchase of residential properties will benefit Australia?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the
Government in the Senate) (14:33): I thank Senator Williams for that supplementary
question. The new arrangements are about ensuring that first home buyers and other home
buyers across Australia get a fair go when they turn up to an auction or go into a real estate
agents office. The government has provided additional resources to the Australian Taxation
Office to improve compliance and to strengthen the enforcement of the rules regarding the
purchase of residential real estate by foreign investors. The ATO can cover more than 600
million transactions annually through its data-matching programs, matching its own taxpayer
data with a variety of third-party sources, including the Foreign Investment Review Board,
Immigration, AUSTRAC banking data and state and territory land title data. The ATO
compliance officers are then in a position to investigate any suspected breaches and ensure
that appropriate measures are taken to ensure compliance with the law.

Senator WILLIAMS (New South Wales) (14:34): Mr President, I ask a further
supplementary question. Will the minister outline how these changes will improve the
scrutiny and transparency of new and existing foreign investments in agriculture?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the
Government in the Senate) (14:35): When the legislation passed, the coalition government
delivered, as I indicated earlier, on a key election commitment. With global food demand
projected to almost double by 2050, good quality agriculture and water assets in state
geographical locations will become increasingly valuable because of the scarcity of the
resources involved. Proper oversight and understanding of the level and nature of foreign
ownership of our agricultural land and assets is about understanding Australia's long-term national interests.

A central Commonwealth land register will, for the first time, provide an accurate picture of foreign ownership of agricultural land in Australia. The register will include a stocktake of existing ownership, providing a clear picture of foreign investment in Australia's agricultural sector. Lowering the general screening threshold for agricultural land acquired by foreign investors from $252 million to $15 million, and the screening threshold for agribusiness from $252 million to $55 million will ensure that foreign investment applications are appropriately scrutinised.

Shipping

Senator RICE (Victoria) (14:36): My question is to the Minister representing the Minister for Infrastructure and Regional Development, Senator Colbeck. Senator Colbeck, will the government revoke Alcoa's temporary shipping licence and save the jobs of the 38 crew of the MV Portland? If not, why not?

Senator COLBECK (Tasmania—Minister for Tourism and International Education and Minister Assisting the Minister for Trade and Investment) (14:36): The decision announced by Alcoa to decommission one of its ships is a commercial decision that has been taken under legislation passed by the previous Labor government, not by anything this government has done.

So this is legislation that has occurred under the Labor Party's coastal shipping legislation—passed, I might add, with the support of the Greens. Alcoa's decision to decommission the MV Portland is one of a number of measures the company is taking to reduce costs in order to ensure the ongoing viability of its aluminium smelting plant in Portland in Victoria. This smelter employs more than 2,000 employees. We understand the Greens' desire to deindustrialise—to attack large, employing industries in this country. The company is aiming to protect these 2,000 jobs by making its business more efficient. Might I add: this action is occurring under Labor's coastal shipping legislation—the legislation that the Labor Party told us would save the Australian shipping industry. And what has happened? Less ships; less freight carried on the coast and less employment—there is the legacy of the Labor Party and the Greens. So a government and an industry trying to protect jobs and employment—

(Time expired)

Senator RICE (Victoria) (14:38): Mr President, I ask a supplementary question. Senator Colbeck, given that the Senate last week emphatically rejected the government's agenda to destroy Australian jobs and industry in coastal shipping—and this decision was a foretaste of what is to come—how can the government justify this ongoing attack on this vital Australian industry and its committed and skilled workforce?

Government senators interjecting—

The PRESIDENT: Order on my right.

Senator COLBECK (Tasmania—Minister for Tourism and International Education and Minister Assisting the Minister for Trade and Investment) (14:39): Senator Rice demonstrates the dangers of not listening to the previous answer and having a prepared second question, because the changes being made by Alcoa have nothing to do with the coastal shipping legislation that was voted down last week—quite shamefully voted down last
week, I might say. It had nothing to do with it. It is under legislation that you passed, with the Labor Party, in the previous parliament; so it is your legacy, Senator Rice. Mr President, this is Senator Rice's legacy, not this government's legacy. The Labor Party got the Greens to vote with them to pass coastal shipping legislation which has contributed to less ships, less employment in the shipping sector and less freight being carried on the coast. In fact, it is cheaper to bring product from overseas than it is to bring it around the Australian coastline. So the Labor Party and the Greens are locking Australian business out of Australian manufacturing. (Time expired)

Honourable senators interjecting—

The PRESIDENT: Order on my left and on my right.

Senator RICE (Victoria) (14:40): Mr President, I ask a further supplementary question. So, given that, what does the minister then say to the families of the workers on the MV Portland, including the children who face Christmas having to go without, as their parents' jobs are on the chopping block?

Senator COLBECK (Tasmania—Minister for Tourism and International Education and Minister Assisting the Minister for Trade and Investment) (14:41): One thing I think we all agree on is that it is very difficult for these families at this point in time, given the decision that Alcoa has had to make. But let us place the blame where it ought lie: with those opposite and their friends in the Greens. So this is a very difficult time, but the blame for this lays with the Labor Party's legislation and the Greens' coalition with the Labor Party, because these things are happening—these changes that Alcoa are making right now—and, quite unfortunately for the families that are involved, under the legislation that the Labor Party promised would save their jobs. The Labor Party promised that the changes they made would save the coastal shipping industry and they misled those in that sector. (Time expired)

Mental Health

Senator GALLAGHER (Australian Capital Territory) (14:42): My question is to the Minister representing the Minister for Health, Senator Nash. I refer to the coalition government's response to the Mental Health Commission's review of mental health programs and services released last week. Can the minister confirm that the government has not accepted the recommendation of the Mental Health Commission to adopt a suicide reduction target of 50 per cent over the next 10 years?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Minister for Rural Health) (14:42): My understanding is that that is correct. But can I point out for the chamber that this is a significant change to how mental health has previously been done in this nation. It is changing the way we are approaching mental health, by moving from what is currently a very siloed program system, delivered out of Canberra, to something that is going to become locally delivered and patient centred. I think that everybody in this chamber would agree that that is a beneficial change—that that is something that is good for these people that are now going to have a comprehensive set of packages around them that is going to deal with their individual needs.

We of course have a very significant focus on the issue of suicide prevention, and that will be very much a part of what we are putting forward with this reform. Can I say: I think it is not only the coalition government that recognises the need to do this. And can I say: it took a
coalition government to make these changes to ensure that we have got a better system in place.

It has been very well received by those right across the sector. Mental Health Australia said, 'Reform starts today,' when they made their comments when this was announced by the government, and also said:

The Government has provided us with a workable framework for systemic change …

There is a very strong recognition that this is a positive move, including from the Australian Healthcare and Hospitals Association, beyondblue and the Consumer Health Forum—all have been very supportive of this change. And I very much respect that their view is very important when we are measuring whether or not this has been a positive step. (Time expired)

Senator GALLAGHER (Australian Capital Territory) (14:44): Mr President, I ask a supplementary question. With 2½ thousand Australians tragically losing their lives to suicide each year, and a further 65,000 Australians who attempt to take their own lives, does the minister recognise the need to take more effective action to combat unnecessary and tragic loss of life, and on what basis has the government rejected the expert recommendation of the Mental Health Commission?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Minister for Rural Health) (14:45): I do not think anybody would disagree with the first part of that question. We all want to do a better job in preventing suicide. Everybody in this nation recognises how important it is and how tragic it is that the levels of suicide are where they are. This has been very, very carefully considered by the government, and the recommendations were all very carefully considered, but the government put forward a package last week that we believe is the best way forward—

The PRESIDENT: Pause the clock.

Senator Moore: Mr President, I rise on a point of order on direct relevance. The second part of the question specifically asked on what basis the government rejected that particular point of the Mental Health Commission.

The PRESIDENT: There is no point of order. The minister was certainly directly relevant in the first part of the question.

Senator Moore interjecting—

The PRESIDENT: I understand your point of order, Senator Moore, but the minister has been directly relevant.

Senator NASH: There was very careful consideration given to the recommendations. I was very clear in saying that. Of course, it is the government's prerogative to reject or accept recommendations from any reports that we may receive that are presented to government. We believe that the package we have put forward is appropriate. It is sensible, and it is going to deliver better outcomes when it comes to mental health.

Senator GALLAGHER (Australian Capital Territory) (14:46): Mr President, I ask a further supplementary question. I again note the tragic toll of suicide, including in remote and rural Australia where the suicide rate is 66 per cent higher than in the cities. Will the Turnbull government reconsider its rejection of the Mental Health Commission's recommendation and
join Labor in a bipartisan commitment to a 50 per cent suicide reduction target over the next 10 years?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Minister for Rural Health) (14:47): I think I have been very clear in relation to the recommendation. This is extraordinary coming from those opposite who said, under the then Prime Minister, Julia Gillard, that mental health was going to be a key second term priority for their government—a second term priority. The senator may not have been here then, and she may not be aware of it, but I think it is appalling for any government to say that mental health should be a second—

The PRESIDENT: Pause the clock.

Honourable senators interjecting—

The PRESIDENT: Order, on my left and right!

Senator Wong: Mr President, I rise on a point of order on direct relevance. The minister was asked one question: whether or not the government would reconsider its rejection of the commission's recommendation and join the opposition in a bipartisan commitment to a 50 per cent suicide reduction target over the next 10 years. I fail to see how an answer relating to what Ms Gillard may or may not have said in the first term of the Rudd-Gillard governments is directly relevant to that question.

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

Senator NASH: Indeed, it was remiss of me—I meant to say 'no'. I would like to point out that this is extraordinary coming from those opposite. At the time, under the previous Labor government, Professor John Mendoza resigned as the chair of the mental health advisory council in 2010, accusing Labor of having no commitment to the mental health sector. So those on the other side should actually pay some attention to what they did not do. They had every opportunity in six years of their Labor government to make some changes to mental health, and they did not. It was not a priority for them. It is for the coalition.

Housing Affordability

Senator SESELJA (Australian Capital Territory) (14:49): My question is to the Minister for Communications, representing the Minister for Social Services, Senator Fifield. Will the minister inform the Senate of the impact of the National Rental Affordability Scheme on housing affordability?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (14:49): I thank my good friend Senator Seselja for his question. He has been neglecting me for a while!

I think that everyone here knows that NRAS was one of those flagship Labor programs—in this case designed to improve rental affordability. From the beginning of the Rudd government's scheme, it was poorly designed. It had multiple flaws, ambiguous legal requirements and red tape. The scheme has been slow in delivery, which is not good. It has failed to meet its delivery targets despite ongoing funding. The Audit Office released a report on the NRAS on 18 November, and it found that from the commencement of NRAS, in 2008, the delivery of eligible dwellings has been slower than anticipated—not good.
Senator Lines: What have you done on affordable housing?

Senator FIFIELD: It also found that no processes had been put in place to monitor or evaluate whether the scheme had encouraged large-scale investment in affordable housing. There was no way of monitoring whether there was innovative design of affordable housing or whether NRAS had any flow-on effect into the housing market—again, not good.

Senator Lines: You've ripped money out! You've done absolutely zero on housing affordability.

The PRESIDENT: Senator Lines!

Senator FIFIELD: It also found that administration of the application and assessment process, and management of reserved allocations for NRAS had not been effective—again, not good. Like many other programs of our colleagues across the way, such as the NBN—I just randomly cite an instance—

Government senators interjecting—

Senator FIFIELD: Do not tempt me! The ground work for NRAS had not been put in. The basic planning to ensure competent delivery had not been put in. Ms Plibersek cites NRAS as one of the greatest achievements of the former government. Those opposite have some odd benchmarks.

Senator SESELJA (Australian Capital Territory) (14:52): Mr President, I ask a supplementary question. Will the minister inform the Senate why the NRAS failed to achieve its original aims in its original form?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (14:52): The audit office report identifies that the scheme was launched by then minister Plibersek and then Treasurer Swan before the legislation and regulations supporting the operation of the scheme had been put in place—just a fact. The audit office report identified a range of adverse findings against the administration of the scheme: slow delivery of dwellings, as I have mentioned; no evaluation of the scheme's objectives; administration that did not fully accord with NRAS regulations—again, not good; and poor record-keeping to substantiate past decision making. On this side we at times get a little used to examples of poor Labor policy design. Regrettably, this is another such example.

Senator SESELJA (Australian Capital Territory) (14:53): Mr President, I ask a further supplementary question. What is the government doing to fix those problems with the National Rental Affordability Scheme?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (14:53): The government did take a decision in the context of the 2014-15 budget not to proceed with the final round of the NRAS, and also to cap the scheme at 38,000 dwellings. The government does remain committed to improving the administration of the scheme for the incentives already allocated. Amendments to the legislation have been introduced to improve the rate of dwelling delivery, as well as to simplify and streamline a number of aspects of the scheme. Despite the scheme, the proportion of low-income households in rental stress increased from 35.4 per cent in 2007-08 to 42.5 per cent in 2013-
They are ABS figures. So the scheme did not achieve the desired outcome. It was poorly designed and poorly administered. This government is setting about trying to make that right.

**Special Minister of State**

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:54): My question is to the Minister representing the Prime Minister, Senator Brandis. I note the minister's previous refusal to answer my questions about what the Prime Minister knew before he appointed Mr Brough to the ministry. At the time he made the appointment, was the Prime Minister aware that when asked on *60 Minutes*, 'Did you ask James Ashby to produce copies of Peter Slipper's diary for you?' Mr Brough confessed: 'Yes, I did'?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:55): That is better, Senator Wong: if you want to quote something, quote the verbatim transcript. I do not know—

Opposition senators interjecting—

The PRESIDENT: Order on my left.

Senator BRANDIS: I do not know whether at the time Mr Brough was appointed to the ministry the Prime Minister was aware of that *60 Minutes* broadcast, but I will enquire.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:55): Mr President, I ask a supplementary question. It is interesting, isn't it, the lengths to which this man will go to avoid answering that salient question. He took it on notice previously and now he has done so again.

The PRESIDENT: The question, Senator Wong.

Senator WONG: Has the Prime Minister asked Mr Brough why Mr Brough has changed his story: first telling *60 Minutes* he did ask James Ashby to procure copies of the Speaker's diary and then telling the parliament he did not?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:56): I do not accept the premise of the question—that Mr Brough has changed his story. However, in relation to any conversations that may have taken place—

The PRESIDENT: Pause the clock. Point of order, Senator Wong?

Senator Wong: Point of order. I suspect the minister is misleading the parliament to suggest that Mr Brough has not changed his story. He confessed on national television. Yesterday, he answered the same question completely differently.

The PRESIDENT: There is no point of order.

Senator BRANDIS: I am not accepting the premise of the question. I am not aware of what conversations may have occurred between the Prime Minister and Mr Brough, but I will enquire.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:57): Mr President, I ask a further supplementary question. Does the Prime Minister still maintain confidence in the Special Minister of State? Will Mr Brough be Special Minister of State when the parliament next meets?
Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:57): The Prime Minister has confidence in all of his ministers.

Northern Australia

Senator IAN MACDONALD (Queensland) (14:57): The last question for the year is a policy question on the government’s good work in Northern Australia. I ask the Minister representing the Minister for Resources, Energy and Northern Australia, Senator Scullion. If the minister could—

The PRESIDENT: Pause the clock. Senator Polley on a point of order.

Senator Polley: This is question time, not an opportunity for him to carry on with his verbal diarrhoea.

The PRESIDENT: Senator Polley, you reflected adversely on Senator Macdonald and I would ask you to withdraw.

Senator Polley: I withdraw and ask that the senator returns to the question rather than his preamble.

The PRESIDENT: On the same point of order, Senator Cormann.

Senator Cormann: Going back to an earlier point of order during question time, not only was the Leader of the Opposition interjecting very loudly, but she was leading a pack of interjections from the other side. She was encouraging interjections from the other side and I think you should call the Leader of the Opposition to order.

The PRESIDENT: Senator Wong, on the same point of order.

Senator Wong: On the point of order, the fact that the Leader of the Government in the Senate, and at times others in this chamber, do not deal with Senator Macdonald, they cannot then complain when similar behaviour is returned in kind.

Senator Brandis: Mr President, on the point of order: when you rule, you will note that what Senator Wong just said in her contribution was an open declaration of intent to defy the standing orders and to defy your rulings by her and, at her encouragement, by those who sit behind her.

The PRESIDENT: Thank you, Senator Brandis.

Senator Conroy: Mr President, on the point of order: seriously, you cannot possibly uphold Senator Brandis's contribution there. He is the person who refuses to actually act as a leader and deal with Senator Macdonald and then seeks to let him off the leash every now and then. So I ask you to absolutely disregard Senator Brandis's basic, blatant rants.

The PRESIDENT: That is not a point of order, Senator Conroy. Senator Bernardi, if you really think this is going to assist, on the same point of order.

Senator Bernardi: Mr President, on the point of order: may I just wish everyone a merry Christmas.

The PRESIDENT: Senator Bernardi, there is no point of order. Senator Cameron, I hope it is new material for the same point of order.

Senator Cameron: It is on the same point of order. Mr President, I, like everyone, have sat here and watched the bad behaviour of Senator Macdonald day after day. And it is even
worse when he tries to verbal the Leader of the Opposition and when he continually interjects on every woman Labor senator who stands in this place. His behaviour has been appalling, his behaviour should not be tolerated, and, with the greatest respect, Mr President, you should do something about it because they have got no control over him.

Honourable senators interjecting—

The PRESIDENT: Order on both sides! I will take all the points of order collectively. It is the last question time. I will take the points of order collectively, but I remind all senators: some are more serial offenders than others—

Government senators interjecting—

The PRESIDENT: Order on my right. The points of order have been relevant in respect of the behaviour of many senators in this place. I think all senators need to take some ownership and leadership in relation to question time in particular and to behaviour. I think if we end it on that note, on the last question of the year, I will call Senator Macdonald to ask his question.

Senator IAN MACDONALD: Thank you, and could I say merry Christmas to the new leader of the Labor Party, Senator Katy Gallagher, and the new deputy leader, Senator Cameron. Merry Christmas.

The PRESIDENT: To the question, Senator Macdonald.

Senator IAN MACDONALD: I did start my question; I was halfway through it, but perhaps I could restart. Can the Minister representing the Minister for Resources, Energy and Northern Australia inform the Senate about recent steps that have been taken to implement the commitments made by the Liberal-National Party in the North Australian white paper released in July, particularly regarding development of scientific research, industry and infrastructure in the north of Australia.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (15:03): I thank the senator for North Australia for this important question. The North Australia development white paper is a clear demonstration of this government's commitment to regional Australia. It is also recognition of the great benefits to the national economy that will be achieved by developing the North, and the implementation of commitments made by the North Australian white paper is gaining momentum every day. In recent weeks, nearly $600 million in development programming has commenced. Firstly, the $75 million North Australia cooperative research centre, or CRC, that was brought into existence with the appointment of Councillor John Wharton, the Mayor of Richmond Shire as the interim chair.

The CRC will partner universities, research centres, Commonwealth authorities and private sector interests to devise innovative strategies for developing new and exciting North Australian industries as well as protecting those industries from risks and challenges. Most recently we have seen the launch of the government's $500 million National Water Infrastructure Development Fund, $200 million of which is earmarked for North Australia for feasibility studies and capital expenditure in water infrastructure. These exciting developments come on the back of the recently-commenced jewel in the crown of northern development. This is the $5 billion Northern Australia Infrastructure Facility. This facility will enable the private sector and state and territory governments to get large-scale legacy
infrastructure projects across the line by providing concessional loans. In addition, we are going to maximise the opportunities for communities to benefit from the increased employment and commercial development that will come from this wave of investment in the North—especially for the significant Indigenous population that resides in many remote communities across the North. These great steps forward, that may otherwise not have occurred, can now proceed in Northern Australia.

Senator IAN MACDONALD (Queensland) (15:05): I thank the minister for that answer. The minister mentioned in his answer water management and water resources in Northern Australia. I ask if he could update us on any recent developments in relation to water, dams and water management in Northern Australia.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (15:05): The National Water Infrastructure Development Fund was officially launched on 19 November this year and represents the government's commitment to securing the nation's future water supply, including in Australia's north. The fund will support a range of activities relating to water infrastructure, including water resource assessments, feasibility studies and capital works. The Department of Agriculture and Water Resources is working with state and territory agencies to support them in bringing forward applications from non-government organisations, including local councils, to ensure that the government is able to consider a broad range of proposals to develop new, economically viable water infrastructure and support the expansion of regional economies.

The Commonwealth will make the assessments and the decisions on the allocation of funding, and I am particularly pleased to reassure Senator Macdonald that this process will be streamlined and efficient. This government understands that capturing and managing the water in the North is critical to the economic future of the North and of the nation.

Senator IAN MACDONALD (Queensland) (15:06): Mr President, I ask a further supplementary question. I thank the minister for a very informative answer. I ask the minister: are there any additional developments occurring in northern Australia, particularly in the areas of health, science and technology?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (15:06): The Northern CRC will promote research and development in sciences, medicine, agriculture, biosecurity and a wide range of other disciplines to help build a resilient knowledge infrastructure for the development of northern Australia. The work of the CRC will be built around strategic partnerships, none less important than its partnerships with northern Australian universities.

Another critical development in northern Australia is the Australian Institute of Tropical Health and Medicine, based at James Cook University in Townsville, which was founded following the $42 million in establishment funding from the federal government. The institute was officially launched just this week by the Minister for Education at a ceremony here in Canberra, with the Minister for Trade and Investment, the Minister for Resources, Energy and Northern Australia and the Vice Chancellor of James Cook University. The work of the Institute of Tropical Health and Medicine places Australia at the forefront of research, prevention and treatment of tropical diseases. As one of only three developed countries in the tropical zone, Australia, and particularly northern Australia, is perfectly placed to become a hub for innovation, development and commercialisation of—(Time expired)
Senator Brandis: Mr President, I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Special Minister of State

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:07): On Tuesday, 1 December, I was asked a question by the Leader of the Opposition in the Senate concerning the execution of a search warrant on the home of Mr Brough, and I undertook to get back to her with further information.

The primary question was:

I refer to guidelines issued by the Australian Federal Police for search warrants, which state:

'All matters where the execution of a search warrant may have politically sensitive implications (not limited to fraud) should be raised with the Minister responsible for the AFP …'

When was the Minister for Justice first informed of the AFP's intention to execute a search warrant at the home of Mr Brough? Did the minister inform Mr Brough, and if so when?

The answer that I have been provided by the Minister for Justice is:

As is usual practice, the Australian Federal Police informed the Minister for Justice just prior to it being executed. The Minister for Justice did not inform Mr Brough of the execution of the search warrant.

The first supplementary question was:

Did the Minister for Justice inform his senior minister, the Attorney-General, of the AFP's intention to execute a search warrant at the home of Mr Brough? Was the Attorney-General copied into any brief for the Minister for Justice informing him of the warrant?

I was not informed by the Minister for Justice of the AFP's intention to execute a search warrant at the home of Mr Brough. As is usual practice, the Minister for Justice provided me with an oral briefing after the warrants were executed.

The second supplementary question was:

Did the Minister for Justice inform the Prime Minister of the AFP's intention to execute a search warrant at the home of Mr Brough? If so when, and did the Minister for Justice inform anyone else of the AFP's intention to execute this search warrant?

The answer provided by the Minister for Justice is:

As the Minister for Justice informed the House of Representatives on 1 December, after the warrants were executed, as I would normally do in a matter like this, I informed the Prime Minister's Chief of Staff and the Attorney-General, as the Cabinet Minister in the portfolio.

Automotive Industry

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (15:10): On Tuesday I was asked a series of questions by Senator Muir in relation to matters that had been raised with him by the Australian Automotive After Market Association. I can advise the Senate and Senator Muir that I have raised these issues directly with Minister O'Dwyer and her office. I understand that, subsequently, the minister's office has been in contact with Senator Muir and his team to provide further information about the matters raised. I thank Senator Muir for bringing these matters to his questions to the attention of the Senate and the government. I have full confidence that Minister O'Dwyer
and her office will continue to be of assistance to Senator Muir and his team regarding this issue.

**Noncompliant Building Products**

Senator SINODINOS (New South Wales—Cabinet Secretary) (15:11): I want to add to an answer I gave at question time in response to a question from Senator Madigan. The Lacrosse Building fire in Victoria resulted from the use of a product that was not fit for purpose. The Victorian Building Authority confirms that this is an example of building practitioners installing a product that was not fit for purpose and therefore noncompliant. The VBA is continuing its investigation into the noncompliant use of cladding and will examine the conduct of the builder practitioner and the surveyor.

It is important to acknowledge that regulatory responsibility for building product compliance and enforcement sits with the states and territories. That is why the Parliamentary Secretary for Industry and Science, the Hon. Karen Andrews, raised this matter at the Building Ministers’ Forum on 31 July 2015. Apart from the work that that forum commissioned, which I mentioned in my answer, in terms of nonconforming building products, the BMF also agreed that a senior officers working group, with secretariat support provided by Queensland, consider strategies to minimise the risks to consumers, businesses and the community associated with a failure of building products to confirm to relevant state building laws and regulations and at point of import. That working group will also report to the BMF ministers in six months time on the strategies for addressing nonconforming building products in their jurisdictions. I welcome the work that is being undertaken on these matters and look forward to the outcomes being considered by the BMF in due course.

**Road Infrastructure**

Senator COLBECK (Tasmania—Minister for Tourism and International Education and Minister Assisting the Minister for Trade and Investment) (15:12): Senator Rhiannon asked me for some information regarding WestConnex in New South Wales. I can advise that the updated business case confirms that WestConnex is financially viable and brings travel time and productivity benefits for business, freight operators and commuters. WestConnex is expected to deliver $20 billion dollars worth of economic benefits to the New South Wales economy and stimulate local economies.

**Special Minister of State**

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:13): After discussion with the Leader of the Government in the Senate, I seek leave to make a short statement in response to the additional information that Senator Brandis provided.

Leave granted.

Senator WONG: I thank the Senate and I thank Senator Brandis for adding to his answer. I would make a few points. The first is that it has taken him some time to respond to the questions asked. I would have thought that, for something as important as the state of mind and the information and knowledge provided to government ministers in relation to the execution of a search warrant, the Attorney might have been a little more prompt in providing information to the Senate.
I have asked on two occasions whether or not the Prime Minister was aware of Mr Brough's statement on *60 Minutes* when he was asked, 'Did you ask James Ashby to procure copies of Peter Slipper's diary for you?' and Mr Brough said, 'Yes, I did.' I have now asked on two or three separate occasions whether or not the Prime Minister was aware of that statement prior to appointing Mr Brough to the ministry, and this minister representing the Prime Minister has not answered that question and he did not do so in the answer he just provided to us.

**Senator BRANDIS** (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:15): The answers that were provided to my office from the Minister for Justice's office were finalised in time for question time today. In relation to the second point, I have been asked about this matter twice by senator Wong—today and yesterday. Today I took the question on notice because, as I said in my answer, I do not know whether the Prime Minister was aware of that particular *60 Minutes* broadcast. I do not know but, as I said, I will inquire.

When the Leader of the Opposition sought to raise this issue in a somewhat different way yesterday by not actually quoting the words that had been used I said, as I repeat, that I disputed the premise of the question. I have been asked the question in a proper fashion today and I have said I will take it on notice and I will.

**QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS**

**Special Minister of State**

**Senator JACINTA COLLINS** (Victoria) (15:16): I move:

Senator Collins moved—That the Senate take note of the answers given by the Attorney-General (Senator Brandis), the Minister for Finance (Senator Cormann) and the Minister for Rural Health (Senator Nash) to questions without notice asked by Senators Cameron, Collins and Gallagher today relating to the Special Minister of State (Mr Brough) and to mental health policy.

In relation to answers provided by Senator Brandis, he maintains that we should wait until guilt is established rather than apply the ministerial standards. He knows what those standards are. Arthur Sinodinos knows what those standards are. It is not appropriate that we wait until guilt has been established when a prima facie case is very clear, even more so as Senator Brandis tries to dance around a basic contradiction. You cannot say on national television, 'Yes, I did,' and then say in the House of Representatives, 'No,' and not accept that there is a clear contradiction there.

**Senator Heffernan interjecting—**

**Senator JACINTA COLLINS**: Senator Heffernan it seems is again trying to say that my voice is too loud. I am sorry, Senator Heffernan, that is bad luck for you. We have every reason to be outraged by the behaviour that is occurring here.

Let me move to Senator Cormann's non-answer to questions today. What is particularly instructive is that he would not indicate confidence in his junior minister. He is not hanging himself out here.

I think I should return, though, to Senator Brandis and his various attempts to avoid answering questions and to refuse to take questions to the Prime Minister on notice earlier and, indeed, his not dealing with them comprehensively. It is tempting for senators to switch off as we are on the receiving end of Senator Brandis's odious pomposity. It happens time and
time again and it is hard to continue to listen to him. But, for example, he and his interjecting colleagues burnt up close to 20 minutes of question time and time to take note of answers yesterday by misconstruing Senator Wong's paraphrasing and debating whether or not she had used the correct tense. This is what question time yesterday deteriorated into, rather than question time being about the government of the day, the executive government, answering questions.

Of course, Senator Brandis gets into trouble when he is answering questions, and we all need to ask: what is he hiding? Here is an example of what he is seeking to hide and why he is stonewalling. Senator Brandis told the Senate about his knowledge of the James Ashby affair, stating, 'I have no knowledge of the James Ashby affair beyond what I have read in the media.' We now know that Senator Brandis was briefed by the justice minister, Michael Keenan. This is directly contradictory to the evidence that he provided to the Senate. As we now know that Senator Brandis had information other than what was reported in the media, the question is: what else did he know and from what other sources? We now know why he danced around today and why he wasted 20 minutes of question time and taking note time yesterday. He is attempting to hide the real issue. The real issue was his answer that he knows nothing more than what he had gleaned from media coverage of this matter, and what we now know is very different.

Not only do we have Mr Brough misleading parliament; there are serious questions now over whether the Attorney-General is guilty of misleading the Australian parliament. That was the issue he was hiding yesterday. That is where the trickly lawyer was dancing around again with his odious pomposity. We know he is stonewalling and we know now he is clearly hiding his own knowledge and his own involvement in this tawdry matter. And, of course, it is a tawdry matter.

Other movements in the Queensland Liberal National Party do make you wonder. There are defections to the National Party. What else is yet to occur here? Others are running away from Mr Brough. Senator Bernardi does not want to indicate his confidence. Senator Cormann does not want to indicate his confidence. Senator Brandis hid behind a generalisation that Mr Turnbull would have confidence in all of his ministers. We know what the lines are behind there. I look forward to Senator Bernardi's defence of Mr Brough because it will be most— (Time expired)

Senator RUSTON (South Australia—Assistant Minister for Agriculture and Water Resources) (15:21): It was really quite interesting to stand here and listen to Senator Collins's contribution.

Senator Bernardi interjecting—

Senator RUSTON: I have just been accused by my colleague of misleading the Senate by saying it was quite interesting. The comment that we heard from Senator Collins about question time deteriorating because of actions on this side of the place is really quite extraordinary. I am sure everybody who was in this place today saw that the majority of the deterioration that occurred in question time certainly did not originate from this side of the chamber.

One of the things I must say are quite extraordinary is the absolutely incredible obsession by those opposite with issues such as the one Senator Collins has just been speaking about. If
only we had the same level of obsession about the prosperity of this country from those opposite, maybe we would be a little further down the track than where we are currently, instead of wasting the time of those in this chamber and those who were unfortunate enough to have had to listen to the goings-on today.

The most important thing we could be discussing today is the prosperity of Australia. We should be talking about jobs, we should be talking about the economy and we should be talking about the government's agenda. To be prosecuting aspects of the broader government agenda in question time I would have thought was the purpose of question time. We should be prosecuting the issues of innovation, we should be prosecuting the issues of government agility and Australia's agility to be able to deliver for the future. Which made me all the more surprised when a senator opposite got up and asked a question about the NBN. I would have thought they would have learnt their lesson by now and realised that trying to defend the indefensible, which was the NBN under their watch, instead of working towards looking at the positive aspects that are happening with the NBN under our watch, is quite extraordinary.

How many times have those opposite talked about the NBN and about an article that had been leaked to *The Australian*? There is absolutely no doubt that Senator Conroy has a couple of friends in the media because of the number of times we have seen leaked documents coming out on the NBN which are then refuted by nbn co. They have not been peer-group analysed and they get put into this place as though they are fact. It is quite extraordinary.

I concede that the NBN is a nation-building transformative piece of infrastructure. I congratulate those opposite because there is no doubt that is the case. However, the way it was being delivered under those opposite and the previous government was nothing short of absolutely farcical. But there is some good news around the NBN. So I thought I would take a quick opportunity today to tell you a few good things about the NBN, so people are not misled by the rubbish they read in the paper sometimes.

The NBN is powering ahead. There is a plan that 3.9 million premises will be passed over the next three years and using existing copper technology, in conjunction with the HFC infrastructure, which already exists, not only can the NBN be completed with much less cost but it can also be completed much quicker and will be more affordable to the taxpayer.

To be standing here and trying to continually prosecute something which occurred in the past, instead of looking forward, seems to me to be another political waste of time—as we see so often from those opposite. If we really want to talk about some negative things about the NBN, we only have to look at the extraordinary mismanagement of the project under those opposite. It was the most poorly managed project that I can remember since coming here.

When Labor embarked on this mammoth venture they were absolutely clueless. They deliberately avoided a cost-benefit analysis. They abandoned a normal cabinet process and just went for a rubber stamp policy. They then ignored advice from the Public Service about what was going on, instead favouring some advice that they got from agencies that suited their ultimate outcome. Then Senator Conroy even had the audacity to appoint nobody to the board who had any telecommunications experience. So I find it extraordinary that we should be standing here today prosecuting these silly things when there are so many more important things to be done for the country. *(Time expired)*
Senator CAMERON (New South Wales) (15:26): Here we are: we had plenty of opportunity for those opposite to defend the member in the lower house, Mr Brough, but what did they talk about? The NBN. They were not game to go near this cabinet minister, who is under incredible attack not only in the lower house but in the Senate and in the media. Not one coalition senator was prepared to say that they stand by this man.

Senator Bernardi: Just you wait!

Senator CAMERON: Senator Bernardi is going to stand by a cabinet minister who has misled parliament? It does not surprise me that Senator Bernardi would be getting up and supporting Mr Brough, because what Mr Brough has done trashes what is supposedly a clear obligation of a minister to act according to Westminster principles and to not mislead the parliament. He has misled parliament and the issue which is very interesting right now is that it is clear that Senator Brandis has misled the Senate. Senator Brandis said in his initial responses to the issue of what Mr Brough had done that he had no knowledge other than that which he had read in the media. That position was clarified today, and we have a different position where they received an oral briefing after the execution of the warrant. So the standard of ministerial responsibility in this place, either in the House of Representatives or in the Senate, under this government, has deteriorated so badly that ministers do not find it a problem to stand up and mislead the Senate or to mislead the House of Representatives.

Senator Ruston said there was some incredible obsession on this issue and then she ran away from the issue as quickly as she possibly could. She did not want to talk about it. There is no incredible obsession. This is about ministerial accountability—a very low bar to jump when it comes to the coalition. Ministerial responsibility under this government is out the window.

You can go on national television and admit to criminal activity, then come into the House of Representatives and deny it, mislead the House of Representatives and then claim that you are acting completely correctly. It is just nonsense. Ministers have a responsibility to tell the truth and not mislead either the Senate or the House of Representatives.

Senator Brandis has some questions to answer here as well. Senator Brandis has some explanations to make, because he told the Senate unequivocally that he had no knowledge of anything to do with Minister Brough's position other than what he had read in the media. Then he comes in today and indicates that he had an oral briefing after the execution of the warrant. So Senator Brandis has some explanation to make. Senator Brandis is absolutely doing the same thing that has been done by Minister Brough in the House of Representatives—that is, saying something that is not accurate and misleading the Senate. He has misled the Senate.

If we talk about courage and conviction in politics, surely it is about time that the Prime Minister acted with some courage and conviction. Surely it is about time that this Prime Minister had some backbone and actually stood up for the conventions and the rules that apply in both the House of Representatives and in the Senate, because this Prime Minister has shown no courage, no conviction and no commitment to the principles that apply in both Houses. (Time expired)
Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:31): Once again—not for the first or even the second or even the third time this week—Labor senators have misrepresented the position and misrepresented what has been said. What I said—and what I continue to say, because it is the case—is that I had no knowledge of the James Ashby affair beyond what I learned from the media, and that is the case. Senator Cameron has just said that I misled the Senate because I had said I had no knowledge of Mr Brough's position. That is not what I said. I said I had no knowledge of the James Ashby affair other than what I learned in the media, and that is the case. The fact of a search warrant being executed on Mr Brough's home, which was in the media, and the fact that I was advised of it by the Minister for Justice as a matter of course after the warrant had been executed, is not the James Ashby affair. It is an investigation.

The DEPUTY PRESIDENT: I took it that you were speaking to the motion before the Chair, Senator Brandis.

Senator GALLAGHER (Australian Capital Territory) (15:32): I rise to take note of the answer given by Senator Nash, representing the Minister for Health, to the question I asked about the suicide reduction target. Firstly, I was quite surprised by the response from Senator Nash when she answered the question. The question was: can the minister confirm that the government has not accepted the recommendation of the Mental Health Commission to adopt a suicide reduction target of 50 per cent? Her answer to that was, 'I understand that that is correct—that they have rejected that recommendation.' But she was not able to explain, despite being asked twice, why the government had rejected that and why that was the case.

This is a very serious situation here in Australia. Tragically, we have 2,500 people who lose their lives to suicide every year and another 65,000 Australians who attempt to take their own life. It is now double the annual road toll in any specific year, and it equals seven people losing their life to suicide every day. I think there certainly is unanimous agreement that we have to do something to reduce this number. We have to better support people and provide them with access to crisis support and with education, information and early intervention to prevent these tragic numbers becoming a permanent reality.

The Mental Health Commission's response to the review of mental health programs and services made it very clear that something further needs to be done and that it needs to be tackled similarly to ways that other terrible outcomes, such as the road toll, are being tackled, where you have a specific focus, pull in your effort behind it, set yourself a target and then measure progress against that target. We do that in a whole range of areas across public administration, particularly in government, when we are evaluating our programs. Targets are often included in there. There is simply no reason that is obvious to me or to others interested in mental health as to why, of all of the recommendations in this report, that one would have been rejected by the government without any explanation.

There are other questions, of course, about the government's response to this report. It is very light on detail. It is a 900-page report to which the government's response, I think, is 28 pages, if that. There is no indication of how it is going to be done, the cost of rolling out the program or the changes that will be made—and there will need to be significant changes if you can believe the overarching principles of what is in this document. There is no information about that. It is very light on in relation to suicide prevention and it is completely silent on the issue of the target or rejecting the target, although today the Minister
representing the Minister for Health has very clearly answered the question—that they have rejected that target. She also indicated very clearly that, no, the government would not be reconsidering that recommendation. This is really disappointing, particularly when you look at the crisis that is suicide across this country and when you look at the disproportionate impact that suicide has on particular communities—particularly Aboriginal and Torres Strait Islander communities and those Australians living in rural or remote Australia, without as much access to high-quality support services as would be available to people in the city.

It is the leading cause of death for people under the age of 44 in this country. It is staggering that we would have that result and the response from the government to perhaps the most comprehensive review of the mental health system in the last few years with a recommendation on which the government is simply silent. But they talk the talk, 'Yes, we need to do more and effort needs to be put in,' but then they do not indicate how that will be done, the timetable for doing it or why, indeed, they are refusing to measure progress against it. As anyone knows who has been in government before, when you put out a program and you attach targets to it, the reason you do it is not because you might fail—and you have to acknowledge that over time—but because you want to make progress and you want to measure where you are going and be able to work out whether you have been successful. The government should reconsider their position. (Time expired)

Senator BERNARDI (South Australia) (15:38): Before I address the substance of what I really wanted to do in taking note, I want to comment on what Senator Gallagher has said. Suicide is an extraordinary epidemic in our country. I do not think there are too many families who have not been touched by it in one way, shape or form either through extended friends or experience. In my own case, it caused me to reflect to when I was an employer and one of my employees took her own life. A couple of us went to inquire as to her welfare and we found her. It was a devastating experience for all involved—family, friends, work colleagues and everyone else. While Senator Gallagher was talking, I thought 'Could we have done more?' and it may have simply been to inquire further after someone's welfare. I support whatever endeavours are taking place on either side of the parliament in respect to inquiring as to the mental health and wellbeing of other people.

However, during question time there were lots of allegations made about misleading the parliament and misleading the Senate. In question time, I made a contribution which was to wish everyone a merry Christmas. I was not misleading the Senate when I said that. I was absolutely genuine in my good wishes for all of those in this chamber. Christmas is a time for reflection, where we think very carefully about the blessings that we have, the great fortune that we have and extend goodwill and best wishes to those all across the Senate.

The DEPUTY PRESIDENT: Senator Bernardi—

Senator BERNARDI: I wondered how long this would take.

The DEPUTY PRESIDENT: if you could resume your seat. Senator McEwen, on a point of order.

Senator McEwen: Yes, a point of order. The question before the chair is to take note of answers to questions asked by Senators Cameron and Collins about Minister Brough and also answers to questions asked by Senator Gallagher about mental health. I know Senator
Bernardi addressed mental health, but I have no idea which of those answers he is addressing in this part of his contribution.

**Senator BERNARDI:** Mr Deputy President, in response to the point of order. It was very clear that I referenced how the allegations in question time were about misleading the parliament or the Senate and I was merely contrasting the allegations on that side with the fact that I was absolutely genuine in my contribution during question time, and I think the segue is perfectly legitimate and plausible. If the Christmas grinches on the other side do not want to hear about goodwill to all, that is for them and they can leave.

**The DEPUTY PRESIDENT:** Thank you. I cannot actually rule on this point of order. I do not want to upset you, Senator Bernardi, but I was not listening to your contribution because I was getting instructions from the Clerk about how we are proceeding for the rest of the day. So you have the call and I think you are going to finish in about two minutes.

**Senator BERNARDI:** Are you looking forward to me completing my response? I will not take it personally that you were not listening to me. I will I send you the Hansard, if you like, and you can enjoy my contribution once again! There was certainly a segue from the allegations that were made in question time to my own contribution, which was on a point of order, and it may have been spurious but it was about saying Merry Christmas to everyone. In the cut and thrust of political battle, where we often make all sorts of allegations about others and motives on the other side, it is important to reflect on the importance of the Christmas season. You do not have to be a particularly religious person to embrace the culture that arises out of it. That is where we give thanks for—

**Senator Carol Brown:** Mr Deputy President, I rise on a point of order on direct relevance. It is quite clear that Senator Bernardi is responding to the motion before the chair. It is also quite clear that Senator Bernardi is not prepared to support his colleague in the House, Mr Brough. If he does not want to do that, he should just sit down.

**The DEPUTY PRESIDENT:** Are you going to speak on the point of order, Senator Bernardi?

**Senator BERNARDI:** I would be delighted to respond. Senator Brown may have been asleep while I was addressing the important thing of suicide, which Senator Gallagher raised, and also in my subsequent response which has been about the allegations of misleading the parliament. I am proving my bona fides in that I have not misled the parliament. It is very clear.

**Senator Cameron:** Mr Deputy Speaker, I rise on the point of order. I just do not think Senator Bernardi has gone anywhere near the issue that is before the Senate. In relation to what he has been saying, it sounds as if he is looking for a new career outside of parliament as a Methodist preacher. He should not be doing an interview for a Methodist preacher and wasting the time of the parliament.

**The DEPUTY PRESIDENT:** Thankfully, I have been listening to Senator Bernardi's contribution since the last point of order and I think he may have strayed from the question before the chair. So I would remind him of the question.

**Senator BERNARDI:** Who am I to disagree with your ruling, Mr Deputy President. I want to thank the honourable senator's on the other side for allowing me to make a contribution. With only 10 seconds left, I would really like to take this opportunity to once
again wish all of my colleagues the spirit of goodwill and merry Christmas, no matter where they sit in this chamber.

Question agreed to.

**Shipping**

**Senator RICE** (Victoria) (15:44): I move:

That the Senate take note of the answer given by the Minister for Tourism and International Education (Senator Colbeck) to a question without notice asked by Senator Rice today relating to jobs in the shipping industry.

What a callous and cold-hearted response we got from Senator Colbeck. We have 38 workers on the MV *Portland*—and their families—who are facing a very bleak Christmas indeed. They are about to lose their jobs, and the response we got from Senator Colbeck was that it was very difficult and unfortunate. To be telling that to the children of those families, who are indeed looking at a very bleak Christmas—a Christmas of glum faces, a Christmas of pretty sad tidings rather than glad tidings—is not going to give them much cheer. To be telling those children that it is very difficult and unfortunate is the government's way of washing its hands and distancing itself from what is indeed an appalling outcome where we have 38 hardworking skilled seafarers who are being thrown on the scrap heap.

The minister tried to justify it by saying that it was a commercial decision of Alcoa's and one that was in the interests of efficiency. That is not going to be of much comfort to them, and we know that it was not Alcoa's decision. We know that the responsibility for this decision sits fairly and squarely in the hands of the government. It was the government who had to approve the temporary licence that was being issued to Alcoa.

The government could have said, 'No. This is not justifiable. No, there is no reason as to why there should be a temporary licence issued.' But no, they rolled over and said that in the interests of efficiency, reducing costs and ongoing viability, they would issue this temporary licence.

I want to translate for people what efficiency, ongoing viability and reducing costs really mean. I will translate Senator Colbeck's terms and what he really meant when he said 'efficient': he means tossing skilled Australian workers on the scrap heap; he means replacing them with foreign workers being paid less than $2 an hour. In fact the information we have been given is that the workers who are going to replace the workers on the MV *Portland* are going to be paid 66c per hour. That is what is meant by this government's efficiency.

This is an appalling outcome and an appalling situation that we are now in in Australia: an efficiency that will replace a skilled Australian worker being paid decent wage on decent conditions with foreign workers being exploited and paid at less than $2 an hour.

This is an attack on all Australian workers. Because, if it is good enough for Alcoa to say, 'We don't want to pay our seafarers decent wages—we're going to replace them with workers being paid 60c an hour,' it is more efficient to be underpaying
truck drivers. Are they fair game next? The workers on the MV Portland are part of the Australian transport industry and deserve as much as truck drivers and to be paid a fair wage. They deserve as much as freight-rail operators are paid. Is it going to be okay to pay them 66c an hour as well? Or are we going to be in a situation where those workers, particularly those freight-rail workers, are going to be out of work too?

It does not have to be this way. Tomorrow we are going to hear from US Rear Admiral Robert Reilly Jnr about how they do things in the US, where they protect their seafarers' jobs under the Jones Act. Last week we heard from the ambassador of Norway, who told us how they protect workers there. They pay them high wages and they have a successful maritime industry.

I implore this government to reconsider and revoke the licence they have issued, and to stop playing Scrooge and give the 38 MV Portland workers, the Christmas they deserve.

Question agreed to.

PETITIONS
Veterans' Affairs

Senator LAMBIE (Tasmania) (15:49): by leave—I present the following petition of SAS Trooper Evan Donaldson, containing about 5500 signatures. I have placed on my social media an interview I carried out with Trooper Donaldson and his wife. This family have been involved in a six-year battle to understand why Trooper Donaldson's official Army records have been fraudulently altered in order to deny his service with the SAS.

Overwhelming evidence has been presented to me which indicates that Trooper Donaldson is the innocent victim of a criminal reprisal action by his direct superiors, which has been condoned and covered up at the highest levels of this government, the SAS and ADF.

I want a special Senate investigation into these claims. I want ADFA Sergeant Major and Warrant Officer William Maher; Brigadier Stuart Davies; Head of Defence Legal Services, Mark Cunliffe; and Head of the Fraud Investigation and Control Branch, Michael Callan to appear under oath before this Senate committee.

DELEGATION REPORTS
Official Visit by the President of the Senate to New Zealand

The DEPUTY PRESIDENT (15:50): I present the report on the official visit by the President of the Senate to New Zealand, which took place from 21 September to 24 September 2015.

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

Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendment made by the Senate to the bill.

Third Reading

Senator COLBECK (Tasmania—Minister for Tourism and International Education and Minister Assisting the Minister for Trade and Investment) (15:51): I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

COMMITTEES

Community Affairs References Committee
Murray Darling Basin Plan Select Committee
Unconventional Gas Mining Select Committee

Membership

The DEPUTY PRESIDENT (15:51): The President has received letters requesting changes in the membership of committees.

Senator COLBECK (Tasmania—Minister for Tourism and International Education and Minister Assisting the Minister for Trade and Investment) (15:51): by leave—I move:

That senators be discharged from and appointed to committees in accordance with the document circulated in the chamber.

Community Affairs References Committee—

Appointed—
Substitute member: Senator Polley to replace Senator Brown for the committee's inquiry into the future of Australia's aged care sector workforce
Participating member: Senator Brown

Murray-Darling Basin Plan—Select Committee—

Appointed—Participating member: Senator Xenophon

Unconventional Gas Mining—Select Committee—

Appointed—Senator McEwen.

Question agreed to.

BUDGET

Consideration by Estimates Committees

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (15:52): I present additional information received by committees relating to the following estimates:

Budget estimates 2015-16—Environment and Communications Legislation Committee—Budget—Additional information received between 25 May and 9 October 2015—Environment portfolio.

Budget estimates 2015-16 (Supplementary)—
Economics Legislation Committee—Additional information received between 12 November and 2 December 2015—Treasury portfolio.
Environment and Communications Legislation Committee—
Additional information received between 19 October and 13 November 2015—Environment portfolio.
Additional information received 20 October 2015—Communications and the Arts portfolio.
Hansard record of proceedings.
Finance and Public Administration Legislation Committee—Senate Standing—Estimates—2015-2016—Budget (Supplementary)—Additional information received between 11 November and 1 December 2015—
Finance portfolio.
Parliamentary departments.
Prime Minister and Cabinet portfolio.

COMMITTEES

Publications Committee

Report

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (15:52): On behalf of the Chair of the Publications Committee, I present the 20th report of the Publications Committee.
Ordered that the report be adopted.

Treaties Committee

Report

Leave granted.
The statement read as follows—
Mr President, today I present the Joint Standing Committee on Treaties' Report 157: Treaties tabled on 13 October 2015.
Report 157 covers two proposed treaties:
• Agreement between the Government of Australia and the Government of the Republic of India concerning Transfer of Sentenced Persons; and
• Amendments of 2014 to the Maritime Labour Convention.
Mr President, Australia's international transfer of prisoner scheme has been in place since 2002. The scheme provides a comprehensive framework to govern the transfer of prisoners in and out of Australia. The focus of the scheme is on rehabilitation and reintegration of prisoners. It enables prisoners to serve out their sentence in their home country.
Mr President, transferring prisoners back to their home country removes language and cultural barriers to rehabilitation and reintegration. For Australian prisoners it may mean access to relevant counselling for drug, alcohol or gambling issues. It may also mean better supervision and support to reintegrate back into the community after release. This is in addition to the benefits of being closer to the support network provided by family and friends.
The scheme also contributes to community safety by making sure that convictions are recorded in Australia. As well it enables effective monitoring and management of prisoners released on parole. It relieves the hardship and financial burden on the relatives of Australian prisoners held in India and reduces the cost of providing consular assistance.
The second treaty covered in this report is an amendment to the International Labour Organisation's Maritime Labour Convention. The Convention establishes minimum working conditions for seafarers
working on ships. The Australian Government ratified the Convention in 2011 and it entered into force for Australia in 2013.

Mr President, this amendment will require parties to the Convention to establish a financial security system for seafarers abandoned by their employers. Abandonment includes:

- failure to cover the cost of a seafarer's repatriation;
- leaving the seafarer without necessary maintenance and support; or
- otherwise severing ties with the seafarer, including failing to pay wages for a period of at least two months.

The amendment will require parties to set up a financial security system that provides:

- up to two months' worth of outstanding wages and other entitlements owed to the seafarer;
- all expenses reasonably incurred by the seafarer, including repatriation costs; and
- the seafarer's essential needs, such as clothing, accommodation, drinking water and medical care.

Additionally parties will be required to provide a system of compensation for the death or long term disablement of a seafarer.

Mr President, the amendments will make sure that vulnerable seafarers have appropriate workplace protections in place in the event of abandonment or sickness, injury or death. Seafarers or their families will be able to access compensation for a long term disability or death.

Mr President, I can advise that the Committee supports the proposed treaty actions. The Committee has recommended binding treaty action in relation to the Australia-India transfer of prisoner agreement. The amendment to the Maritime Labour Convention is deemed accepted by parties on a set date, so no recommendation is required.

Mr President, on behalf of the Committee, I commend the Report to the Senate.

**Senator FAWCETT:** I move:

That the Senate take note of the report.

**Senator LUDWIG** (Queensland) (15:53): Report 157: treaties tabled on 13 October 2015 draws me to the earlier reports of the Joint Standing Committee on Treaties and in particular of the Foreign Affairs, Defence and Trade References Committee. I reference that in this context, with the tabling of the treaties report.

Report 157 shows a process which both treaties have gone through. However, the last revision to treaties that took place was some 20-odd years ago, in 1996, when a treaty report named Trick or treaty? was produced. I would have much preferred, being a member of the treaties committee, that any revision of the treaties role be conducted by the treaties committee itself. However, that was not to be the case. What has occurred since Trick or treaty?, which was produced in 1996, is a Foreign Affairs, Defence and Trade References Committee report entitled Blind agreement: reforming Australia's treaty-making process. That report went on to provide, I think, some insightful recommendations for reform of the treaty-making process.

The committee heard consistent evidence that the current process falls significantly short on a number of counts. First and foremost, all treaties, including complex free trade agreements, are only presented to the parliament and subject to scrutiny after they are signed by the government. The parliament—the treaties committee—is then faced with an all-or-nothing choice when considering legislation to bring an agreement into force and prevented from pursuing a key scrutiny and accountability responsibility.
I think the time has moved on since the significant reforms of 1996 with *Trick or treat treaty?*, and it is now time to reconsider the role of the treaties committee. I am going to advocate that from here, based on the Foreign Affairs, Defence and Trade References Committee report. As I said earlier, I think it is disappointing that the treaties committee itself has not taken the recommendations and pursued them, but be that as it may. What has occurred and what currently occurs is that JSCOT inquiries begin after agreements are signed. This does not provide an adequate level of oversight and scrutiny. Parliament should play a constructive role during the negotiation rather than simply as a rubber stamp at the conclusion of that process. It seems counterintuitive to think that, after signature, complex trade agreements are then reviewed and national interest analyses produced, and then the government implements the treaty.

To be clear: I am not advocating that parliament should sign off treaties. The executive plays that role. What I am advocating is that there be an opportunity for significant reform to the process to ensure greater transparency and to engage more with stakeholders in respect of the treaty-making process. You can take some of those recommendations. Specifically, the report's key recommendations are not that the JSCOT engage more in the oversight of trade agreements under negotiation and not wait until the end of the process. They are about parliamentarians and stakeholders being given access to treaty text on a confidential basis during negotiations and not as a token offer at the end, as was the case with the Trans-Pacific Partnership trade agreement. These practical measures, which are in the report, would significantly improve stakeholder engagement during treaty negotiations and entrench democratic accountability through effective parliamentary scrutiny using existing committee processes. I think the treaty-making process in Australia would be much better served by that outcome.

The report's recommendations are consistent with the bipartisan approach of successive Australian governments to trade liberalisation, including the pursuit of free trade agreements. Of those recommendations that I want to take the opportunity this afternoon to take the Senate to, I would advocate all of them together but with some specificity. In recommendation 2:

The committee recommends that the Joint Standing Committee on Treaties adopt a process of ongoing oversight of trade agreements under negotiation. In short, the treaties committee can start much earlier in the process of undertaking scrutiny rather than at the end. In that way, there could be things like private briefings from the Minister for Trade and Investment and the Department of Foreign Affairs and Trade under conditions of confidentiality at key points during negotiation. It would also enliven consultation with stakeholders with confidential access to negotiating text. It would also involve writing to the minister and inviting the minister to respond to concerns that may be raised during that process. A summary of ongoing oversight is also helpful to the process. This is not about unpicking an agreement; it is about making sure that it is in Australia's national interest.

Recommendation 3 of that report is:

The committee recommends that the Parliamentary Joint Committee on Human Rights consider the human rights implications …

We have come a long way since 1996 and we have a human rights committee in parliament now, and it should also play a role in the treaty-making process. Recommendation 4 is:
The committee recommends that on entering treaty negotiations, Australia seeks agreement from the negotiating partner(s) for the final draft text of the agreement to be tabled in parliament

Recommendation 5 is:

The committee recommends that, subject to the agreement of negotiating countries, the Department of Foreign Affairs and Trade publish additional supporting information on treaties under negotiation, such as plain English explanatory documents and draft treaty text.

All of these are about ensuring that during and through that process of treaty making there are opportunities for the engagement of stakeholders.

I did not want to take the Senate to all of the recommendations. I would encourage the Senate and the Department of Foreign Affairs and Trade—and the treaties committee, quite frankly—to have a look at all of the recommendations, but you can get the sense of them from recommendation 8:

The committee recommends that a cost-benefit analysis of trade agreements be undertaken by an independent body, such as the Productivity Commission, and tabled in parliament prior to the commencement of negotiations or as soon as is practicable afterwards.

This is all about ensuring transparency and ensuring that it is in our national interests and that parliamentarians and stakeholders have an ability to look at the treaty on a cost-benefit analysis to assure themselves that it is in Australia's national interests for the executive government to sign such treaties. Recommendation 8 goes on:

The committee further recommends that:

• treaties negotiated over many years be the subject of a supplementary cost-benefit analysis towards the end of negotiations …

As we should have an opportunity of looking at the cost-benefit analysis of treaties we may sign, we ought to take stock of what we have signed to ensure that it continues to be relevant and in Australia's best interests. Recommendation 10 goes to what I have been referring to as national interest analysis:

The committee recommends that National Interest Analyses … be prepared by an independent body such as the Productivity Commission …

I think we have moved significantly over the 20 years to a place now where we can look a lot harder at the outcomes of the treaties committee. We can update its role and responsibilities within parliament, and these recommendations go to doing just that. It is about updating the treaties committee's role and ensuring they have an opportunity to participate in the process in a much more hands-on role than what they have been doing to date. The treaties committee has been a very good committee over the last 20 years, but it is time for improvement.

Question agreed to.

**Senators' Interests Committee**

**Report**

**Senator McEWEN** (South Australia—Opposition Whip in the Senate) (16:03): On behalf of Senator Bilyk, I present the Register of Senators' Interests, incorporating statements of registerable interests and notifications of alterations lodged between 25 June and 1 December 2015.
Joint Standing Committee on Foreign Affairs, Defence and Trade

Report

Senator McEWEN (South Australia—Opposition Whip in the Senate) (16:03): On behalf of the Chair of the Joint Standing Committee on Foreign Affairs, Defence and Trade I present the report *Empowering women and girls: the human rights issues confronting women and girls in the Indian Ocean-Asia Pacific region.*

Ordered that the report be printed.

Senator McEWEN: I move:

That the Senate take note of the report.

It is a pleasure as deputy chair of the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade to present the report entitled *Empowering women and girls: the human rights issues confronting women and girls in the Indian Ocean-Asia Pacific region.* All of the members of the human rights committee share a passion for promotion of the human rights and empowerment of women and girls in Australia's region, and we hope that the report presented today will be a practical contribution to Australia's efforts to support the advancement of the human rights of women and girls across the Indo-Pacific region.

The terms of reference for this inquiry were extremely broad. They involved nothing less than a competitive examination of the human rights circumstances of women and girls across a vast region. It is a region that includes six of the world's 10 most populous nations, and countries as different in size and character as China, Afghanistan and Nauru. The report reflects the weight of evidence received from those who contributed: the Australian government, especially the Department of Foreign Affairs and Trade, and a wide range of non-government organisations and academic experts. The committee also sought the views of all governments in the region and were pleased to receive submissions from Afghanistan, Mauritius, Vietnam, Timor-Leste and Sri Lanka. The report addresses in considerable detail the human rights issues in countries in Australia's immediate region, especially the South Pacific, and in countries that are significant recipients of Australian development assistance.

Over the course of the inquiry, the availability of reliable data and particularly evidence on what programs and initiatives are working and what are not working emerged as significant issues. The importance of data in understanding the extent of the problems and the effectiveness of aid programs was succinctly expressed by the International Women's Development Agency, who stated:

What we measure matters. It reflects what we value. It drives the visibility of issues. It influences where resources are invested.

The committee has therefore made a number of recommendations to address the paucity of data so that future policy and development assistance programs are underpinned by comprehensive evidence.

Despite this, a very clear picture emerged that the circumstances of hundreds of millions of women and girls across the Indo-Pacific region are dire, blighted by violence, poverty and exclusion from economic, social and political participation. While many countries have made great progress in advancing the human rights of women and girls—especially in recent decades—it is all too clear that more than 6½ decades after the adoption of the Universal

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Declaration of Human Rights a great deal more progress must be made for women and girls to be considered truly equal.

The committee did not single out any particular countries or group of countries for criticism or judgement. Instead the report details the extent and depth of problems across the region and examined ways in which governments, communities and non-government organisations can work together to make further progress in protecting and improving the lives of women and girls. In particular, evidence received by the committee documented nothing less than an epidemic of violence directed against women and girls in many nations. This is a most serious problem across the Indo-Pacific region, and it should not be forgotten either that economic consequences of violence against women are enormous and constitute a significant drain on national economies and, indeed, our region as a whole.

By virtue of its nature and its embeddedness in cultures and social attitudes as well as its different triggers, violence perpetrated against women and girls represents a very deep seated challenge. The diversity of the Indo-Pacific region also presents a major challenge for the implementation of development assistance programs to address the problem. What may work in one country or social group may be of limited effectiveness elsewhere. Again I stress: programs that seek to empower women and girls must be backed up by good local consultation and research that into account a program's possible benefits, economic value and cultural impact.

The committee has recommended an intensification of efforts and further work that takes into account both the cultural and social diversity of the region and the insights of further research to identify most effective responses. Similar challenges are evident in relation to health, education, economic participation and the involvement of women in community decision-making and political life more broadly. In all these areas there has been significant progress in many places, but much remains to be done, and in some areas urgent action is required to ensure that hard-won gains are not reversed or lost.

The committee's recommendations span a wide range of issues and government programs and underline the need for broad and sustained commitment of resources. There are no easy solutions to any of the problems discussed in the report. All of them require a preparedness by policymakers to commit to programs that are likely to only deliver substantial progress over decades rather than years and in some cases perhaps only through intergenerational change. The committee was also mindful of the many demands on Australia's overseas development assistance budget, and, nonetheless, given the magnitude of the problems, there is still a strong case for giving women and girls greater priority in Australia's overseas development assistance.

We recommend that the focus of our investments be in expertise in programs that deliver best return for investment on large-scale, long-term programs for 10 years or more designed directly for women's empowerment in key countries. Indeed, the long-term benefit, including the economic benefits, of greatly reducing domestic violence and improving educational and economic opportunities for women and girls are potentially very large.

On behalf of the committee, I would like to thank all of the non-government organisations, academics and individuals for generously donating their time, effort and resources to make submissions and appear at public hearings or private briefings. I also thank all the Australian government agencies that appeared before the committee and provided assistance. I would
especially like to thank the staff and students of Auburn Girls High School in Sydney, which hosted two days of public hearings on 21 and 22 August 2014. The committee was very pleased to have the opportunity to bring parliament to the people.

I would also like to thank the Chair of the Human Rights Subcommittee, Mr Philip Ruddock; the previous chair, Mr Luke Simpkins; and my other colleagues on the joint standing committee who engaged closely with this inquiry. I commend the report to the Senate.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Economics References Committee

Report

Senator KIM CARR (Victoria) (16:12): On behalf of Senator Ketter, I present the report of the Senate Economics References Committee on Australia's innovation system together with the Hansard record and proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator KIM CARR: I move:

That the Senate take note of the report.

This is a report of the committee, and I would like to thank the committee for the diligent and detailed way in which these issues were considered, and the submitters, who produced 185 submissions to the inquiry. I would also like to thank Professor Roy Green, who was employed by the committee and has provided insightful commentary and reflections from a basis of profound knowledge of the innovation debate. I thank his work for the committee and the recommendations that he has presented in a report that has gone to the committee itself.

The committee began its inquiries in March of last year, when the national innovation system had a very different configuration. The then system was driven by a suite of measures that Labor established in government under a 10-year agenda: Powering Ideas. Shortly after the committee began its work, the government's 2014 budget dismantled or defunded many of the measures and the programs developed under that agenda. As a consequence, over $3 billion has been taken out of the innovation system by various actions of the current government.

More recently we have seen, however, a change of Prime Minister, and again the government wants to talk about innovation. I can recall circumstances which recently were highlighted by the remarks of Catherine Livingstone, who indicated that she had seen the debate around innovation go from the 'sublime to the ridiculous'. She said that we had a situation until recently where the word itself was not to be used in submissions. This was a position, she said, where we 'have gone from the word innovation being banned to suddenly being compulsory, regardless of context'. I have spoken to senior public servants informally who advised that they could not put the word 'innovation' in cabinet submissions, because it would not get through the door. What a difference it makes now. As Catherine Livingstone says, the renewed national discussion around innovation has seen the fashion renewed for all things innovation, which has diluted the focus on the task at hand. She indicated to a recent BCA meeting that we need to ensure that the national discussion on innovation starts from a
systems approach and that, if we do not do that, we will be talking about the style of rooms rather than the house that it is actually necessary to build.

We have seen the situation where, for instance, the Innovation Australia board was slated for dismantling by this government. I say this in the context that next Monday the government is about to make an innovation statement. But only recently the former minister approached the Innovation Australia board to tell them that they were to be abolished, only to be informed that there was actually an act of parliament protecting them, which the minister did not appear to be aware of.

At recent Senate estimates we went through the membership of the Innovation Australia board and discovered that, of the 15-person board, only five positions were filled, there was a sixth position filled by an ex officio departmental official and there were 10 vacancies. That is as at 22 October this year. So on Monday, when we get to look at the innovation statement that this government brings down, we might want to see it in the context of the cuts that have occurred and the treatment of innovation under this government.

The position that the 85 submissions—from industry, from universities, from the public research agency, from public offices like the Office of the Chief Scientist—put to this committee highlighted the importance of all elements of the innovation system, human and institutional, to ensure that we have a systemic approach to rebuilding our innovation system in this country so that we can ensure that we do not just take an ad hoc position, in terms of little slivers of the innovation system, but that we look to what drives innovation in this country. Such an approach should allow the process of encouraging the transformation of our economy, firm by firm, and ensure that, industry by industry, we are able to develop an approach to innovation in which the government's role is essential to driving social change and ensuring the modernisation of Australian industry and the Australian economy. That will not happen unless government is able to provide the necessary resources to ensure that we can cover in a proper manner the types of issues that are addressed in this report, rather than the cost-cutting approach we have seen by this government. I have no doubt that, next Monday, the government will spend some more money, but it will go nowhere near the detail or the extent necessary to rebuild the innovation capacity that we have lost as a result of the budget cuts over the last two years. I seek leave to continue my remarks.

Leave granted.

**Report**

**Senator CAMERON** (New South Wales) (16:18): On behalf of the Chair of the Economic References Committee, I present the report on insolvency in the Australian construction industry, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**Senator CAMERON:** I move:

That the Senate take note of the report.

This is a report that has arisen as a result of the huge number of insolvencies in the building and construction industry. The building and construction industry comprises about 10 per cent of gross domestic product and 10 per cent of employment. This industry represents 20 to 25 per cent of all insolvencies, and the insolvencies leave approximately $3 billion worth of
insolvent debt each year. This insolvent debt has huge economic, huge productivity and, more importantly, huge social consequences for participants in the industry. Small businesses in the construction industry face a higher risk than any other industry of either becoming insolvent or becoming a victim of insolvency elsewhere in the contracting chain.

We were told that this is market forces at work. This is not market forces at work in the building and construction industry; it is market failures in the industry. The failures go to the structure of the commercial construction industry, with long subcontracting chains, serious imbalances of power in contractual relationships—and Mr Acting Deputy President Sterle, you would be aware of that problem in the transport industry as well—the unconscionable and oppressive commercial practices engaged in by companies in the industry and unlawful conduct, including criminal conduct, around phoenixing operations in the industry.

There is a culture in the industry of non-compliance with the Corporations Act. As one witness said, 'The culture of the industry is like that of a battlefield: subcontractors are mowed down and fresh bodies are poured into the gaps.' These subcontractors that are mowed down are the victims of oppressive conduct from some of the major contractors in the industry. New tradespeople with very little business acumen or experience are then brought into the industry, and they are exploited in the same manner.

It is a cut-throat industry which is characterised by widespread nonpayment of subcontractors for the work that they have done; zero and negative margin tendering; concentration of market power in the hands of dominant head contractors; and an almost complete lack of respect for the principle that anyone who performs work in accordance with their contract is entitled to be paid for that work. If you do the work, you should be paid. The structure of this industry means that that cannot be guaranteed for anyone in the industry. It is a huge problem that this industry faces.

As well as the catastrophic economic effects of the high rate of insolvency, the inquiry heard compelling evidence of the social effects, including family breakdowns, mental illness, homelessness and suicide attributable to the immense commercial and financial pressures being placed on small businesses in the industry. We had the son of a very successful contractor in Perth, Western Australia, who was not paid for the work that his company had done on a major project in Western Australia, and that successful businessman ended up committing suicide because of the pressures that were placed on him and his family arising from the culture that applies in the industry. There is a complete lack of respect for the principle that anyone who does the work should be paid. And the concentration of the market power in the hands of the dominant head contractors results in fear and intimidation in the industry. Contractors are fearful that, if they get offside with the major contractor, they will never get another job in the industry. This is an untenable position, and the committee looked at all of these issues in great detail.

The other concern is the illegal phoenix activity in the industry. As you are aware, phoenix activity is simply tendering for work at lower than the price that you should pay and ending up in a position where you go bankrupt, you do not pay your debts, you do not pay out your contractors that have done the work, the contractors end up carrying the cost and then that company 'phoenixes'—it comes from the ashes, sets up again and becomes a company that operates as if nothing had happened. They are immune from any serious activity by the regulators in the industry, because the regulators do not have the resources to deal with this
issue. The committee heard that there is a culture developing in the industry in which some company directors consider compliance with the corporations law as optional, because the consequences of noncompliance are so mild and the likelihood that illegal conduct will be detected is so low.

Cash flow problems and uncertainty around contractual payments provide little incentive to invest in innovative construction methods, capital equipment and workforce skills. The construction industry consistently ranks in the three least innovative industries in the country. Latest ABS data indicates only one-third of all construction businesses could be classified as 'innovation active'. Less than 15 per cent of construction businesses have innovation in development. This is a tragic position. It means that productivity is reduced. It means that employment is down. It means that profitability goes down because the structure of the industry is such that the big end of town grabs all the cream and it is not shared. The benefits of being in the industry are not shared effectively through the industry. In fact, if you do the work, there is no guarantee that you will get paid. The committee came up with 44 recommendations to try and deal with this problem. This is not the first time this issue has been considered, either at state or federal level. Even the Cole royal commission looked at this issue and came up with some views in relation to what was happening in the industry on this issue.

Among the committee's 44 recommendations are three that seek to ensure that the principle of being paid for the work that you do is widely observed. The report recommends that, commencing in July 2016, the Commonwealth commence a two-year trial of project bank accounts, with the status of a trust, on at least 20 construction projects where the Commonwealth's funding contribution exceeds $10 million. The move toward a trust model to underpin security of payment in the construction industry attracted the almost unanimous support of submitters and witnesses who gave evidence to the inquiry. The committee agrees with this approach. Project bank accounts have a very strong potential to resolve virtually all the payment problems that are besetting the industry and minimise the great harm that the high level of insolvencies is inflicting on industry participants. The committee believes that the Commonwealth, as a major funder of construction projects around the country, has a responsibility to be a model industry participant and require the adoption of best practice payment practices on Commonwealth funded construction projects. It is absurd, in this day and age, that security-of-payment legislation is left at the state level and is inconsistent around the country. A contractor can work in one state one day and another state the next day, and the security-of-payment legislation is not the same, so they get ripped off unmercifully.

As I said earlier, phoenixing is the scourge of the construction industry. We believe that: section 117 of the Corporations Act needs to be amended to require that, at the time of making an application for registration of a company, directors provide a director identification number obtained from ASIC after satisfying ASIC of the director's identity; section 569AB of the Corporations Act needs to be amended and a parallel civil penalty contravention for phoenixing offences introduced; and section 569AB needs to be extended to all forms of administration, not just liquidation. This is an issue that has to be dealt with. This is causing not only economic devastation but social devastation. The government should act on the recommendations and protect workers who need to be paid. I seek leave to continue my remarks later.
Leave granted; debate adjourned.

**BILLS**

**Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015**

**Consideration of House of Representatives Message**

**In Committee**

Debate resumed.

**The CHAIRMAN** (16:29): The committee is considering message No. 494 from the House of Representatives relating to the Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015. The question is that the Senate does not insist on amendment (1) to which the House has disagreed.

**Senator SINGH** (Tasmania) (16:30): As we know, yesterday marked the six-year anniversary of the Greens joining with the Liberals to vote down the Carbon Pollution Reduction Scheme. Today will go down in history as another remarkable day when the Greens again have joined with the Liberals to help Australia's richest companies keep their tax dealings secret—selling out on ordinary Australian taxpayers in the process. Not only have the Greens sold out on themselves; they have sold out on everyday Australian taxpayers. Let us be clear about that. This goes beyond their own base but goes to everyday Australian taxpayers. I think that is completely immoral.

The other thing that I think would sit very uncomfortably with the Greens is what their former leader, Christine Milne, would think of this dirty deal that they have done with the government. It was Christine Milne who helped initiate the multinational tax inquiry to start with—and I give her credit for that. The former Greens leader, Christine Milne, certainly has more respect and integrity when it comes to issues of multinational tax avoidance than any Green in this place today, because all of them are selling out on that legacy that she leaves behind—a legacy where she knew that it was not fair and it was not right that hundreds and hundreds of Australian multinational companies were getting away with not paying their fair share of tax.

Let us go specifically to what this deal means for Australians. It means that, in effect, where there was going to be a threshold of $100 million where transparency laws would apply to about 900 private firms, now the Greens, siding with the government, will exempt two-thirds of those companies.

**Senator Whish-Wilson:** More lies. Shame.

**The CHAIRMAN:** Senator Singh, resume your seat. Senator Whish-Wilson, you need to withdraw those comments.

**Senator Whish-Wilson:** I withdraw.

**The CHAIRMAN:** Thank you, Senator Whish-Wilson. It is bad enough when there are loud interjections across the chamber, but when senators are in close proximity on the same side I think loud interjections are unfair to the speaker. I ask all senators to keep that in mind.

**Senator SINGH:** Two weeks ago the Senate sought to restore the previous tax transparency laws. Labor, the Greens and a number of Independent senators demanded that the government bring the tax transparency threshold back to $100 million for all companies so as not to increase the complexity in the system and to ensure that the private and public
companies were treated alike. Now, as a result of an enormous backflip, as a result of the enormity of what occurred yesterday, some six years after the Greens joined the Liberals to vote down the Carbon Pollution Reduction Scheme, two out of three of the private companies that would have been caught in the tax transparency net will be taken out—thanks to the deal that the Greens have done with the government.

The decision of the Leader of the Greens, Richard Di Natale, is I think a repudiation of the hard work that his own senators had done in the weeks and months prior to protect the tax transparency laws and to ensure big companies were held accountable. This decision flies in the face of their own Greens senators and what they agreed to.

The Australian community and the Greens' own members will be rightly outraged at the new leader's capitulation in the face of pressure from the government. Perhaps it is appropriate that we reflect on the fact that, as I said, yesterday marked that six-year anniversary of the CPRS. In some attempt to become more mainstream the Greens are perpetuating a tax system that Australians see as unfair and which the Greens saw as unfair only two weeks ago. Now, all of a sudden, it is okay because the Greens want to move into this mainstream space—and, looking for relevance in that process, they have decided on some incredibly poor policy outcomes.

As we are all aware, the ATO gave evidence that one in five Australian private companies earning over $100 million paid no tax at all last year. But it is okay for hardworking Australian taxpayers to pay their fair share of tax. They cannot hide the amount of tax that they are supposed to pay. They are hardworking Australians and they pay all their tax, as they should and as we expect all people and companies in this country to do. We do not expect companies to hide their tax. If there is a loophole in the law, let's fix it, let's expose it, let's recognise the lack of transparency and do something about. That is what we did in this place a couple of weeks ago with the support of the Greens and the Independents. What they have done today flies in the face of that commitment that they gave to Australian taxpayers two weeks ago. It is sheer hypocrisy—absolute hypocrisy—when they know that this is not what they believed in only two weeks ago.

This goes to the heart of what the Greens' values are. This goes to the heart of what the Greens stand for and what they believe in. What do they believe in? Who would know? Two weeks ago they believed in transparency for multinational companies; today they do not. Today, the Greens are quite happy to sell out all the Australian taxpayers in this country. Why? Because they want to become 'more mainstream' and more relevant—arising from a fear of becoming irrelevant—or some other bizarre notion that they have concocted. As I have said, I am sure a number of Greens members today are saying, 'Bring back Christine Milne, because she stood for something.' She stood for proper Green values that they at one point held dear.

Now, we do not know what those values are because, let's face it, they have decided, 'Better to shore ourselves up with the Liberals; perhaps one day we'll get in government with them and then we will be really relevant.' Do you know what you will be relevant for? Nothing; because you will stand for nothing. As long as you come in here and backflip all over the place and sell out Australian taxpayers, as you have, no-one will vote for you. No-one will care anymore about who you are, because you do not stand for anything. We on this side of the chamber do stand for something. We stand for fairness for Australian taxpayers.
and we want to see those multinational companies pay their fair share of tax. They have gotten away with paying nothing—absolutely nothing. That is a disgrace, and it flies in the face of all of those hardworking Australians who day in and day out work hard and pay their fair share of tax.

I say to the Greens that it is not too late; you can actually change your mind again. Do a courageous backflip for once. Do a backflip that actually means something. Go back to your original position—a position which stood for something; a position of integrity—which meant that there would be transparency in our laws for these companies who, for too long, have gotten away with not paying their fair share of tax. If the Greens had not wilted—as I think my colleague Dr Andrew Leigh and our shadow Treasurer, Chris Bowen said—like week-old kale, the government would have had no choice but to pass this bill with the transparency amendments included. This would have been the best outcome for the Australian community and for tax fairness—"fairness", a word which is no longer part of the Greens party after today. Instead, the Greens have delivered the government the votes that they need to gut tax transparency.

Let's just go to the heart of what that means. That means the Greens are protecting the Liberal Party's donors for the next election. All of those big companies—we know them; Philip Morris et cetera—that donate to the Liberal Party are safe and sound thanks to the Greens. So not only are the Greens delivering no tax transparency; they are delivering the government an election outcome. They are ensuring that the government's pot is full for the next election. We know that it is probably less than a year away, so I am sure that they are doing the numbers already. They are ensuring that the Liberals have the money they need from those companies. That is a disgrace. I am sure that is not what those Australians who voted for the Greens thought that they were getting. They would not have thought that that is what they were going to get from the Greens party in this country. After today, I would be very interested to see how the Greens progress in whatever it is that they are going to forward with in this place, What we have seen today has been absolutely shameful. It has been a disgrace. It has been a sell-out and it flies in the face of anything that I thought the Greens perhaps did stand for. I thought that, at some point in time, they did stand for fairness. But they certainly do not seem to be standing for fairness anymore.

At the heart of all of this what we have wanted to talk about is the need for more transparency and not less, so that we can hold to account those companies that are not paying their fair share of tax. I thought that we had got there, and I thought that this Christmas we would be facing a situation where we had righted a wrong in our laws in relation to companies that were avoiding their fair share of tax. But, after today, if the Greens go ahead and join with the government in voting down what they supported with us only two weeks ago, all has been lost. That would be an incredible shame for democracy in this country and a shame for all of those hardworking Australians who, day in and day out, fight hard to ensure that we have fair and decent outcomes in this country. That is what I thought we were doing in this place—but not so much after today. As we know, that $200 million threshold will mean that fewer than 300 companies in Australia will be covered by this new law. That is an incredible drop from the 900 private firms that this law was going to cover. I think it is an absolute shame, and I ask the Greens to reconsider their position—and save some credibility.
in the process—so that this country can have fair and decent transparency and companies will pay their fair share of tax.

Senator Conroy: Oh, my goodness. He found the backbone to stand up!

Senator WHISH-WILSON (Tasmania) (16:43): You are on your feet again, Senator Conroy. You are supposed to take a point of order when you are on your feet. It was good that Senator Singh made a contribution. We had numerous contributions from Labor senators this morning prior to business changing. I see Senator Urquhart is ready to make a contribution as well, which is good because she was on the speaking list when the kidnap amendment went down but she did not get a chance to speak. Senator Singh did not speak on the kidnap amendment. I went back and checked which Labor Party senators spoke on it. Senator Dastyari spoke on it—so he is off the hook—and Senator McAllister spoke on it. Apart from that the Labor Party put up three speakers. So when the kidnap amendment came to parliament, before the speaking list collapsed—

Senator Dastyari interjecting—

Senator WHISH-WILSON: I am going to need a Strepsil very soon, Senator Dastyari.

The CHAIRMAN: Senator Dastyari, you need to withdraw those remarks.

Senator Dastyari: Yes, I withdraw.

Senator WHISH-WILSON: Through you chair, I think you are going to need a Strepsil too, Senator Conroy. I think we all are because we are going to have a very healthy debate about this. Let me get back to the kidnap amendment bill. If there is any finger pointing in here as to why we are dealing with this legislation today it is because of the kidnap amendment bill. Labor put up—apart from Senator Dastyari who was introducing the bill—three speakers for the whole bill. Two of them got to speak before the bill collapsed—

Senator Dastyari interjecting—

Senator WHISH-WILSON: I think I have definitely hit a raw nerve here, Senator Dastyari.

The CHAIRMAN: I can advise senators that we are actually in the committee stage, so if senators want to contribute to the debate there is no limitation on their ability to contribute but you should do it one at a time.

Senator WHISH-WILSON: I have visited the original senate chamber in the old city of Rome and sat on the marble chairs, and this is what I imagine it must have been like with the original senators having a very robust debate, but I digress. Let me get back to the issue here of the kidnap amendment bill which went down in this place. As I mentioned earlier today—and I did say it very loudly in case you did not listen—I was sitting in the chair at the time and not only did the speaking list collapse and Labor not put up any speakers—that is how strongly they thought about tax transparency—

Opposition senators interjecting—

Senator WHISH-WILSON: We had two speakers on the list before it collapsed so that is not fair. We had two speakers on the list. Senator Di Natale and I were due to speak before the list collapsed but Labor had put up two whole speakers. We have had about 50 in here today already. It is a shame we did not see that passion defending their original legislation when it was before the Senate. That is a question for the Labor Party. Maybe they decided
that the politics were not really in their favour at that stage, whereas now they can see some
gain out of it. So outraged were they that their original Bradbury legislation was going to go
down that they put up two speakers and then they let the list collapse. When I was in the chair
and the division was called, I cannot even say it went to the voices because there were no
voices from the Labor Party, so that is why the Greens moved an amendment to bring the tax
transparency issue back—

Senator Dastyari interjecting—

Senator WHISH-WILSON: Senator Dastyari, we are dealing with the original amendment—the original legislation—which you let go. Now you are trying to scramble to
look like you actually care about tax transparency—

Senator Dastyari: You are a con man.

Senator WHISH-WILSON: I ask the senator to withdraw that. I am not a con man.

The CHAIRMAN: Again, I remind senators that they do have numerous opportunities to
contribute to the debate but now is not the time. When Senator Whish-Wilson concludes his
remarks, that is the time.

Senator WHISH-WILSON: Let us talk about respect. Let us talk about respect and
integrity. The Labor Party sent an email around today to their supporters, and I have read it as
have other people in the Greens. We are sending it to ABC to have it fact checked at the
moment because we want someone impartial to look at this—

Senator Conroy interjecting—

Senator WHISH-WILSON: Let me tell you, Senator Conroy, if you want to talk about
respect and integrity the list of talking points that you have given speakers is also quite
outrageous. It is totally misleading and lacks any factual basis. The Labor Party are saying
that this legislation today lets the biggest multinationals—the biggest corporations—off the
hook. It could not be further from the truth. We have put in place an outcome that companies
over $200 million have to disclose their tax, so how that can be letting the biggest
multinationals off the hook beats me, but let's let a third party
decide.

Also, we have introduced a general purpose accounting standard which makes the biggest
multinational corporations—under the definition in the original legislation that the Liberal
Party have brought here—accountable with significant information. Once again, how that can
be letting the biggest multinationals off the hook beats me. It is absolute BS. That is what it is.
It is a lie and it has presumably gone out to thousands of Australians—

Senator Conroy interjecting—

Senator WHISH-WILSON: I have been answering the phone calls, Senator Conroy, as
have my fellow senators. We have been speaking to the callers as they have been coming in
and letting them know—as triggered by the ALP—what the facts are and sending them more
information. It is giving us an opportunity to put our side of the story straight and I think
things are going pretty well in that respect. We have set the record straight, as we will
continue to do so.

I will get back to the fact that the Greens would like to see some substantive debate in here
on the legislation in front of us. We would like the Labor Party to explain why they are not
going to support the introduction of general purpose accounting and why that is not important, especially in light of the key evidence the Senate inquiry has heard—the economics committee—about the loopholes that are used around special purpose accounting and the types of companies that have been getting away with blue murder. We would like the Labor Party to explain why they are not going to support that. We would like the Labor Party to explain why they are not going to support making 300 companies over $200 million declare their tax position.

The other thing that is totally misleading and deceptive in that email that has been going out from the Labor Party is that they are saying that we are letting 600 companies off the hook. Guess what? None of them are disclosing their tax now because you did not field a speaking list when the tax amendment—the kidnap bill—was before this house. You let it collapse and you did not call a division. You go back and check the tapes. I have got a copy of them—

Senator Conroy: You should not mislead the chamber like this.

Senator WHISH-WILSON: I am not misleading the chamber, Senator Conroy, and I think you should withdraw that statement.

Senator Conroy: I said that if you deliberately misled the chamber you would have to withdraw it.

Senator WHISH-WILSON: That is true. I learnt that in Senate school. Nevertheless, let me tell you who is misleading the Australian people. There is no transparency in place now. Had the kidnap amendment failed, then yes, the original bill put up by the Labor Party many years ago—and I acknowledged even in my rage this morning that the Labor Party has legacy on this issue, but that has gone because of the failure of this place to make sure we had the numbers to defeat it. We did not. We missed it. I and Senator Xenophon have both admitted publicly that the Senate itself has egg on its face. I have been man enough to admit that we could have done a better job and that the committee had the wool pulled over its eyes by certain front groups who were masquerading as being much bigger representatives than they were in terms of the people who wanted to avoid disclosing their tax and be shielded. We admitted that we got that wrong and that is why we brought the amendment back a few weeks ago and why we are having this debate now.

We need now to discuss why general purpose accounting—which is an amendment legitimately moved by Senator Xenophon—is so critical to this debate. It has been written on by some very good journalists, like Michael West from Fairfax and others, and it is an absolutely critical part of this debate. The government has agreed that this will be included in the legislation. That is a win for tax transparency. Whichever way you look at it, it is a significant win that the largest corporations in the world will be compelled to provide detailed information.

Senator Conroy: You sold out. You had the numbers to get a better deal, but you haven't got the gumption or the brains.

Senator WHISH-WILSON: Senator Conroy, in case you have not read it, there is a 'Statement of Accounting Concepts', with a chapter 'Objectives of general purpose financial reporting', which is a nice summary of why general purpose accounting is really important. I know, because I have chatted to Andrew Leigh, a member of parliament, about the work the
Labor Party wants to do in the future on tax disclosure and on multinational reporting, that things such as profit shifting, thin capitalisation and transfer pricing—this is where you get your information on what actually does need to change.

These things are being discussed in the context of the G20, but we have a chance to lead the pack before the G20, to take some action here today to put in place legislation that will kick a goal for multinational tax avoidance. That is what we are dealing with here today. Let us move the debate to why we need general purpose accounting, why that is a good amendment that will be put up by the Australian Greens and was put up originally by Senator Xenophon and then let us discuss why the $200 million threshold is a good start. It is easy to come in here and to say, 'We could've done better. If you'd left it to us, the government would've crumbled,' but I know, and this is what the Greens discussed and is why we have arrived at this great result today—

**Senator Conroy:** This great result today! You are so proud of it. We can hear it in your voice.

**Senator WHISH-WILSON:** We are proud of it. The reason we have done this today is that we know that once we get the disclosure we will get momentum. Once we get disclosure for those companies of over $200 million, once it becomes the norm for wealthy corporations to disclose their tax affairs, then we can take the next step. This is very good legislation and for anyone who cares about multinational tax avoidance, tax transparency and tax justice in this country, rather than just taking political pot shots, you must support this legislation today. So let us get on with the substantive amendments. Let us debate the detail. Put the politics aside and let the Australian people focus on what is in this bill.

**Senator Conroy:** They are not going to allow you to cover up your—

**Senator WHISH-WILSON:** Senator Conroy, that is because you want to distract away from the fact that you are going to vote against some very good legislation and you will have a lot of explaining to do when you do it, because that is what is at stake here. Our party firmly believes we have delivered a good outcome. Is it perfect? No, it is not. All the bills we have looked at, including your Bradbury bill, is not perfect either. There is still a long way to go down this road if we are going to defeat multinational tax avoidance. There is still a long way to go but this is a very good and very important first step.

**Senator Conroy:** Your step is backwards.

**Senator WHISH-WILSON:** You let your first step get defeated in here a few weeks ago by failing to put up speakers and by not calling a division.

**Senator Conroy:** You stop misleading the Senate.

**Senator WHISH-WILSON:** I am not misleading the Senate, Senator Conroy. I was in the chair when it happened and I am very aware of what happened, but it took the Greens to get this issue back on the table. We are the ones who moved the amendment and that is why we are having this debate today. And that is why we have delivered a good legislative outcome. I urge the Senate to focus, right now in committee, on debating the detail of the bills in front of us.

**Senator LUDWIG** (Queensland) (16:58): I want to come back to the government for a moment—I will come back to the Greens shortly. The Scrutiny of Bills Committee, in *Alert Digest No. 7 of 2015*, made these requests:

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**CHAMBER**
The committee … seeks a detailed justification from the Minister which addresses the fairness of these provisions in light of the above—

I will stop there for a moment. I am too outraged by the Greens, actually. I cannot deal with that question. I have to leave you alone, Senator Cormann. It is just too hard for me. I will come back to you shortly. Let me deal with the Greens first because it is a complete sell out. I just worked myself up. I was going to ask the government some very detailed questions about this bill, but I will come back to that shortly. What is so outrageous about this is the Greens get on their feet and take the high moral ground on every point they can. They could not be more holier-than-thou in their utterances and—

Senator Conroy: On the side of the angels.

Senator Ludwig: Yes, on the absolute side of the angels! But despite the Senate hearings—

Senator Conroy interjecting—

The TEMPORARY CHAIRMAN (Senator Gallacher): Order, Senator Conroy! Let Senator Ludwig be heard.

Senator Ludwig: Despite the Senate hearings, community support and a general campaign from the public for greater transparency and the end of multinational tax avoidance, the Senate had already passed the amended version of the bill. The votes were here in the Senate for the legislation, but, no, the Greens have done a deal with the government to lower that threshold. Lower it—not increase it, not expand it, but lower the threshold to exempt more companies from this legislation. Make no mistake: the Greens do not actually believe in anything anymore—if they ever did. If they do, they can certainly be bought. And, judging by what happened today, they can be bought pretty cheaply as well.

I would have thought, from the Greens' high moral ground, that they would have asked for something that even the government may have blushed at giving them. The government may have given it to them in the end but would have blushed in doing so. But we do not know yet what the deal is. We assume, of course, that in lowering the threshold and walking backwards from tough multinational tax avoidance legislation the Greens have taken the high moral ground and said, 'Better something than nothing.' I think what the Greens have secured as part of this grubby deal with the government is yet to be revealed. I think Senator Cormann is clever enough to offer them a good deal, and they have taken it. What is that good deal, Senator Cormann? We will only find out in the course of time, when it comes to light and we can see what the Greens got as a consequence of signing up to this grubby deal.

I understand that, as new leader of the Greens, Senator Di Natale feels the need to make his mark and fill the shoes of people like Dr Bob Brown and Christine Milne, but this is not the way to do it. It is a desperate attempt by the Greens to grasp relevancy by selling out on multinational tax avoidance. Senator Di Natale said yesterday that he was taking our advice about not just shouting from the sidelines. If this is what happens when the Greens become engaged, then please, please go back to the sidelines from whence you came. At least that way you do not break anything.

The Greens and the Liberals are legislating for multinational tax dodges to continue inhabiting the loopholes that exist in our tax system. The Greens and Liberals are in coalition on less transparency for hundreds of companies, to support the big end of town. The rational
way of putting this is: you would expect the government, in a multinational tax avoidance bill, to lower the threshold. You would expect this government to try to obscure transparency. They have done that with FOI. They have an extraordinary record in making sure that there is no transparency in FOI. They have closed it down. They have shut the door, and in this area they are doing the same. They do not want the light of day to penetrate. From anybody’s perspective, I can understand why the coalition wants that. The big end of town supports them. They tip their hat to the big end of town. They support the big end of town. They get their donations from the big end of town, so it makes sense. The Greens, on the other hand, have not been able to recognise that—by the way it looks. Because by signing up to this deal you have signed up to the big end of town. You have signed up to ensure that there is less transparency.

The other matter is, of course, that just like when they supported the defeat of the CPRS in the Senate, to the environment's detriment, we see them now supporting corporate tax dodgers. That is the Greens party of today. I have been here long enough to see the Greens take the high moral ground in many debates in this place over many, many hours of debating from a positive perspective—sometimes I did not agree with them, but they certainly put their arguments forward. Now we have the Greens of today. They are a mere shadow of that party, and are now the party that receives six-figure donations from corporate donors, the party that votes with the Liberals to support a watered down, weak piece of legislation that does nothing to capture the majority of multinational tax dodges. Progressives everywhere should be dismayed at the Greens’ position—in fact, the Greens' capitulation.

Senator Cormann has done a good job in corralling the Greens and doing a deal with them. I would not have expected Senator Cormann to achieve that, quite frankly, but he has. He did it either through a brilliant manoeuvre or a brilliant piece of negotiation—actually, I do not think that. I would like to ascribe it to Senator Cormann, but I think they just rolled. I think he got handed it on a plate and was smart enough to take it, because I do not think the Greens would have negotiated this in a fair negotiation. I think they are desperate for relevancy and, as such, they have chosen this course. The question, however, is: for what reason would they do this? Was it simply a case of, as I have described, bad negotiation or sharp negotiation by Senator Cormann? Was it the negotiation skills of a new, weak, inexperienced leader from the Greens? Or, as I said earlier, do they expect to get something out of this which is not transparent today?

They ought to come clean in this debate and tell the Senate what they have traded for this rollover, because we will find it at some point. It will be transparent; it will bubble up to the surface as always. These things cannot be hidden.

We have the wonderful contribution by Senator McKim. I listened to it on Monday, but I thought I would share it with you again. There is the beauty of the speech by Senator McKim. I am not wont to give other senators advice in this place—it is not my place generally—but I will comment on this. It is wonderful. This is on the exemption debate with respect to the Australian citizenship bill. He said:

This is a disgraceful abuse of parliamentary process, an outrageous collusion between the government and their mates on national security in the Labor Party. They are treating this parliament with utter contempt, and I say to the crossbenchers and I say to good longstanding senators in this place: you should stand up for the Senate here. You should vote against the motion that is currently before the
Senate and give us all a chance to actually get our heads around the amendments that have been put through the House of Representatives and that appeared in the Senate only moments ago this evening.

There is the beauty of that paragraph. Within fewer than three days we had Senator McKim completely ignore what he said in the debate on Monday. The only advice I would generally give to anyone is: make sure you remember what you say from one day to the next in this place, because it will come back to bite you if you overstep the mark. He was using much rhetorical flourish that day attacking the Labor Party for being sensible with respect to national security, but he also complained bitterly about our position. Within a couple of days, we find that Senator McKim ought to come back into this place and apologise for those words.

In fact, you could read Senator McKim back into that paragraph, because it is a disgraceful abuse of the parliamentary process for the Greens and the government to come together and ram this legislation through with a dirty, outrageous deal. As he went on to say, it was an outrageous collusion between the government and the Greens with respect to that matter and they are treating the parliament with utter contempt. I say to the crossbenchers and the Labor Party: good, longstanding senators in this place should stand up for the Senate here, should vote against the bill that is currently before the Senate, give us all a chance to get our heads around proper amendments to the bill and pass a much better bill than what is currently before the Senate. That would have been a much better speech given today, following on from his contribution with respect to the earlier debate. But, no, we only get that from him.

There is still an opportunity within the debate in this place to not proceed, look at the amendments that Labor have to keep the multinationals honest in this debate and ensure that any multinational tax package is fair for all and asks all Australians to pay their fair share of tax, including the multinationals. On this side of the chamber—notwithstanding that the Greens think they might sometimes be here—we think the priority should be to shut down the loopholes that allow big multinationals to send the profits overseas. We think that the coalition's path is the wrong path. They are on the path of cutting pensions and they are on the path of making sure young Australians pay more tax, while the Greens have now sidled up to them and have completely debased themselves by enjoining with the coalition on this matter.

Senator XENOPHON (South Australia) (17:12): I have some specific questions that I want to put to the Minister for Finance. They relate to specific questions that I put to him earlier. I understand that there will be some comprehensive responses that go to the substance of this debate, particularly in relation to the general purpose account amendments that Senator Di Natale will be moving shortly as part of the debate. It is important to get those matters on the record given that those amendments will be moved. My first question previously was: will the test for application have to be based on consolidated revenues as defined by accounting standards, the same as in the large proprietary company test in the Corporations Act?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (17:13): I thank Senator Xenophon for actually asking me a question and making a contribution that relates to the bill in front of us. It is not normally my custom to provide answers in relation to somebody else's amendments—in particular when those amendments have not been moved yet. However, in the spirit of Christmas and because I feel like I have been ignored in the debate as there was the ferocious debate between Labor and the Greens, I am happy to provide the information that Senator Xenophon is seeking. In
short, in answer to his question: yes, the test for application is on a consolidated revenues basis, as defined by the accounting standards. This is stated explicitly in the bill, pursuant to subsection 960-555(2A).

Senator XENOPHON (South Australia) (17:14): Does it apply to the Australian group defined as the 'ultimate Australian holding company' and all of the entities it controls?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (17:14): The answer is, yes, as per section 3CA(5)(b) of the proposed amendment. The general purpose account requirements will apply to the entity, or the entity and other members of the group.

Senator XENOPHON (South Australia) (17:15): Will it be general purpose financial statements tier 1 as set out in accounting standard AASB 1053 that is the same as for companies listed on the ASX?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (17:15): Entities will be permitted to lodge either tier 1 or tier 2 accounts depending the activities of the company and consistent with existing AASB reporting requirements. It is not a discretion of the regulator and is in line with international accounting definitions that both tier 1 and tier 2 include significant taxation related party payment information.

Senator XENOPHON (South Australia) (17:15): In terms of timeliness, how can we be sure that it will be timely financial information being lodged at the ATO no later than four months after the year end, the same deadline as in the Corporations Act?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (17:16): The timing requirement to lodge general purpose accounts is stated explicitly as being consistent with the obligation to lodge an income tax return pursuant to section 3CA(2) that is consistent with the deadline in the Taxation Administration Act. This is actually nothing to do with the Corporations Act.

Senator XENOPHON (South Australia) (17:16): Finally, with this series of questions, in terms of auditing, will it be audited and will the lead audit partner have to rotate every five years that is the same requirements applying for the Corporations Act?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (17:16): Normal auditing rules apply requiring auditors to be rotated every five years pursuant to the Corporations Act.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (17:16): I am indebted today to the Greens for discovering a socioeconomic new creature. It is the blackmailer and kidnapper who distinguishes between people whose companies have $100 million and those who have $200 million. Let's be clear, the only argument the government have advanced for why we should not be doing this is based on the fact that people would be kidnapped. The Greens have managed to discover kidnappers who actually distinguish between $100 million and $200 million. You are geniuses, absolute geniuses. I want to congratulate you on that, because you are voting to accept an argument that says: people with more than $200 million are going to be kidnapped, but people who have less than $200 million are not going to be kidnapped. So I want to congratulate you on finding the socioeconomic kidnapping fraternity, because it is marvellous.
The TEMPORARY CHAIRMAN (Senator Back): Senator Conroy, if you would make your comments through the chair.

Senator CONROY: My apologies. I accept your admonishment, Mr Temporary Chairman.

The TEMPORARY CHAIRMAN: Request your advice, Senator Conroy.

Senator CONROY: I do have one question for Senator Cormann. My understanding is that the Liberal party room opposed all of the $100 million upwards being removed. So, did you take this deal back to the Liberal party room, given you have a party room decision not to move from $100 million? Could I just seek clarification? Did you take this deal to cabinet and has it gone to your party room?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (17:18): I am quite bemused by Senator Conroy's interest in internal coalition party room matters. Let me just say that all legislation and all amendments are dealt with through the proper process in the usual way, as has happened on this occasion.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (17:18): Thank you. I will take that as a 'no'. The cabinet has not considered the deal and the party has not endorsed this deal.

Senator Dastyari: You didn't take it to the party room.

Senator CONROY: I am being harassed here, Mr Temporary Chairman, particularly by Senator Dastyari, so I ask you to call him to order.

The TEMPORARY CHAIRMAN: Desist from the harassment, Senator Dastyari.

Senator CONROY: Let me be clear, Prime Minister Malcolm Turnbull promised the Liberal party room that he would engage in the proper cabinet processes and the proper party room processes. What Senator Cormann has just admitted is that there was no proper party room consultation on overturning a decision made previously by the cabinet and previously by the party room.

The TEMPORARY CHAIRMAN: A point of order, resume your seat. Minister, on a point of order.

Senator Cormann: The point of order is that Senator Conroy is actually misleading the Senate. He is verballing what I said and inaccurately representing what I said. I did not make any such suggestion and he should desist from misleading the Senate.

The TEMPORARY CHAIRMAN: Thank you. I am sure Senator Conroy will amend.

Senator CONROY: That was not a point of order at all. What has become apparent here, as Senator Cormann knows, is that an existing party room vote has been overturned by his deal with the Greens, and they have not gone back to the party room. You have not gone back to the party room to get approval to change the position of the party room. The processes that Prime Minister Turnbull put in place have been, as usual, rode over roughshod. The backbench party members are deeply unhappy about lack of process. Some of them are so unhappy that they have defected to the Queensland National Party. What a success you guys are. You are on a tare.

You have overturned your cabinet decision and you have overturned your party room decision. I just wanted to make sure, and confirm through you, Mr Temporary Chairman, that
it is on the public record that this deal, which overturns an existing Liberal party room position, is not approved by the cabinet of Australia or by the Liberal party room. No-one has been given an opportunity to say what they think. No-one has been given an opportunity to make an argument against the deal that has been done. I can understand, Senator Cormann, when you get a mug who is going to accept the purchase of the Sydney Harbour Bridge from you, you have to try to ram it through quickly. The Liberal party room has been treated with contempt by the ministers involved in these discussions. I wanted to make sure that was on the record.

I now want to address some untruths—some misleading of the Senate that has taken place in the last hour or so. It is quite embarrassing when you have a guilty conscience and you want to distract people from the fact that you have just sold your soul and sold out on everything you have campaigned for for two years, and overturned your own party and platform's position and what you have been seeking to do; I understand you would want to try and distract. So you want to fabricate history. Senator Whish-Wilson, the story you have attempted to tell and the story you are telling those poor, upset, ordinary Australians—or possibly even your branch members—when they have phoned your offices is untrue. Okay? Untrue.

So I want to put this on the public record. Firstly, as you well know, I was not here—I was overseas on a delegation when the debate took place. So do not try and represent that there were not people in the Labor Party willing to speak on this issue. That is the first point.

Secondly, and more importantly, as Senator Dastyari has said, and I will not need to speak for him because he will be speaking shortly, you have absolutely fabricated—Mr Temporary Chairman, could you ask Senator Heffernan to take his seat, please—

The TEMPORARY CHAIRMAN (Senator Back): I will indeed, Senator Conroy.

Senator CONROY: fabricated—no, no; his seat.

The TEMPORARY CHAIRMAN: I think that is a fair request of you, Senator Heffernan. Would you move over to your seat. Senator Conroy is being distracted, and the last thing we need is a furthering of his distraction. Senator Conroy, please proceed.

Senator CONROY: Thank you, Mr Temporary Chairman.

The TEMPORARY CHAIRMAN: Senator Heffernan! Would you please go over to your seat. In the meantime you are disrupting proceedings.

Senator CONROY: He is disrupting deliberately, but ask him to sit down.

The TEMPORARY CHAIRMAN: Senator Conroy, proceed.

Senator CONROY: So the Greens know full well—particularly Senator Whish-Wilson, who has incorrectly stated that he was in the chair, knows full well—that he actually asked Labor to help bring the vote on. And then the bill collapsed—actually, a bill collapsed, and it was brought on suddenly—

Senator Whish-Wilson: What? How could I do that?

Senator CONROY: No, it was not your fault. No, I did not say, 'You collapsed the bill.' The bill being debated beforehand collapsed, and then there was confusion in the chamber about what happened, and a vote was put, and nothing was recorded. There was not a desire by the Labor senators not to speak on this bill, as Senator Whish-Wilson is attempting to
portray. This is a complete and utter fabrication that you are constructing to distract from your guilty conscience. Well, you are not going to get away with this. I know Senator Dastyari is going to speak at some considerable length on this particular issue so that the truth is on Hansard, not the fabrications that you have put onto the Hansard today. When you pick up the phone and answer, you are not going to be able to say, 'See what I said on Hansard,' because the truth will be on Hansard, not what you are attempting to portray as the truth. You have a guilty conscience, Senator Whish-Wilson, and I understand that. Sorry, my apologies.

Senator Heffernan: Mr Temporary Chairman, I rise on a point of order. The point of order I would like to make is that I want to make sure it will also be on Hansard that these characters—

The TEMPORARY CHAIRMAN: Is this a point of order or a debating point?

Senator Heffernan: described these people, the Greens, as 'lickspittles' today, which I think is disgusting.

The TEMPORARY CHAIRMAN: Thank you, Senator Heffernan. That is not a point of order.

Senator Whish-Wilson: Mr Temporary Chairman, I rise on a point of order. It is relevant, Chair. Senator Conroy is addressing me directly. He should be addressing you in the chair.

The TEMPORARY CHAIRMAN: Thank you; I will take on that point of order. Thank you, Senator Conroy. Please continue. I know you will continue to address Senator Whish-Wilson through the chair.

Senator CONROY: I accept your admonishment, Mr Temporary Chairman. I have strayed again. I did not realise that poor Senator Whish-Wilson was such a tender soul. I had come to know him as slightly more robust than that.

Senator Heffernan: Mr Temporary Chairman, I rise on a point of order. I just want to make it abundantly clear: the senator over here who is doing the speaking, Conroy, is not a boofhead.

The TEMPORARY CHAIRMAN: Sit down, Senator Heffernan. It is not a point of order. Senator Conroy, please continue.

Senator CONROY: We are actually in committee, just for the record—

The TEMPORARY CHAIRMAN: We are.

Senator CONROY: so it is a slightly different process.

The TEMPORARY CHAIRMAN: Absolutely. No problem.

Senator CONROY: I understand a guilty conscience when I see one, Senator Whish-Wilson. I understand a guilty conscience. But you do not get to come in here and fabricate history. The Labor Party has campaigned hard on this. Senator Whish-Wilson, I will do my best to avoid revealing private conversations, but I was gratified by what you said to me when I made a contribution on this debate the last time it was in the chamber. I was gratified. What I did not know was that you were a wolf in sheep's clothing—that you were planning on actually thanking me so you could sell me out a few weeks later. But I do actually have a question: were you even invited to the meeting last night? My understanding is that they did not let you go. They did not let you go, did they? Oh dear! It's classic!
Senator Heffernan: Mr Temporary Chairman, I rise on a point of order. I am sorry, but if we are going to go silly, why aren't you insisting that this is not a personal conversation but should be addressed through the chair?

Senator Conroy: We are in committee, you idiot!

The TEMPORARY CHAIRMAN: Senator Heffernan, you have made your point. I accept it. We are in committee. Senator Conroy is in order.

Senator Whish-Wilson: Mr Temporary Chairman, I rise on a point of order. I do not think Senator Conroy is in order, Mr Temporary Chairman. He just called Senator Heffernan an idiot. You withdraw it!

Senator CONROY: I withdraw. I know Senator Heffernan is not a tender soul, but I am happy to withdraw. But I want it on the record: the Greens have just defended Senator Heffernan!

The TEMPORARY CHAIRMAN interjecting—

Senator CONROY: I really want to make sure it is on the record. Senator Heffernan protects the Greens; the Greens protect Senator Heffernan. I am with the program. Don't worry—we're with the program!

But I do think it is sad that you were not even invited to the meeting last night, Senator Whish-Wilson. You were not even invited into the room to make the case that you wanted to make. That is the sad part: when your leader runs rogue on you and leaves you sitting outside the door while he is inside, trying to pretend he is a mover and shaker and that he can get an outcome so that he can make himself important. Welcome, Senator McKim. I am not surprised that you are taking a higher profile since you came here, because it won't be long for you, don't worry; it won't be long for you. When your membership work out what you have done today, you will be able to say: 'It wasn't me. I wasn't invited either. The brains trust up the front of the chamber—this was their idea. We campaigned for two years. We had the numbers. We campaigned and we had the numbers. We had the government over a barrel, and then Senator Di Natale took charge.' You ran a fantastic campaign—a fantastic campaign. 'We had the numbers, and then the boss sold me out. The boss wandered in, without us'—without any of you there—and they tickled his tummy, gave him a few Tim Tams, and they sold him the Harbour Bridge!' You have had to keep looking in the mirror, saying: 'It's a good deal. It's a good deal. It's a good deal'. You have had to convince yourself so that you can come in here today.

Senator Whish-Wilson cannot rewrite history. He cannot try and pretend that Labor has not been as committed as he has on this issue. There may have been genuine mistakes and things that went wrong on the floor the first time this came through, but we all worked to try and deliver to the Australian taxpayers the truth that the big end of town do not want revealed. There is nothing you can say today that will change the fact that you have accepted an argument that people whose companies earn over $200 million are in fear of being kidnapped if the truth was revealed! That is the only argument the government put forward, and you have now swallowed it and signed up to it. Even Senator Muir, a relative newcomer to the chamber, accepted, when he heard how silly that argument was, that it had to be changed. It had to be changed. But you, Senator Whish-Wilson, always knew that it was a complete and utter load of rubbish.
Apparently, your leader did not. Apparently, your leader fell for it. You let him out of your sight for five minutes and he has sold you down the drain. I could at least have some respect for your leader if he had invited you to come to the meeting. Were you afraid that he would embarrass you, Senator Di Natale? Were you afraid that Senator Whish-Wilson might actually not be quite so willing to roll over? I mean, really! You did not take your shadow spokesperson to this most important meeting even though he has campaigned on this for two years. To not be invited by your leader to the meeting, Senator Whish-Wilson—

Senator Dastyari: He is apologising now!

Senator CONROY: There is no point showing him some Twitter feed to try and pretend that people are on your side, Senator Di Natale. Let me promise you, they are not on your side. Your members are not on your side. They know a sell-out when they see it. They can smell a sell-out, and no amount of convincing yourselves each morning in the mirror for the next six months—we didn't sell out; we didn't sell out. You will have to keep telling yourselves that because your members will know. Your members will know by Christmas that you protected the big end of town, that you caved in when you had the numbers. It was not like it was in the balance. We had said 'no'.

And I was very offended by something you said earlier. I have spoken on it already, Senator Whish-Wilson, but I do not think you were here. You were pretending that we were somehow on the verge of selling out, and you took the deal before we did—Senator Whish-Wilson, that one was beneath you. You are better than that. We had absolutely, emphatically rejected the offer last night—rejected it. It was a joke.

Honourable senators interjecting—

Senator CONROY: Yes, they made us an offer last night—they picked up the phone—and we said 'no'. You mugs picked up the phone and said 'yes'. You picked up the phone and said 'yes'. We rejected it last night. They kept coming back and knocking on our door, so don't you fabricate history by trying to justify your behaviour by saying that we were on the verge—

Senator Cormann interjecting—

Senator CONROY: You were not on the phone call. We were not on the verge—

A government senator interjecting—

Senator CONROY: You were not even on the phone call—unless, you are keeping track of Mr Morrison's phone calls!

A government senator interjecting—

Senator CONROY: Oh, yes, absolutely! There are those of you who will have to try and justify protecting the biggest private companies in this country when you had the numbers. It is not that there was a negotiation and it was in the mix—that there might have been a win here and there might have been a loss there. We had the numbers. We actually got together and got the numbers, and we got an outcome where the government was over a barrel. And you blinked. You let them off the hook. You blinked!

Senator Dastyari: One night with Scotty!

Senator CONROY: It does not bear thinking about! You blinked. You will not be able to get away from the fact that we had the numbers to get a much, much better outcome than this
and you blinked. Stop trying to justify it by saying that they were not going to do it; that this is better than nothing. We could have got better than this, and you blinked. You know it; you blinked. Because your genius leader decided he would not invite you and would not let you actually have the debate with the Treasurer—he was too embarrassed to have you in the room or whatever the excuse was—you blinked. There is no way to hide the fact that the numbers in this chamber were on your side. Two years of work, and you blinked and you let this government off the hook. We would have got a better outcome if you had a spine, a bit of backbone and a bit of political courage. That was not shown by your leader when he left you behind and went off and negotiated with the Treasurer.

Let me be very clear: when Senator Cormann knocks on your door and says that he has another harbour bridge to sell you, you have already bought it! You do not have to buy it a second time. You have already bought it. At least make him sell you the gateway bridge!

**Senator DI NATALE** (Victoria—Leader of the Australian Greens) (17:36): Is that is the best you have? We heard about one-week-old kale—I feel like I have been slapped by one-week-old kale! That is the best you have! All the faux outrage in the world. You are so committed to tax transparency that you were about to sign onto an hours motion that would have ditched it and kicked it down the road. You had no commitment to this issue. You were going to sign on to a hours motion that did not have the multinational tax avoidance bill in it. It did not even have it in the hours motion. You are so committed to this issue!

**The TEMPORARY CHAIRMAN:** Senator Heffernan on a point of order.

**Senator Heffernan:** He made the point—smart alec here cannot say things like that.

**The TEMPORARY CHAIRMAN:** That is not a point of order.

**Senator DI NATALE:** So committed is the Labor Party to tax transparency that when they negotiated the hours motion for today it was not even on the agenda. They are so committed to it. They think it is so important that when they had the opportunity to talk with the coalition and insist on what legislation should be debated today, no, it was not on the agenda. Do you know what that would have done? It would have meant for companies like Serco: another year off scot-free—don't publish your affairs. Glencore: another year—don't worry about it, we'll let you off the hook. News Limited: who would have thought that the Labor Party would be out there defending the tax affairs of News Limited? Who would have thought it? But here we have the Labor Party saying to News Limited, 'You pay whatever tax you like, because we are not coming after you.'

Let's have a look at some of their donors. Ingham Chicken, one of the companies that will be captured as a result of the Greens amendment, a huge donor to the ALP: 'No, we don't want you to pay your tax affairs. No, let's go quiet. We are doing an hour's motion today. We'll make sure multinational tax avoidance isn't even debated today in the parliament.' Pratt Holdings, another private company, and the second-largest donor on the grandfathered list of the ALP and the Liberal Party: 'No, let's go quiet today. We'll make a big deal of it but we will kick the can down the road. You can continue not publishing how much tax you pay.'

Then we hear about 7-Eleven—the outrage of the 7-Eleven workers. What would the 7-Eleven workers say now that we hear that 7-Eleven will not have to disclose their tax affairs? They do not even understand their own legislation. 7-Eleven is on the list. They will be voting
against 7-Eleven from declaring their tax affairs. That is what they will be doing. That is what the Labor Party will be doing.

The TEMPORARY CHAIRMAN: Senator Heffernan on a point of order.

Senator Heffernan: I note that Senator Dastyari has fled the chamber and Senator Conroy has joined the Greens for God's sake!

The TEMPORARY CHAIRMAN: There is no point of order.

Senator DI NATALE: Let us just put a few facts on the table. To those punters at home who were confused by all the huff and bluster and all the theatre and so on, let us be clear about what the situation is at the moment. At the moment those multinational companies do not have to disclose their affairs. At the moment, 281 of Australia's richest private companies do not have to tell the Australian public how much tax they pay. We walk away from today without passing this legislation and those big multinational tax avoiders get off scot-free. The Labor Party wants to shout from the sidelines and yell at the coalition about how terrible the coalition is on multinational tax avoidance, and do nothing about it. That is what the Labor Party wants to do. They want to shout from the sidelines and run up to an election saying, 'You guys are terrible,' but when they have the chance to pass legislation to do something about it they are missing in action. That is the Labor Party's tactic on this issue. Well, we are not going to buy it. We have a responsibility in this place, when we can, to get outcomes for people.

Here we have today an opportunity to ensure that companies like Serco, like Glencore, like News Limited, like Johnson & Johnson, like Pfizer, like Unilever all have to disclose their general purpose accounts, which means we know exactly how they structure their affairs and how much tax they are not paying. If we do not pass this legislation those companies get off scot-free. That is what the Labor Party wants to do today. The Labor Party wants to shout from the sidelines and run up to an election saying, 'You guys are terrible,' but when they have the chance to pass legislation to do something about it they are missing in action. That is the Labor Party's tactic on this issue. Well, we are not going to buy it. We have a responsibility in this place, when we can, to get outcomes for people.

Some facts need to be laid down on the table. If we do nothing today, do you know what tax transparency we have? Zero, zilch, nada, nothing. We have the opportunity to disclose the affairs of those multinational tax avoiders by passing this legislation.

Senator Conroy says, 'We had the numbers.' Well, he needs a lesson on how democracy works in Australia. There is something called the Lower House, and the government has control of the Lower House. The government has said they will not pass that legislation, and we get another year where we have those big companies that do not disclose their affairs, so that the Labor Party have an issue to campaign on right up to the next election. Well, do you know what? I want outcomes. I want to get things done. Our party wants outcomes. That is why we together made a consensus decision to ensure that these laws would be passed.

The government's bill ensures that next year, consistent with the G20 arrangements, we have country by country reporting. Without the passage of these laws we do not get it—another year where these companies are off scot-free. This legislation will double the penalties that these tax dodgers face by disclosing their affairs. It gives the ATO increased powers. We have the opportunity to do that right now, today, by passing this legislation, and
the Labor Party is saying, 'No, let's do nothing. Let's just shout from the sidelines.' Well, we are not shouting from the sidelines. We are rolling up our sleeves and we are making sure that these companies pay their fair share.

I also want to say thank you to the Labor Party. The Labor Party today put out an email where they have said to their members and supporters, 'Contact the Greens office, contact Richard Di Natale, and tell him what you think.' Well, thank you very much. We have a scoreboard in the office right now. Can I tell you about the scoreboard? We are running at 95 per cent conversion rate. People are ringing up and complaining about what we have supposedly done, according to the ALP, so we have a conversation with them and let them know what is actually happening in the Senate, and nine out of 10 people who were previously supporters of Labor are now voting for the Greens at the next election. My request to the Labor Party: can you put another one out tomorrow? Put another one out, please. We love it. It is terrific. Thank you very much. We are thrilled.

Apparently, by not passing multinational tax avoidance we have less money to spend on schools and hospitals. Let's have a look at the logic here. The logic is that if we do not pass legislation that forces multinationals to disclose their tax, that gives increased powers to the ATO, and that ensures private companies disclose their tax affairs, there is less money for schools and hospitals. Thank you very much—what a gift! Where is the brains trust who thought that one up? Terrific—we love it. It is a great opportunity.

And we have the Tax Justice Network—the people who have been leading this campaign, who triggered it off, who said years ago to those people in this place: 'Something has to be done around multinational tax avoidance. We need you to do something on multinational tax avoidance.' We listened. We referred the issue to a Senate inquiry. The reason we are having this debate is that the Greens led the charge and referred it to a Senate inquiry. We did that and, as a result of that, we have laws from this government—one of the few decent pieces of legislation put to this parliament that we have been able to amend and to strengthen to ensure that we give more powers to those organisations that are pursuing multinational tax dodgers. We are getting more transparency for private companies, we are getting more transparency for those multinationals and we are going to ensure that we listen to the Tax Justice Network, who today have said, 'What a great step forward for transparency.' This is a step forward for transparency. Year-by-year, country-by-country reporting will get underway this year. This legislation will ensure that happens.

You have a choice in this business: you can throw rocks from the sidelines, you can try and gee people up and do nothing, or you can roll your sleeves up and get an outcome. You had the option to decide what you wanted to do, and yesterday, when you were negotiating with this government on what you thought were the priority pieces of legislation, where was multinational tax avoidance? Where was it? Nowhere. It was not on the government's business for today and next year, kicking the can down the road. Well, we did something. For all the faux outrage, for all the anger, for all the theatrics, there is a key lesson here. When you are in this place you get outcomes. You have an opportunity to ensure that you listen to those people who have campaigned on these issues and you ensure that what you get is companies like Transfield, like Grocon, like Inghams chicken—big donors to the Labor Party, let me tell you—like Pratt Holdings, like Meriton and like 7-Eleven, and you ensure that they disclose the amount of tax that they pay. We have stopped multinationals like News Limited,
like Glencore, like BMW and like big pharma from filing flimsy financial reports and forced them to provide the details that ensure that we can keep a close eye on them, because transparency is critical. Transparency is absolutely fundamental in this. We have taken a good piece of legislation and we have made it better.

We hear, 'What about those other 600 companies?' At the moment they do not have to declare one cent—not one cent. As a result of this legislation, 281 companies are now declaring how much tax they paid.

_Senator Dastyari interjecting—_

_Senator DI NATALE: _I hear the faux outrage from Senator Dastyari. He does not like this deal. Do you know why he does not like this deal? He does not like this outcome for the Australian community. Do you know why he does not like it? Because he has not been able to feed it to his mates in the press gallery and to stand up and start grandstanding about how he is leading the charge. He is missing in action. The man is missing in action. He is all huff, all bluster and no substance—all tip and no iceberg. This is a man who is more intent on grandstanding and shouting from the sidelines than on delivering outcomes. Well, we believe in outcomes. That is why we have supported this legislation—and not just supported it, but strengthened it and amended it—and ensured that multinationals, huge private companies, finally declare how much tax they are not paying. We know that is a driver to more transparency and to ensuring that those companies change their arrangements and justify to the Australian community why they are not paying their fair share of tax.

Ultimately we know that in this place it is a bubble, but out there the Australian community, as a result of the passage of this legislation, will know that finally the Australian parliament has taken some huge strides forward in terms of going after those companies that are not paying their fair share. We have a choice: again, the Labor Party can run a GST campaign, they can talk about multinational tax avoidance, they can talk about those things and do nothing; or, if we are going to pay for schools, if we are going to pay for hospitals, if we are going to pay for the services that the Australian community wants and deserves, then we need a fairer tax system. A fairer tax system means going after multinational tax avoiders, not shielding them. It means going after them. It means ensuring you end unfair tax breaks like superannuation tax concessions, like the huge fossil fuel subsidies to the mining industry—another Labor party gift to Gina Rinehart and her ilk. We have a choice. We can have a fairer tax base, and the way to achieve that is through measures that go after the tax dodgers, the big end of town—measures that go after those high-wealth individuals who use superannuation, negative gearing and capital gains tax reform as a tax break.

It is the Greens who are leading the economic debate in this country. It is the Greens who are now showing what is necessary to ensure that we balance our budget, that we address some of the structural challenges in Australia's budget. We are leading the charge to making the country fairer and more decent, to raising revenue and to ensuring that schools and hospitals are funded. You guys can shout from the sidelines, but we are in the business of rolling our sleeves up and getting it done, and we will continue to do it. This is just the start. The next stop with transparency is to ensure that we get more companies brought in under this legislation, that we give more powers to the ATO, that we resource ASIC and the Taxation Office, and that we finally make some progress towards getting a fairer tax base so that we can have the community that the Australian people deserve.
Senator BERNARDI (South Australia) (17:51): I rise to express a personal view in which I support the pursuit of multinationals who are avoiding the Australian taxation system, but I also flag with the Senate that I am unable to support this legislation if it is successful in having an amendment about the disclosure of tax affairs of private companies published on the ATO website. I want to explain why I have come to this position. About 18 months ago, I was made aware of a circumstance where private companies’ tax affairs were going to be disclosed on the ATO’s website. It was Labor Party policy. I raised that with some ministers in my own party. They undertook to examine repealing it and that happened a few weeks ago. The work done by Josh Frydenberg and others in that respect was valued. That decision went to our party room and the party room unanimously endorsed it and hence it was shepherded through both houses of parliament.

That policy decision has never been revisited in our party room. It has never been discussed at any level that I am aware of and I first became aware of it this morning when I asked what the price of the deal was with the Greens party for the passage of this amendment.

Senator Dastyari: What’s the price?

Senator BERNARDI: The price was, indeed, this overturning of a party room decision, something that I feel very strongly about. So why I not be supporting the amendment to disclose the tax affairs of private companies. If it is successful, I will not be supporting the passage of this bill. I regret that it has come to this, but the circumstances are the party room have undertaken a position.

I commend the minister who was responsible for it and for shepherding it through this place—Josh Frydenberg worked very hard. To have this sprung on us at the last minute, I think, is not in the best interests of my party and the procedures and policies we work with. I regret very much it has come to this and I also regret the Labor Party will make merry hay over this. It is not about that; it is really about the principles and the processes that need to be endorsed.

Senator MUIR (Victoria) (17:54): I hope we are getting towards the end of this. The Leader of the Greens does not have much voice left.

Senator Conroy: Voice and integrity.

Senator MUIR: Just stay there, please, Senator Conroy, you do need to listen to what I have to say. I rise to talk about some amendments that I am moving today on the Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015. I intend on moving two amendments. In an effort to save time during this debate, I would like to discuss them both now as they are related. Right from the start of this debate, my concerns have been directly related to the issue of privacy. This should be no surprise to those who have been following my work to hear this. My amendment will ensure that a successful small business is not unintentionally caught up in this legislation. My amendment in this area seeks to use the existing definition under the Corporations Act as a safety net.

The Corporations Act has a distinction between large and small proprietary companies. That distinction determines which businesses must disclose their financial information publicly. This disclosure is made via the Australian Securities and Investments Commission, otherwise known as ASIC. ASIC then publish this information on their website and it is available to the public for a small fee. Only large proprietary companies have this disclosure
obligation to ASIC; small proprietary companies are exempt. I sought to apply this standard to these amendments to ensure that if a limited view of the company's tax information were to be displayed by the ATO, the full financial picture would be then available via ASIC. This was to minimise the risk of any public misunderstanding.

In addition to this, I also sought to educate the public viewing this information, that the full financial information is required to better understand what they were looking at on the ATO website. I sought to do this via a disclaimer on the ATO website. I even went as far as requiring a direct website link to the full financial information on the ASIC website. This was all done in an attempt to present this information in a fair and balanced way.

I have attempted to work with the government and the Greens on these issues today. I had been hopeful that the Greens and the government could see the common sense in this. I do think that the government see merit in this, and probably support it, but due to the deal with the Greens, they cannot. I would have thought that the government would be supportive of an amendment that limits the number of businesses that would be captured by the tax transparency laws but, to my surprise, they do not. This is a significant shift. Who would have thought that it would be me, a senator from the Motoring Enthusiast Party, standing up for small proprietary companies in the face of government opposition. This leads me to the second amendment that I will be moving to this bill.

During my research into this topic, I became aware of a 20-year-old transitional provision, referred to as grandfathering. Around 1,500 private companies enjoy an exemption from disclosing financial information to ASIC when they meet the large proprietary company test. It is my understanding that this provision was intended to only last three years, to allow these companies to transition their accounting practices to those required by ASIC. Rather than enforcing this transition period, governments from both sides have decided to keep this loophole in place.

It is also my understanding that there is a bit of a black market in the trading of the grandfathered entities because of the exemption that they enjoy. There have also been allegations made that a significant amount of these companies are not only large donors to the major political parties but also have contracts with the government. I am concerned about how this affects the transparency of politics and government in this country. The major parties, despite various commitments made over the years, have failed to resolve this issue. Therefore, it is my intent to try to clear this up today.

I understand that the Australian Labor Party will support my amendment to remove grandfathering. I also understand that the Australian Greens would like to as well, but they are committed to the agreement with the government and are now forced to vote against this amendment. I will be very interested to see if the Australian Greens, and perhaps the government, can have a last minute change of heart. The reality is the Greens are the ones in control on this matter. They are the ones that have the bargaining power on this issue. I call on the Greens to work together on this issue and support the integrity in our country's financial disclosure laws, politics and government to close this transitional loophole.

Before I finish, the last couple of contributions I have made in this chamber have been followed by lengthy off-the-cuff-criticism from Senator Conroy. I would like to say to Senator Conroy, through you, Chair, that I hope this contribution attracts a more favourable response, and I look forward to the rest of the debate.
Senator DASTYARI (New South Wales) (18:00): I want to begin by—and I have got a few questions at the end of this—acknowledging a couple of the contributions that have been made. I want to acknowledge the contribution of Senator Bernardi. I do not hold the same view at all on the issue of tax transparency that Senator Bernardi holds. I acknowledge that Senator Bernardi has always come to this with a point of principle that I disagree with and, unlike others in this chamber, he has maintained that point of principle.

I also note the contribution of Senator Muir in this debate, which I think has been nothing but constructive and positive. I think, Senator Muir, your amendments are fantastic. The reality is: the major politics of this country for many years did not tackle a lot of these issues, because they were put in the too-hard basket. Frankly, I think that is a responsibility that lies across all the major parties.

I acknowledge that we did some good things when we were in power. There were several pieces of significant legislation, but I believe that the last Labor government could have and should have gone further in some of it, and perhaps having crossbench senators such as you here at that point in time would have pressured us to do so. We are better off for having you in this chamber.

It is more amazing as this day goes by that we keep realising who has actually been duped throughout this process. It is almost everybody, Mr Chairman. The people who have been duped are: the federal cabinet, because the process, the decision and the deal were not taken to the cabinet; the Liberal Party room, who had already met, discussed this issue and reached a position, were not told about this secret deal; and the crossbench senators, who had worked with the Greens—and the Greens had played a great role, great rhetoric, on this issue over a long period of time. As I have said many times before, of the many legacies that Senator Milne left in this place highlighting this issue over many years, this is something she should be rightly very proud of.

Senator Whish-Wilson: One you were very happy to take over.

Senator DASTYARI: Senator Milne was a fantastic senator and an amazing person.

Senator Cormann: Did you vote for her?

Senator DASTYARI: I never had the opportunity to. After what they have done today, I will never vote green again. The crossbench senators had been working with the government. Let's be clear: after the last round and the legislation got passed by the Senate—the tough measures, the right measures, these good amendments, the amendments the Greens at the time felt were good amendments, that we had all supported together—Senator Di Natale made it very, very clear that he was going to be insisting and their party's position was going to be insisting; and, if that position was going to change, then he would not leave everyone else hanging on a rock.

That wasn't the case. Senator Di Natale informed me and others after they had reached agreement. Let's be very clear—

Senator Di Natale: You were trying to do a deal last night!

Senator DASTYARI: That is a lie, Senator Di Natale.

The CHAIRMAN: Senator Dastyari, please resume your seat. The Senate will come to order. As I have made the point on a number of occasions already, we are in committee. There
is no limitation to the number of contributions people can make, but only one senator should be making a contribution at any one time. Senator Dastyari, you have the call.

Senator Whish-Wilson: On a point of order: Senator Dastyari just accused Senator Di Natale of lying, and I think he needs to withdraw that.

Senator DASTYARI: I withdraw.

The CHAIRMAN: I don't think he did actually use those words. Nonetheless, Senator Dastyari has withdrawn, so thank you.

Senator DASTYARI: This issue of tax transparency—let's just be clear about the role of the Labor Party in this, because I think it warrants it. Yes, the Treasurer of Australia, Mr Scott Morrison, did ask the Labor Party whether or not we were prepared to negotiate on this matter. We made our position very clear: we said we would not negotiate on any point of principle or policy and, after we had been notified of that—and you know this, Senator Whish-Wilson—I made sure that you were aware of that. I said to you that they had been talking to us and that we had rejected it. We were not going to negotiate on watering down—we call it the Bradbury amendment; other people call it the 'kidnapping' bill—the piece of legislation that we all know we are talking about here. It goes by many different names but, effectively, it was the $100 million disclosure bill, which may become a $200 million disclosure bill.

The duplicity and hypocrisy that has gone on in this place and in this chamber on this piece of legislation is outrageous. I believe there was a point of principle here that had we— and we should have—stood firm for a better deal and a better outcome, we would not be exempting right now the number of companies, the 500 or 600 companies, that are now going to be exempted.

I just want to let Senator Di Natale know of some of the companies that it appears he has let off the hook. There is Pacific Petroleum. There is the NSW Business Chamber. There is the Victoria Racing Club. There is Ego Pharmaceuticals. There is Meat & Livestock Australia. They are privately owned companies which sit somewhere between $100 million and $200 million and which now will not be under any pressure.

Let us be clear: the leverage to get a better deal was making sure that the government's measures that the government itself desperately wanted were actually using that. On this idea that we are now somehow going to get a future better deal: no, the leverage is gone. The government's position has actually been consistent on this front. I do not begrudge the government. If I could get these kinds of deals out of the Greens, I would be doing it all the time. Unlike the government, I would be taking it to my party room and I would be taking it through a proper party process. It is unbelievable that, in the world of Malcolm Turnbull and this whole good-government process, all of a sudden we find out that they are not taking these matters to the party room and they are not taking these matters to cabinet, but I imagine that is an internal matter for the Liberal Party. They can discuss it over cake in the monkeypod room.

It takes one night for the Greens to go limp. It takes one night for them to fold completely on this matter. One night with Scotty, one night with the Treasurer, and the world is their oyster. It takes one night, and Senator Di Natale will fold on every matter. It has not even been a one-night stand. They could not even get past question time together. You cannot even call it a one-night stand. There are three parties involved. There are the Greens. There are the
Nats. There are the Libs. I think in the Greens party they call that group love! But they do not even make it through a day. They cannot even make it through a day.

What they have done here is that they have sold out for a cheap, quickie deal done dirty on the table of the Treasurer. You should be appalled. The fact that you are prepared to sell out tax transparency under some desperate, pathetic desire to try to claw some kind of economic relevance—and let us be clear about what Senator Di Natale has actually said. The position, he said, is this: 'If the government tell us they're not going to pass something in the lower house, we can't possibly stand firm and try to fight for things here in the Senate.' That is their position. That is the principle. The principle is: 'We will be dictated to. We will be dictated to by what the government tell us they are prepared to do and not do.' What a pathetically weak party to be doing that! What is the point of principle? What is the point of principle in that matter? What is the point of principle there?

The senator goes on. His position is this: 'But we got something! But we got something!' Well, as Adele would have said, you could have had it all. You could have had it all, Senator Di Natale. If it took you more than one night, if it took more than one night to get you, you could have had it all. And that is what you have gone ahead and done on a quick deal.

Senator Whish-Wilson: You're just jealous you didn't get it!

Senator DASTYARI: Oh, no. No, no, no.

Senator Conroy interjecting—

Senator DASTYARI: That is right! No, unlike you, Senator Whish-Wilson, tonight I will not need to bathe in kerosene. Unlike you, I will not need to be bathing in kerosene tonight!

The CHAIRMAN: Senator Dastyari, just resume your seat for a minute. I think it is time that we maybe just review where we are at the present time. I would ask senators to be considering the comments that they make in the chamber. Senator Dastyari, you have the call.

Senator Heffernan interjecting—

The CHAIRMAN: Sit back down, Senator Dastyari. Really, Senator Heffernan, that advice also applies to you.

Senator Heffernan interjecting—

The CHAIRMAN: I do not care. The advice applies to you.

Senator DASTYARI: I just want to say that it is not as if the Greens have been penniless. I want to note that I believe that Graeme Wood no longer owns Wotif. I believe that Graeme Wood has actually sold Wotif. That is my understanding. It is funny to note, though, that that is a firm that has $149.69 million revenue turnover—the largest ever donor to the Liberal Party.

An honourable senator: The Greens.

Senator DASTYARI: The Greens, sorry. It is the largest single donation that has ever been given to a political party by an individual, as I understand it. But they are the types of companies, the types of private companies, the types of individuals, who will now have their disclosure requirements lowered.

I want to draw everyone's attention and the Senate's attention to the importance of tax transparency, the importance of staying firm, the importance of not selling out. You do not
need to take my word for it. You can take Senator Richard Di Natale's words in the additional comments he provided, signed by him.

Senator Di Natale interjecting—

Senator DASTYARI: Oh, the words were fantastic; it is the actions that were dirty! Your words are always sweet. You are a great speaker. It is all eloquent. It is well written. You have some fantastic staff. People like Jay and Fraser, who actually stand up and believe in these issues, have done a great job writing this for you. The fact is: you have walked into this place, and tonight you are going to be selling all of it out. You are selling out the principles of transparency that you went for so strongly in your own statement. I am not going to have time to read all of this into the Hansard. I am not going to be using the opportunity afforded to me tonight to do so. But I do urge anyone who is listening who is interested in this issue—and I assume there is at least one person out there—to go onto the website and have a look at the additional comments and compare what Senator Di Natale has said on points of principle and how he has behaved.

At the heart of the argument that has been made by the Australian Greens is a lie. There is a lie at the heart of the argument because at the heart of the argument they are putting is that, firstly, any deal is better than no deal, which is a straw man, a false argument that does not stand the test of reality. It is a false argument that has been made. Let us be clear. They say, 'Oh, if we didn't do this, it was all going to fall over.' No. What is actually the fact is this. The government needed and wanted to get their legislation through. This was Joe Hockey's legacy legislation. On one night, with a brief meeting, in a secret room in the Treasurer's office, without key members of your own team present, you fold; you roll over; you are desperate to do it; you are in love with the idea of being some kind of a doormat.

You are going to give the Nationals a run for their money. The way the Nationals are going at the moment, they are going to be double or triple the size of you by the time they have finished, with these Libs defecting. You are learning from their experience about how to be a doormat. You have actually folded and you have given up, and, rather than using the leverage to get the best possible deal on tax transparency, at the first opportunity, the first deal you got, the first chance to fold, you folded. You folded as quickly as you could. You gave up instantaneously. You did not put up any kind of a fight. You did not put up any kind of a principle. You did not say: 'Hang on. How do we get the best possible deal? How do we get the best possible outcome? How do we stand firm for the principles that we have been standing firm on, not just by ourselves but with crossbench senators, with Labor senators, with cross-party, with community groups, with trade unions and with activists?' You said, 'No, the first deal we get, the first chance, we're so desperate to appease a conservative, right-wing government we will fold.' And fold you did, and quickly. It is disappointing, and it is disgusting.

In concluding—because I am very conscious of time—I am going to say something very briefly about Senator Whish-Wilson. I have to say I am utterly, utterly disappointed in the position that Senator Whish-Wilson has taken in this. I will never know the truth of this, but I do not believe this is the type of decision or the type of selling-out move that someone like Senator Whish-Wilson would otherwise do. He is a person of principle and a person of integrity. He is a person I have had the opportunity to work with very closely through the
Senate economics committee process. He is someone I hold in the highest regard, and, frankly, I have to say, Senator Whish Wilson, you are a lot better than this.

Senator Whish-Wilson: Mr Chairman, I rise on a point of order.

The CHAIRMAN: I do need to give the minister priority.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (18:16): I am rising to respond to the issues that were raised by Senator Muir. The government will not support the amendments proposed by Senator Muir on behalf of the Australian Motoring Enthusiast Party in relation to either the reporting of information about corporate tax entities or the so-called grandfathering arrangements. The government is committed to tax transparency, but it does not believe these proposed amendments contribute to a fairer or more transparent tax system beyond what the government already supports.

The existing measures which the government has in place, in addition to the action being taken by the government currently around disclosure, achieve the right balance for disclosure and transparency. The proposed amendments from the Australian Motoring Enthusiast Party in relation to reporting of information about corporate tax entities inserts a definition of 'private companies' based on a definition of large proprietary companies in the Corporations Act. This adds further complexity to the rules around disclosure that do not further the purpose of the transparency rules. As such, the government does not believe these proposed amendments are necessary and therefore shall not be supporting that particular set of amendments.

The government also does not support the amendments proposed in relation to the so-called grandfathering arrangements. This government does not support the removing of grandfathering of proprietary companies, which has been in place for decades. The grandfathering of these entities was a policy that had bipartisan support for decades because without it the new disclosure rules at the time could potentially disrupt commercial activities. The grandfathering of exempted proprietary companies was done to avoid disrupting businesses which would have established themselves under other business forms if they had known they would have additional compliance and reporting requirements which might be subsequently introduced.

The removal of the exemption for large exempt proprietary companies was considered in 2001 by the Parliamentary Joint Statutory Committee on Corporations and Securities and again in 2006 by the Parliamentary Secretary to the Treasurer. The government does not support amending these rules on the fly as part of this critical piece of tax integrity legislation. This issue has been extensively considered in the past and decisions made to keep the current arrangements in place. The government therefore does not support this amendment either.

Senator XENOPHON (South Australia) (18:19): I want to speak very briefly to Senator Muir's amendments. In relation to the grandfathering clause amendment I do support that amendment. It is interesting to note that in the context of this debate the information about those so-called grandfathered companies that are able to have their information kept secret from the Australian public was only disclosed after the debate, and I think that it is appropriate that it became a live issue after that and that this is an appropriate bill in which to deal with this amendment.
I note that despite what the minister says there have been a number of views within the Public Service, as I understand, in the tax office and the Treasury. I will be corrected as to who actually said this, but my understanding is that there were concerns that the grandfathering arrangement was outdated and needed to be reformed, so I will support Senator Muir in relation to that amendment.

On reflection I will support Senator Muir in relation to his other amendment for small, private companies, because this applies to what are defined as not large proprietary companies. If a company fulfils two out of the three criteria—either less than $25 million in turnover, assets of less than $12½ million or fewer than 50 employees—I do not think it is unreasonable that they be exempt from that provision. The minister is right. We are doing things not in the most satisfactory of circumstances and doing things on the run, but I think that it is a worthy amendment, so I will be supporting both the amendments from Senator Muir.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (18:21): I congratulate Senator Muir on his amendments. I appreciate we made a plea to him in a debate a while back and he responded admirably in grappling with challenging issues and put up some worthwhile and worthy amendments. I genuinely and sincerely congratulate him for responding to the debate. Labor will be supporting them.

Senator WHISH-WILSON (Tasmania) (18:21): Acting Deputy President—sorry, Deputy President. I did not mean to demote you.

The CHAIRMAN: Chair, actually, at the moment.

Senator WHISH-WILSON: Chair—correct, yes. I just want to make it very clear that we support the principle of removing grandfathering, and it is very easy for the Labor Party to vote for this tonight when they have refused to publicly make a comment on this in the debate in recent weeks, but it will destroy this bill tonight, which is delivering an outcome on multinational tax avoidance. We support the principle and we congratulate Senator Muir for raising this issue, but we will not be supporting his amendment tonight.

The CHAIRMAN: I will put the question again so everyone is clear. The question is that the committee does not insist on amendment (1), with which the House has disagreed.

Question agreed to.

The CHAIRMAN: The next question—because we have split the questions—is that the committee does not insist on amendment (2), with which the House has disagreed.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (18:23): I move:

At the end of the motion, add:

"but agrees to the following amendments in place of that amendment:

(2) Schedule 1, page 7 (before line 10), before item 5 (after proposed item 4A), insert:

4B After section 3C

Insert:

3CA Reporting of information by significant global entities

(1) This section applies to a corporate tax entity for an income year if:

(a) the entity is a significant global entity for the income year; and

(b) at the end of the income year, the entity is:
(i) an Australian resident; or
(ii) a foreign resident who operates an Australian permanent establishment (within the meaning of Part IVA of the Income Tax Assessment Act 1936); and
(c) the entity does not lodge a general purpose financial statement for the financial year most closely corresponding to the income year:
(i) with the Australian Securities and Investments Commission; and
(ii) within the time provided under subsection 319(3) of the Corporations Act 2001 for lodgement of a report for that financial year.

(2) A corporate tax entity to which this section applies for an income year must, on or before the day by which the entity is required to lodge its income tax return for the income year with the Commissioner, give to the Commissioner a general purpose financial statement for the financial year most closely corresponding to the income year.

Note: Section 286-75 in Schedule 1 provides an administrative penalty for breach of this subsection.

(3) The Commissioner must give a copy of the statement to the Australian Securities and Investments Commission.

(4) The giving of the copy to the Australian Securities and Investments Commission under subsection (3) is taken, for the purposes of the Corporations Act 2001, to be lodgement of the document with the Australian Securities and Investments Commission.

Note: Under section 1274 of the Corporations Act 2001, a person may inspect, and require to be given a copy or extract of, any document lodged with the Australian Securities and Investments Commission.

(5) For the purposes of this section, a general purpose financial statement in relation to an entity:
(a) must be prepared in accordance with:
(i) the accounting principles; or
(ii) if accounting principles do not apply in relation to the entity—commercially accepted principles relating to accounting; and
(b) if the entity is a member of a group of entities that are consolidated for accounting purposes as a single group—must relate to:
(i) the entity; or
(ii) the entity and some or all of the other members of the group.

(6) An expression used in this section that is also used in the Income Tax Assessment Act 1997 has the same meaning as in that Act.

(4) Schedule 1, page 7 (after line 21), at the end of the Schedule (after proposed item 6), add:

7 Application of amendment—item 4B

The amendment made by item 4B of this Schedule applies in relation to income years commencing on or after 1 July 2016.

Senator DASTYARI (New South Wales) (18:23): We will be opposing. Senator Di Natale, I have a point of clarification. You have moved the motion:
At the end of the motion, add:
but agrees to the amendments (2) and (4), circulated in my name, on sheet 7836, which replaces amendment (2), with which the House has disagreed.
Is that what you have moved?
The CHAIRMAN: I can tell you the question before the chair at the moment is that Senator Di Natale's amendments (2) and (4) on sheet 7836, which replace amendment (2), with which the House has disagreed, be agreed.

Senator DASTYARI: Thank you. I am going to keep my remarks here very brief. I believe we have had a very long general discussion that has actually tackled a lot of the issues relating to these amendments. I want to make it clear to the Senate, however, what is about to go on here. This is the amendment moved in the name of Senator Di Natale which removes the amendments that had been earlier added to this legislation by the Greens and replaces them with what will be in our opinion—or, I think, a matter of fact—a watered down version in relation to the matter of the threshold but also in relation to the matter of the SP reporting.

Are these the amendments that relate to the threshold being changed from what was earlier $100 million and also the SP reporting, or is it jus the SP reporting?

Senator DI NATALE (Victoria—Leader of the Australian Greens) (18:25): I think you are confused. This relates to global entities. This in fact is absolutely consistent with the amendment that was put to the Senate previously. It requires multinationals with a turnover of over $1 billion to ensure that they file detailed general purpose accounts. This is an important amendment. It ensures greater transparency and it is the reason that this amendment has been put to this legislation.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (18:26): To assist Senator Dastyari and the chamber: it is, of course, exactly as Senator Di Natale has just indicated. This amendment requires incorporated significant global entities with revenues above $1 billion to prepare general purpose accounts on a group or individual entity basis. General purpose accounts may be prepared on a grouped domestic basis or on a global grouped basis and general purpose accounts must be lodged with the Australian Securities and Investments Commission.

The government, as we have said on the record for some time, believe that this bill, as it was introduced, is an important integrity measure. It is an important measure in the fight against multinational tax avoidance. We would have preferred if this bill had passed unamended, but, in order to facilitate the passage of this important piece of legislation tonight, the government have agreed not to oppose this amendment moved by Senator Di Natale.

Senator DASTYARI (New South Wales) (18:27): I thank the minister for clarifying that. I think there is going to be a series of different amendments. I believe a lot of this confusion would have been avoided if these were amendments that we had not received on the day and we had had an opportunity to properly examine at an earlier point time.

My understanding is that this is the amendment that initially had been added to the legislation. It was proposed by Senator Xenophon when this bill first came to the Senate. The government has now taken the drafting of the Senate clerks and replaced it with wording that had been written by Treasury. There is a serious concern that those of us on this side of the chamber have that this is a watered down version of what was initially moved by Senator Xenophon. Unfortunately, getting to the bottom of the significance of the changes that have been proposed has not been an opportunity afforded to us, because this dirty deal was done last night and these are amendments that were shown to the House only a few hours ago. Because of that, the Labor Party cannot and does not have confidence. While some of the
language may only have minor impacts, the concern is that some of it—particularly things relating to corporate tax entities being Australian residents or having Australian permanent establishments in order to file a general purpose financial statement—means that this amendment may not be able to capture firms like Google, Apple, Microsoft and major technology companies. These are big issues. These are big concerns. Frankly, we are concerned that, in the rush of drafting this amendment, we do not have confidence it has got it right.

I hope the Greens do realise that it actually puts off the reporting by almost three years because of the 2016 start date. It puts it off by almost three years because of the late period in which companies can start to report. But, I have to say, I have more faith in Senator Xenophon than I do in some of the government's and the ministerial drafting. I trust Senator Xenophon more, and, as such, the Labor Party will be voting to insist on the initial amendment as drafted by Senator Xenophon.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (18:30): Just to be clear about this amendment, it ensures that, if you are a big multinational company with a turnover of $1 billion, you have to publish detailed financial general purpose accounts. This amendment ensures that companies like News Limited, Glencore, and the big pharma companies like Pfizer and so on all have to publish detailed financial accounts.


The CHAIRMAN: Order!

Senator DI NATALE: This ensures that we get those companies with a turnover of over $1 billion to publish detailed financial accounts. I have to say it is hugely disappointing to hear that the Labor Party are going to vote against an amendment which ensures that there is transparency around the financial accounts of those huge multinational companies. We have an opportunity here to support an amendment to the government's legislation that ensures that those companies with a billion dollar turnover publish detailed financial accounts.

So just to explain: at the moment, you can apply to the tax office to publish what is called a special purpose account. In simple terms, you do not have to outline your financial affairs in any detail. This amendment ensures that those huge multinational companies now have to file detailed accounts. They have to justify why they are paying so little tax. I am flabbergasted that we are now hearing from the Labor Party that they will not support that amendment. We are not talking about mum and dad who have the local milk bar; we are talking about companies like News Limited. Who would have thought that we would have an amendment that says to News Limited—

Senator Dastyari: You're a fraud! You're watering it down!

The CHAIRMAN: Resume your seat, Senator Di Natale. Senator Dastyari, you will need to withdraw those remarks.

Senator Dastyari: I withdraw.

The CHAIRMAN: Again, I remind senators to be conscious of the words they use in this place.

Senator DI NATALE: Again, just as an example, we have News Limited, who, through the Senate inquiry, were outed as being major risk when it comes to the level of tax that they
pay—or, indeed, do not pay. This amendment says that we are now going to ensure that you publish in detail your accounts so we can track your arrangements and make an assessment about what a fair level of tax should be, given the profits that you make. And we have the Labor Party saying to News Limited, 'No, we don't want to do that. We're going to let you off the hook.' I have to say it is remarkable that for the past three or four hours we have heard about how important tax transparency is to the Labor Party, and now they are going to vote against an amendment that enforces those companies—Pfizer, Glencore, News Limited—to disclose their accounts, and we are having a debate about whether the Labor Party should or should not support it! Now we hear that they are not going to.

What it says to me is that those words ring very hollow. All the huff, all the bluster and all of the rhetoric that we have heard for the past few hours have been exposed as nothing more than grandstanding, because we have an opportunity. Our words actually do not matter that much. What matters are our actions. And right now we have the opportunity with our vote, the most precious thing that we are given in this place, to support legislation that would force those companies with a billion dollar turnover to disclose their affairs, and we know what that means. We know that when you force companies—as we saw in the UK with the number of companies who were forced to disclose their affairs; it drastically changed their behaviour—they realise that, to have a social licence, it actually hurts their bottom line when they are paying an unfair level of tax. It removes their social licence. So now we have legislation that is going to do that to those multinationals based here in Australia, and the Labor Party are saying no.

It says to the Australian community that all the rhetoric we have heard for the last few hours is hollow and meaningless and this is all about grandstanding and not about outcomes. You have an opportunity to move from the sidelines into this debate and to support legislation that will ensure that those companies pay their fair share. I just urge the Labor Party, and, indeed, the crossbenchers, to support this amendment, because it will be a critical tool in the fight against multinational tax avoidance.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (18:35): I was not going to speak again in this debate, but faced with blatant fabrications by Senator Di Natale I am forced to stand up and correct the record, so Hansard will show that Senator Di Natale has serially misled the chamber, because he is doing the filthy deal he did with the government to water down Senator Xenophon's amendments which he voted for a few weeks ago. Senator Di Natale is not strengthening a government bill; he is watering down amendments moved by Senator Xenophon that he supported two or three weeks ago. To stand in this chamber and try and pretend that he is delivering a stronger position than is already in this bill is a total fabrication, and you will and should be exposed for trying to perpetrate that untruth on this chamber. We will not let you pretend that you are not voting against amendments that you supported previously that are tougher than what you caved in and rolled over to the government for. That is the truth. You know it. Everybody else in this chamber knows it. Senator Cormann knows it. You have rolled over and you are weakening a bill before this chamber because of your filthy, slimy deal with the government. You are going to need a long hot shower tonight after your performance, because you are trying to pretend that you are toughening up a bill, when you are weakening a bill. You deserve to be exposed for it, Senator Di Natale.
Senator XENOPHON (South Australia) (18:38): I will speak to these amendments directly, but I think maybe what some of us need here is a long cold shower, rather than a long hot shower! It might wake us up.

There is my amendment that the Greens and the government say we should not insist upon, and there is an alternative amendment. I am going to be very boring here and just dispassionately go through these amendments very quickly in terms of what the key differences are. The two amendments are quite similar, but my amendment does include a reference to auditing, saying that a general purpose financial report must be prepared and audited, which is broader than the amendment moved by Senator Di Natale. The other key difference is that ASIC is the main reporting agency in respect of this in the Australian Greens amendment. They seem to be the two differences. There are some drafting differences, but those seem to be the substantial differences. If a company turns over $1 billion a year, if it is part of a subsidiary of a global giant, if it is a big pharmaceutical company—where Senator Dastyari had a wonderful expression; what was it, a trestle?

Senator Dastyari: A trestle—a big board.

Senator XENOPHON: about how little pharmaceutical companies paid in tax—or if it is Google, Apple, Microsoft, all those companies, or a large Australian company, my understanding is that it will be picked up by this. That is just one question. If it is an Australian company that turns over $1 billion or more, unless it is solely based in Australia, my understanding is that the Australian Greens amendment will pick it up. My understanding is that my amendment would pick it up by virtue of the $1 billion threshold. They are the key differences. I will put some questions in relation to that. I do have a couple of questions to put to the government, because they will be responsible for enforcing this. These are technical questions. The Australian Greens amendment has no requirement for an audit as such, but my first question to the Minister for Finance is: will part 2M.3 of the Corporations Act apply in respect of a requirement for auditing? If it does, then that minimises the differences between the two amendments.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (18:40): Senator Xenophon, I believe that I have, in essence, answered a similar question by you before. What I indicated to you before was that normal auditing rules will continue to apply, requiring auditors, of course, to conduct audits and to be rotated every five years, pursuant to the Corporations Act.

Senator XENOPHON (South Australia) (18:41): I am grateful to the minister for his answer. The other question is this. My understanding of my amendment was that it would apply to a company even if it did not have overseas activities, as long as it had a turnover of $1 billion or more. Does the agreement that the government will agree to, that it will support the Australian Greens amendment, only apply to a company that is multinational in its operation?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (18:41): The question is not very accurately framed, but let me try and help you. This will apply to every circumstance where the global income of any company is $1 billion or more. It does not really matter where that income is generated, so I do not quite understand the distinction that you are trying to draw here.
Opposition senators interjecting—

Senator XENOPHON (South Australia) (18:42): No; I think the minister is trying to be genuinely helpful on this. If an Australian based company has a turnover of $1 billion or more and it does not have any overseas subsidiaries—it is based here—is that covered in the amendment that the government is supporting?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (18:42): If 100 per cent of an Australian company's income is generated in Australia, then that 100 per cent of income generated in Australia is 100 per cent of their global income. What matters is, as soon as you generate more than $1 billion in global income, you get captured, even if all of that income is generated in Australia.

Senator WHISH-WILSON (Tasmania) (18:43): I just wanted to make it very clear, after Senator Conroy's rant, about what is one of the most substantial parts of the legislation we are dealing with here tonight, which is getting the application of general purpose accounting to significant global entities. We heard all the evidence in our Senate inquiry about the biggest potential tax avoiders, who may be getting away without paying their fair share of tax. They are the ones who are going to be required to meet this level of reporting. That is why this is so significant. I just want to get on record that the Greens have worked this afternoon—and I thank the minister and his staff here from Treasury, who have been very helpful in going through this in significant detail, with not just me and other people within the Greens but also Senator Xenophon and others—and we have looked at this very closely. As much as Labor have tried to pick holes in this, because it suits their argument, what we are seeing is not any weakening of Senator Xenophon's amendment. We have clarified some issues around Senator Xenophon's amendment, but we are convinced from what we have heard—

Senator Dastyari: Of course you're convinced. You'd buy the Harbour Bridge!

Senator WHISH-WILSON: Yes, and Senator Xenophon did not exactly say that this has been significantly weakened or watered down, like you did, Senator Conroy or Senator Dastyari. He did not say that at all. Let us be very clear, to get this on record. This is a substantial part of this legislation. This is the key reason that we have put this legislation and why the Greens have supported this. It is a strong set of legislation and I just want to make sure that it is on record that what Senator Conroy said was not technically correct. In fact, it was not correct at all. It was a nice political attempt to slur, but we have gone through this in detail.

The CHAIRMAN: The question is that Senator Di Natale's amendments (2) and (4) on sheet 7836, which replace amendment (2) with which the House has disagreed, be agreed to.

The committee divided. [18:49]

(The Chairman—Senator Marshall)

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

AYES

Back, CJ
Birmingham, SJ
Canavan, MJ
Bernardi, C
Bushby, DC
Cash, MC

CHAMBER
Question agreed to.

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

Question agreed to.

The CHAIRMAN: The question now is that the committee not insist on amendment (3) with which the House has disagreed.

Senator DASTYARI (New South Wales) (18:53): I move:

At the end of the motion, add:

'but agrees to the amendment circulated in the name of Senator Dastyari on sheet 7831, which replaces amendment (3) with which the House has disagreed.'

Again, a lot of these points have been debated and covered quite extensively.

Senator Conroy: Sell-out rats.

Senator DASTYARI: I think the key phrase 'sell-out rats' has been used a few times already tonight.

Senator Lines: Sell-out Greens.
Senator DASTYARI: And 'sell-out Greens'. So, in the interest of moving forward with legislation, I do not believe we need to articulate the point that has already been made extensively.

Senator Lines: But you could.

Senator DASTYARI: I could, and perhaps I will. But let's just be very, very clear about what this is. This amendment insists on the $100 million threshold. That is what the proposal that we are about to vote on is. So the question here is: will we insist on the amendment that had already been moved to this legislation, which was supported by a majority of this Senate, or will we not support an amendment that already had majority support?

Senator Conroy: The Greens voted for it.

Senator DASTYARI: The Greens voted for it. So we will now find out whether they will go against the amendment that they already voted for that set $100 million as the threshold. So that there is no confusion at all: there is an amendment and it has already been passed. The Greens have voted for it already. The amendment I am moving will insist on that amendment. So let's just see how they choose to vote on it.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (18:55): The government does not support the amendment proposed by the Labor opposition. The government is committed to tax transparency, but the government will not go so far as to reveal taxpayer information for private companies under such low thresholds as Labor is proposing. The government is already taking action. We are implementing the G20 OECD base erosion and profit-shifting recommendations on country-by-country reporting and harmful tax practices to address multinational tax avoidance and the common reporting standard for the automatic exchange of financial account information to address taxpayer offshore tax evasion.

The government has also asked the Board of Taxation to work with business to develop a voluntary code for greater disclosure by companies of their tax information. The board is expected to finalise the code in early 2016. The government has also maintained the Australian Taxation Office's corporation tax transparency publication. The exclusion of certain private companies below a reasonable threshold has no impact on the comprehensive powers of the Commissioner of Taxation to require companies to produce any information that is relevant to making an assessment of their tax liability. It also has no impact on the amount of tax paid by these companies under the law. The proposed public disclosure of taxpayer information will continue to apply to multinational enterprises operating in Australia and to Australian public companies.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (18:56): Most of these issues have been very well ventilated throughout the day. I would just say that, if this amendment is supported, we get nothing. What the Labor Party is saying again is that if this amendment is supported companies like Transfield, private Australian companies, will not—

Opposition senators interjecting—

The CHAIRMAN: Order! Resume your seat, Senator Di Natale.

Senator Lines: Absolute Greens sell-out.

Senator Dastyari: You've taken it hook, line and sinker.
Senator Conroy: Spineless!
Senator Lines: Sell-outs!
Senator Cameron: Absolute bunch of amateurs.
Senator Conroy: Oh, he has sat down. He is sulking.
The CHAIRMAN: No, I sat the senator down.
Senator Cameron: Just an absolute bunch of amateurs. Just give in.
The CHAIRMAN: When the Senate comes to order, I will ask the senator to stand.
Senator Di Natale.
Senator DI NATALE: The issue here is that, by supporting this amendment, we lose everything. We walk away from the Senate today and companies—
Opposition senators interjecting—
Senator Cameron: You have lost any sort of credibility. That is what you have lost. Bloody sell-out merchant.
The CHAIRMAN: Senator Di Natale, just resume your seat.
Opposition senators interjecting—
The CHAIRMAN: Senator Di Natale.
Senator DI NATALE: As I have tried to say on three or four consecutive occasions, by supporting this amendment we get nothing. Companies like News Limited will continue to be able to engage in their tax avoidance and it will not be published.
Senator Conroy: Stop making it up. Have a bit of spine.
Senator DI NATALE: Companies like Transfield—
Opposition senators interjecting—
The CHAIRMAN: Order! Senator Di Natale, just resume your seat. I can at this point advise senators that I have cancelled my flight tonight. So I am in no hurry to finish this, but we will finish this with the Senate having some order. Senator Di Natale, you have the call.
Senator DI NATALE: By supporting this amendment, companies like Transfield will not have to declare the amount of tax that they pay. Companies like Ingham chicken, the largest donor on the grandfathered list to the ALP and the Liberal Party—so one of the Labor Party’s donors—will not have to disclose the amount of tax that they pay. That is what happens if we support this amendment. What we have is an opportunity to continue—
Opposition senators interjecting—
The CHAIRMAN: Just resume your seat, Senator Di Natale.
Senator Conroy: He sat down before. He is sulking.
The CHAIRMAN: No; I had indicated to the senator that I wanted him to resume his seat.
Senator Conroy: No; he sat down before you said that.
The CHAIRMAN: Yes, before I said it but I had indicated to the senator to resume his seat. Senator Di Natale.
Senator Dastyari: As I said, companies like News Limited, Pfizer and Pratt Holdings—another big donor to the Australian Labor Party—will all get off scot-free. We will get nothing. Ultimately, this is a question of whether you get 90 per cent of something or 100 per cent of nothing. What the Labor Party is saying right now is that they would prefer to have 100 per cent of nothing. They would prefer to have an issue to grandstand with in the lead-up to the next election. It is critical it is passed today because from 1 January next year we will get country-by-country reporting. That would not happen if this legislation were not passed today, and that is why it is so critical.

Opposition senators interjecting—

Senator Dastyari: Ultimately, we believe that it is important to get some action on multinational tax avoidance rather than standing on the sidelines and grandstanding—that is the issue here. You have a choice. In this place you can grandstand from the sidelines or you can roll your sleeves up and actually get action on multinational tax avoidance, so that is what we have decided to do.

Opposition senators interjecting—

Senator Dastyari: Ultimately, we have decided that in the interests of ensuring that we get those huge multinationals, those private companies—who currently do not have any requirements: none, zero, zip, nada, zilch—to declare the amount of tax that they pay, we believe that it is critical to pass this bill tonight. The Labor Party is saying, ‘We don’t want to do that. We don’t want legislation on multinational tax avoidance. We don’t want it. We want to stand here and grandstand and have the House decide to reject this legislation to give the coalition an opportunity to say, “Hang on, the Senate can’t agree. You’ve given us an out.”’ We are not going to give them an out.

What we are going to do is support legislation that ensures that those big companies pay their fair share, and that is what we are doing right now. We are ensuring that, by rejecting this amendment, which was rejected already by the lower House—

Opposition senators interjecting—

Senator Dastyari: Which means that nothing happens and that we do not get any legislation—nothing, zero! It is a choice: do you grandstand or do you take some action in this area. We think action is important, so we are rolling our sleeves up and we are ensuring that we get legislation tonight, and the passage of this amendment would sink that legislation.

The Chairman: The question is that Senator Dastyari’s amendment on sheet 7831, which replaces amendment (3) with which the House has disagreed, be agreed to.

Ayes ......................21
Noes ......................38
Majority...................17

AYES

Bilyk, CL
Bullock, JW
Collins, JMA
Dastyari, S

Brown, CL
Cameron, DN
Conroy, SM
Gallagher, KR

CHAMBER
Question negatived.

Senator MUIR (Victoria) (19:10): I move:

(1) Page 17 (after line 3), at the end of the Bill, add:

Schedule 5—Reporting of information about corporate tax entities

Taxation Administration Act 1953

1 Paragraphs 3C(1)(a) and (b)

Repeal the paragraphs, substitute:

(a) the entity has total income equal to or exceeding $100 million for the income year and, at the end of the income year:

(i) the entity is not an Australian resident that is a private company for the income year; or

(ii) the entity is a member of a wholly-owned group that has a foreign resident ultimate holding company; or

(iii) the percentage of foreign shareholding in the entity is greater than 50%; or

(b) the entity has total income equal to or exceeding $200 million for the income year and, at the end of the income year:

(i) the entity is an Australian resident that is a private company for the income year; and
(ii) the entity is a large proprietary company within the meaning of the Corporations Act 2001.

2 After subsection 3C(3)

Insert:

(3A) The Commissioner must ensure that the information made publicly available under subsection (2) includes:

(a) a statement to the effect that:

(i) the information may not reflect the full financial position of the entity; and

(ii) more comprehensive information may be available from the Australian Securities and Investment Commission; and

(b) the address for the part of the Australian Securities and Investment Commission’s website via which the information referred to in subparagraph (a)(ii) may be found.

3 Application of amendments

The amendments made by this Schedule apply in relation to an entity for the 2013–14 income year and each later income year unless the Commissioner has, before the commencement of this Schedule, made publicly available information about the entity for the income year under subsection 3C(2) of the Taxation Administration Act 1953.

The CHAIRMAN: The question is that Senator Muir’s amendment on sheet 7832, which replaces amendment (3), with which the House has disagreed, be agreed to.

The committee divided. [19:15]

(The Chairman—Senator Marshall)

Ayes ...................... 7
Noes ..................... 40
Majority ................. 33

AYES

Lambie, J
Leyonhjelm, DE
Muir, R (teller)
Xenophon, N

NOES

Back, CJ
Bullock, JW
Cameron, DN
Colbeck, R
Cormann, M
Di Natale, R
Fawcett, DJ
Hanson-Young, SC
Johnston, D
Lines, S
Ludwig, JW
Marshall, GM
McKenzie, B
Moore, CM
Reynolds, L
Rice, J

Bernardi, C
Bushby, DC
Canavan, MJ
Collins, JMA
Dastyari, S
Edwards, S
Gallagher, KR
Heffernan, W
Lindgren, JM
Ludlam, S
Macdonald, ID
McAllister, J
McKim, NJ
Peris, N
Rhiannon, L
Ronaldson, M
Question negatived.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (19:18): I move the following amendment:

At the end of the motion, add “but agrees to the following amendments in place of that amendment:

1) Schedule 1, page 7 (before line 10), before item 5, insert:

4A Paragraphs 3C(1)(a) and (b)
Repeal the paragraphs, substitute:
(a) the entity has total income equal to or exceeding $100 million for the income year and, at the end of the income year:
(i) the entity is not an Australian resident that is a private company for the income year; or
(ii) the entity is a member of a wholly-owned group that has a foreign resident ultimate holding company; or
(iii) the percentage of foreign shareholding in the entity is greater than 50%; or
(b) the entity has total income equal to or exceeding $200 million for the income year and, at the end of the income year, the entity is an Australian resident that is a private company for the income year.

3) Schedule 1, page 7 (after line 21), at the end of the Schedule, add:

6 Application of amendment—item 4A
The amendment made by item 4A applies in relation to an entity for the 2013-14 income year and each later income year.

Senator DASTYARI (New South Wales) (19:18): Again, there is no point at all in articulating the cases that have already been articulated, I think quite extensively, but I want to explain what it is that this amendment will be doing and why the Labor Party will be voting against this amendment. This is the amendment that will, in effect, replace what we have been insisting on—which is the $100 million threshold—with the $200 million threshold. This changes the question that is going to be before us. This is the sell-out. This is the cop-out. We have discussed the reasons why we will be opposing it. I just want to make it very clear that that is what this amendment does, and that is why the Labor Party will not be supporting it.

Senator DI NATALE: To clarify, this is an amendment that would mean that now 281 companies that do not have to disclose their tax affairs, Australian private companies—Transfield, Grocon, Inghams chicken, Pratt Holdings, Meriton and so on—now have to—

Senator Dastyari: Rather than 900?

Senator DI NATALE: Well, 281 is bigger than zero, Senator Dastyari. If you think this amendment is meaningless, I think the fact that Senator Bernardi has already said that he will be crossing the floor and voting with the Labor Party tells you everything you need to know.
The fact that Senator Bernardi came into this chamber a little earlier, stood up and said that he cannot in good faith support an amendment that means that 281 private companies now need to disclose their tax affairs tells you everything you need to know. So you will now have Senator Bernardi joining the Labor Party in shielding the tax affairs of 281 companies. How does it feel? How does it feel to be sitting on the benches next to Senator Bernardi, saying: 'We want to shield 281 companies from disclosing how much tax they pay'? There is a lot more that I could say, but we have ventilated all of the arguments. I think the most telling one is that, when you have the Labor Party and Senator Bernardi together, you do not need to say anything else.

Senator DASTYARI (New South Wales) (19:20): I need to clarify the record here: 10 times today you have voted with Senator Bernardi. Ten times today you have voted with him. This is a deal that is so bad that even Senator Bernardi has issues with it. That is how bad it is. How low can you go?

The CHAIRMAN: The question is Senator Di Natale's amendments (1) and (3) on sheet 7836 be agreed to.

The committee divided. [19:25]

(The Chairman—Senator Marshall)

Ayes .................... 36
Noes .................... 26
Majority ............... 10

AYES

Back, CJ
Brandis, GH
Canavan, MJ
Cormann, M
Edwards, S
Fierravanti-Wells, C
Hanson-Young, SC
Johnston, D
Ludlam, S
McGrath, J
McKim, NJ
Parry, S
Reynolds, L
Rice, J
Ruston, A
Scullion, NG
Simms, RA
Whish-Wilson, PS

NOES

Bernardi, C
Bullock, JW
Collins, JMA
Dastyari, S
Gallagher, KR
Lazarus, GP

Brown, CL
Cameron, DN
Conroy, SM
Day, RJ
Lambie, J
Leyonhjelm, DE
Question agreed to.

Original question, as amended, agreed to.

Senator MUIR (Victoria) (19:28): I move the amendment on sheet 7833, which is a further amendment to the bill consequential of the House's rejection of the Senate's amendments:

(1) Page 17 (after line 3), at the end of the Bill, add:

Schedule 5—Transparency

Part 1—Repeal of instrument

ASIC Corporations (Exempt Proprietary Companies) Instrument 2015/840

1 The whole of the instrument
Repeal the instrument.

Part 2—Grandfathered exemption

Corporations Act 2001

2 Subsection 1408(6) (table item 7)
Repeal the table item.

Part 3—Application

3 Application

(1) This item applies to a company if, immediately before the commencement of this item, the company was exempted from complying with subsection 319(1) of the Corporations Act 2001 by the ASIC Corporations (Exempt Proprietary Companies) Instrument 2015/840.

(2) Despite the amendments made by Parts 1 and 2, that exemption continues to apply to the company in relation to the 2015-16 financial year.

Senator LAMBIE (Tasmania) (19:28): I would like to add to the debate. I do not think Senator Muir has anything more to say. The rowdy debate today and the chaos which has descended on the chamber backs up my call for drug and alcohol testing in this parliament. That would be the first thing. The Senate had a chance to get rid of a loophole which allowed almost 1,500 companies to remain on a secret list, which did not have to report to ASIC. The Greens deal with the government today and the level of political donations by people on the secret tax list and from the Chinese government to Australian political parties show just how corrupt our political system is. It is disgusting, absolutely disgusting.

A royal commissioner has said that there is a grave threat to the power and authority of Australians, and today I think we are on the tip of the iceberg of why—Merry Christmas and goodbye to the chance for ordinary Australians, who do not make big political donations, having their voice heard and valued in this place today.
So, Senator Cormann, through the Chair, I would like to know: out of these people who are exempt, how many of them are your political donors, and how much do they give in donations to the Liberal Party? Let's go.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (19:30): What I would say to Senator Lambie is that, truthfully, I do not know and I do not care. We determine public policy by what is in the public interest. What the government is doing here today is legislating a very robust multinational tax avoidance scheme which will ensure that multinational companies generating profits in Australia pay their fair share of tax in Australia.

This legislation, which hopefully will be passed tonight, will see the tax commissioner being given appropriate powers to be able to see through a whole range of contrived arrangements that are in place in relation to some of these companies from time to time. So the bill in front of us today is a serious measure to combat multinational tax avoidance. These measures will force multinational companies with significant activities in Australia to pay their fair share of tax and level the playing field for all taxpayers. It will ensure that the Commissioner of Taxation can force multinationals that have significant activities in Australia to pay tax on profits from economic activities undertaken here. Multinationals will no longer be able to justify using contrived schemes to avoid paying tax.

This rule will strengthen our anti-avoidance rules for multinationals by catching arrangements that are designed to obtain both Australian and foreign tax benefits to stop companies claiming they are only seeking to avoid foreign tax and by lowering the purpose test from sole or dominant purpose to one of the principal purpose, making it easier to apply. Where the scheme is captured, the Commissioner of Taxation will be able to look through the contrived scheme and apply the tax rules as if the multinational company had booked the profit from Australian sales here in Australia. Furthermore, penalties for larger companies that enter into tax avoidance or profit-shifting schemes will be doubled. This means that they will now pay tax on profits and they will pay more tax on profits, if they have sought to avoid paying tax.

Country-by-country reporting will require large multinationals to report additional information to the ATO. These are significant improvements in transparency that will help the ATO undertake targeted assessments of transfer-pricing risk.

Senator LAMBIE (Tasmania) (19:32): Big companies were told nearly 20 years ago that they would get two or three years on these grandfather clauses. We are 20 years down, and nobody has the guts in this chamber to remove them because they are special. The Australian people want to know what makes these companies so special that they are exempt. You explain that to me and the Australian people now, because I want to hear it. I am looking forward to watching you tap-dance.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (19:33): In the spirit of Christmas and of helpfulness, I have actually addressed this particular question before in response to the amendments flagged by Senator Muir.

The government does not support the amendments in relation to grandfathering arrangements. The government does not support the longstanding grandfathering of
proprietary companies from complying with certain ASIC reporting requirements which have been considered extensively in the past. The grandfathering of these entities has been a policy that had bipartisan support for decades because, without it, the new disclosure rules at the time would have disrupted commercial activities. The grandfathering of exempted proprietary companies was done to avoid disrupting businesses which would have established themselves under other business forms, if they had known that they would have had additional compliance and reporting requirements which might be subsequently introduced.

The removal of the exemption for the large exempt proprietary companies was considered in 2001 by the Joint Parliamentary Committee on Corporations and Securities and again in 2006 by the Parliamentary Secretary to the Treasurer. The government does not support revisiting this issue on the fly as is suggested in this amendment. We want to move ahead and get on with legislating this critical piece of tax integrity legislation. This is an issue that has been extensively considered in the past, and we believe that the principle of not making these sorts of changes retrospectively is a very important principle that ought to be upheld.

Senator XENOPHON (South Australia) (19:35): I indicate that I will be supporting this amendment. There are 1500 companies that have been part of this grandfathering arrangement, so-called. My understanding is that Treasury looked into this back in 2006. It reported, I think, at the end of 2006-07. There was a media release, as I understand it, on the Treasury website that has now been removed. It has disappeared from the website. I would like to find out what that release said.

My understanding is that it actually supported the removing of these amendments. Furthermore, ASIC in their submission to the Senate inquiry into multinational tax avoidance in February 2015—chaired by Senator Dastyari at the time—said that this particular exemption could be removed. They did not put up any obstacles towards its removal.

As far as this grandfathering amendment—these 1500 grandfathered companies—it is time these 1500 grandparents got a bit of sunshine. That is what I think we should do and why I support this amendment very strongly.

Senator DASTYARI (New South Wales) (19:36): I did flag this earlier: Labor will be supporting this amendment. I think this is a timely measure. I think we have to be fairly honest and not pussyfoot around this issue. This has been a very vexed and difficult matter over many years. The 1500 companies we are talking about—these private companies—do represent some of the wealthiest, most powerful and influential Australians. This is a provision that was given initially on a temporary basis. I think it is the right time and the right move for it to be remove I think the community out there desperately wants more information and more transparency, and I believe it is difficult to explain why particular companies are treated one way simply because of a grandfathering that was initially designed as a temporary provision and are treated differently from other companies. I think the arguments fall flat, especially the transparency arguments or even the privacy arguments or the other arguments, when you realise that there are a certain number of companies that get this special treatment and nobody else gets that same treatment. It is the inconsistency that I believe is really at the heart of it.

I note that the list that was produced by ASIC—and I think The Guardian ran the entire list online—had on it one of the Prime Minister's companies, Turnbull and associates. The Prime Minister rightly contacted ASIC and had himself removed from the grandfather list. How that
process is undertaken is really a matter for them. We will find out at estimates. I want to point out that, when you have a situation where it is such a bad look that even the Prime Minister himself realises that being on this list is so toxic that he has to remove himself immediately from being notified by the media that he is on this list, you have to question why 1,497 companies remain on that list. That is the 2011 list; a few people may have been moved since then.

I believe it is an important, timely matter. I believe there has previously been a lot of lobbying for the maintenance of these kinds of grandfathering exemptions. I think it is right for the Labor Party to be voting to remove the grandfathering provision. I believe that we did many, many great things in the area of disclosure and transparency in the last Labor government. Again, I have extensively gone through that in this chamber in previous speeches.

As I said earlier—and there are more senators here, so I want to say it again—I believe, Senator Muir, that this is a good amendment. This is an important measure. This is increased transparency. Perhaps, had you been in the last parliament and had the balance of power to help hold political and major parties to account as you are able to do in this parliament, you would have been able to improve some of that legislation, which was great legislation. These are the types of measures with which we would all have been better off had you brought them into the parliament. So I want to congratulate you for this amendment.

I have to say that the Greens political party have made it clear—and I raised this with them this morning—that they will not be supporting this amendment. I believe that is a real disappointment. The logic that has been presented both to me and in the media is this: ‘Oh, that's okay. We can come back to this amendment. We can come back. There's nothing stopping the Senate having a private member's bill, and there's nothing stopping the Senate from passing this later.’ That is absolutely baloney when you come to the reality.

Let us be clear about the leverage. The government's position, in fairness, has not been inconsistent on this front. They have actually been incredibly consistent. The government's position has been that they do not support grandfathering. What the government needed to get passed and wanted to get passed was the Joe Hockey legacy bill which we are debating today, which we are amending at the moment. As we have said repeatedly, it is not a bad piece of legislation; it just does not go anywhere near far enough. Adding grandfathering as part of the disclosure requirements would have simply improved that bill. Frankly, without the support of the Greens political party, it is unlikely that the amendment will pass in this chamber. The leverage to get that big change, to get that important change, to get these 1,497 companies in that disclosure, is about to be lost. On the idea that there could be some private member's bill and that we pass them all the time in this chamber: as senators know, we have great debates, and unfortunately we know where private members' bills go unless you have the leverage. The leverage was here. The leverage was attaching it to this bill, and the Greens sold it out.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (19:41): I have to correct Senator Dastyari, as hesitant as I am to contribute to this debate at this late hour. Senator Dastyari suggested that grandfathering was introduced with the intention of it being temporary. That is just false. The grandfathering arrangements were introduced by the Keating government in 1995. If you want to make something temporary, either you give something delayed effect in the legislation or you have
transitional arrangements. Grandfathering by definition is that you do not want a new piece of legislation to apply to those that had previous arrangements put in place under the previous legislation.

For example, in September 1985 the capital gains tax came into effect—also with Mr Keating as Treasurer and under the Hawke Labor government—and all pre-1985 assets were grandfathered. Now, I have not heard the Labor Party suggest that these grandfathering arrangements should have been changed, and of course they should not be changed, because it would be entirely unreasonable. When you make changes to the tax laws, in order for people to be able to have confidence in the system, in order for people to be able to plan their personal affairs with some certainty, people need to have confidence that, when government changes the rules on them, changes when it comes to tax arrangements are prospective changes.

Senator Dastyari interjecting—

Senator CORMANN: Of course you change things prospectively, Senator Dastyari. But to suggest that it was the intention of the Keating Labor government for this to be a temporary—

An opposition senator interjecting—

Senator CORMANN: Oh, so there was a review? A review? Well, in 1997, two years later, they just happened to be in opposition. If only they had stayed in government, it would have all been different! Well, why then did the Rudd and Gillard Labor governments not change it? Why then did the Rudd and Gillard Labor governments never touch it? This is just complete hypocrisy.

We know that Senator Dastyari has been able to make a lot of political hay for himself out of this whole issue. He is not interested in the outcome. Senator Di Natale is quite right. He is just interested in the headlines. He is interested in the colour and movement. He is interested in being able to jump up and down in front of the cameras. Senator Dastyari has no interest at all in actually achieving an outcome.

So what I would say here, Senator Dastyari, is: stop misleading the Senate. The grandfathering arrangement we are talking about here was put in place by the Keating government. It was kept in place by the Howard government. It was kept in place by the Rudd and Gillard Labor governments. And we do not believe that in the context of an important piece of legislation, given that this has been considered on a number of occasions, we should just, on the fly, make this sort of change. That is why we are not supporting this.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (19:44): I have just a brief contribution here, just to follow on from Senator Cormann's comments about the issue of grandstanding and wanting a headline. I just stumbled across an article from Michael West. Michael West says of Sam Dastyari:

… before he had a laugh and conceded the outcome was not too bad.

So here we have Senator Dastyari, who has wasted the Senate's time for three hours with grandstanding and with the rhetoric around Labor standing up for battlers, and Michael West says Senator Dastyari says the outcome was not too bad. What it reflects is that the debate we have had for the past three hours has been nothing more than hollow, empty gestures. The result was not too bad. So what has all this been about, Senator Dastyari? Why have we
wasted the Senate's time with these outrageous accusations when in your heart of hearts you
know the outcome is not a bad one? It is not a bad outcome. So here we have an article from
Michael West, who says the outcome is not too bad. We actually think it is better than that.
We think it is a terrific outcome, because Australians for the first time will see some tax
transparency from 281 companies like Transfield, like Grocon and like the Labor Party's
donors Inghams chicken, Pratt Holdings and Meriton.

It is disappointing that we come to the eleventh hour and Michael West bells the cat. All
the huff and the bluster, and this is an outcome that is 'not too bad'. We think it is better than
that, but what has all this been about? What has it all been about if the outcome, in your
words, Senator Dastyari, is 'not too bad'? Again, what we have is 90 per cent of something
versus 100 per cent of nothing. We prefer to roll our sleeves up and get outcomes for the
community, and you prefer to shout from the sidelines.

Senator DASTYARI (New South Wales) (19:46): I think it is important to clarify this for
the record. Let's be very clear. On the MAAL bill, I have said repeatedly in this chamber—I
have congratulated Joe Hockey for the piece of legislation, and I have been very clear and
have said this from the start and have spoken about this bill on perhaps 10 occasions now—
that it is a bill worthy of support, but it can and should be improved. And there are measures
that could have made the bill even better than what we will be voting on tonight. So we end
up with a bad system. There is a government proposal to make it slightly better, and the
MAAL bill does some good things. We have always said that as the Labor Party. Then this
chamber moves a whole bunch of amendments that massively improve that legislation, and
the Greens cut a last-minute deal to water it back again. So let's be clear: they cave in.

Senator Kim Carr: When they have the numbers.

Senator DASTYARI: When they have the numbers. So can we have a better bill? Yes, there
are things we could do to make it an even better bill. I want more transparency, more
disclosure, more openness and more information. And the grandfathering amendment that is
before us makes it an even better bill, and that is why it is worthy of support. We can make
this bill better, we should make this bill better, and if we had stood firm we would have made
this bill better. Is the MAAL bill a bad bill? Is it a bill that does not deserve support? No. Is
the MAAL bill better than other proposals that have previously been put forward? It does the
right thing, but we could have made it an even stronger bill. We could have made it a much
better bill, and it is unfortunate that the weakness of Senator Di Natale, the pathetictness of his
position when it comes to these matters and his complete and utter desperation resulted in him
actually going weak when he had the numbers. It must be amazing negotiating with Senator
Di Natale. You negotiate with a bloke who starts with the numbers, he starts with the
colalition—

Senator Cormann: He still has got the numbers!

Senator DASTYARI: Well put. He starts with the numbers on the position that he
advocates for. He keeps the numbers. Then he folds. Is transparency better than no
transparency? We have discussed this already, but what you have done, Senator Di Natale, is
stopped it from being as good a bill as it could have been. You stopped it being as strong a
bill as it could have been and you stopped it being able to achieve everything that it could
have achieved because, Senator Di Natale—through the chair—you went weak, mate. You
got weak.
Senator LAMBIE (Tasmania) (19:49): So I think we have established one thing here, and that is that the Leader of the Greens has done a deal with the Liberal Party that about equates to a woman that is in her first trimester of pregnancy—because you have done about 30 per cent of a deal. You have done a crappy deal for Australians out there today and you should be ashamed of yourself. I can tell you what: I would like to see what Christine Milne has to say about this. This was her baby, and I will tell you what: you just blew it out of the water, babe! That is it. I will tell you that now.

The other thing that I have a problem with is that, when it comes to the upper house and the lower house in parliament, it is not run by parliamentarians. That has been made very loud and clear here this evening. These laws and their regulations are made by their political donors in here. So—through the chair—Senator Cormann, you will have no problem helping me call for a royal commission on political donations in the future.

Senator WHISH-WILSON (Tasmania) (19:50): On Senator Dastyari’s passionate statement about how we could have actually had a deal here tonight, let’s be very clear what we are talking about. He said we had the numbers as a Senate. We had the numbers for a political outcome, not for a policy outcome. There is a big difference between actually getting a bill passed into legislation and getting a political outcome that you can go and do a press conference on.

The point I wanted to make about grandfathering is that with companies over $200 million it does not matter if they are grandfathered; there are nearly 300 companies that will now have to disclose. It does not matter that you are grandfathered; you will still have to disclose that basic financial information that this bill outlines.

Let’s be clear: Senator Muir initially put up this amendment around grandfathering not because he wanted to get rid of it; he did it because of a technicality. His original amendment going back to the first bill made it clear that he did not want people distorting the sensitive information. He did not want tabloids, greenies or whoever beating people up because of this information. And it was a sensible thing. He said: ‘Let them go through and look at ASIC’s accounts so they can actually get a clearer picture of all the information there.’ Following that, he discovered that some companies do not file with ASIC, because they have this grandfather amendment. So he said, ‘Well, if I’m going to stick to my principles here, every company has to have their info on the ASIC register.’ That is where it has come from. It has not come from a desire to get rid of it per se.

I want to make it clear that, with the transparency that we have in place here for companies over $200 million, it does not matter if you are grandfathered or not; you will be on this list. If people want to know more about your financial affairs and they cannot find it, that is going to be a very good incentive to put your accounts on ASIC. This is the important factor that we are dealing with here. We are building momentum towards getting that transparency that we want in place. Do not ignore this fact: if you vote against this tonight, you are voting against having a version of the Bradbury legislation—or the kidnap bill or whatever you want to call it. We have at least got that tonight. Let’s be very clear about that. And it does not matter if you have been grandfathered or not; you are going to have to put your information on there. So, we have actually delivered a very good result on this.
Senator DASTYARI (New South Wales) (19:54): I do not really want to engage in a huge political point here. I note that Senator Whish-Wilson did say in his own press release this morning:

The Grandfathering provisions put in place by the Labor Party are unacceptable and today's result will help build momentum to consign them to the scrap heap.

There is a way of consigning them to the scrap heap, and that is how you are about to vote.

Senator Whish-Wilson interjecting—

Senator DASTYARI: I think giving up is not the answer.

Senator Cormann, I want to slightly clarify my understanding of what initially happened with grandfathering. I do not know if it is worthy to go over some political matters here. My understanding is that it was a measure that was put in place in 1995. At the time, the PJC recommended a three-year sunset clause. Instead, a two-year review was undertaken. At the end of the two-year review, the Howard government, which was elected in 1996, chose not to remove it, and then the Labor government chose not to remove it either.

Senator Cormann: And in 1995 you chose not to put in a sunset clause. As you were dying in government, you were promising a review!

Senator DASTYARI: I am not making a partisan point, and you know all about dying in government! But I do want to go back to the overall point from Senator Muir here because this is an amendment from Senator Muir. I want to acknowledge the history of both major political parties and our resolve to tackle these kinds of issues. It has not been as strong as it should have been, and we are better off by having people like Senator Muir, who are able to hold our feet to the fire on some of these matters. Him having the balance of power on legislation like this has the potential to make this a better place and to push major political parties to make sometimes tough decisions that are sometimes easier for them not to make. I congratulate him on that and say again that the Greens will not be voting with us on this.

I believe Senator Whish-Wilson is quite genuine in his opposition to grandfathering. I believe he ideologically does believe it is the wrong thing. I share that view with him. But I believe he also—

Senator Conroy: got rolled.

Senator DASTYARI: I believe he got rolled by his own party, but that is a whole separate matter—and he was not in the meeting that did the deal that said he could not do it, but put all that aside. I do believe that it is misguided to believe that the momentum building in this will achieve that. I hold a different view. But we have articulated these cases all night, and going through those debates is not going to achieve anything.

The CHAIRMAN: The question is that the amendment moved by Senator Muir on sheet 7833 be agreed to.
The committee divided. [20:01]
(The Chairman—Senator Marshall)

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

AYES

Bilyk, CL
Bullock, JW
Conroy, SM
Gallacher, AM
Lambie, J
Leyonhjelm, DE
Ludwig, JW
Marshall, GM
McEwen, A
Muir, R
Singh, LM
Wang, Z
Xenophon, N

Brown, CL
Cameron, DN
Dastyari, S
Gallagher, KR
Lazarus, GP
Lines, S
Madigan, JJ
McAllister, J
Moore, CM
Peris, N
Urquhart, AE (teller)
Wong, P

NOES

Back, CJ
Birmingham, SJ
Bushby, DC
Colbeck, R
Edwards, S
Fierravanti-Wells, C
Hanson-Young, SC
Johnston, D
Ludlam, S
McGrath, J
McKim, NJ
Parry, S
Reynolds, L
Rice, J
Ruston, A
Scullion, NG
Simms, RA
Whish-Wilson, PS

Bernardi, C
Brandis, GH
Canavan, MJ
Di Natale, R
Fawcett, DJ
Fifield, MP
Heffernan, W
Lindgren, JM
Macdonald, ID
McKenzie, B
Nash, F
Payne, MA
Rhiannon, L
Ronaldson, M
Ryan, SM
Siewert, R
Smith, D (teller)
Williams, JR

Question negatived.
Resolution reported.

The PRESIDENT (20:04): The committee has considered message No. 494 from the House of Representatives relating to the Tax Laws Amendment (Combating Multinationals Tax Avoidance) Bill 2015 and has resolved not to insist on the amendments with which the House has disagreed, but has agreed to four amendments in their place.

Report adopted.
Australian Citizenship Amendment (Allegiance to Australia) Bill 2015
In Committee

Debate resumed.

Senator LAMBIE (Tasmania) (20:05): Senator Brandis, when you cancel someone's citizenship and deport them back to wherever they have come from, have you done any modelling on the likelihood of them picking up a weapon and putting a bullet through one of our soldiers, because that is exactly what you are doing?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:06): Senator Lambie, the people to whom this act will apply are people who have committed terrorist crimes. They are people who have the propensity to behave in that way. That is, by the way, why we do not want them in Australia. That is why we do not want them in our streets and in our suburbs. When they are deported, they will be placed into the hands of the government of the other nation of which they are dual citizens, and it will be for that government to deal with them and to take whatever action, according to its domestic law, it seems appropriate to take. Senator Lambie, you say that these people might put a bullet into one of our soldiers. These are people who might put a bullet into one of our soldiers or one of our civilians. We do not want them on our streets. That is the purpose of this bill.

Senator LAMBIE (Tasmania) (20:07): So, if the terrorist act is here, you cancel their dual citizenship and then you send them overseas?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:07): This is the point I was trying to explain yesterday. Under section 33AA, we do not cancel their citizenship; they renounce their citizenship by engaging in conduct which the act treats as manifest evidence that they no longer have an allegiance to Australia. This is why the bill is called the 'allegiance to Australia' bill.

Senator LAMBIE (Tasmania) (20:08): Yes, but what I am asking you, Attorney, is: if they do that act on Australian soil, they renounce their citizenship and you send them back to wherever they have come from? So, if they have come from the Middle East, you are actually going to send them back to a country from the Middle East? That is what I am trying to clarify. We already know that governments over there are corrupt. Who is to say that they are not going to be given a weapon, pick up a weapon and go back and fight against our soldiers?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:08): Well, this applies of course to all dual citizens, without differentiation as to the country of their other citizenship. To use your example, let us say they were a dual citizen of Syria and Australia; if the person concerned engages in terrorist conduct and thereby renounces their allegiance to Australia and loses their Australian citizenship, they still have their Syrian citizenship, and in those circumstances we would deport them to Syria, into the hands of the Syrian government. The point I make to you, Senator Lambie, is: do you really want these people at large, walking around in the streets and suburbs of Australia, or do you want them in a jail in Syria?

Senator LAMBIE (Tasmania) (20:09): No. You know what I would do? It is as corrupt as hell over there in Syria. You will not have any idea. They might be put over to the authorities.
You will have no idea whether they are going to be released in 24 hours. That is out of your hands. So Australia now has gone into the business of exporting terrorists. That is what we are doing. Have you put a tax on that, because effectively that is what we are doing. Why would you do that? Is this the best you can do to fight terrorism?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:10): Senator Lambie, as I think you know, we do a great many things to fight terrorism, including the deployment of Australian forces in the international coalition to defeat and destroy ISIL, and many brave Australian service men and women are deployed in that international coalition, both in assisting and training the Iraqi Army and in the RAAF as part of the international coalition of air forces that are striking ISIL positions in northern Iraq and now in Syria as well. We do many things to fight terrorism, but one of the ways in which we need to thwart terrorism is to ensure that there are no terrorists on our streets. The way we do that is to ensure that we have strong criminal laws and well-resourced police and intelligence agencies that can arrest those people and put them on trial and put them before courts and lock them up. But this is a belt-and-braces approach, and another way we can seek to thwart terrorism is to ensure that people who are citizens of nations other than Australia lose their Australian citizenship and, as you say, can be—you used the word 'deported'—placed in the hands of the government of the other nation of which they are citizens. Senator Lambie, I do not think you would find very many people in Australia who think that we should not be doing everything we can to take terrorists off the streets of this country.

Senator LAMBIE (Tasmania) (20:12): That is not what I am saying. But what you are doing is you are actually putting them on other people's streets and you are giving them the opportunity to kill our men and women in uniform. That is what you are doing. You know what? Why don't you (a) put them in jail 23 hours a day for the rest of their life or (b) give the courts the option of using the death penalty? Wouldn't that be a much better option?

Overnight or in the last few days, we have heard news that the US are deploying extra special service troops in northern Iraq so that they can work with the Kurdish forces in their collective fight against ISIS. So what has happened in reality is that our major military partner, the US, is teaming up with a group of people who your government says are official terrorists. Is that correct?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:12): There are a couple of things to say about that. First, in relation to your first observation, Senator Lambie, the Australian government has for a very long time now—and this is a policy adopted by both sides of politics—opposed the death penalty, and we make representations to other countries of our position. And we, through various other measures in our international engagements—for example, through policing agencies—do everything we can to stop the death penalty. There are lots of Australians—you are obviously one—who believe in the death penalty, but this country, as a matter of government policy, does not support the death penalty. Nor do I.

Let me add to something I said to you in relation to the renunciation-by-conduct provisions. Sections 33AA and 35 apply to people who are dual citizens who are actually already overseas, so the suggestion that we are sending them overseas in fact is not germane. That part of the provisions of this bill assumes that the person is already overseas, because if
they are at home then they are dealt with under section 35A. But if they are overseas they are dealt with by sections 33AA or 35.

I have seen the media reports in relation to what the United States is doing to expand its mission somewhat in the Middle East. The Australian government's commitment is, as was announced by the previous Prime Minister, an advise and assist mission with the Iraqi defence force, and it is a contribution to the air mission conducted by the RAAF in coalition with the United States and several other nations.

Senator LAMBIE (Tasmania) (20:15): Bringing you back to the fact that you have the PKK along with ISIS listed as official terrorists on the proscribed list referred to in this legislation, isn't it the case that you have admitted your government does not treat all terrorist organisations on the list equally?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:15): No, that is not right, Senator Lambie. The consequences of an organisation being declared as a terrorist organisation under the provisions of the Criminal Code are uniform. They are the same for any organisation and the same consequences apply and the same criminal offence provisions and penalties apply to a person who is a member of such a declared terrorist organisation. In relation to this particular bill, though, it is right to say that the Minister for Immigration and Border Protection may list, from the list of declared terrorist organisations, organisations to which these provisions apply. So it is at least theoretically possible that there could be organisations on the list of declared terrorist organisations declared by me, on the advice of ASIO under the Criminal Code, that would not be declared by the Minister for Immigration and Border Protection for the purposes of the operation of these provisions.

Senator LAMBIE (Tasmania) (20:16): So on the one hand Australia is supplying the PKK with arms and food and, on the other hand, we are bombing ISIS. Can you see a day when Australian forces will bomb Kurdish targets—given that the PKK is on our official terrorist list?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:16): Senator Lambie, our mission is to defeat and destroy ISIL.

Senator LAMBIE (Tasmania) (20:16): Do you think we can reach a political decision with ISIS involved at the table?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:16): No, Senator Lambie, and no Australian government minister has suggested that that is a way in which this conflict is going to move to a resolution.

Senator LAMBIE (Tasmania) (20:17): Would you be saying then, or do you think, the only way we can solve the differences between ISIS and Australia is on the battlefield? Or do we negotiate a solution with terrorists?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:17): This is a battlefield conflict, Senator. Australia's engagement in the Middle East is a military engagement and we are, as I keep saying to you, determined to defeat and destroy ISIL on the battlefield. But we also have
to, at the same time, protect our own domestic populations in Australia from ISIL-inspired domestic terrorism.

Senator LAMBIE (Tasmania) (20:17): Overnight, as you have all seen, some UK politicians who have said that there must be dialogue with ISIS to solve this problem have compared ISIS to other terrorist organisations, like the IRA from Ireland and FARC from South America. Do you think it is valid to compare the ISIS terrorist crisis with the IRA and FARC terrorist crises where political solutions stop the violence and killings?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:18): Senator, I think that is really a question that is beyond the scope of this debate, and my own views about the IRA and other terrorist organisations existing elsewhere in the world at different periods in the history of the 20th century are really not, I suspect, either well informed or germane to this debate. You are asking me about ISIL; we are dealing with ISIL in a particular way. We are dealing with it militarily in coalition with our partners in the United States, in Europe, in Russia—the entire world, Senator Lambie, not just the Western world, not just the democratic world. The entire world—virtually every nation of the world—is united in determination to defeat and destroy ISIL. That is why, in September last year, the UN General Assembly passed resolution 2178—which, if not unanimous was certainly near to unanimous in calling on all nations to assist in the destruction of ISIL. That is why, when in February of this year I went to the White House Summit on Countering Violent Extremism and we discussed ways in which to defeat ISIL-inspired domestic terrorism, what was very striking to me was that the entire world was represented. Virtually every country in the world was in that conference chamber. There were countries that were actually at war with one another that were sitting beside one another in this conference chamber because virtually the entire world is united in its determination to defeat and destroy ISIL.

Senator XENOPHON (South Australia) (20:20): I have some questions to the Attorney. Looking at the transcripts of the Prime Minister's statements given by the government, the emphasis in this legislation has been on terrorists fighting with the Daesh 'death cult', to use terminology from the former Prime Minister. A transcript of a statement of the then Prime Minister of 22 January 2015 said, 'We can't take away people's citizenship. What we can do is to ensure we stop them from going in the first place.' That was in the context of the foreign fighters legislation, so I understand that. But subsequently, when this legislation was being discussed, the emphasis was very much on people involved in terrorist-related activities. In fact, a joint press release dated 26 May 2015 by the then Prime Minister and the then and current immigration minister, the Hon. Mr Dutton, said that the Minister for Immigration and Border Protection will be able to exercise these powers in the national interest where a dual citizen betrays our country by participating in serious terrorist-related activities. This was a transcript of the then Prime Minister's statement with the Hon. Mr Dutton and you, Attorney, where a reference was made repeatedly about serious terrorist threats I will not be prolix by repeating it unnecessarily, but the statements of the government, the Prime Minister, the Minister for Immigration and, indeed, yourself were that there was a real emphasis about having citizenship stripped in respect of being involved in a terrorist threat.

My understanding is that the legislation actually goes far beyond that, and I have made this clear. I have given fair notice to your office, Attorney, as a courtesy to you—the usual
courtesy—of my concern that the application of proposed sections 35A(1) and A(3) of this bill make reference to other offences. One of those offences is section 91.1 of the Criminal Code, which relates to espionage. I will not insult the Attorney by asking him to confirm that, because it is, on the face of it, in the bill.

My concern is in relation to proceedings in the International Court of Justice in The Hague at a public sitting on Tuesday, 21 January, 2014, at the Peace Palace with President Tomka presiding. Australia was well represented by a legal team headed by Mr Justin Gleeson SC, the Solicitor-General of the Commonwealth. Reading from the transcript from the International Court of Justice in The Hague, it relates to a case concerning 'Questions Relating to the Seizure and Detention of Certain Documents and Data—Timor-Leste v Australia'. It relates to the raid on, I think, 2 December 2013, of Mr Bernard Collaery's chambers and involves Witness k—something we have ventilated on on many occasions in estimates and here in this chamber. Mr Gleeson SC, the Solicitor-General, as part of the case, said:

On the basis, however, of what I have just taken you to, there are reasonable grounds to consider that the materials over which Timor-Leste asserts privilege may include written statements, or affidavits, by a former ASIS officer, made to Mr Collaery on behalf of Timor-Leste, disclosing national security information of Australia.

If that be the case, these disclosures would involve the commission of serious criminal offences under the law of Australia, and I reference sections 39 and 41 of the Intelligence Services Act 2001 (Cth), section 70 of the Crimes Act 1914 (Cth) and section 91.1 of Schedule 1 to the Criminal Code Act 1995 (Cth), which you have at tabs 20-22.

I just wanted to put that in context.

The legislation has been framed in terms of the public discourse about terrorist related offences and being involved with Daesh or ISIS, but it actually extends beyond that. It actually includes references to section 91.1 of the Criminal Code, which relates to espionage. In the statement from Mr Justin Gleeson SC that I read from the transcript of the proceedings in The Hague in the case involving Australia and Timor-Leste, on the face of it, it appears that there is an assertion that either the former ASIS officer referred to, known as Witness K, whose identity is quite appropriately suppressed, or Mr Collaery may have committed an offence under section 91.1.

The circumstances of this matter are contentious—and the ABC's Lateline ran a series of stories on this. Does this legislation mean that, potentially, if Mr Collaery or Witness K were convicted under section 91.1—and I must emphasise that Mr Collaery is quite distressed at any suggestion that he has done anything wrong and regards himself as a patriotic Australian—and if there were such a prosecution, could it apply in a case such as this so that Mr Collaery, who is, as I understand it, a dual national, could find himself stripped of his Australian citizenship? I think I have fairly set out my concerns.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:26): Senator Xenophon, the legislation applies in the circumstances that are set out in the bill. It applies to those species of conduct defined by the Australian criminal law and referred to in the bill.

In relation to the Collaery and Witness K matter, I know there has been a lot of public discussion about this lately and I know that you are engaged in that discussion—I saw the Lateline programs last week. I made a statement in this chamber the day after the search
warrants were executed two years ago—so if it was 2 December, then today would be the second anniversary of me making that statement—and I refer you to the statement. But, beyond that, I do not think it would be appropriate for me—and I certainly do not intend to—comment on that case.

Senator XENOPHON (South Australia) (20:27): I appreciate the Attorney's answer, but it seems to me that this legislation, which has been framed fairly and squarely in the public arena by the former Prime Minister, by our immigration and by the Attorney-General, actually goes way beyond dealing with terrorism; it actually extends to section 91.1 of the Criminal Code. There is reference in the proceedings in The Hague that potentially Mr Collaery and Witness K could be in the firing line of section 91.1. That is the assertion that is made by the Solicitor-General of the Commonwealth of Australia. So does the Attorney concede that the legislation can apply in a case such as this, given the reference made by the Solicitor-General, and that an eminent Australian, a former Attorney-General of the Australian Capital Territory, could face losing his citizenship if there were a prosecution brought under this legislation, if passed, under section 91.1?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:28): Senator Xenophon, as I am sure you know, no prosecution has been brought against Mr Collaery or Witness K, and I am just not going to be drawn on a hypothetical; I am just not.

Senator XENOPHON (South Australia) (20:29): I need to frame this very carefully, because I do not want to give up my sources. Can the Attorney give an undertaking or give an assurance, at the very least, that it is not contemplated that there will be proceedings against either Witness K or Mr Collaery that could, when this legislation is passed, lead to the stripping of their citizenship if either of them is a dual citizen? And I understand that Mr Collaery is.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:29): I am sorry, Senator Xenophon, I am not going to comment on a hypothetical case, nor am I going to be giving assurances to the chamber in relation to a matter in which primarily the Director of Public Prosecutions would decide whether or not a prosecution should be brought. I have told you, and I think you know this, that no prosecution has been commenced against either of those people, and in those circumstances I think it would be absolutely inappropriate for me to comment.

Senator XENOPHON (South Australia) (20:30): I appreciate the Attorney's comments. I wonder whether the Attorney considers it appropriate to comment as to whether there have been any assurances given to any parties that it is not contemplated, not intended or not envisaged that this legislation would be directed against Witness K or Mr Collaery?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:31): Senator Xenophon, no act of parliament is written for the purpose of penalising identified individuals. Where they involve the application of the criminal law or sanctions, acts of the Australian parliament are written for the purpose of defining certain offences and penalising certain conduct. They are not ad hominem. They apply to all Australians.
Senator XENOPHON (South Australia) (20:31): Of course they are not ad hominem, and I appreciate the Attorney for reminding me of that—and it is fair that you do so. But is it not the case that your consent would be required for any prosecution under this section?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:32): Yes.

Senator XENOPHON (South Australia) (20:32): Can you now categorically rule out that you, as Attorney—I do not know who any future Attorney is, but by the looks of it I think you might be Attorney for a very long time in this place—would consent to a prosecution being brought against Mr Collaery or Witness K?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:32): It would be absolutely wrong of me to give you any assurance about a hypothetical case in which no prosecution has been initiated.

Senator XENOPHON (South Australia) (20:32): Respectfully, this is not a hypothetical case. This very matter was raised by the Solicitor-General of the Commonwealth of Australia, Mr Justin Gleeson SC, in the Hague in the International Court of Justice on 21 January 2014, where clear reference was made to a potential breach of section 91(1) of schedule 1 to the Criminal Code—one of the very sections that is captured by this legislation, allowing a person to be stripped of their citizenship. We know of the circumstances of this matter in terms of the serious allegations of the bugging of the East Timorese cabinet room during sensitive negotiations over the Timor Gap oil treaty back in 2004. We know that offices of Mr Collaery were raided. We know that this is a matter that is going to the International Court of Justice in terms of an arbitration—or it appears that it is headed that way—so I am concerned that such is the scope of this bill.

I understand the scope in terms of terrorists, and there is an argument as to what is the most effective way of dealing with it, and I will ask those questions down the track. But I am deeply concerned that that Attorney cannot rule out that there will not be a prosecution against Mr Collaery or Witness K, and that sends shivers up my spine, given the circumstances of this particular matter.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:34): Senator Xenophon, as I am sure you know, the case to which you referred has been the subject of investigation. As you know, search warrants were executed. It would be absolutely wrong of me to respond to that which you seek from me, particularly as it would involve, among other things, interfering with the discretion of the Commonwealth DPP. It would be absolutely wrong of me, and I will not be drawn.

Senator XENOPHON (South Australia) (20:34): I understand the Attorney's propriety, and I respect that, but the Attorney still has the ability to consent or not to consent to a prosecution. He is, in a sense, the final safeguard or arbiter in these matters. After getting advice from the Commonwealth DPP, I have a very deep concern that the fact that the Attorney cannot rule it out means that this piece of legislation could extend to Mr Collaery or Witness K, who I understand is a former senior ASIS officer—and I do not know who that person is; in fact, I never want to know who that person is—who has made serious allegations
about the conduct of ASIS in terms of the bugging of the East Timor cabinet room during very sensitive negotiations. It is, I think, one of the biggest spy scandals in this country in a generation.

I am concerned that somehow these two men, Mr Collaery and Witness K, could be caught up in this legislation and at least one of them could face the stripping of their Australian citizenship. I do not think that is what the legislation was intended for. That is not what the former Prime Minister said or what the Immigration Minister has said. I think it is very important that we have on the record that Mr Collaery and Witness K may well be in the firing line with this legislation.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:36): The legislation will operate according to its terms. The legislation was not introduced into the parliament and is not being discussed tonight with any individual person in mind. The legislation is designed to declare that certain consequences may follow from certain categories of conduct which are inconsistent with allegiance to Australia. Senator Xenophon, in order to reassure you of that, might I remind you that the submissions to the International Court of Justice by Mr Gleeson, from which you have read, were made some while ago, I think in early 2014—

Senator Xenophon: In January.

Senator BRANDIS: in January 2014, well before the time at which this legislation was even contemplated.

Senator XENOPHON (South Australia) (20:37): For the record, Madam Chair, I am not suggesting the legislation was contemplated as at 21 January 2014, but what I am suggesting is that, given Mr Gleeson's comments, his submission to the International Court of Justice, given this legislation, if you add one on one, together you can get two, which is that potentially they could be caught in the firing line on this. I make the point that the espionage provisions—and that is what we are relating to here. I want to make it clear that Mr Collaery, who has not asked me to ask these questions, who is distressed at any allegation that he could have breached section 91.1, as a proud and patriotic Australian, that the espionage provisions were never mentioned in the selling of this bill. They were not. I have gone through transcript after transcript where it was not mentioned. Furthermore, the Attorney has not repudiated the fact that these two men, witness K and Mr Collaery, could be caught up in this bill and at least one of them could face the stripping of their Australian citizenship.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:38): Senator Xenophon, I will not comment on an individual case where there has not thus far been a prosecution. It is just not appropriate for me to do that. The legislation applies to the conduct defined in it and, where a person has engaged in that conduct, then the consequences that the legislation provides for may follow. They do not necessarily follow because there is a ministerial power of excusal in relation to section 33AA and section 35 and there is a ministerial discretion to be exercised under section 35A, but the consequences may follow where conduct is engaged in of the kind described by the legislation.

Senator XENOPHON (South Australia) (20:39): Perhaps the Attorney can correct me if I am wrong, but it is my clear understanding that Mr Gleeson SC, the Solicitor-General, has not
withdrawn, repudiated, retracted or in any way resiled from the comments he made before the International Court of Justice in The Hague 21 January 2014 in terms of the statement he made, effectively that Mr Collaery and witness K could be subject to a prosecution under section 91.1 of the Criminal Code.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:40): Senator Xenophon, Mr Gleeson did not make comments to the International Court of Justice; he made submissions in his capacity as the lead advocate for Australia in those proceedings. Those were submissions as to the potential offences that may have been committed by Collaery and witness K in the event that certain facts were established—that is all.

Senator XENOPHON (South Australia) (20:41): And is the Attorney aware—I am sorry. The only court work I do nowadays is pro bono work, usually involving poker machines. So I should have used my terminology more precisely. Is the Attorney aware of any submissions made by Mr Gleeson to any tribunal that would in any way resile from what Mr Gleeson said on 21 January 2014 where he said that there are:

... reasonable grounds to consider that the materials over which Timor-Leste asserts privilege may include written statements or affidavits by a former ASIS officer made to Mr Collaery on behalf of Timor-Leste, disclosing national security information of Australia.

If that be the case, those disclosures would involve the commission of serious criminal offences under the law of Australia.

He then goes on to reference section 91.1 of schedule 1 of the Criminal Code of the Commonwealth. Has Mr Gleeson, in any submissions subsequent to that time, in any way withdrawn, resiled, qualified or in any way clarified those statements that he made at the time?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:42): Senator Xenophon, it is a completely absurd question, with respect, because the issue has not arisen in judicial proceedings internationally or domestically since January 2014. So no occasion has arisen. Mr Gleeson is the senior legal representative of the Commonwealth of Australia in proceedings in the High Court and, on this occasion, in the International Court of Justice. He made some submissions on the consequences in Australian domestic law in the event that certain allegations were established. Those submissions were correct. If the elements of a particular criminal offence were in a given case established, then the person who engaged in that conduct would, at least prima facie, be considered to have committed that crime. It is no different from any other criminal offence. What Mr Gleeson was saying is that, if certain facts where shown, then certain legal consequences would follow—nothing more than that.

Senator XENOPHON (South Australia) (20:43): So Mr Gleeson has said not that those disclosures might involve the commission of serious criminal offences under the law of Australia; he said:

... would—

I emphasise the word 'would'—

involve the commission of serious criminal offences under the law of Australia.
I simply make the point—I am not sure how much further I can take it at this stage—that this bill, sold to the people of Australia, about involving the evil that is ISIS, Daesh, whatever you want to call them, could in fact capture a former senior ASIS officer, witness K, or a former Attorney-General of the Australian Capital Territory, Mr Collaery, and that they could face their citizenship being stripped because of assertions in respect of section 91.1. That is the point I make. I cannot take it any further. I do thank the Attorney for the direct way he has answered these questions.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:44): Senator Xenophon, thank you for your complimentary remarks, but I cannot let you get away with raising a false issue. This is a bill about terrorism. It is a bill about terrorism to protect Australians and to keep us safe. I would counsel against parsing submissions made in proceedings—quite complex proceedings. Plainly, what the Solicitor-General was saying by the use of the word 'would' was that, in the event that certain conduct were established—to the criminal standard of proof, by the way; that is proof beyond reasonable doubt—before a court, and if that conduct answered the definition of espionage in Commonwealth criminal law, then a person who engaged in that conduct, and was shown to the criminal standard of proof to have done so, would be guilty of that conduct. That is a completely commonplace proposition: if a provision of the criminal law defines the elements of a criminal offence, and if a person is shown to the criminal standard of proof in a prosecution to have engaged in that offence, then they would be convicted of that offence unless they could demonstrate a legally available defence. That is nothing more than a very, very simple illustration of the way criminal law operates.

Senator XENOPHON (South Australia) (20:46): There are two words I have had to look up on my iPad today. The first is 'lickspittle' in the context of the tax debate; I worked out what that was. I thought it sounded pretty rude, but it was not quite as rude as it sounded. And I had to look up 'parsing', on which Wikipedia kindly says:

 Parsing or syntactic analysis is the process of analysing a string of symbols, either in natural language or in computer languages, conforming to the rules of a formal grammar. The term parsing comes from Latin pars (orationis), meaning part (of speech).

 And I thought it was a garnish! I suggest to you that there is no parsing here. The fact is that this goes much broader than the people of Australia were told. What concerns me is that two people involved in either exposing or, for one of them, representing someone who has arguably exposed one of the biggest spy scandals in this country in a generation, if not longer, could face having their citizenship stripped because of this. I cannot put it any higher. This seems to have gone beyond this. This was a bill presented to the people of Australia about terrorism, but instead other provisions that relate ostensibly to espionage could include this. Attorney, I am grateful for your responses. I do not think I can take it much further.

Senator McKIM (Tasmania) (20:48): To offer a little commentary on the exchange that we have just had—and I am not sure that this will offer any comfort to Senator Xenophon—the reference to section 91.1 of the Criminal Code is in proposed section 35A, which provides a discretion for the minister to determine in writing that a person ceases to be an Australian citizen, not a requirement that that occur. But nevertheless it is worth pointing out that, if there were to be any contravention of section 91.1 of the Criminal Code, it would certainly be open to a minister to strip citizenship from someone in those circumstances.
Attorney, I wanted to return—I hope reasonably briefly—to the matters we were exploring yesterday. I will preface my question by making it clear that this question is in the context of the issuance of a notice under proposed subsection 10, not the renunciation due to conduct. It goes again to the matter we were exploring, which is the level of satisfaction that a minister would be required to have prior to issuing such a notice under proposed subsection 10 of 33AA. You have very helpfully—and I thanked you for it yesterday—placed on the record that the minister would have to have a degree of knowledge about the conduct which would give rise to a clear mental apprehension of the existence of the conduct. To put that in lay terms—and I stress that these are my words, not yours—I would interpret the words 'clear mental apprehension' to be of a standard of proof above reasonably certain, but you may have a commentary on that. You may be able to inform the Senate of legal precedent which defines the words 'clear mental apprehension'.

The first question I wanted to ask you—and as I said, I have been a minister, as obviously you have for some time—is: would you agree that advice to the minister from a department that the relevant conduct had occurred which offended the criteria in proposed section 33AA would meet the level of satisfaction that the minister would need to have prior to issuing the notice?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:51): Well, it could. It might. As I said to you, Senator McKim, in our exchange last night, ordinarily one would expect the minister to act on the basis of information put before him in a brief from the department. I think it would be tedious to revisit the thorough discussion we had of these issues last night, but the concept that the provision operates upon is the concept of the minister becoming aware of certain facts. 'Becoming aware' is not a lawyer's term of art, so it is given its ordinary or common-speech meaning. The dictionary defines it as 'cognisant or conscious'. It must be more than suspicion or belief. The minister would have to be, in my view, satisfied as to the existence of relevant facts.

As I said to you last night, I do not think the standard of proof is the appropriate term here because the standard of proof assumes a dialectical process of decision making such as courts engage in. What we are concerned with here is administrative decision making. As you rightly say, Senator McKim—you were a minister yourself—you know that there are certain circumstances in which ministers exercise a discretion and they exercise discretion on the basis of having to be satisfied of the existence of certain facts or jurisdictional preconditions. That is the way this would work.

Senator McKIM (Tasmania) (20:53): Attorney, would it be open to a minister to reach the level of satisfaction of satisfied in the absence of departmental advice?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:53): The question is whether the minister is aware of certain facts. If he is aware of certain facts, he is ex hypothesise satisfied as to the existence of those facts. One can imagine plenty of circumstances, I dare say, in which the minister could become aware of those facts otherwise than on the basis of a brief from his department. He may be directly advised of them by a police agency, for instance. They may be, and we discussed this possibility last night, publicly manifest facts, so that there
is no doubt at all from the public manifestations of certain conduct that what is involved is terrorist related conduct or conduct to which the act applies.

So it is not a jurisdictional precondition that there be departmental advice. The minister must merely be aware of the existence of certain facts or satisfied as to the existence of certain facts. The sources of that awareness, on the basis of which he is satisfied that they exist, could be other than departmental advice. But, in the most usual case, you would expect that it would be on the advice of a departmental brief.

Senator McKIM (Tasmania) (20:55): Thanks for that response. Attorney, I have always had a view, I am not sure whether it is broadly held or not in parliaments around the country, that although we would always hope that all of our ministers are reasonable people that is not always the case. Therefore, the responsibility of parliaments is actually to design legislation to the greatest degree possible that anticipates a minister potentially acting unreasonably in any circumstance. This legislation does cause me concern here because it is open to a minister, in my opinion, to be satisfied in his or her own mind that conduct has occurred without there being a reasonable standard of proof applied. I understand that there are appeal rights here, as we also discussed yesterday.

I also want to place on the record the concerns that we have, even if the minister were acting on departmental advice. Because there is no standard of proof right the way through this process—and we have invaded Iraq on the basis of weapons of mass destruction, which turned out to be completely wrong—I think we are creating a circumstance here where, for example, an officer of an intelligence agency could form a view or maliciously misreport that someone has done something that contravenes the criteria or that meets the criteria established in section 33AA. We do not know what standard of proof that person will apply or whether they are in fact being mischievous in reporting that up the chain. That advice will travel up through whichever security agency, or the AFP or the ADF. It will make its way through to the department and, finally, it will manifest to the minister in the form of advice that a notice under subsection 10 be issued.

Attorney, why didn't you make this a judicial process, where judicially accepted standards of proof could be applied prior to, firstly, the renunciation of citizenship but, secondly, the issuing of the notice?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:57): To come directly to your question and then I will respond to some of the other things you said in your contribution, Senator. These provisions are restricted to people offshore or to conduct that occurred offshore. I do not exclude the possibility that there could be the exception of offshore conduct engaged in by a person who has subsequently come back to Australia. But that would be an unusual case. In the ordinary case, we are dealing with people who are never going to be tried by an Australian court. That is the first point.

Secondly, of course the second part of these provisions, section 35A, specifically contemplates that the minister may revoke citizenship only after a judicial proceeding—after a court has convicted a person of a specified terrorism related crime.

But since you concentrated on the renunciation by conduct provisions, and in particular the issuance of the notice under subsection 33AA(10), what you have said, Senator, with respect,
amounts to nothing more than this: that the minister might get it wrong and, of course, it is possible that any administrative decision maker might make a mistake. Of course that is the case: the whole edifice of administrative law in a sense is built upon a correction of errors by executive government or administrative decision makers. That is why we have judicial review and that is why the act specifically spells out that the issuance of a notice is subject to judicial review either in the High Court under section 75 of the Constitution or in the Federal Court under section 39B of the Judiciary Act.

That is why as well, Senator McKim, we have subsection 24, which provides: to avoid doubt, a person's citizenship is taken never to have ceased under this section, because of particular conduct. If, in proceedings under section 75 of the Constitution or under this act or another Commonwealth act, a court finds that the person did not engage in the conduct or have the requisite intention under subsection 3; or in proceedings under section 75 of the Constitution or under this act or another Commonwealth act, a court finds that the person was not a national or citizen of a country other than Australia at the time of the conduct; or the minister makes a determination under subsection 14 in relation to the conduct to exempt the person from the effect of this section; or a declaration under section 35AA is disallowed by either house of the parliament. That is not quite so relevant, but subparagraphs (a) and (b) of subsection 33AA(24) have been put there specifically to protect a person in the event that he or she successfully applies for judicial review and to reinstate the status quo ante, and to guarantee that no adverse legal consequences or impediments flow from an erroneous ministerial decision. That is the whole point of having a specific provision for judicial review.

Senator McKIM (Tasmania) (21:01): Thanks to the Attorney for that response, and I disagree with nothing that you have just said; however, I want to put to you that you are seeking to establish a process which could create a higher level of risk that a miscarriage would occur compared to a judicial process. I would like you to respond to the last point of my previous question which is: why have you not included a judicial process in the sequence of events?

For example, you could have created provisions where a draft notice is issued to a person. I accept that, if they are overseas, it might be difficult to do that, but there are ways that you could legitimately attempt to do that.

I will pause here to—and I may get the numbers wrong, Attorney, but I believe you informed the Senate at some stage in the last week or so that there was knowledge of about 130 Australian citizens who had been over to fight for ISIL and that about 30 of them had returned to Australia. I know you will correct me if I am wrong but, if those numbers are right, somewhere in the region of a quarter of the known Australians citizens to have gone and fought with ISIL have in fact returned to Australia.

I am suggesting to you that you could have created process where a draft notice is issued, every reasonable attempt is made to communicate to the person that a draft notice has been issued and to provide them with a copy of the draft notice. There would then be an opportunity for them to, if they wished, contest the notice, go into the judicial system and seek a merits review of the minister's intention to issue a notice, which would have been communicated in the draft notice. Then you buy the legal system into this process and thereby minimise the chance of a mistake occurring.

But you have not done that. You have sidelined the courts entirely out of this, until they get the opportunity for a post facto review of the notice. I would appreciate if you could explain
why you have done that; why you are sidelining the courts. Taking away someone's passport, withdrawing them from the electoral roll and denying them the right to vote in this country is a very significant action to take. I am sure you would agree with that. For significant punitive actions—and those are significant punitive actions—that flow as a consequence of the renunciation by conduct normally in many of the statutes of this place, we require them to be delivered by the independent courts, not by a minister who is a member of the government of the day. I ask you again: why are you sidelining the courts out of this until a post facto review?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (21:05): Might I remind you that the only decision the minister makes is to issue a notice. For the reasons I explained at some length last night, the issuance of the notice is not the event upon the happening of which citizenship is lost. The event upon the happening of which citizenship is lost is the engagement by the person in certain defined conduct, which is deemed by the act to be inconsistent with their allegiance to Australia and therefore inconsistent with continuing to be an Australian citizen, subject to the overriding qualification and limitation that, because of the statelessness convention, it can only apply to dual citizens.

So let us get that straight: it is not the minister who takes the citizenship away under section 33AA or section 35; it is the person themselves who renounces their citizenship, and that does not require a judicial process. But, if the minister gets it wrong and makes a mistake in deciding to issue the notice, then the appropriate way to review a ministerial decision of that character is by judicial review through the process of administrative law. That is why the jurisdiction or the High Court under section 75 of the Constitution and of the Federal Court under section 39B of the Judiciary Act is explicitly invoked.

You quoted some figures, Senator. Let me correct you—not to be schoolmasterly, as it were, but simply because I think it is important to get the right figures on the record. There are around 110 Australians currently fighting or engaged with terrorist groups in Syria and Northern Iraq—I think you said 130. There are around 110 at the moment. At least 41, and possibly as many as 45, have been killed, some by suicide, including suicide attacks on others. Otherwise most are suicide by engagement in military conflict. Approximately 30 Australians have returned from the conflict of whom we know. The numbers are a little different from what you have said. If you aggregate as many as 45 that have been killed, the 110 who are there at the moment and the 30 who we know have returned, that is about 185 people. Of course, those are only those of whom we know. There will no doubt be others of whom we have no knowledge and, therefore, they cannot be in these figures, but those are the most accurate figures that the agencies have been able to assemble. I think the figures were last assembled on Wednesday of last week.

Senator McKIM (Tasmania) (21:08): I thank the Attorney for putting the accurate figures on the table. I guess my only response to the figures you have given is that my point still remains, even though the figures that I tentatively offered were slightly out. With respect, Attorney, you have not addressed the question that I asked which is: why are you trying to create a framework which does not minimise the risk that punitive actions will be applied by the minister? I understand we are not talking about renunciation here. We are talking about the issuing of the notice, which you confirmed yesterday, which then triggers the machinery-
of-government provisions, which result in the removal of a passport, the denial of people's right to vote and a range of other punitive effects that will flow from the notice. Why is it that you have decided not to engage the independent judicial system in this process until a post facto appeal or review is possible?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (21:09): Senator McKim, because we have chosen the self-executing model, and we have done that, Senator, because the self-executing model was already part of our law. As I said in summing up the second reading debate yesterday, that model has been part of Australian law since the Nationality and Citizenship Act of 1948 was passed in that year, and section 19 of that act introduced the concept of renunciation by conduct. That provision was continued in the law, in slightly reworded form but in all legal respects essentially in the same terms, by section 35 of the 2007 Citizenship Act. So we have decided to apply a concept that has been a feature of Australian citizenship law for some 67 years.

What we have done, as I said yesterday, Senator McKim, is that we have contemporised it. The original section 19 of the Nationality and Citizenship Act applied to Australian citizens who served in the armed forces of a country at war with Australia. It provided that, upon commencing so to serve, they shall cease to be an Australian citizen. The concept of renunciation by conduct by reason of engaging in hostile military activity against Australia has been a part of our law since 1948. What we have done is taken the view—which I am sure you would agree with, Senator McKim, because I dare say you are a close student of international politics—that, in this day and age, threats by terrorist organisations and groups and irregular nonstate actors can be just as lethally threatening as conventional warfare.

Think of it this way, Senator McKim: what we have done is taken the original 1948 provision, which applied to service in the armed forces of an enemy state, and applied it as well to engagement in terrorist activity by or on behalf of terrorist organisations or in the name of terrorist causes being prosecuted by nonstate actors. That is, in the government's view, and the opposition's view evidently, a sensible contemporisation of a reality of international politics.

Senator McKIM (Tasmania) (21:12): Do not get me started on the Labor Party's position on this, please, Minister. With the greatest of respect, my summary of your answer is that you did it because it had been done before and because you could. That is not something that the Greens agree with, obviously. I think that has been made very clear. Perhaps if I could rephrase the question slightly and shorten it significantly. Do you accept that, had you decided to create a process that would have involved, at least in some part, the independent justice system or the independent court system in this country, it would have minimised the chances of punitive action being applied in error compared to the system that you are proposing to create?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (21:13): Well, I do not, Senator, because for a start you assume that courts cannot make mistakes. The entire appellate system is premised on the assumption that courts do make mistakes that have to be corrected on appeal or on further appeal. Senator, the reason we have courts is not because judges are infallible. I know many judges, I am very friendly with many judges and I know none of them
to be infallible, nor would they consider themselves to be infallible. We have an independent court system so that people can have independent justice, an independent disposal of a dispute. The judicial review that protects against error in this case is based on the administrative law model. It is that simple. It is based on an administrative law model of judicial review of an administrative action, that is, the issuance of the notice rather than on the judicial model. It seems to be implicit in your question that we should strike down the entire edifice of administrative law as being somehow fundamentally unjust. Now, I do not agree with that.

 Senator McKIM (Tasmania) (21:14): With respect, Attorney-General, it is implicit in your answer that we should abolish things like criminal trials and just let ministers issue notice and give the capacity to appeal later—

 The TEMPORARY CHAIRMAN (Senator Edwards): Senator McKim, come to your question, please.

 Senator McKIM: I am coming to my question.

 The TEMPORARY CHAIRMAN: No, if you could come to your question.

 Senator McKIM: I am coming to my question, but it is a reasonable response to make to the Attorney General that that answer is grossly unsatisfactory and in fact answered a question that was not put by me in any way, because I did not talk about infallibility; I talked about minimising risk of a miscarriage or of punitive action being applied. That is what I was talking about: minimising the risk, not infallibility.

 I am not going to drop any names and I certainly do not want to try to compete with you. I am sure you know more judges than I do, Attorney, but I do know a couple of judges and I know an awful lot of lawyers, and you are right: none of them would consider themselves to be infallible, just as none of the ministers I have ever met, including myself, would consider themselves to be infallible either. So that is, I guess, a distraction from the real issue at hand here, with the greatest of respect, but I just wanted to put that rebuttal on the record.

 Are you able to provide any advice around questions such as: once a notification is issued by the minister, how long ordinarily would it be before a person would be deported? Obviously, the context of this question is that the person is in Australia not on a visa from their other nationality—because we were talking about dual nationals here. They are in Australia as an Australian citizen, with no other rights to be in the country. Obviously, once the notice is issued consequences flow, as we have discussed, and presumably they would then be illegally in this country. In the ordinary course of events, are you able to offer any advice about how soon after the notice is issued a person would be deported? Also, is there any length of time beyond which they would not be capable of applying for judicial review of the notice?

 Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (21:17): Senator McKim, I cannot tell you how much I am enjoying, on the last day of the parliamentary year and in the Christmas season, debating with you the concept of infallibility. In fact, you remind me of Pope Pius IX, who was the pope who, in the 19th century, declared the doctrine of infallibility, and it is said of Pope Pius IX that he once remarked to one of his cardinals, 'The problem with being infallible is you've got to be very careful about what you say.' Of course, the minister, who is
not infallible, is going to be very careful, because ministers do not seek to make mistakes. They seek to make correct decisions, just as judges do. We have adopted an administrative law model in which judicial review is the curial safeguard. We could have adopted a curial model—no, not unnecessarily any more infallible or any less fallible than an administrative law model. We have adopted an administrative law model subject to judicial review rather than a curial model subject to appellate review. And we have done that, as I explained before, because that has been the way these provisions have always worked, and we have decided, rather than to rewrite the law, to adopt the existing model that has stood in the law since 1948 and contemporise it and, in contemporising it, expand it to a wider range of situations presented by the problem of non-state actors and modern terrorism.

Coming to the question towards the end of your contribution, if a person were to be deported—and, ex hypothesi, this person is somebody of whom the minister is satisfied that a notice should issue, because they have renounced their Australian citizenship by committing a terrorist act—then ordinarily they would be taken into immigration detention—that is the usual procedure, as I understand it—while arrangements would be made for their deportation. That is the way that it operates at the moment in relation to people who are not lawfully in Australia and are awaiting deportation in circumstances where it is not safe for them to be at large in the community. As to whether there was a limit on when proceedings could be commenced, one would imagine that such a person would commence proceedings reasonably promptly. But, because the kind of relief which they would be seeking under either section 75 of the Constitution or section 39B of the Judiciary Act would be a declaration or an injunction—primarily, that is the obvious relief—and those are equitable suits, they would not be subject to any statutory time bar. But they would be subject to the ordinary equitable defences of laches, acquiescence and delay.

Senator LEYONHJELM (New South Wales) (21:20): I move amendment (1) on sheet 7815:

7A After section 53

Insert:

53A Sunset provision

(1) Sections 33AA, 35, 35AA, 35AB, 35A, 35B and 36A cease to have effect at the end of 10 years after this section commences.

(2) The regulations may prescribe matters of a transitional nature (including prescribing any saving or application provisions) arising out of the provisions mentioned in subsection (1) ceasing to have effect in accordance with that subsection.

This is the first of two amendments that I am moving in relation to this bill. This one inserts a new section 53A, which provides for a sunset clause of 10 years duration on those sections of the Citizenship Act 1948 amended or inserted by this bill. It therefore applies to proposed sections 33AA, 35, 35AA, 35AB, 35A, 35B and 36A.

Sunset clauses allow draconian laws, unless a future parliament decides otherwise, to automatically expire at a set date. I recognise they are not an ideal solution. Some people—and Brett Walker SC is one of them—have said that if laws were well drafted in the first place sunset clauses would not be necessary. But laws are rarely perfectly drafted, and when one is confronted by the enactment of illiberal law they provide some protection.
I move this sunset clause amendment because I refuse to countenance the idea that there will always be a war on terror and that laws this draconian should remain forever on the nation's books. We will not always be at war with Eurasia. I also add that, should we still be at war with Daesh in 10 years time, it will amount to a military failure. I do not believe Daesh will still exist in five years time, let alone 10. Should Daesh disappear from the historical record, it is presumptuous to assume another terrorist organisation will emerge to replace it. And, if it does, it would be open to any future parliament to either re-enact these provisions or implement new ones just as we are proposing to do this evening.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (21:23): I envy you your optimistic, insouciant, Panglossian view of the world. I do not hold myself out to be a specialist in international politics and the behaviour of international terrorist organisations; however, every report or study that I have read in recent years—and I have read many—concludes that this is a problem that we will face for a very long and indeterminate time into the future. That, by the way, is also the advice of our own agencies. It is the view of the Australian Strategic Policy Institute and other respected Australian think tanks. It is a view that has been expressed by academic specialists on terrorism, including people like Professor Greg Barton, who is a well-known commentator in this field. This is a problem that will be with us for a very long and indeterminate time to come.

I can see the argument in some circumstances for sunset clauses, where you have unusual and, to use your word without conceding that it applies to this bill, draconian legislation that deals with a time limited problem, so that it should not remain on the statute books indefinitely. There is a good case for sunset clauses in those circumstances. Where we differ and where, with respect, you seem to differ from the entire body of specialist and professional opinion on this is that you think this is a time limited problem. As I said, I wish I could think that too, but I do not.

If a measure is an appropriate measure to deal with a current problem that one expects to be a problem for a long and indefinite time to come then it is not appropriate to sunset it. It is appropriate to inscribe it into the law. It is appropriate to inscribe it into the law, and if, in 10 years, 20 years, 30 years or whenever, a future parliament concludes that this problem has gone away, then it can be repealed. There is nothing to stop a parliament repealing a law. But to suggest that automatically this law should go on the basis of a guess, in the face of all professional opinion, that this is a problem that will go away in a decade is not, in my respectful view, an appropriate use of the mechanism of sunset provisions.

Senator MOORE (Queensland) (21:26): Labor does not support this amendment put forward by Senator Leyonhjelm. We have consistently said that we accept the need to update the longstanding provision in the Citizenship Act that strips Australian citizenship from dual nationals fighting in the service of a foreign enemy. The need to update the provision has arisen from the existence of non-state belligerents like al-Qaeda and ISIS. It cannot be assumed that the existence of these movements is a short-term phenomenon, and Labor strongly does not accept the notion that the bill's provisions should have a limited life.

We have, however, supported review measures already included in the bill on the recommendation of the Parliamentary Joint Committee on Intelligence and Security. I know Senator Leyonhjelm knows these provisions, but I will put them into the record. The joint
committee will monitor and review the role of the Department of Immigration and Border Protection in implementing the bill's provisions. The minister must advise the joint committee when issuing a notice of loss of citizenship. The Independent National Security Legislation Monitor will review the revocation of citizenship by 1 December 2018. The joint committee will undertake a full review of the revocation-of-citizenship provisions by 1 December 2019.

I remind senators that Labor established the Office of the Independent National Security Legislation Monitor in 2010. The monitor's role is to review the operation, effectiveness and implications of Australia's counter-terrorism and security legislation. That includes considering whether the laws contain adequate safeguards for protecting the rights of individuals, whether the laws remain necessary and, if so, whether the responses they allow are proportionate to any threat.

Senator McKIM (Tasmania) (21:28): The Greens will be supporting the amendment. Are we dealing with both of Senator Leyonhjelm's amendments or just the sunset clause?

The TEMPORARY CHAIRMAN (Senator Edwards): We are just dealing with amendment (1).

Senator McKIM: We will be supporting this amendment from Senator Leyonhjelm for the following reasons. This basically changes the default position. At the moment, it would need a further decision of the parliament for these laws or these provisions to cease. A sunset clause, effectively, switches the default provision so that these provisions would cease in 10 years. It is worth pointing out that parliaments can always and often do change their minds. If the sunset clause were agreed to by both houses of this parliament, there would be nothing preventing this parliament from coming along and extending these laws later should there be arguments that convince a majority of members in both chambers of this parliament that that should be the case. So there is nothing to lose here for Labor and the government.

In relation to the joint committee, it is a closed shop made up only of coalition and Labor members, which I think is a real shame, and robs that committee of alternative views that might assist it in reporting adequately on legislation such as this. But we are supporting Senator Leyonhjelm here because we believe that laws like this ought to be reviewed regularly by the parliament. That is the effect of a sunset clause. If the government or anyone else believes that there is a worthy argument to extend these laws past 10 years, they can come back in at the appropriate time and move to either strike out the sunset clause or insert a further extension of the sunset clause. That is prudent legislative practice in the view of the Greens, and that is why we will be supporting this amendment.

I do want to make it clear, though—and it seems, given the comments, that this amendment will not pass—that, even if it had passed, it still would not have satisfied the Greens in terms of convincing us to vote for this legislation. It merely would have taken bad legislation and made it slightly less bad.

The CHAIRMAN: The question is that amendment (1) on sheet 7815 moved by Senator Leyonhjelm be agreed to.
The committee divided. [21:35]
(The Chairman—Senator Marshall)

Ayes ..................... 16
Noes ..................... 29
Majority ................. 13

AYES

Day, RJ
Hanson-Young, SC
Leyonhjelm, DE (teller)
Madigan, JI
Muir, R
Rice, J
Simms, RA
Whish-Wilson, PS

Di Natale, R
Lazarus, GP
Ludlam, S
McKim, NJ
Rhiannon, L
Siewert, R
Wang, Z
Xenophon, N

NOES

Back, CJ
Brandis, GH
Bullock, JW
Canavan, MJ
Edwards, S
Gallagher, KR
Johnston, D
Lines, S
Marshall, GM
McKenzie, B
Peris, N
Ronaldson, M
Singh, LM
Urqhart, AE
Wong, P

 Bernardi, C
Brown, CL
Bushby, DC
Collins, JMA
Fawcett, DJ
Heffernan, W
Lindgren, JM
Macdonald, ID
McEwen, A (teller)
Moore, CM
Reynolds, L
Ruston, A
Smith, D
Williams, JR

Question negatived.

Senator LEYONHJELM (New South Wales) (21:38): I move amendment (2) on sheet 7815:

(2) Schedule 1, item 8, page 19 (lines 21 to 26), omit paragraph (4)(b), substitute:

(b) does not apply in relation to:

(i) a conviction of a person before the commencement of this item; or

(ii) a conviction of a person on or after the commencement of this item in relation to an act or thing that was done wholly before the commencement of this item.

This amendment seeks to amend item 8 in schedule 1 of the bill to remove the retrospective application of the criminal law. I should note that, although the retrospectority as it stands is limited and only applies to a small number of people, who will attract limited public sympathy, it is contrary to the rule of law and to fundamental principles of the common law. Chair, I am having trouble hearing myself. I am just wondering if you could remind senators of the need for silence.
The CHAIRMAN: I certainly can. The Senate needs to come to order. There are a lot of people here. Senator Leyonhjelm has the call.

Senator LEYONHJELM: I think I was making some exceedingly good points, and I do not want to have to repeat them.

The retrospectivity, I acknowledge, is limited and only applies to a small number of people, who will attract limited public sympathy, but it is contrary to the rule of law and to fundamental principles of the common law. The amendment, as I have drafted it, applies not only to a conviction secured after the commencement of the legislation but also to conduct that takes place after commencement. The point is that Australians considering their actions now should be able to weigh up the consequences of that action based on the law as it stands now. The fact that I need to point out such a basic principle of natural justice concerns me greatly.

Retrospective law of this type is simply not necessary, as the government already has a suite of powers to ensure that people who have served their sentences for terrorist offences are monitored. In the case of Mr Collaery that Senator Xenophon raised earlier this evening, his only risk is attributable to the retrospectivity. There would be no risk to that gentleman if the law did not apply retrospectively. I also make the point that Senator Brandis will not be the Attorney-General forever, but the law will apply forever, unless it is repealed or my sunset clause is applied. And this law is not just about terrorism; it does include espionage. It is better not to risk injustice attributable to retrospectivity in a case like that.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (21:41): Senator Leyonhjelm, of course I agree with you that, as a general rule, retrospectivity is a bad principle. There is no question about that. But every general rule admits of some exceptions and, in this particular case, this is a very narrow aspect of the retrospectivity principle, because the reason we regard retrospective legislation as bad is that it creates a liability in respect of conduct which at the time the conduct was engaged in was lawful; but what we are calling the retrospectivity provision in this bill does no such thing. The entire method of this bill, at least insofar as it concerns these provisions, is to assume a person has been convicted of a terrorism crime—convicted and sentenced—so that, at the time they engaged in the conduct, it was not as if they were acting lawfully. These provisions only operate in relation to people who had been acting unlawfully at the time, under the law as it was at the time, and in fact committing a serious crime, a serious terrorism crime, and who have been prosecuted, convicted and sentenced for an offence carrying a penalty of at least 10 years imprisonment. The provision, which was recommended by the PJCIS—recommendation 10, I believe it was—is that, in those circumstances, those people should also be liable to revocation of citizenship by reason of conviction.

Senator Leyonhjelm, you would be on stronger ground, if I may say so, if you could point to conduct which was not unlawful, was not in fact a serious, grave breach of the criminal law, at the time in which it was engaged in. But that is not this case. These provisions only apply to conduct that was a serious criminal offence, a terrorism offence, at the time it was engaged in under the law of Australia as it stood at that time. The only sense in which it operates retrospectively is that it visits an additional potential consequence upon such a person—that is, if they are a dual citizen, the revocation of their citizenship by the minister—
that was not part of Australian law at the time the crime was committed. So the only element of retrospectivity is as to consequences, not as to liability. That is why I say, Senator Leyonhjelm, that this is a very, very narrow sense in which the provision is retrospective. Furthermore, it can only reach back 10 years. So if you are a person who, within the last 10 years, has been convicted of a terrorist crime in Australia for which the period of imprisonment is at least 10 years, then this can apply to you. But it does not criminalise something that was innocent at the time it was done. That is the real vice of retrospective laws, and this is not a law of that character.

**Senator MOORE** (Queensland) (21:45): Labor is not supporting this amendment moved by Senator Leyonhjelm. With regard to the proposed removal of retrospectivity from the bill, because of the government's acceptance of the joint committee's recommendations, there is in fact only very limited retrospectivity, as Senator Leyonhjelm pointed out. Dual citizens who have been convicted of a serious terrorism offence within the past 10 years, and who were sentenced by a judge to a minimum of 10 years jail for that offence, may have their citizenship revoked, as the Attorney pointed out in his contribution. The joint committee took the view that past terrorist-related conduct leading to a conviction under Australian law would be regarded by all members of the community as repugnant and inconsistent with the values that define Australian society. Revocation of citizenship in these limited circumstances will be at the minister's discretion with regard to criteria that include current threats to our security.

**Senator McKIM** (Tasmania) (21:46): The Greens will be supporting this amendment. It is a classic case of double jeopardy. I mean, come on. We understand that this retrospectivity is limited. We understand very clearly the circumstances under which it will be applied. But this is double jeopardy, let's face it. Double jeopardy under most legally-accepted definitions is either trying someone twice or punishing someone twice for the same offence. So here we go again, the national security lock step is in place here: Labor is absolutely petrified of being painted weak on national security out in the electorate by a government that has shown a propensity to do that over a number of years now, falling into lock step again and backing in a clear and unambiguous case of double jeopardy or laws that provide unambiguously for double jeopardy. This is a sad, sad day for the Senate and the Parliament of Australia. We very proudly support Senator Leyonhjelm's amendment but I do offer the same caveat that I did before, in relation to his previous amendment, which is that even should this have passed it still would have made only a very, very bad piece of legislation slightly less bad.

We understand that someone to whom this retrospectivity may be applied would likely still be incarcerated under the provisions of this bill. So what we are doing again here is creating a situation where someone who has committed a terrorist act is going to come out of a lengthy prison term in Australia and they are going to be immediately—or very close to immediately—deported back to the country that they have their other citizenship in. Most likely it will be a country where they will be free to pick up their guns, pick up their bombs, and go to cities like Paris, Beirut and Bamako and commit more terrorist acts. You guys here are acting to make the world a more dangerous place and a more dangerous place for Australian citizens. You are placing our people at higher risk here than they otherwise would be if they were charged and convicted in Australia as they should be. This legislation not only erodes the rule of law, it not only implies a lack of trust in our judicial system but it is actually
counterproductive. It exposes Australians to more risk and more danger of being killed or wounded than otherwise would be the case.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (21:49): I know the hour is late but I am afraid, Senator McKim, that your flights of rhetorical fancy are outpacing your judgement and reason. You have said that this legislation and this provision make Australians more at risk because, on your example, a person who has been convicted of a terrorist crime and serves 10 years or more in prison and has then been released will be deported overseas and then that person, you say, is somebody who could pick up a gun or throw a bomb in that foreign country. I would much prefer that they not pick up a gun or throw a bomb in Australia. I would much prefer that such a person who, on your hypothesis, has a continuing propensity to engage in further acts of terrorist crime to—to use your words—’pick up a gun or throw a bomb’ does not do so in Australia. I would much prefer that they do not do so in Australia.

The fact is that this is not a case of double jeopardy. It is a case where the consequences of having been convicted of a terrorist crime will include now, and will include in relation to all convictions within the last 10 years for terrorist crimes, the capacity to remove that person's citizenship—a person who has been tried and convicted. Senator McKim, you asked a series of questions about the renunciation by conduct provisions of the bill last night and this evening, and your very point was: this is not a judicial process. But the provision you are now criticising is a judicial process. It depends on the precondition that there should have been a criminal prosecution and a conviction and that the person should have been imprisoned by a court for at least 10 years by reason of that terrorist crime.

So there has been no want of judicial process in this case. Nor is there retrospectivity in the classic sense of creating a liability which did not exist at the time the conduct was engaged in, ex hypothesi the conduct that was engaged in was a serious crime at the time it was engaged in. But the legislation does say in relation to somebody who does that, when they get out of jail if they have been sentenced to a period of imprisonment of at least 1 years, they can have their Australian citizenship rescinded by the minister and may then be deported—into the hands, by the way, of a foreign government; into the hands of the government of their other nationality.

That is the way this legislation operates, Senator McKim. It will keep Australians safe. Senator McKim, if you were to apply the famous pub test to this and you asked your average Australian whether they would feel safer or less safe if people who have been convicted and sentenced for more than 10 years imprisonment for committing a terrorist crime were to be booted out of Australia and whether Australians would approve of it, I dare say they would say yes.

Senator McKIM (Tasmania) (21:53): So let's just send them back to the Assad regime, will we? That is a fantastic solution—not! The fundamental flaw—actually there are many, but there is one that I will focus on—in the Attorney's response is that guns and bombs are far easier to get a hold of in Syria than in Australia, and thankfully so for us here in Australia. Also, we have far better social cohesion frameworks here in Australia, which is where the new Prime Minister wants to go in this debate—and rightfully so, I might add—so that we can attempt to de-radicalise people in Australia. There is a far better chance of de-radicalising
somebody here in Australia than there is over there under the Assad regime in Syria. Surely the Attorney would have to accept that.

In relation to the legislation as a whole and whether or not it indeed acts to make Australia safe—and I will flag now that I will have some questions on this further on the committee stages once the Senate has dealt with these amendments—I want to quote something really quickly from Professor Ben Saul, a counter-terrorism expert from the University of Sydney. He says this legislation:

… is certain to make the world more dangerous and is grossly irresponsible. It is contrary to Australia's international legal obligations to counter terrorism globally.

He goes on to say a little bit later in this article he wrote for The Drum:

Under the proposal, Australia washes its hands of responsibility for Australian terrorists. For those already overseas in Syria and Iraq, it leaves them free to kill and maim and up-skill their 'death cult' against innocent civilians in other countries.

And I will pause there and add my own words here: including potentially Australians abroad, as we found out to our absolute horror in Paris recently. Professor Saul goes on to say:

It is a parochial and self-centred 'not in my backyard' policy, where Australia dumps the burden of suppressing its own terrorists onto other countries.

I could not agree more with Professor Saul here, and I place the charge on every Labor and coalition member in this place who is about to, in the next hour or two, vote this legislation through this Senate and therefore this parliament that you are exposing Australians to more danger, more risk of being killed, more risk of being wounded and more risk of being maimed than would otherwise be the case. Be it on your own heads.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (21:56): Senator McKim, logic seems to have escaped you at this late hour, because the people of whom we speak will never set foot in Australia again. They will never set foot in Australia again. If, on your thesis, these are people with a propensity to commit further terrorist crimes, they will never be committing those crimes in our country.

Senator McKIM (Tasmania) (21:57): I am just going to make a very short response to that. There was a Hobart woman, Emma Parkinson, who was shot in Paris recently, Attorney—shot in Paris, not in Australia. Australians travel regularly to most of the world's countries. I am sure you are aware of this, but you are just being obtuse and refusing to accept reality here. You want to export terrorists back into more dangerous places in the world—therefore, placing Australian citizens in some of the world's major cities at risk. We have seen terrorist attacks in Paris, we have seen them in Madrid and we have seen them in London. We have seen them in a range of cities that at any one time thousands of Australians are residing, holidaying or working in. You know that to be true; we all know that to be true. That is an extremely strong argument against this legislation.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (21:58): Senator McKim, of course we know that Australians travel all the time—and of course our hearts go out to Emma Parkinson and her family and friends. There is a risk that Australians travelling abroad are exposed to terrorist crime, and we saw that in the case of Ms Parkinson. But the point I am making to
you, Senator McKim—and I will try to make it in very temperate language—is that the people of whom you speak, on your thesis, are people who have a propensity or indeed an intention to commit further terrorist crimes. The Australian community is less likely to be at peril from such people if they are thrown out of Australia and placed into the hands of foreign governments. We would mitigate the risk to Australians if a person who has already demonstrated a propensity to commit serious terrorist crime and, on your thesis, intends to commit another serious terrorist crime is expelled from Australia rather than set free to walk unconstrained on our streets.

The CHAIRMAN: The question is that amendment (2) moved by Senator Leyonhjelm on sheet 7815 be agreed to.

The Senate divided. [22:04]

(The Chairman—Senator Marshall)

Ayes ......................14
Noes ......................39
Majority..............25

AYES

Day, RJ
Hanson-Young, SC
Ludlam, S
McKim, NJ
Rhianmon, L
Siewert, R
Wang, Z

Di Natale, R
Leyonhjelm, DE (teller)
Madigan, JJ
Muir, R
Rice, J
Simms, RA
Whish-Wilson, PS

NOES

Back, CJ
Bilyk, CL
Brown, CL
Bushby, DC
Canavan, MJ
Collins, JMA
Edwards, S
Fierravanti-Wells, C
Gallacher, AM
Heffernan, W
Lazarus, GP
Lines, S
Marshall, GM
McEwen, A (teller)
Moore, CM
Polley, H
Ruston, A
Smith, D
Urquhart, AE
Wong, P

Bernardi, C
Brandis, GH
Bullock, JW
Cameron, D N
Cash, MC
Dastyari, S
Fawcett, DJ
Fifield, MP
Gallagher, KR
Johnston, D
Lindgren, JM
Ludwig, JW
McAllister, J
McKenzie, B
Peris, N
Reynolds, L
Singh, LM
Sterle, G
Williams, JR

Question negatived.
The CHAIRMAN (22:06): The question is that the bill stand as printed.

Senator MADIGAN (Victoria) (22:07): In the case of an Australian citizen who has dual citizenship and who may have been born overseas to Australian parents returning to Australia and living the majority of their life here—say they were born in the US, for instance—if they were to commit a terrorist act that will be prescribed in the act, they will forfeit their citizenship? Is that correct?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (22:07): They may. In the event that they engage in conduct of the kind referred to in sections 33AA or 35, they are deemed by the act to renounce their Australian citizenship. The minister has a power of excusal. In the event that they are convicted by a court of a terrorist crime defined by the act, the minister may, having regard to various criteria set out in the act, decide to revoke their citizenship. But those two provisions only apply to dual citizens. Either because they have by their own act renounced their Australian citizenship or because they have been convicted by a court, sentenced and subsequently had the minister decide to revoke their citizenship, in those two circumstances they would cease to be Australian citizens. Their citizenship then becomes the citizenship of the other nation of which they have citizenship. Their rights as citizens of that nation will be determined according to the citizenship law of that other nation.

Senator MADIGAN (Victoria) (22:09): So, as result of committing a crime, an Australian citizen with dual citizenship is tried in Australia. If they were charged with an offence and found guilty, they could be jailed in Australia for 10 years, and then they would be shipped offshore to the country where they have their other citizenship after serving a jail term here. Is that correct?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (22:10): They could be, depending on the citizenship law of the other nation. Most nations' citizenship laws give their citizens a right of return. Australian citizenship law does that and I think you will find that that is generally the case, though I cannot assure you that it is
universally the case. But, when a person is awaiting deportation, in circumstances where it is not safe for them to be on the streets they go into immigration detention. The High Court decided some years ago in a case called Al-Kateb that immigration detention, even for indefinite periods, is constitutionally valid in Australia. So there are circumstances in which people do go into immigration detention, await deportation and there is a communication between Australia and the other nation as to the return of that person to the other nation. But, as I say, it will all depend upon the particular citizenship laws of the other country. Most countries recognise a right of return for citizens.

Senator McKIM (Tasmania) (22:12): So we are setting up circumstances which may result in people remaining indefinitely in immigration detention without ever being charged with anything. It is worth placing that firmly on the record. Attorney, I am sure you would agree that there will inevitably be a time period between the commission of the conduct that results in the renunciation of citizenship and the minister reaching the awareness that he or she will need to reach before issuing a notice. I am also sure you are aware that there are other countries, and you have alluded to this in this debate, with similar provisions in place, although I do note that the new Prime Minister of Canada, Mr Trudeau, was elected on a promise to repeal very similar provisions from Canadian law. As he quite rightly said, he did not want to create two classes of citizenship, as you are proposing to do here, because he believed that all Canadians should be treated equally, as the Greens believe all Australians should be treated equally, but clearly neither Labor nor the coalition parties believe that all Australians should be treated equally, because you are creating two completely different classes of citizenship: one for sole nationals who, even if they are convicted of terrorism or commit any of the acts that would trigger the criteria in 33AA, would remain as Australian citizens, whereas dual nationals under these provisions would lose their citizenship. I want to put this scenario to you, Minister: someone is a dual national and both countries of which that person is a dual national have provisions similar to this in place—and you would be aware that there are other countries with similar provisions to this in place—and, given there is a time lapse between the conduct which triggers the automatic renunciation provisions and the issuing of a notice in Australia, what is going to happen?

How are you guarding against contravening the statelessness convention here, given that it would be feasible for conduct to be engaged in by a person which would trigger these provisions in each country? Is it a race to see who can deport them to the other country first? Of course, under the laws of the other country, if they have similar or identical provisions, that person would already not be a citizen because of the commission of the conduct. If the conduct is the same, they lose their citizenships at exactly the same time—on commission of the conduct that triggers the provisions in 33AA, in Australia's case, should this legislation be successful. So, if the person is a dual national and both countries have provisions similar to this in place, the person commits conduct and that conduct triggers loss of citizenship in both countries at the same time, aren't you in contravention of the statelessness convention here?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (22:15): I am not aware of any other country which has a law identical to this, which is based on the principle of renunciation by conduct. So I would not expect that the hypothesis that you have suggested could ever occur.
Senator McKIM (Tasmania) (22:16): What about a scenario where—again, the same basic hypothesis here—one is a dual national and both countries have similar provisions? We have a provision in place where there is automatic renunciation by conduct. If the other country has a situation in place where, through either administrative or judicial process, citizenship is lost on the basis of certain actions, the other country may take the administrative or judicial action in the time period between when the Australian citizenship is renounced by conduct and when the minister issues the order.

I am sure you can see the sequence here. The person commits the conduct which triggers the automatic renunciation provisions. The next event is that they are disqualified from citizenship in the other country. But because Australia has no knowledge of the conduct yet—that knowledge has not yet come through the system and reached the minister and therefore triggered the machinery provisions around the removal of passports, the striking of the name off the electoral roll and so forth—we have a situation where the person loses their citizenship in Australia first, because it is renunciation by conduct, and then loses citizenship in the other country, because the other country did not know that the person was no longer a dual national because there was no knowledge of the conduct which triggered the automatic renunciation of the Australian citizenship. Then the advice comes up to the minister or the minister otherwise becomes aware of the conduct, reaches the required level of satisfaction and signs the notice. Isn't there a risk here that people are going to end up stateless?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (22:18): A couple of points, Senator McKim: first of all, you have constructed a very complex edifice of assumptions about the way in which some theoretical other country's citizenship laws may work. It is not apparent to me that we are doing anything other than engaging in a mind game here. But, nevertheless, you put to me that it is at least theoretically possible to imagine a set of circumstances in which a dual citizen, by engaging in a terrorist act, renounces their citizenship and they subsequently lose the citizenship of the other country before the notice issues from the minister.

I would make two points to you, Senator McKim. First of all, if that were the case, it would not be Australia that would be in breach of the statelessness convention. It would be the other country, because that person would continue to have citizenship of the other country—the country of their other citizenship—at the time the other country took the act. By operation of this provision they lose their Australian citizenship when they engage in the renunciatory conduct.

But secondly, in order to protect against unintended consequences of the kind that perhaps you are hypothesising, we have actually included in the act a ministerial power of excusal from the consequences of the operation of the section 33AA provisions. They are included by section 17, and one of the matters to which the minister may have regard if he chooses to exercise a power of excusal from the effect of the act is paragraph (f) of subsection (17) of section 33AA, which refers to the person's connection to the other country of which the person is a national or citizen and the availability of the rights of citizenship of that country to the person. That provision actually contemplates the very possibility that you have adverted to and enables the consequence against which you have warned to be avoided.
Senator McKIM (Tasmania) (22:21): I just want to ask what would happen to Australian citizen children—minors of dual citizens who lose their Australian citizenship and the circumstances under the provisions of this legislation.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (22:21): First of all, I should point out to you that the provisions of the act apply only to persons aged 14 or over, but I think you are talking about the children of people to whom the act might apply, rather than minors to whom the act might apply. Is that right?

Senator McKim: Yes.

Senator BRANDIS: That is a circumstance to which the minister may have regard should he choose to exercise his discretion to excuse a person from the operation of the act. But it is not at all unknown for people to be deported from Australia who have children in Australia. It is not at a very common occurrence, but it is not at all unknown. The same would apply here, but there is a capacity for excusal, exercisable by the minister.

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

Question agreed to.

Bill agreed to.

Bill reported without amendments; report adopted.

Third Reading

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (22:23): I move:

That this bill be now read a third time.

This is a significant piece of legislation which will enhance Australia's counter-terrorism architecture. We have had a very exhaustive debate in the last two days during the committee stage, and I think one thing that debate has shown is that this bill will apply in very limited circumstances. Nevertheless, in circumstances in which it does apply, its effect will be to add to the suite of measures that the government has taken to keep Australians safe.

I want to thank honourable senators for their contributions. I want to particularly thank you, Senator McKim, the principal participants in the committee stage debate. Your very close and forensic examination of the provisions of this bill has I think given the Senate the opportunity to explore and for me to explain the detailed aspects of both the architecture of the bill and the way in which it operates, and I think the process has benefited from your inquiry, Senator McKim, so I want to thank you for that.

I want to thank the Australian Labor Party for their very constructive engagement throughout this process, particularly through the Parliamentary Joint Committee on Intelligence and Security, and I want to single out the shadow minister for immigration and border protection, Mr Richard Marles, who has been a particularly constructive contributor to the discussion, and Mr Anthony Byrne, the deputy chairman of the Parliamentary Joint Committee on Intelligence and Security. And in mentioning Mr Byrne I should of course also mention the chair of that committee, Mr Dan Tehan, who has been a very, very close interlocutor of mine in relation to the issues exposed by the bill. There is no doubt that the bill emerged in better shape as a result of the PJCIS inquiry. And, if I may say so, that is the way
the system is meant to work. The way the system is meant to work is that the government presents a bill to the parliament. We do not pretend to be the repository of all wisdom. We welcome scrutiny by parliamentary committees. When those parliamentary committees land at a bipartisan conclusion, as this has done, so much the better, so that this bill is the work of both sides of politics, the coalition and the Labor Party, and I want to thank the opposition for their cooperation.

I want to thank those who have assisted in shaping this bill. I want to thank in particular the Solicitor-General, Mr Justin Gleeson SC, whose advice has informed the development of the bill. I want to thank the officers of my department, led by Mr Cameron Gifford, who sits in the advisers box, and others who have advised on the bill, and my own staff, in particular Mr Josh Faulks and Mr Daniel Ward, who have been closely involved in the development of this bill through its various iterations over what is quite a long time now. This has been a very satisfactory legislative process. With those words, I commend the bill to the Senate.

Senator McKIM (Tasmania) (22:27): Violent extremism is a global problem, and it demands global cooperation to resolve. What it does not need is unilateralism, and this bill is an embodiment of the kind of unilateralism that will make it more difficult to address the significant and serious global challenge of violent extremism. It ought to be self-evident to us all that we cannot make Australia and Australians safer by making the world a more dangerous place. We cannot simply wash our hands of our violent extremists, but unfortunately that is what this legislation sets up the capacity for the Australian government to do.

It is worth noting the words of Professor Ben Saul, from the University of Sydney:

Under United Nations Security Council resolutions since 2001, every country has legal obligations to prevent, investigate, apprehend, prosecute and punish terrorists. Those are the obligations placed on us by resolutions of the United Nations Security Council. We have actually long supported those resolutions as a country. I remind the Senate again: apprehend, prosecute and punish terrorists. Those are our international obligations, and as a good global citizen that is what our legislation should seek to achieve. This legislation runs counter to the rule of law, it creates two separate classes of citizenship in this country, it implies a lack of confidence in Australia's judicial system and it does not provide judicial fairness or natural justice to potentially impacted Australian citizens. It is counter to our international obligations and it undermines the global fight against violent extremism.

The best thing for Australian citizens who are violent extremists is to be prosecuted, convicted and locked up in Australian prisons for a long time where they can do no further harm, not exported into a global marketplace of disenfranchised, violent people. That, unfortunately, is the risk that we are facing thanks to this legislation. We have a duty in this country to people of other nations, and we have a duty to our citizens abroad to keep them as safe as possible.

It is worth pointing out that other countries that have implemented provisions such as this, like Canada, are now in the process of repealing them on the basis of the very arguments that the Greens have made against this legislation in the parliament here this week. Unfortunately, this legislation has bipartisan support from the coalition and Labor, but I am really proud that the Greens have stood up on this and showed that we will not be cowed or bullied by the rhetoric and fearmongering on these issues of national security, because we believe that hard-
won freedoms in this country—freedoms that thousands and, in fact, tens of thousands of Australians have died to defend over the last century—are too important to trade away, particularly when there is no upside to the trade. In fact, this legislation has downsides, so even my use of the word 'trade' is questionable in this context.

We support a strategic approach to national security in this country. We are not saying that we do not need legislative responses to the challenges of the 21st century and the violent extremism that is all too common and has such tragic consequences around our world. We are not saying that we do not need legislative responses, but we are also saying, 'Let's put social cohesion in our country at the heart of our response, and let's do everything we can to deradicalise people who are at risk of being radicalised and of potentially becoming violent, whether here or abroad.'

We sincerely hope that some of the risks that we have identified in this legislation—that the world will become more dangerous as a consequence and that Australians will be placed at higher risk as a consequence—do not turn out to be true and that what we are concerned about does not occur. Nevertheless, we stand by our view that this is counterproductive legislation that is counter to the rule of law and ultimately continues an all too long trend in this country of trading away hard-won civil and human rights in Australia for very little or—at times—no gain in national security.

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson): The question is that the bill be read a third time.

The Senate divided. [22:38]

(The Acting Deputy President—Senator Whish-Wilson)

Ayes .................43
Noes ..................13
Majority ...............30

AYES

Back, CJ
Bilyk, CL
Bullock, JW
Cameron, DN
Colbeck, R
Conroy, SM
Day, RJ
Fawcett, DJ
Fifield, MP
Gallagher, KR
Johnston, D
Lindgren, JM
Ludwig, JW
Marshall, GM
McEwen, A
Moore, CM
Polley, H
Ronaldson, M
Singh, LM

Bernardi, C
Brandis, GH
Bushby, DC
Canavan, MJ
Collins, JMA
Dastyari, S
Edwards, S
Fierravanti-Wells, C
Gallacher, AM
Heffernan, W
Lazarus, GP
Lines, S
Macdonald, ID
McAllister, J
McKenzie, B
Peris, N
Reynolds, L
Ruston, A
Smith, D (teller)
Question agreed to.
Bill read a third time.

Labor 2013-14 Budget Savings (Measures No. 2) Bill 2015
Second Reading

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

Senator MOORE (Queensland) (22:41): I rise to speak on behalf of the opposition and indicate that we will be supporting the Labor 2013-14 Budget Savings (Measures No. 2) Bill 2015. There were originally four measures contained in this bill, across five schedules. The first, in schedule 1, enabled the conversion of student start-up scholarships into income-contingent loans. The second, in schedule 2, imposed an efficiency dividend on higher education funding. The third, in schedules 3 and 4, removed the HECS-HELP discount and voluntary HELP repayment bonus and the fourth, in schedule 5, imposed an interest charge on certain debts. The first three measures were in the 2013-14 budget, and Labor introduced them when we were in government to help fund the Gonski school funding model. The fourth was in the 2013 Mid-year Economic and Fiscal Outlook.

In opposition Labor had previously opposed these measures due to the Abbott-Turnbull government abandoning the Gonski school funding model—that is, not funding years 5 and 6, resulting in $28 billion being cut from schools in last year's budget. Now, for two reasons, we are going to reverse our opposition on two of these measures—the first and the third—by amending the bill in the other place to omit schedules 2 and 5, which contain the second and fourth measures. The opposition is now able to support this bill in the Senate in its entirety. The first reason for the change in our position is the deteriorating state of the budget. I note for the benefit of the Senate that the deficit doubled in this year's budget, and note that we are likely to see this deficit blow out again in the upcoming Mid-year Economic and Fiscal Outlook. Access Economics is predicting a $38 billion increase to the budget deficit over the forward estimates. The second reason is to close the fiscal gap in the context of our own higher education policy that does not resort to the tactics of the Abbott-Turnbull government and impose their $100,000 degrees on students.
By supporting the conversion of student start-up scholarships into income-contingent loans contained in schedule 1, Labor will enable a saving of $920 million over the forward estimates. By supporting the removal of the HECS-HELP discount and voluntary HELP repayment bonus contained in schedules 3 and 4, Labor will enable a saving of $200 million over the forward estimates. Last year the opposition supported over $20 billion worth of government measures that improved the budget bottom line. Since this year's budget the opposition have supported a further $10.7 billion worth of government measures that continue to improve the budget bottom line. Our position on the measures supported in this bill means that the opposition is supporting a further $1.1 billion in improvements to the budget bottom line. Given the state of the budget and the deterioration that has been experienced under this government, it is fiscally responsible that we support some of the measures that are contained in the bill. This is also because of our positive plan for higher education and the fact that we do not countenance $100,000 university degrees. Labor will continue to oppose the imposition of an efficiency dividend on higher education funding, and will continue to oppose the introduction of an interest charge on certain debts. We welcome the removal of the measures relating to the higher education efficiency dividend and the interest charge on certain debts from this bill.

I will now turn to the specifics of schedule 1, relating to the conversion of student start-up scholarships to student start-up loans. Converting student start-up scholarships to student start-up loans was an initiative announced by Labor in the 2013-14 budget. It was a measure that was to be used for one specific reason: to fund Labor's Better Schools Plan. This was never a saving taken without purpose, like so many of the Abbott-Turnbull government cuts. It was a redirection of funding within the education portfolio. It was always to be used to improve student outcomes. But, as we know, the Abbott-Turnbull government has abandoned the Better Schools Plan. It has slashed schools funding and has done its absolute best to slash higher education funding, as well as imposing those $100,000 degrees. This government cannot be trusted on education.

By contrast, Labor has a plan for higher education—a plan to increase per student funding, boost completions and improve quality. The coalition disparaged these cuts in opposition, and they are now embracing them, without any sign that they will use the funds for education. This is in contrast to Labor's plan to keep education affordable and accessible and our positive plan for better universities.

Schedules 3 and 4 relate to the removal of the HECS-HELP discount and voluntary HELP repayment loans. Currently, a 10 per cent discount is applied to up-front student contribution payments of $500 or more. The amount of the discount is paid by the government to the student's higher education provider. Put simply, these arrangements are inequitable. For these reasons Labor included this measure in the 2013 budget as a component of the Gonski funding arrangements. This measure generates savings of $200 million over the forward estimates. The Parliamentary Budget Office has also estimated this measure will generate $573 million in savings through to 2025-26.

In government, Labor opened up access to Australia's world-class higher education system while increasing the amount of government funding for each student. As a result, 190,000 more students are at university today, including many more young Australians of Indigenous, regional or low-income backgrounds. The Abbott-Turnbull government does not have a
positive plan and instead seeks to cut funding for undergraduate students by 20 per cent and pursue $100,000 degrees that would make talented kids think twice about pursuing a university education. Those hardest hit by the Liberal government's changes will be those who can least afford it—women, students from low-income or regional backgrounds and graduates who take on important but moderately paid jobs like nursing, teaching and community legal work.

Labor has always been committed to opening access to higher education to more Australians and supporting universities as critical drivers of innovation across the economy. A Shorten Labor government will build on this record, not just because it is a fair thing to do but because our future prosperity depends on it. We will ensure that universities are productive, equitable and accessible, educating the next generation for the jobs of the future. Also, supporting responsible savings is important, so Labor will support the passage of the Labor 2013-14 Budget Savings (Measures No. 2) Bill 2015, as amended.

Senator SIMMS (South Australia) (22:48): We do not support the Labor 2013-14 Budget Savings (Measures No. 2) Bill 2015. Indeed, this is a dark day for students in our country. It is a dark day for students in our country because Labor and the Liberals have done a dirty deal to hike up fees for students and to slug disadvantaged students. Make no mistake: that is exactly what this is—ripping money away from students and saddling them with more debt.

I have to say it is an act of breathtaking hypocrisy that Labor senators have spent hours today deriding and criticising the Greens, standing up and talking about us being sell-outs, on the very day that they have done this deal with the government to dud students. Let's consider the facts here. Let's reflect on the facts of the day. Today the Greens did a deal with the government to crack down on corporate tax avoidance. Meanwhile, the Labor Party did a deal to rip off students and scrap their scholarships. That is what they have done. What rank hypocrisy! They dare to come into this place and lecture the Australian Greens about selling out. Well, when it comes to selling out, it is the Labor Party that wrote the book. While the Greens have been going after big corporations, it is the Labor Party that is going after students—and students from disadvantage backgrounds, students who are on Youth Allowance. That is who will be targeted by this Labor cuts tax bill that has been revived by their mates over in the Liberal Party. A dirty deal done dirt cheap, some might say. That is the expression I have heard bandied around the chamber today—Senator Wong has returned to the chamber. A dirty deal done dirt cheap.

Well, it is not a cheap deal for students, because they are going to see their HECS fees increase by $6,000 on average per degree as a result of the dirty deal done between Labor and the Liberals—more front than John Martins to come into this place and call the Greens sell-outs, more hide than a rhinoceros.

Let's consider the implications of what has been agreed here as part of this dirty deal between Labor and the Liberals. The student start-up scholarships are for $2,050 a year. They are made available to any student who receives Youth Allowance, Austudy, and Abstudy. That is an initiative that was negotiated by the Greens with the former Rudd government to help students from lower-income families, to help students with some of the pressures we know students face—dealing with things like textbooks, stationery and other essentials.

Let's consider the implications of what has been agreed here as part of this dirty deal between Labor and the Liberals. The student start-up scholarships are for $2,050 a year. They are made available to any student who receives Youth Allowance, Austudy, and Abstudy. That is an initiative that was negotiated by the Greens with the former Rudd government to help students from lower-income families, to help students with some of the pressures we know students face—dealing with things like textbooks, stationery and other essentials.

I want to acknowledge the work of my colleague Senator Hanson-Young, who really championed those scholarships and worked very hard to negotiate them with the Rudd
government. Of course, it is very disappointing for the Greens to see them being ripped away as a result of this deal with the Labor and Liberal parties.

In terms of the applicability of these scholarships, they are available for a wide section of the community, and a lot of students are going to be affected by this. This year alone, approximately 300,000 students were eligible for student start-up scholarships. Youth Allowance, Austudy and Abstudy are accessed by about one-fifth of all university students. In order to qualify you have to pass the income threshold. So, in effect, a student doing a three-year bachelor degree would be adding on average $6,000 extra to their HECS or HELP liability. For a student doing a six-year degree—something like a law degree, for instance—they would see their HELP debt increase by $12,000.

Osman Faruqi, a social commentator on higher education issues, has done some analysis of the impact of this, in particular looking at the impact on students from low-income families, the very students that the Labor Party purports to want to stand up for. If you look at an arts student from a low-income family, someone who is eligible for Youth Allowance, their HELP debt will increase by 33 per cent as a result of these changes. So the HECS debt will increase from $18,456 to $24,606. For an engineering student who is from a low-income family, their HELP debt will increase from $35,072 to $43,272. That is a 23 per cent increase—a significant increase indeed to students who are already doing it tough. What we are seeing here is a shifting of the debt onto students, and in particular students from low-income backgrounds. The Labor Party have talked about wanting to reign in the national debt. Well, the Australian Greens do not support shifting the liability of that debt onto students. We do not support putting that onto future generations to deal with.

I should say, of course, that I do not want to let the Liberal Party off the hook here. It takes two to tango. You cannot have a dirty deal without another willing party. We know on higher education policy that the major political parties in this place are all too often like steel and a magnet. They come together when it comes to ripping off students, and they have form in that regard. It is pretty remarkable that, after all the talk we have heard in this place about innovation and new ideas, the Liberal Party have gone down this path. They talk about new ideas and innovation, but it seems that the only tool they have in their toolbox is a razor blade—and they love to wield it and try to cut public services. That is the Liberal Party's modus operandi. They tell us that there has never been a more exciting time to be an Australian. There has never been a more exciting time to be an Australian, unless, of course, you happen to be a student from a low-income household. It is certainly not a very exciting time for you, particularly in the lead-up to Christmas.

I can understand the new government being desperate for ideas, particularly in the higher education space, because their deregulation agenda has been roundly rejected across the Australian community. It has been completely rejected and repudiated—by this Senate and right across our country. People do not want deregulation and they do not want $100,000 degrees. So the Liberal Party are desperate to try to find new ideas, and I can understand that. They probably went to the policy cupboard and found it was bare, except for something lurking in there—'Here's one Labor made earlier. Let's dig this up and see if we can reheat this unpopular policy and put it back on the table again.' And that is exactly what they have done. Of course the Liberals like the look of that because it is about cutting funding to universities. In effect, it is about shifting the burden onto students, and that is what they are...
about. What we have here again are the Labor and Liberal parties swapping policy ideas in
the higher education space.

I should not be too surprised about that because, after all, it was the Labor Party who
invented HECS. The Labor Party are the architects of HECS in this country. They trashed free
education in this country. I remember Senator Kim Carr saying that this was a great
achievement of the Labor Party.

Senator Wong interjecting—

Senator SIMMS: Senator Wong is having a go. She can dish it out, but she cannot take it.
We have had to listen to it all day, so it is time for you to cop it back, I think. If you are going
to lecture us for being sell-outs, you have to take it back.

Senator Wong: On a point of order: the senator is misleading the chamber. Perhaps he
should remind everybody when he talks about HECS that the Labor government put more
money, more first-of-family people and more disadvantaged kids into uni than any other
government—

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson): Senator Wong, that is
not a point of order. That is a debating point.

Senator SIMMS: Senator Wong is correct. It was the Labor Party who initiated free
education in this country and it was the Labor Party who took it away. The Greens are proud
to stand as a party who support free education in this place, once the Labor Party took it away
when they initiated HECS.

What we have seen since the initiation of HECS is bracket creep. That is always the reality
with this kind of policy approach. We saw Labor bring in HECS and then we saw the Howard
government come in and gradually start to increase HECS liability and increase fees over 30
per cent. I remember, as a student unionist, the terrible impact that those HECS fee increases
had. They were made possible because of the policy work the Labor Party had done when
they were in government. They laid the foundation and set the ball rolling, and we have seen
what happens with that.

We then saw Labor, when they were in government, announce a series of cuts to the higher
education sector, and we are dealing with the legacy of those today. First they were for it, then
they were against it and now they are for it again. I am not sure what position they will take
with the rest of the cuts, but we are dealing with this lot now. Maybe they will work with the
Liberals to revive the other half down the track. In any case, we have found ourselves in a
situation where there has been an appalling increase in HECS over many years, with the
burden being shifted to students as a result of the consensus of the Labor and Liberal parties.

In summary—and I know it has been a long night; I do not want to talk for too much
longer; we all want to get home for Christmas—the Australian Greens do not support these
changes. We will never support efforts by the Labor and Liberal parties to try and shift the
cost burden onto students. We do not support kicking students and destroying scholarships in
the lead-up to Christmas. We want to see appropriate investment in our higher education
sector, and we are going to be campaigning on that in the lead-up to the election. So make no
mistake: we are against this. We will be voting against it. We are not like the Labor Party. We
do not just posture and say we are against it; we will actually vote against it as well. We look
forward to having a debate about making education affordable and accessible for all in the lead-up to the next election.

Senator RYAN (Victoria—Assistant Cabinet Secretary) (23:00): I would like to thank those senators who have contributed to debate on this bill. The measures in this bill will deliver important savings to the budget. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

The PRESIDENT: As no amendments to the bill have been circulated or identified, unless any senator wishes to have a committee stage, I propose to call the minister to move the third reading motion.

Senator RYAN (Victoria—Assistant Cabinet Secretary) (23:01): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Senator Simms: Mr President, we were waiting to vote against the bill.

The PRESIDENT: The bill has been passed. Your objection is recorded.

BUSINESS

Rearrangement

Senator RYAN (Victoria—Assistant Cabinet Secretary) (23:03): by leave—I move:
That the following business be called on immediately:
(a) tabling and adoption of a report from the Selection of Bills Committee; and
(b) business of the Senate notice of motion no. 1 standing in the name of Senator Hanson-Young for today, proposing the disallowance of the Child Care Benefit (Children in respect of whom no-one is eligible) Determination 2015.

Question agreed to.

COMMITTEES

Selection of Bills Committee

Report

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (23:03): I present the 16th report of 2015 of the Selection of Bills Committee and seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 16 OF 2015
1. The committee met in private session on Wednesday, 2 December 2015 at 7.23 pm.
2. The committee resolved to recommend—That-

(a) the Australian Broadcasting Corporation Amendment (Rural and Regional Advocacy) Bill 2015 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 20 June 2016 (see appendix 1 for a statement of reasons for referral);

(b) contingent upon its introduction in the House of Representatives, the provisions of the Corporations Amendment (Crowd-sourced Funding) Bill 2015 be referred immediately to the Economics Legislation Committee for inquiry and report by 22 February 2016 (see appendix 2 for a statement of reasons for referral);

(c) the Courts Administration Legislation Amendment Bill 2015 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 2 February 2016 (see appendix 3 for a statement of reasons for referral);

(d) the provisions of the Crimes Legislation Amendment (Proceeds of Crime and Other Measures) Bill 2015 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 3 February 2016 (see appendix 4 for a statement of reasons for referral);

(e) the provisions of the Criminal Code Amendment (Firearms Trafficking) Bill 2015 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 2 February 2016 (see appendix 5 for a statement of reasons for referral);

(f) contingent upon its introduction in the House of Representatives, the provisions of the Fair Work Amendment (Remaining 2014 Measures) Bill 2015 be referred immediately to the Education and Employment Legislation Committee for inquiry and report by 4 February 2016 (see appendix 6 for a statement of reasons for referral);

(g) the provisions of the Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015 be referred immediately to the Education and Employment Legislation Committee for inquiry and report by 1 March 2016 (see appendices 7 and 8 for a statement of reasons for referral);

(h) the Family Law Amendment (Financial Agreements and Other Measures) Bill 2015 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 24 February 2016 (see appendix 9 for a statement of reasons for referral);

(i) the Social Security Legislation Amendment (Community Development Program) Bill 2015 be referred immediately to the Finance and Public Administration Legislation Committee for inquiry and report by 29 February 2016 (see appendices 10, 11 and 12 for a statement of reasons for referral);

(j) the provisions of the Social Services Legislation Amendment (Budget Repair) Bill 2015 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 4 February 2016 (see appendix 13 for a statement of reasons for referral);

(k) the provisions of the Social Services Legislation Amendment (Family Measures) Bill 2015 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 22 February 2016 (see appendices 14 and 15 for a statement of reasons for referral);

(l) the provisions of the Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill (No. 2) 2015 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 1 March 2016 (see appendices 16 and 17 for a statement of reasons for referral); and

(m) the provisions of the Telecommunications Legislation Amendment (Access Regime and NBN Companies) Bill 2015 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 22 February 2016 (see appendix 18 for a statement of reasons for referral).

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

- Aged Care Amendment (Red Tape Reduction in Places Management) Bill 2015
The committee recommends accordingly.

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

- Australian Crime Commission Amendment (National Policing Information) Bill 2015
- Australian Crime Commission (National Policing Information Charges) Bill 2015
- Automotive Transformation Scheme Amendment (Securing the Automotive Component Industry) Bill 2015
- Broadcasting Legislation Amendment (Digital Radio) Bill 2015
- Communications Legislation Amendment (Deregulation and Other Measures) Bill 2015
- Telecommunications (Numbering Charges) Amendment Bill 2015
- Competition and Consumer Amendment (Australian Country of Origin Food Labelling) Bill 2015
- Competition and Consumer Amendment (Payment Surcharges) Bill 2015
- Corporations Amendment (Publish What You Pay) Bill 2014
- Insolvency Law Reform Bill 2015
- Restoring Territory Rights (Assisted Suicide Legislation) Bill 2015
- Social Security and Other Legislation Amendment (Caring for Single Parents) Bill 2014
- Social Services Legislation Amendment (Miscellaneous Measures) Bill 2015
- Tax and Superannuation Laws Amendment (2015 Measures No. 6) Bill 2015
- Tax Laws Amendment (Implementation of the Common Reporting Standard) Bill 2015
- Tax Laws Amendment (New Tax System for Managed Investment Trusts) Bill 2015
- Income Tax Rates Amendment (Managed Investment Trusts) Bill 2015
- Medicare Levy Amendment (Attribution Managed Investment Trusts) Bill 2015
- Income Tax (Attribution Managed Investment Trusts—Offsets) Bill 2015
- Veterans' Entitlements Amendment (Expanded Gold Card Access) Bill 2015
- Water Amendment (Review Implementation and Other Measures) Bill 2015.

(David Bushby) Chair
3 December 2015

APPENDIX 1
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
Australian Broadcasting Corporation Amendment (Rural and Regional Advocacy) Bill 2015

Reasons for referral/principal issues for consideration:
To investigate the proposed Amendments and to identify any other measures that may promote regional news services and journalism in rural and regional Australia.

Possible submissions or evidence from:
Regional journalists, Regional residents, regional businesses, regional representatives.
Committee to which bill is to be referred:
    Environment and Communications Legislation Committee
Possible hearing date(s):
    To be determined by the committee
Possible reporting date:
    20 June 2016
(signed)
    Senator Canavan

APPENDIX 2
Proposal to refer a bill to a committee:
Name of bill:
    Corporations Amendment (Crowd-sourced Funding) Bill 2015
Reasons for referral/principal issues for consideration:
    Thorough consideration of the issues surrounding the impact of this legislation on the start-up sector.
Possible submissions or evidence from:
    Crowd-funding and venture capital peak bodies and firms, including the Australian Private Equity and Venture Capital Association Ltd.
Committee to which bill is to be referred:
    Senate Economics Legislation Committee
Possible hearing date(s):
    To be determined by the committee
Possible reporting date:
    22 February 2016
(signed)
    Senator McEwen

APPENDIX 3
Proposal to refer a bill to a committee:
Name of bill:
    Courts Administration Legislation Amendment 2015
Reasons for referral/principal issues for consideration:
    Consideration of suitability of proposed measures to achieve administrative efficiencies.
Possible submissions or evidence from:
    Attorney-General’s Department Federal Court of Australia
    Family Court of Australia
    Federal Circuit Court of Australia
Committee to which bill is to be referred:
    Legal and Constitutional Affairs Legislation Committee
Possible hearing date(s):
  To be determined by the committee
Possible reporting date:
  2 February 2016
(signed)
  Senator Bushby

APPENDIX 4
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
Crimes Legislation Amendment (Proceeds of Crime and Other Measures) Bill 2015
Reasons for referral/principal issues for consideration:
  For further scrutiny of the Bill and an opportunity for stakeholders to raise any concerns with the proposed measures.
Possible submissions or evidence from:
  Law Council of Australia
  Australian Federal Police Association
  Law Institute of Australia
  Australian Federal Police
  Attorney Generals Department
Committee to which bill is to be referred:
  Senate Legal and Constitutional Affairs Legislation Committee
Possible hearing date(s):
  To be determined by the committee
Possible reporting date:
  3 February 2016
(signed)
  Senator McEwen

APPENDIX 5
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
Criminal Code Amendment (Firearms Trafficking) Bill 2015
Reasons for referral/principal issues for consideration:
  For further scrutiny of the Bill and an opportunity for stakeholders to raise any concerns with the introduction of mandatory minimum sentencing.
Possible submissions or evidence from:
  Law Council of Australia
  Australian Human Rights Commission
Civil Liberties Australia
Rob Hulls, Centre for Innovative Justice
Australian Federal Police
Attorney General Department

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

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

Possible reporting date:
2 February 2016

(signed)
Senator McEwen

APPENDIX 6
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
Fair Work Amendment {Remaining 2014 Measures) Bill

Reasons for referral/principal issues for consideration:
To ensure a thorough and complete assessment of its potential impact on parties' ability to engage in Australia's workplace relations system and to examine any unforeseen consequences arising from the Bill.

Possible submissions or evidence from:
Unions (Australian Council of Trade Unions, United Voice, SDA), employers (AIGroup, Australian Chamber of Commerce and Industry, Business Council of Australia), academics (workplace relations experts), and the Department of Employment.

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

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

Possible reporting date:
February 2016

(Signed)
Senator McEwen

APPENDIX 7
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
Family Assistance Legislation Amendment (Jobs for Families Child Care Package)
Reasons for referral/principal issues for consideration:
To examine the impact proposed changes to early education and care will have on Australian families, workforce participation and early childhood development.

Possible submissions or evidence from:
- Department of Education and Training Early Childhood Australia
- Australian Child Care Alliance
- Australian Research Alliance for Children and Youth Community Child Care Co Ops and Associations
- Family Day Care Australia
- National Out of School Hours Services Association
- Secretariat of National Aboriginal and Islander Child Care
- National Association of Mobile Services for Rural and Remote Families and Children Inc
- National Association of Multicultural Ethnic Children’s Services
- The Parenthood
- National In-Home Child Care Association
- Early Learning Association
- Australia Early education providers
- Educators and unions
- Academics and experts
- Australian Chamber of Commerce and Industry
- Australian Industry; Group
- Parents Others

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

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

Possible reporting date:
17 March 2016

(signed)
Senator McEwen -

APPENDIX 8
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015

Reasons for referral/principal issues for consideration:
The legislation outlines significant child care reforms at a cost of $40 billion over the next four years, including more than $3 billion in additional funding.
Possible submissions or evidence from:
Parents and child care sector

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

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

Possible reporting date:
22 February 2016

(signed)
Senator Bushby

APPENDIX 9
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:

Name of bill:
Family Law Amendment (Financial Agreements and Other Measures) Bill 2015

Reasons for referral/principal issues for consideration:
• The Bill changes rules for entering into binding financial agreements ('pre-nups') and also financial agreements made by couples after they separate. There will need to be thorough scrutiny of issues such as:-
  o Whether lowering the standard of legal advice required before entering into these agreements might leave parties vulnerable.
  o Whether changes will have an adverse effect on women.
  o Whether changes will result in more litigation.
• The Bill also changes the way family violence is handled in the family courts. There will need to be thorough scrutiny of the efficacy of these changes, and whether they can be further improved.

Possible submissions or evidence from:
The Attorney General's Department;
The Family Law Section of the Law Council of Australia;
National Association of Community Legal Centres;
Our Watch.

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

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

Possible reporting date:
1 March, 2016

(signed)
Senator McEwen
APPENDIX 10

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee:

Name of bill:

Social Security Legislation Amendment (Community Development Program) Bill 2015

Reasons for referral/principal issues for consideration:

To fully evaluate the impact of these measures on remote communities

Possible submissions or evidence from:

Community organisations including Aboriginal and Torres Strait Islander, social security, and other groups, and interested individuals.

Committee to which bill is to be referred:

Community Affairs

Possible hearing date(s):

Feb-March 2016

Possible reporting date:

15 March 2016

(signed)

Senator Siewert

APPENDIX 11

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee:

Name of bill:

Social Security Legislation Amendment (Community Development Program) Bill 2015

Reasons for referral/principal issues for consideration:

The Bill reforms the operation of the Community Development Programme, the remote job seeker programme, by creating a new remote income support payment and changing the way Community Development Programme providers work with job seekers in remote communities. The proposed changes should be considered by a Committee to enable the views of communities and providers to be taken into account to ensure that the proposed changes deliver the best practical outcomes.

Possible submissions or evidence from:

Local Aboriginal and Torres Strait Islander Corporations including the Gumatj Aboriginal Corporation

Community Development Programme providers including the Arnhem Land Progress Association

Peak representative bodies including the New South Wales Aboriginal Land Council and the Murdi Paaki Regional Assembly

Leaders and experts including Mr Andrew Forrest

Committee to which bill is to be referred:

Finance and Public Administration Committee

Possible hearing date(s):

To be determined by the Committee
Possible reporting date:
2 February 2016
(signed)
Senator Bushby

APPENDIX 12
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
Social Security Legislation Amendment (Community Development Program) Bill 2015
Reasons for referral/principal issues for consideration:
To determine the impact of the measures in the Bill on various types of families
Possible submissions or evidence from:
Department of Social Services
Australian Council of Social Services Jobs Australia
Professor Jon Altman
Centre for Aboriginal Economic Policy Research
Thamarrurr Development Corporation
Committee to which bill is to be referred:
Senate Community Affairs Legislation Committee
Possible hearing date(s):
To be determined by the committee
Possible reporting date:
1 March 2016
(signed)
Senator McEwen

APPENDIX 13
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
Social Services Legislation Amendment (Budget Repair) Bill 2015
Reasons for referral/principal issues for consideration:
To evaluate the impact of proposed measures on pensioners.
Possible submissions or evidence from:
Social security peak bodies, other relevant organisations, and interested individuals
Committee to which bill is to be referred:
Community Affairs
Possible hearing date(s):
   Feb 2016
Possible reporting date:
   1 March 2016
(signed)
   Senator Siewert

APPENDIX 14
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
   Social Services Legislation Amendment (Family Measures) Bill 2015
Reasons for referral/principal issues for consideration:
   To enable Members to better understand the purpose and effects of the Bill. The Cessation of Large Family Supplement has not previously been considered by this Committee
Possible submissions or evidence from:
   • Department of Social Services
   • Patrick McClure
   • UnitingCare
   • ACOSS
   • National Welfare Rights Network
Committee to which bill is to be referred:
   Community Affairs Legislation Committee
Possible hearing date(s):
   To be determined by the Committee
Possible reporting date:
   22 February 2016
(signed)
   Senator Bushby

APPENDIX 15
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
   Social Services Legislation Amendment (Family Measures) Bill 2015
Reasons for referral/principal issues for consideration:
   To evaluate the implications of the measures for impacted individuals
Possible submissions or evidence from:
   Social services peak bodies, interested organisations and individuals
Committee to which bill is to be referred:
Community Affairs

Possible hearing date(s):
Feb 2016

Possible reporting date:
1 March 2016

(signed)
Senator Siewert

APPENDIX 16
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:

Name of bill:
Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill (No. 2) 2015

Reasons for referral/principal issues for consideration:
To identify the impact of the measure on Australian families

Possible submissions or evidence from:
Social services peak bodies and other interested organisations and individuals

Committee to which bill is to be referred:
Community Affairs

Possible hearing date(s):
Feb 2016

Possible reporting date:
23 Feb 2016

(signed)
Senator Siewert

APPENDIX 17
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:

Name of Bill:
Social Services Amendment (Family Payments Structural Reform and Participation Measures) Bill (No. 2) 2015

Reasons for referral/principal issues for consideration:
To determine the impact of the measures in the Bill on various types of families.

Possible submissions or evidence from:
DSS
ACOSS
National Welfare Rights Network
The Parenthood
National Council of Single Mothers and their Parents
UnitingCare
Anglicare

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

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

Possible reporting date:
1 March 2016

(signed)
Senator McEwen

APPENDIX 18
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:

Name of Bill:
Telecommunications Legislation Amendment (Access Regime and NBN Companies) Bill 2015

Reasons for referral/principal issues for consideration:
Proposed legislation will implement, in part, the Government's response to the Vertigan panel report.

Possible submissions or evidence from:
Industry stakeholders and regulator

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

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

Possible reporting date:
22 February 2016

(signed)
Senator Bushby

Senator BUSHBY: I move:
That the report be adopted.

Senator MOORE (Queensland) (23:03): I move the following amendment to the motion:
At the end of the motion, add, "but, in respect of the Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015 the Education and Employment Legislation Committee report by 17 March 2016."

The PRESIDENT: The question is that the amendment moved by Senator Moore be agreed to.
Question agreed to.
The PRESIDENT: The question now is that Senator Bushby's motion, as amended, be agreed to.

Question agreed to.

REGULATIONS AND DETERMINATIONS

Child Care Benefit (Children in respect of whom no-one is eligible)

Determination 2015

Disallowance

Senator HANSON-YOUNG (South Australia) (23:04): I move:

That the Child Care Benefit (Children in respect of whom no-one is eligible) Determination 2015, made under the A New Tax System (Family Assistance) Act 1999, be disallowed.

The Senate divided. [23:09]

(The President—Senator Parry)

Ayes ......................9
Noes ......................45
Majority.................36

AYES

Di Natale, R
Ludlam, S
Rhiannon, L
Siewert, R (teller)
Whish-Wilson, PS

Hanson-Young, SC
McKim, NJ
Rice, J
Simms, RA

NOES

Back, CJ
Bilyk, CL
Brandis, GH
Bullock, JW
Cameron, DN
Colbeck, R
Dastyari, S
Edwards, S
Fierravanti-Wells, C
Gallacher, AM
Johnston, D
Lines, S
Macdonald, ID
McAllister, J
McKenzie, B
Parry, S
Polley, H
Ronaldson, M
Ryan, SM
Singh, LM

Bernardi, C
Birmingham, SJ
Brown, CL
Bushby, DC
Canavan, MJ
Conroy, SM
Dwy, RJ
Fawcett, DJ
Fifield, MP
Gallagher, KR
Lindgren, JM
Ludwig, JW
Marshall, GM
McEwen, A (teller)
Moore, CM
Peris, N
Reynolds, L
Ruston, A
Scullion, NG
Smith, D
Question negatived.

COMMITTEES

Membership

The PRESIDENT (23:11): Order! I have received letters requesting changes in the membership of various committees.

Senator RYAN (Victoria—Assistant Cabinet Secretary) (23:12): by leave—I move:

That senators be discharged from and appointed to committees as follows:

Education and Employment Legislation Committee—

Appointed—
Substitute member:

Senator Hanson-Young to replace Senator Simms for the committee's inquiry into the provisions of the Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015
Participating member: Senator Simms

Environment and Communications Legislation Committee—

Appointed—
Substitute member:

Senator Ludlam to replace Senator Waters for the committee's inquiry into the Australian Broadcasting Corporation Amendment (Rural and Regional Advocacy) Bill 2015
Senator Ludlam to replace Senator Waters for the committee's inquiry into the provisions of the Telecommunications Legislation Amendment (Access Regime and NBN Companies) Bill 2015
Participating member: Senator Waters

Environment and Communications References Committee—

Appointed—
Substitute members:

Senator Simms to replace Senator Waters for the committee's inquiry into oil or gas production in the Great Australian Bight
Senator Ludlam to replace Senator Waters for the committee's inquiry into the planned acquisition of the Joint Strike Fighter
Participating member: Senator Waters.

Finance and Public Administration Legislation Committee—

Appointed—
Substitute member:

Senator Siewert to replace Senator Rice for the committee's inquiry into the Social Security Legislation Amendment (Community Development Program) Bill 2015
Participating member: Senator Rice

CHAMBER
Foreign Affairs, Defence and Trade References Committee—

Appointed—

Substitute member:

Senator Whish-Wilson to replace Senator Ludlam for the committee's inquiry into the operations of Defence Housing Australia

Senator Whish-Wilson to replace Senator Ludlam for the committee's inquiry into the planned acquisition of the Joint Strike Fighter

Participating member: Senator Ludlam.

Question agreed to.

ADJOURNMENT

Senator RYAN (Victoria—Assistant Cabinet Secretary) (23:12): I move:

That the Senate, at its rising, adjourn till Tuesday, 2 February 2016, at 12.30 pm, or such other time as may be fixed by the President or, in the event of the President being unavailable, by the Deputy President, and that the time of meeting so determined shall be notified to each senator.

Question agreed to.

BUSINESS

Leave of Absence

Senator RYAN (Victoria—Assistant Cabinet Secretary) (23:12): I move:

That leave of absence be granted to every member of the Senate from the end of the sitting today to the day on which the Senate next meets.

Question agreed to.

STATEMENTS

Valedictories

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (23:13): The hour has arrived when, by custom, on the adjournment of the Senate on the last day of sitting we make some seasonal remarks to thank those with whom we have worked or who have enabled us to do our work as senators in the past year. On behalf of the government, may I thank, in particular, the Senate staff, led by the Clerk of the Senate, Rosemary Laing; the Deputy Clerk, Richard Pye; and all the staff of the Clerk's office; the staff of the Table Office; the attendants; the Comcar drivers, who look after us so well; the security, who protect us; and indeed all who work in this place.

This has been a very big year for the Senate. It is a year which has seen the departure of five of our colleagues: Senator Faulkner, Senator Milne, Senator Mason, Senator Wright and Senator Lundy. The departure of Senator John Faulkner earlier this year was the departure of a man who had won a reputation as a very distinguished senator, who had been the leader of the Labor Party in the Senate for many years and who had achieved the honour of being the father of the Senate. With his departure, the Senate acknowledged a new Father of the Senate—my friend Senator Ian Macdonald, who came into this place in 1990 after he beat me in a preselection. To think, Ian, that I could have been the Father of the Senate rather than you, but I am too young!
We also saw the retirement of another party leader, Senator Christine Milne, and the election of Senator Richard Di Natale as the Leader of the Australian Greens. As well, Senator Mason, who has gone off to greener pastures in the Netherlands, Senator Wright and Senator Lundy brought illustrious parliamentary careers to a conclusion.

I thank my own team, the government leadership in the Senate. I acknowledge in that regard the distinguished service as Leader of the Government in the Senate over the last two years or so of Senator Eric Abetz. I congratulate and thank most warmly the new Deputy Leader of the Government in the Senate, my friend Senator Mathias Cormann. I thank the Leader of the National Party in the Senate, Senator Nigel Scullion, the Manager of Government Business, Senator Mitch Fifield—he has been sorely challenged, particularly in the last few days, but he has risen to the challenge with aplomb—and the Deputy Manager of Government Business, Senator Scott Ryan. I thank the whips, led by Senator David Bushby, Senator David Fawcett, Senator Dean Smith and Senator Matt Canavan.

I thank my own staff, particularly those of my staff who assist me in relation to the affairs of the Senate, led by my Senate adviser, Liam Brennan, and my assistant adviser, Daniel Ward. I also thank my senior adviser Dr Don Markwell, who is in the chamber this evening and is responsible, among other things, for crossbench liaison.

There have been many significant things achieved in this chamber this year. There have been moments of controversy. There have been moments of invective. There have been moments of goodwill. There have been moments of friendship. There has been the whole panoply of parliamentary life. Parliamentary life exposes all of us for good or ill as the human beings we are, driven by commitment and passion but flawed by that which makes us human. We in parliament are on display under the remorseless gaze of the lens for all to see. Every one of us, all 76 of us who have the honour to serve in this place, comes here to pursue our own particular vision for the Australian future. In wishing all senators and their staff the compliments of the season, I thank everyone for the contribution they have made according to their own lives in the debates in this chamber to make Australia a better place. Happy Christmas!

Senator WONG (South Australia—Leader of the Opposition in the Senate) (23:18): I associate myself with many of the remarks of the Leader of the Government in the Senate, particularly in relation to those senators who we have seen leave this year. I start by first recognising you, Mr President. The role of the President is a challenging but essential one. We thank you for your service to the Senate and the parliament this year. I did have a Christmas hope that you might uphold a point of order on direct relevance at some stage, but maybe you will next year, because hope springs eternal! I thank your deputy, Senator Marshall, for his work, particularly as Chair of the Procedure Committee and his wider responsibilities.

I thank my deputy, Senator Conroy, for the work he has done inside and outside the chamber this year. As I have said previously, there is no-one else I would rather have by my side in a political fight. I thank other members of our team, including Senator Moore, who is one of the people in this place who undertakes her role with unfailing courtesy although, at times, in the face of great stress. I thank Clare Nairn from her office for her work this year. I also congratulate and thank Senator Dastyari on his recent appointment as Deputy Manager of Opposition Business.
I thank also the Opposition Whip, Senator McEwen, and the deputy whips, Senator Bilyk and Senator Urquhart. It can be hard for people who do not have any direct engagement with the work of this place to understand how critical their role is. We are very fortunate on this side of the chamber to be served by these senators and their fabulous staff, and I particularly pay tribute to Senator McEwen's staff, Maria Neill and Kay O'Leary, who do a wonderful job. We also thank them for the lollies.

I thank all of my colleagues for their efforts this year. The Labor Senate team has continued to advance our agenda and continued to hold the government to account. Labor senators have worked extraordinarily hard. I thank them one and all and I hope they get a good break.

I thank particularly the Clerk, Rosemary Laing; the Deputy Clerk, Richard Pye; the Clerks Assistant, Brien Hallett, Chris Reid and Maureen Weeks; the Usher of the Black Rod, Rachel Callinan; and all the staff of the Department of the Senate. We are extraordinarily well served in this place by the staff of the Department of the Senate, whether in chamber, management, personal advice services to senators, committee support or other ways. I thank and acknowledge Dr Laing for her leadership of the department, as well as for her counsel, her advice and her occasional admonition. I also recognise the Senior Clerk of Committees, Jackie Morris, and all of the staff of committees.

Thank you to all those at the Department of Parliamentary Services, including the library, the Parliamentary Budget Office, Hansard, security, maintenance and ancillary staff that work to ensure the effective running of this place. I would like to make particular mention of the Parliament House cleaners, who are currently on strike for fair wages and conditions. These are hardworking men and women who come into this building in the early hours of the morning, while many of us are still sleeping, to keep our offices and our facilities clean and tidy.

I thank also the Comcar drivers, who are often the friendly faces in the morning and at the end of the day. We thank them for their assistance. I make particular mention of Peter Monck, who has recently retired, and Ian Miller, who is retiring as we speak, both of Senate transport. They have been not only helpful but trustworthy, courteous and accommodating of what has been asked of them. We will miss them and we wish them both well in their retirement.

In all things we do in this place, we rely on the assistance of our staff, and I thank them all for their service. Opposition is hard work, but the fruits of the labour of staff can be reflected in the contributions senators make in this place to debate, to committees and in all the ways in which senators make a contribution in the Senate. Senators are only ever as good as their staff, and I thank all of the opposition staff, who are so diligent, dedicated and loyal to their senators. To all those Labor members and supporters throughout Australia—who, as Senator Conroy said last year, continue to maintain their rage and enthusiasm—I wish them all the very best for the Christmas break and for the New Year. To all senators, on behalf of the opposition, I extend to you Christmas greetings and good wishes for the festive season. We know that the most important things in our lives are other people we love: family and friends. They are far more important than anything that takes place in this chamber. I hope you spend much time with them over this break, and I wish you all the very best for the Christmas season.
Senator DI NATALE (Victoria) (23:23): I will be brief. Senator Wong and Senator Brandis have covered much of the terrain that I wanted to cover. Mr President, firstly I want to thank you for doing a terrific job in your role. You have been very even-handed and balanced. I am always amazed at the fact that you actually listen to the questions and make rulings on the questions after having listened to them. I think that is a terrific achievement.

I want to thank the Senate staff: the clerks and the attendants. They keep this place ticking over. I know that we have kept them back late tonight. I want to thank them for all the hard work that they do on behalf of the Australian people. They keep our manila folders full, our glasses full and our doors open. They do a terrific job. I want to thank the Comcar drivers, Ian and Peter, who are both leaving us. Thank you for all the service you have given us.

I thank the security staff. Yesterday, they were confronted with a very difficult situation. They had a number of people in the foyer protesting, including a few disobedient senators! They conducted themselves with aplomb. They were very courteous. They did their job well. I want to thank them for the work that they did yesterday and, indeed, for the work that they have done for the year. To the cleaners, who we know are currently on strike, I want to say: thank you for the work that you do. They are the fairies in the middle of the night who come and clean up—and I suspect there will be a bit of cleaning up to do tonight, possibly in the alcove next door. I would like to thank the Department of Parliamentary Services for the work that they do.

I want to thank my team. It has been a big year for us. We have had some significant changes, with the departure of Christine and, of course, Penny Wright. We have welcomed Nick and Robert, who have been incredibly valuable additions to our team. My deputies, Scott and Larissa, have done a sterling job in supporting this team through the transition. I want to thank Rachel, our Whip, and everybody. We have a terrific team here. For our staff, the staff in the leader's office, it has been a huge transition. It is a big thing to do—to take over this role. I want to thank all of my staff for the wonderful work that they do. I will be a little self-indulgent and say thank you to my family. I cannot be with them tonight as I am heading off to Paris. I want to thank Lucy and the boys for being such a strong source of support for me.

I will just sign off by saying to those of you who do not believe in Christmas: happy non-denominational, gender-neutral, environmentally sustainable, socially responsible holidays. For the rest of us: happy Christmas. Happy Christmas, everybody!

Senator DAY (South Australia) (23:26): I am on chamber duty again for the crossbench, I think. The crossbench occupy a rather unique place here. Our crossbenchers, as we know, have interests almost as diverse as the coalition and Labor. I do not know an awful lot about the Greens but I presume there is a diversity of interests there as well. On behalf of Senators Leyonhjelm, Madigan, Lazarus, Lambie, Muir, Wang and myself, we would like to thank the staff, Rosemary, Richard and Brien, and the chamber staff—Rosemary, Adrienne, Fiona, Wally, John and Bryan—for looking after us all so well.

I would like to thank the whips and the major parties for their lobbying—I mean assistance!—during interesting legislation debates. It is very kind of them. Thank you also, Mr President, for your kind comments during rowdy question times when you have held up the crossbench as the model of decorum, courtesy and civility. We wish everyone a happy
Christmas, for those who do believe in Christmas. For others: compliments of the season. We look forward to seeing you all next year.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (23:28): I rise on behalf of The Nationals in the Senate to say thank you to all who have supported us in this place. We wish everyone a very merry Christmas. To you, Mr President: thank you so much. This place would not work without an even hand, mate. You have given that in spades under some pretty trying circumstances. So, for that, thank you. To my colleagues in The Nationals, particularly my deputy, Fiona: thank you so much for being a great team. I am really looking forward to coming back and punching on with you in a successful 2016.

To all of those on the various benches in this place: I wish you and your families a very merry Christmas and an enjoyable and restful break. While at times we may disagree, we are all in this game together. I suspect the friendships that we share across the political divide are often what get us through what can otherwise be a somewhat isolated life. I would like to take the opportunity to say thank you to all the staff in the Senate and particularly acknowledge Dr Rosemary Laing and her incredible team, who help manage the business of this place every day. In particular, I thank all the staff in all our offices. They are up at this completely ungodly hour. They are looking very much forward to going home as well. Thank you for your ongoing work.

I also thank those who work with our staff, including the Comcar drivers. A particular thank you to Ian and Peter for your efforts. How you get those cars to the places we end up sometimes staggers me. A particular thank you to the security guards and to the cleaners, particularly to those cleaners who help themselves—as they should—to the rabbits from my freezer, which enables me to go out on the weeknights and keep the feral population at a decent level. All of them have a wonderful, friendly face for senators. It does not matter what time of the day we are here, so thank you.

Most importantly, thank you to our families for the unconditional support you provide. Although we are often away, I am sure we could not do our jobs with the conviction that we have without your support. As we enter this festive season, I encourage everyone to take that well-earned break, enjoy the valuable time with family, get some sunlight and recharge those batteries. I am looking forward to seeing you all in the new year. Merry Christmas.

The PRESIDENT (23:30): Just in concluding the fine speeches that have just been made, I think the best Christmas present I could give you all is not repeating all that again. But, in saying that, I do not want to belittle the thanks that have been afforded to many here—in particular, the entire staff of the Department of the Senate, led by the Clerk. So I add my comments to that in all sincerity, because the work they do is fantastic, as with the Department of Parliamentary Services. I also acknowledge and single out the Deputy President. I thank the Deputy President, Gavin Marshall, for his loyalty and his assistance throughout the year also. Thank you all, Senators, for what you have done and the contribution you make to this place.

Senator Wong, according to senators on my right, apparently I do uphold your points of order. I do remind ministers of the question from time to time. Senator Wong, I also have a Christmas wish for next year: I hope we all come back with a renewed commitment to make sure that this place maintains a strong sense of decorum and also a great sense of purpose and
that we uphold what the public of Australia would like us to uphold, and that is a fine institution that actually has good debate, less argument with the chair and maybe less debate across the chamber. Thank you all for all the support you have shown me in my office as well. I do appreciate that.

I understand another Christmas bonus is that we are following convention this year and no-one wishes to speak on the adjournment debate. I now propose:

That the Senate do now adjourn.

The Senate will meet again on Tuesday, 2 February 2016, at 12.30 pm. Have a safe and happy Christmas.

Senate adjourned at 23:32 until Tuesday, 2 February 2016 at 12:30.

DOCUMENTS
Tabling

The following documents were tabled by the Clerk pursuant to statute:

Fair Work Act 2009—Direction to Inspectors (19 November 2015) [F2015L01907].
National Health Act 1953—
National Health (Australian Community Pharmacy Authority Rules) Amendment Determination 2015 (No. 2) [F2015L01901].
National Health Determination under paragraph 98C(1)(b) Amendment 2015 (No. 10)—PB 109 of 2015 [F2015L01894].
National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2015 (No. 11)—PB 112 of 2015 [F2015L01898].
National Health (Growth Hormone Program) Special Arrangement Amendment Instrument 2015 (No. 1)—PB 96 of 2015 [F2015L01904].
National Health (Highly specialised drugs program) Special Arrangement Amendment Instrument 2015 (No. 12)—PB 111 of 2015 [F2015L01908].
National Health (Listed drugs on F1 or F2) Amendment Determination 2015 (No. 10)—PB 113 of 2015 [F2015L01902].
National Health (Originator Brand) Amendment Determination 2015 (No. 1)—PB 114 of 2015 [F2015L01905].
National Health (Paraplegic and Quadriplegic Program) Special Arrangement Amendment Instrument 2015 (No. 3)—PB 116 of 2015 [F2015L01893].

National Health (Pharmaceutical Benefits—Early Supply) Amendment Instrument 2015 (No. 10)—specification under subsection 84AAA(2)—PB 110 of 2015 [F2015L01899].

National Health (Prescriber bag supplies) Amendment Determination 2015 (No. 5)—PB 115 of 2015 [F2015L01903].

Navigation Act 2012—

Marine Order 74 (Masters and deck officers—yachts) 2015—AMSA MO 2015/6 [F2015L01895].

Marine Order 76 (Seafarer certification amendment) 2015—AMSA MO 2015/7 [F2015L01896].

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